

WORLD TRADE ORGANIZATION

RESTRICTED
WT/TPR/G/63
17 November 1999

(99-4876)

Trade Policy Review Body

Original: English

TRADE POLICY REVIEW

THAILAND

Report by the Government

Pursuant to the Agreement Establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), the policy statement by the Government of Thailand is attached.

Note: This report is subject to restricted circulation and press embargo until the end of the meeting of the Trade Policy Review Body on Thailand.

CONTENTS

	<i>Page</i>
I. OVERVIEW	5
II. THE ECONOMIC AND TRADE ENVIRONMENT	6
(i) Economic developments, 1995–99	6
(ii) Economic situation in 1999	6
(iii) Trade environment	7
(iv) Medium term outlook for 2000 – 2004	8
III. TRADE POLICY DEVELOPMENTS (1996-99)	8
(i) Tariffs	8
(ii) Import system	9
(iii) Export system	10
(iv) Customs procedures	10
(v) VAT refund system	11
(vi) Customs valuation	11
(vii) Anti-dumping and countervailing measures	11
(viii) Standards and phytosanitary measures	11
(ix) Competition law	11
(x) Intellectual property	11
(xi) Services	12
(xii) Improving auditing and accounting standards	13
(xiii) Investment measures	13
(xiv) Environment	15
(xv) Privatization	16
IV. IMPLEMENTATION OF URUGUAY ROUND COMMITMENTS	16
(i) Tariffs	16
(ii) Agriculture	16
(iii) Technical barriers to trade and sanitary and phytosanitary measures	16
(iv) Anti-dumping measures	16
(v) Customs valuation	16
(vi) Trade-related investment measures	17
(vii) Trade-related intellectual property rights	17
(viii) Trade in services	17
V. PARTICIPATION IN REGIONAL GROUPINGS	18
(i) APEC	18
(ii) ASEAN	18
(iii) ASEM	19
(iv) Subregional cooperation	19
VI. FUTURE POLICY DIRECTION	20

I. OVERVIEW

1. This Trade Policy Review of Thailand takes place during the time when many countries in Asia are undergoing economic restructuring following the economic crisis which had engulfed the region for the past two years.

2. At present, the economic climate in Asia is still rather volatile and economic contraction continues in a number of countries. There are scattered signs of recovery but, by and large, the Asian economies remain stagnated.

3. Thailand was the first country to experience the crisis in mid-1997. The baht was floated in July and GDP growth in 1997 registered -0.4%. In 1998, growth continued to decline to around -8% and investment and manufacturing production fell continuously, while the proportion of non-performing loans in the financial system climbed to 45%.

4. Since 1997, the government has been trying to devise and implement various measures to get the country back to its normal state. Helps from the International Monetary Fund (IMF) were sought after, both in terms of loans and policy advice.

5. The policy initiatives undertaken by the Thai Government so far has succeeded in rebuilding the country's foreign exchange reserves, stabilizing the currency and bringing down interest rates. Nevertheless, the real economy has yet to resume growth and therefore, since the middle of 1998, government policies have shifted to focus increasingly on stimulating growth. After years of maintaining balanced budgets, the government began deficit spending in 1998 initially at 3% of the country's GDP and later at 5 and 6%. In March, 1999, an economic stimulus package to stimulate private consumption and investment, increase in public expenditures and reduce taxes and energy prices were introduced. Moreover, the Cabinet approved on 10 August 1999 a set of measures to encourage private investment with a view to ensuring sustained economic recovery. This package consisted of tax and tariff measures; equity investment measures; measures to promote the recovery of the real estate sector, and measures to improve financing for SMEs.

6. Since the beginning of the crisis, it was recognized that the restructuring and recapitalizing of the financial sector as well as restructuring the huge burden of non-performing loans would be a key to Thailand's economic recovery and would also bring back investors' confidence. Hence, in August 1998, the government announced a major programme to force financial institutions to recognize and set aside provision for bad debts. In early 1999, creditors also agreed on mechanisms to speed up restructuring and the Thai Parliament passed legislation to streamline bankruptcy and foreclosure procedures.

7. Besides financial measures, the government has announced the policy to privatize some state-owned enterprises in the utilities, transportation, energy, and commercial banking sectors.

8. The Thai Government also puts great emphasis on building a modern legal framework for the country. A number of laws were enacted or amended in response to the crisis notably laws and regulations on bankruptcy and foreign investment. A package of reform legislation, including provisions that will establish a new bankruptcy court, speed bankruptcy and foreclosure proceedings and allow creditors to pursue payment from loan guarantors has been initiated. Bills that have been introduced in Parliament but have yet to be passed include a new foreign investment law, new foreclosure provision and a bill that will accord internationally recognized labour rights to workers in state enterprises.

9. With these developments, the government believes that the Thai economy will become more efficient, transparent and able to cope better with future changes.

II. THE ECONOMIC AND TRADE ENVIRONMENT

(i) Economic developments, 1995–99

10. 1995 was the year of transition from economic boom to economic recession for the Thai economy. Despite strong GDP and export growth of 8.8% and 23.6%, respectively, Thailand had a negative trade balance of US\$14.7 billion and current account deficit of US\$13.2 billion (equivalent to -7.8% of GDP). Total debt outstanding increased to US\$82.6 billion, an increase of 27% from the previous year. However, these negative signals were largely overshadowed by the balance of payments surplus of US\$7.2 billion which resulted from net capital inflow of US\$21.9 billion into the Thai economy.

11. In 1996 the problems became much more evident when Thailand experienced negative export growth of 1.9% in U.S. dollar terms and current account deficit of US\$14.4 billion, an amount equivalent to -7.9% of GDP. Total debt outstanding also increased to US\$90.5 billion, a large proportion being short term debt accrued by the private sector. The balance of payments situation also weakened, recording a surplus of only US\$2.2 billion while real GDP growth slowed to 5.5%

12. In 1997 the economic conditions worsened. Although exports increased by 3.8% in U.S. dollar terms real GDP recorded a negative growth of -0.4%. Due to depleted foreign reserves which were used to fight off speculators, in July the government abandoned the baht's parity to the U.S. dollar in favour of a floating exchange rate resulting in the depreciation of the baht from 25.5 baht/US\$ to an average of 53.82 baht/US\$ in January 1998. In August 1997 Thailand also entered the IMF bailout package forcing the government to tighten its monetary and fiscal policies.

13. In 1998 Thailand continued to experience the economic problems which carried over from the previous year, particularly in the first half of the year when the economy contracted. In order to address the financial problems the government announced its reform package on 14 August 1998 which focused on four aspects, namely:

- accelerated consolidation of bank and finance companies through interventions;
- encouragement of private investment in banking systems;
- provision of public funds to recapitalize remaining financial institutions;
- development of framework for the creation of private asset management companies.

14. Economic conditions improved considerably in the second half of the year and the baht gradually appreciated to about 36.25 baht/US\$ in December 1998. Although exports fell 6.8% in U.S. dollar terms the current account recorded a surplus of US\$14.1 billion due to a decrease of 33.5% in imports.

(ii) Economic situation in 1999

15. In 1999 the Thai economy is expected to recover, albeit at a modest rate. In the first quarter of the year, GDP growth of 0.9% was recorded, while during January – May exports grew by 0.10% in U.S. dollar terms. The forecast for the whole year is that exports will grow by about 4% in U.S. dollar terms, while real GDP growth of more than 3% is expected. Economic stability is

expected to improve, with inflation rate of around 2.5%. The current account and balance of payments are projected to be in surpluses of US\$11.8 billion and US\$3.5 billion, respectively. Foreign reserves are expected at US\$32-34 billion which is equivalent to nine months of imports. In March 1999, the government introduced an economic stimulus package of 130 billion baht consisting of additional government expenditure of 53.3 billion baht (known as the Miyazawa Plan) aimed at creating income and employment, especially among the under-privileged group of people and those heavily affected by the crisis; reduction of tax measures to encourage private consumption and investment; and measures to lower energy price. In addition, with a view to ensuring sustained economic recovery, facilitating restructuring of the manufacturing sector, and strengthening private sector's competitiveness, the Cabinet approved on 10 August 1999 a fiscal and monetary package to encourage private investment. It consisted of the following:

- tax and tariff measures aimed at reducing production costs, encouraging corporate restructuring, and lowering prices of consumer products;
- equity investment measures to encourage investment in new commercially potential projects and facilitate corporate debt restructuring;
- measures to promote the recovery of the real estate sector; and
- measures to restructure financial facilities for SMEs to ensure adequate financing for SMEs in the medium and long terms.

(iii) Trade environment

16. ASEAN, the U.S., Japan and the EU are the four largest markets for Thai exports. In 1995 ASEAN was the largest export market, accounting for approximately one-fifth of total Thai exports. The main products which Thailand exports to ASEAN are computers and computer parts, electronic circuits, electric generators, rice, sugar, and printing circuits. The U.S. was the second, absorbing 17.8% of Thai exports in the form of computers and computer parts, garments and textiles, electronic circuits, canned seafood and jewelry. Japan ranked third with 16.8%, importing from Thailand products such as computers and computer parts, rubber, furniture, automobile parts and frozen chicken. In the same year the EU was the fourth largest market purchasing 15.1% of Thai exports such as computers and computer parts, garments and textiles, automobile parts, electronic circuits and air-conditioners. In 1995, the total value of trade amounted to 3,169,901.4 million baht (approximately US\$126.8 billion at 25 baht/US\$), with exports accounting for 1,406,310.1 million baht (US\$56.2 billion) and imports 1,763,591.3 million baht (US\$70.5 billion), thus resulting in a negative trade balance of 357,281.2 million baht (US\$14.2 billion).

17. For 1996 trade patterns were similar to the previous year. The four largest export markets remained unchanged in terms of their rankings. International trade value was slightly higher at 3,243,864.5 million baht (US\$129.8), with exports at 1,411,039.3 million baht (US\$56.4 billion) and imports 1,832,825.2 million baht (US\$73.3), resulting in a negative trade balance of 421,785.9 million baht (US\$16.9 billion).

18. In 1997 the EU overtook Japan as Thailand's third largest export market. Thailand's total trade value stood at 3,730,945.1 million baht (approximately US\$118.8 billion at 31.4 baht/US\$), with exports at 1,806,682 million baht (US\$57.5 billion) and imports at 1,924,263.1 million baht (US\$61.3 billion), causing the negative trade balance to be lowered significantly to 117,581.1 million baht (US\$3.8 billion).

19. In 1998 the U.S. overtook ASEAN as Thailand's largest export market, with the EU and Japan still in third and fourth place respectively. Total trade value was at 4,022,155.8 million baht (US\$97.2 billion at 41.4 baht/US\$), with exports at 2,248,089.4 million baht (US\$54.3 billion) outstripping imports at 1,774,066.4 million baht (US\$42.9 billion) for the first time, resulting in a positive trade balance of 474,023.1 million baht (US\$11.4 billion).

20. In the first six months of 1999 (January – June) trade pattern has remained similar to that of the previous year, with the U.S. still the largest export market accounting for 21.3% of Thailand's exports, followed by ASEAN (18.6%), EU (17.3%) and Japan (14.2%). Again, Thailand has been able to export more than it has imported, thus resulting in a preliminary trade balance figure of 75,258.5 million baht (US\$2 billion at 37.1 baht/US\$).

(iv) Medium term outlook for 2000 – 2004

21. In the years 2000 and 2001 the Thai economy is expected to grow by 2.5% and 3.6% respectively. Slow growth is forecasted due to limited world growth and persistent problems of non-performing loans, excess capacity in manufacturing and over-supply in the real estate sector. Exports are expected to grow by about 7-8% annually in U.S. dollar terms, while inflation rate is expected to be around 4%.

22. After 2001 economic conditions should continue to improve for Thailand. However, the rates of export and real GDP growth are not expected to reach pre-1995 levels, when Thailand enjoyed export and real GDP growth of 20% and 8% respectively. In the future, Thailand's economic success will depend largely on the effectiveness of the financial and real sector restructuring.

23. International trade continues to be the government's top priority despite the current economic crisis. Although there has been some calls for protectionism, the Thai Government has continued to liberalize the economy as well as adhering to its WTO commitments. In future, Thailand will continue to maintain its outward-looking policies, with trade as the engine of growth.

III. TRADE POLICY DEVELOPMENTS (1996-99)

24. Thailand recognizes the importance of trade policy in its development. Trade measures have been instrumental in strengthening the competitiveness of domestic industries to compete in the world market. Over the past four years Thailand has made progress in implementing more outward-oriented policies. New efforts have been made to improve market access in several areas.

(i) Tariffs

25. The first round of tariff restructuring in Thailand began in 1990 and was completed in 1997. Under this reform, the structure of Thailand's tariff policy has been reduced from 39 tariff rates categories (or bands) to only six categories. The six different categories in accordance with the principle of value-added escalation, are as follows:

- zero per cent for necessary goods such as medical equipment;
- 1% for raw materials and electronic parts and vehicles for international transport;
- 5% for primary and capital goods;
- 10% for intermediate goods;

- 20% for finished products; and
- 30% for goods which require additional protection;
- resulting from the above changes, the average tariff rates were lowered from 30.24% to 17.01% in 1997.

26. In 1998, due to the economic crisis and the shortfall in government revenues, the Ministry of Finance announced increased tariffs on some items e.g., tariff on tobacco and clothing were raised from 30 to 60%. Some cosmetics and leather goods were raised from 10 to 40%. An additional temporary surcharge of 10% on all imports with a customs duty over 5% was also applied. However, none of these tariff increases or surcharges violates Thailand's tariff binding commitments.

27. In 1998, Thailand adopted a 6-digit Harmonized System (HS96) and has since amended relevant laws and regulations accordingly. This will enable the Ministry of Finance to solve problems related to tariff classification.

28. Though that set of reform has brought the country's tariff system more into conformity with international practices, much remain to be accomplished. In December 1998, the Ministry of Finance appointed a Tariff Restructuring Committee to study tariff rates, and structure and also to reclassify goods in each group. The new tariff structure will still follow the value-added escalation principle but a number of rates and the rationalization of the existing structure are being considered. At the moment, the study for a new tariff structure is not yet finished but a preliminary conclusion is that future tariff bands should be reduced to only three rates categories.

29. As part of the set of measures to further promote economic recovery announced by the government on 10 August 1999, tariffs on capitals goods, raw materials and other products more than 630 items were reduced or exempted on a permanent basis, for example:

- removal of the 10% import duty surcharge;
- tariff reduction on machinery and mechanical appliances and parts; electrical machinery and equipment parts from 5 and 20% to 3% for 326 items;
- tariff exemption on fish or crustaceans, molluscs or other aquatic invertebrates for breeding which previously faced a tariff rate of 60%;
- tariff reduction of raw materials for cosmetic, pharmaceutical, food and other industries including lanolin, jojoba oil, vitamin premix, dried glands and organs for medical uses from 10% to 5%.

(ii) Import system

30. In accordance with the government trade policy to liberalize trade and minimize trade distortive effects, most products can be imported freely into Thailand. The government, however, applies import prohibition to certain products for reasons of public health and safety, environmental consideration, national security and in compliance with its obligations under international agreements and United Nations Security Council resolutions. Import licensing is kept to a minimum. Import controls are maintained for the purpose of public health and safety, environmental protection, and promotion of the establishment of particular industries.

31. Since 1995, Thailand has abolished import licenses for a number of products such as new motorcycles, high speed diesel, benzine and other similar fuel for engines, kerosene, naphtha, and liquified petroleum gas, vinyl chloride monomer in any form, and all products from or originating in Yugoslavia (Serbia and Montenegro).

(iii) Export system

32. Thailand is an export-led economy. The government's policy is to promote exports by limiting export controls to a minimum. Most of the commodities are exported freely out of the country. Some items are, however, subject to the requirements of prior approval for reasons such as economic stability, public health, national security and public morals, etc. The export of certain products is controlled as a result of bilateral agreements between Thailand and trading partners, i.e. textile and clothing.

(iv) Customs procedures

33. The Thai Government has long recognized the need to improve customs services as part of its efforts to enhance Thailand's competitiveness as a regional hub. There is also the need to continue to reform and liberalize tariff and quota systems in line with the commitments to the WTO, APEC, and ASEAN.

34. Considerable progress was made in reforming customs operations. The Customs Department has introduced some customs reforms such as express shipment handling, document simplification, etc. In the past few years, a majority of businessmen and investors in Thailand have reported their satisfaction with the significant improvement made in these procedures.

35. Other measures designed to streamline customs procedures include the introduction of the "Long Room System" whereby customs clearance procedures have been reduced from eight to two steps, taking no more than 30 minutes. The Customs Department has tried to eliminate the barriers and difficulties of importers, exporters and custom brokers by providing formality privileges, such as categorization of importers, exporters and customs brokers. Those who are qualified will be exempt from being checked on valuation, tariff classification and tax calculation during the formality execution process. The review will be carried out within 15 days after the goods have been released from customs custody. Such goods will be subject to half the normal opening rate for physical examination and exempt from review by the Investigation Bureau unless there is any information that requires officials to verify at a landing-go-down. Importers are required to deposit a security for any additional duty payable on the goods that have already been released from customs custody, or for a fine in case of an offence.

36. Thailand also applies the United Nations Electronic Data Interchange for Administration, Commerce and Transport (EDIFACT) system. The EDI system has been implemented by the Customs Department in an effort to develop Thailand's import and export systems to meet internationally-accepted standards. It is expected to substantially reduce the management and administrative costs of the trading community and to simultaneously expedite the Customs clearance process. The operation of EDI system for exporters entered into force on 1 July 1999 and cover all the major ports in Thailand. As to the operation of EDI system for importers, it will enter into force on 1 November 1999.

37. Furthermore, in order to bring the customs procedures closer to international standards, the government intends to ratify the International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention).

(v) VAT refund system

38. There is an initiative to implement a VAT refund system for tourists as early as 1 June 1999. This scheme has succeeded in bringing in tourists for those countries that have employed a similar system, and it is hoped that it will generate increased tourism revenues for Thailand in the future.

(vi) Customs valuation

39. The Customs Department is in the process of introducing necessary amendments to the Customs Act regarding transaction value to implement the WTO's Customs Valuation Agreement. The draft amendment bill has been approved by the Cabinet and is currently awaiting parliament's consideration. The GATT/WTO valuation system will be implemented within the target date of 1 January 2000.

(vii) Anti-dumping and countervailing measures

40. On 22 March 1999, the Anti-dumping and Countervailing Act of Thailand was promulgated. It became effective from 1 July 1999. The act provides a legal basis for anti-dumping and countervailing measures and ensures Thailand's compliance with Agreement on Implementation of Article VI of GATT 1994 and Agreement on Subsidies and Countervailing Measures.

(viii) Standards and phytosanitary measures

41. A significant change to Thailand's policy with regard to the establishment of national standards is the adoption of international standards as a basis for the Thai Industrial Standards (TISs). This policy, which reflects a strong intention of the Thai authority in complying with the TBT Agreement, has been implemented by the Thai Industrial Standards Institute (TISI) since 1997. From January 1998 to July 1999, the total number of TISs including final drafts which were prepared by adopting international standards such as ISO, IEC and Codex standards, is 375.

42. However, there are some instances where international standards have been found to be inappropriate for Thailand as they were prepared based on criteria or technical data of developed countries; therefore, they are not appropriate for technical infrastructure and/or climatic conditions of Thailand.

43. Currently, imports which are subject to sanitary and phytosanitary inspection include feedstuff, fishery products, food products, hazardous substances, live animals, plant seeds and plants.

(ix) Competition law

44. The government enacted a new competition law which became effective on 30 April 1999. The objective of this law is to encourage and promote fair business practices by prohibiting abuse of market dominant as well as creating opportunities for new entrants to gain access into the markets. The enforcement and implementation of the Act is under the responsibility of the Committee on Competition which is chaired by the Minister of Commerce.

(x) Intellectual property

45. Thailand has stepped up her enforcement of various laws on the protection of intellectual property rights. In 1997, the cabinet approved the establishment of a specialized division within the police force to deal specifically with intellectual property. Subsequently, a Joint Committee for the

Suppression of Intellectual Property Infringement was set up, chaired by the Royal Thai Police with representatives from Department of Intellectual Property and other government agencies.

46. There are developments on the judicial procedures as well. On 1 December 1997, the Office of Attorney-General set up a special section to deal with intellectual property, namely, the Department of Intellectual Property and International Trade Litigation. At the same time, the Intellectual Property and International Trade Court was inaugurated. This Court is the first one that has rendered decisions to imprison IPRs infringers. Jurisdiction of the Court covers civil and criminal cases involving intellectual property such as patent, trademark and copyright; civil and criminal cases involving trade; civil cases dealing with transfer of technology; and cases involving international trade such as disputes on import/export of goods and services, etc.

47. Lastly, a Working Group on the Cooperation and Monitoring of the Suppression of IPR Violation, chaired by the Deputy Minister of Commerce, was established in July 1998 to deal with matters related to violation of intellectual property rights. The suppression has been targeted at manufacturers, wholesalers and retailers alike, with a view to preventing crime on intellectual property at its source rather than at its ends. Moreover, intensive suppression activities have been conducted at several renowned shopping areas to deter IPR infringing activities, resulting in dramatic decrease of IPR infringements. From January-June 1999, there have been 732 infringement cases, seizing approximately 401,032 infringing materials. Most of the infringements were trademark counterfeits.

48. Regarding border measures, the customs officer may, upon request from the right holders, seize trade mark or copyright infringing goods being exported or imported into the country. The Customs Department is currently reviewing the regulations concerning the suspension of trade mark counterfeit goods and pirated copyright goods.

49. Thailand is in the process of accession to the Paris Convention and Patent Cooperation Treaty.

(xi) Services

50. Thailand welcomes foreign investment in the services sector through joint-ventures with Thai partners at the maximum ownership of up to 49%. In some services activities, foreigners may seek for permission to establish a 100% foreign-owned entity in Thailand. In certain sectors such as accountancy, architecture and engineering, Thailand has adopted standard regulations and licensing requirements in order to guarantee professional quality and integrity.

51. Since 1997, as part of the efforts to bring the country out of the financial crisis, the government has permitted investment in banking and securities businesses through share-holding in existing commercial banks, both privately- and publicly- owned. The previous maximum foreign ownership of 25% for banks and 49% for securities companies were relaxed. The Minister of Finance, upon recommendation from the Bank of Thailand, is empowered to authorize requests of interested foreign investors who wish to have ownership of more than 50%.

52. For insurance services, Thailand has continually implemented the principle of progressive liberalization. The first step of the liberalization plan for insurance has been completed with the establishment of 25 additional insurance companies (12 life insurance companies, and 13 non-life insurance companies). The amendment of insurance laws to increase foreign equity participation in insurance companies in Thailand, which is part of a second step of the liberalization plan, is also in progress. The last step will involve the consideration of the possibility of revising insurance laws to grant market access for foreign insurers through commercial presence as full branch.

53. Regarding telecommunications sector, as part of telecommunications liberalization process, the Master Plan for Telecommunications Development was formulated and approved by the cabinet on 28 March 1995. The incoming government which was formed in late 1995 instructed the Ministry of Transport and Communications to review the Master Plan. The reviewed Master Plan was resubmitted to the cabinet for approval and subsequently was approved on 4 November 1997. The main policy elements of the Master Plan for Telecommunications Development are as follows:

- liberalization;
- increasing private participation;
- establishing an independent regulatory body;
- privatization of Telephone Organisation of Thailand (TOT) and Communication Authorities of Thailand (CAT).

54. The liberalization of telecommunications in Thailand will provide a good opportunity for local and foreign firms to apply for licenses to operate telecommunications services. The foreign companies may participate in telecommunications business in Thailand after the year 2006 through joint ventures with local firms.

(xii) Improving auditing and accounting standards

55. The Thai Government has been trying to improve the accounting and auditing standards of business in Thailand. For instance, there is now a requirement that all listed companies must have an internal auditor and accompanying programmes to provide necessary training to prospective internal auditors. In the area of accounting, the Institute of Certified Accountants and Auditors is in the process of developing much higher standards of accounting and auditing among their members.

(xiii) Investment measures

56. The legislation relating to foreign investment in Thailand is the Alien Business Law of 1972 (ABL), which is administered by the Department of Commercial Registration, Ministry of Commerce. "Aliens" here refer to natural persons not possessing Thai nationality; juristic persons with at least one-half of their capital owned by aliens or in which half or more of their shareholders, partners or members are aliens; and limited or registered ordinary partnerships having aliens as the managing partner or manager. The law prohibits these aliens from participating in specified activities and requires them to obtain business permit in conducting certain activities.

57. Activities that are subject to the ABL are classified into three categories, namely, category A, B and C. Aliens are prohibited from participating in category A while category B is permitted only with the Board of Investment (BOI) promotion, and aliens can engage in category C businesses only with the permission of the Director-General of the Department of Commercial Registration or the promotion of the BOI. Activities not specified by the ABL or any specific laws are not subject to foreign equity participation restrictions. The law is not applicable to aliens engaging in businesses in Thailand by permission of the Thai government for a definite duration or an agreement between the Royal Thai Government and a foreign government.

58. The ABL is being revised to allow foreign participation in a wider range of activities. The new legislation entitled "Foreign Business Act," which has been approved in principle by the cabinet on 18 August 1998 and is under consideration by the parliament will replace the ABL. Major changes of the bill are as follows: a number of activities will be further liberalized such as brokerage services,

wholesale and retail trade, construction, non-silk textile, garment, footwear, beverage production and auction business. Activities reserved for Thai nationals are as follows:

- those relating to special reasons;
- those restricted due to national safety and security, culture, traditional, folk handicrafts, national resources and environment;
- those restricted due to less competitiveness of Thai nationals in comparison to foreigners;
- classification of activities will be reviewed on a regular basis by an advisory committee comprising representatives of both public and private sectors.

59. In fact, certain important sectors have already been liberalized to allow greater foreign equity participation. In particular, foreigners are allowed to have a majority ownership in banks, finance, securities and credit foncier companies for ten years. After ten years, they will not be forced to sell their existing shares but may not purchase additional shares unless foreign ownership accounts for no more than 49%.

Investment Incentives

60. The BOI offers both tax and non-tax incentives to Thai and foreign investors. The Investment Promotion Act of 1977 forms the legal basis for investment incentive provision. A wide range of activities are eligible for investment promotion.

61. While tax incentives form measures to help reduce investors' initial investment costs, non-tax incentives are geared towards reducing investors' risks and facilitating investors. These measures include the following:

- guarantees against nationalization, competition from new state enterprises, and price controls;
- permissions to bring in foreign nationals to undertake investment feasibility studies or to work under promoted projects; and
- permissions to own land to carry out promoted projects.

62. Over the past several years, industrial decentralization has been the major policy theme of Thailand's tax incentive scheme. The criteria in granting tax incentives have been designed to attract investments to regional areas which are generally disadvantaged in terms of infrastructure availability and economic development. The entire country is divided into three zones. Zone 1 comprises Bangkok and five neighbouring provinces, whereas zone 2 consists of ten provinces adjacent to zone 1. Zone 3 covers the rest of the country and the Laem Chabang Industrial Estate. Zone 1 receives the least tax incentives while zone 3 enjoys the most incentives.

63. Factory relocation has also been another important policy goal since many industrial activities have been highly concentrated in Bangkok and neighbouring provinces. Tax incentives have thus been offered to encourage companies to relocate their production facilities to regional areas.

64. Apart from decentralization, the BOI attaches great importance to investments that will bring technological developments to Thailand and help improve infrastructure facilities as well as environmental restoration and protection.

65. Since the start of the Asian economic crisis, the BOI has come up with a series of measures aimed at revitalizing the economy and enhancing the country's competitiveness. These measures include relaxation of joint venture criteria to allow more foreign participation, measures to facilitate debt restructuring, and stimulating firms to obtain international standards. Efforts have been focused on encouraging existing companies to maintain and expand their operations in Thailand.

66. As a result of the relaxation of the joint venture criteria, a total of 25.8 billion baht was transferred into Thailand as injection of additional foreign capital in BOI-promoted companies during November 1997-April 1999.

(xiv) Environment

67. Thailand has ratified a number of important Multilateral Environmental Agreements (MEAs) namely: Montreal Protocol on Substances that Depletes the Ozone Layer; Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal; Convention on International Trade in Endangered Species of Wild Fauna and Flora; International Tropical Timber Agreement; and Framework Convention on Climate Change.

68. In addition, Thailand is in the process of ratifying or acceding to other MEAs such as Convention of Biological Diversity, Desertification Protocol as well as the Kyoto Protocol on Climate Change.

69. Besides these MEAs, Thailand is also a signatory to some UN conventions such as the High Seas Fishery and FAO's Code of Responsible Fishery.

70. Thailand also participate in ISO 14000 meetings in which international standards on environmental management, labelling, auditing and impact assessments are being made. For the standards that have already been finalized under the ISO 14000 series, relevant governmental agencies and private organizations have encouraged Thai companies and SMEs to follow these standards even though they are voluntary. At present, Thailand is a leading country in the ASEAN region to receive ISO 14001 certificate as many companies in Thailand have been certified as meeting ISO on environmental management. The Ministry of Industry has a programme to assist SMEs to attain ISO standards in addition to putting more resources on training certifiers and accreditors.

71. The Ministry of Science, Technology and Environment, under direction from the National Environment Committee, is in the process of considering appropriate environmental taxes and charges in Thailand. This is in accordance with "Polluters-pay Principle." The Ministry also conducts regular public awareness programmes to instil a sense of environmental responsibility among the people, and particularly the younger generation.

72. On the private sector initiatives, a Thai eco-labelling scheme called "Green Label Thailand" was introduced in 1994 and jointly administered by Thailand Environment Institute and Ministry of Industry. The label is currently given to ten product groups such as recycled paper, energy-saving refrigerators and air-conditioners, non-CFC sprays, etc. The criteria for awarding the label to most products are identical or similar to those found in developed countries. This helps explain why so far there have been only a few of products that have been awarded the Green Label. Nevertheless, it is believed that such high and stringent criteria will be useful for companies that have successfully met the standards as it will be easier for them to apply for eco-labelling in other countries.

(xv) Privatization

73. Privatization efforts began in 1961 and have been part of every subsequent national economic and social development plan. In the past decade, the government has privatized more than 40 enterprises and reduced the number of state-owned enterprises from more than 100 to 59. There are currently 59 state-owned enterprises which can be broadly categorized into five major sectors: telecommunications, water, energy, transport and other (including enterprises in the industrial, social and technology, commercial and services, agriculture and financial sectors).

74. At present, the government is in the process of accelerating privatization of many state-owned enterprises such as Thai Airways International, Telephone Authority of Thailand, Electricity's Power Plant Generation, etc.

IV. IMPLEMENTATION OF URUGUAY ROUND COMMITMENTS

(i) Tariffs

75. In the implementation of the Uruguay Round market access commitments, in 1995 the Ministry of Finance announced the package of tariff reduction starting from 1995-99 for industrial products and 1995-2004 for non-agricultural products and textiles and clothing. As a result the scope of tariff binding increased from 5% to almost 70% of total tariff lines.

(ii) Agriculture

76. Thailand is committed to reduce tariffs of 740 agricultural products by an average of 2.4% each year and expand tariff quotas for 23 products at 0.2% annually until 2004. The 23 products are milk and cream, not concentrated; milk and cream, concentrated; potato; onion; garlic; coconut; copra; coffee; tea; pepper; maize; rice; soya bean; onion seed; soya bean oil; palm oil and palm kernel oil; coconut oil; cane or beet sugar; instant coffee; soya bean cake; tobacco; raw silk; dried longans.

(iii) Technical barriers to trade and sanitary and phytosanitary measures

77. All technical regulations and sanitary and phytosanitary measures that Thailand has adopted since 1995 have been notified to the WTO under relevant committees. Most of these technical regulations and standards are in accordance with, or are aligned to international standards set by those organizations recognized by the WTO.

(iv) Anti-dumping measures

78. The new anti-dumping law was passed and became effective on 30 June 1999. This fulfils Thailand's obligation to implement the Uruguay Round agreement on anti-dumping measures. Submission of this Act to the WTO for comments is being prepared.

(v) Customs valuation

79. Thailand invoked the five-year transitional period to implement the provisions of Customs Valuation Agreement. At present the legislative amendments required to provide the legal basis for the use of the Agreement is underway. It is expected that the law will enter into force by January 2000.

(vi) Trade-related investment measures

80. Recognizing Thailand's obligations under the TRIMs Agreement, the Board of Investment started to phase out some local content requirements in April 1993. As a result, the local content requirement previously imposed on a number of activities has been abolished. Some activities that remain subject to the local content requirement include the manufacture of milk and dairy products, some types of automobile engines and automobile assembly. The remaining local content requirements will be phased out in accordance with the timeframe provided in the TRIMs Agreement.

(vii) Trade-related intellectual property rights

81. Thailand is committed to implement its obligations under the TRIPS Agreement. It has been reviewing existing laws and regulations relating to the protection of intellectual property rights and has drafted new ones in order to comply with its commitments.

82. The current status of various draft laws and amendments are as follows:

- Copyright Act: the amendment of the Copyright Act was approved in 1994 and entered into force in 1995. Thailand considers that the Act has fully complied with the TRIPS requirement;
- Patent Act: the amendment of the 1979 Patent Act (previously amended in 1995) will enter into force on 27 September 1999;
- Trademark Act: the draft amendment of the 1991 Trademark Act is undergoing consideration by the House of Representatives;
- Plant Varieties Protection Act: the bill is under supervision of the Ministry of Agriculture and Cooperatives and is undergoing its first reading in the House of Representatives;
- Protection of Layout-designs of Integrated Circuits Act and the Protection of Geographical Indications Act: the bill has been approved by Office of the Council of State and will be submitted to the House of Representative shortly;
- Protection of Geographical Indications Act and Trade Secrets Act: these two bills are under consideration of the Office of the Council of State.

(viii) Trade in services

83. Thailand has made substantial commitments under GATS in ten sectors covering over 100 activities. According to the secretariat paper on "Recent Development in Services Trade – Overview and Assessment", Thailand is among the 30 WTO Members with the most liberalized services commitments.

84. Thailand participated fully and actively in the post-UR works on extended sectoral negotiations. Thailand took part in the negotiation on maritime transport and still maintain our commitments in this area even though the negotiation in this sector was suspended. Furthermore, we have made additional commitments on basic telecommunications and financial services to allow greater foreign participation. Our recent commitment in basic telecommunications will allow foreigners to take part in public domestic and long distance and international services of voice telephone, telegraph, telex, and facsimile services by the year 2006. Our latest improvement in

financial services include the withdrawal of MFN exemptions in banking and other financial services as well as increasing foreign equity participation. Foreigners are permitted to own up to 100% of commercial banks, finance companies and credit foncier companies for a period of ten years with the condition that after ten years, although foreigners will not be forced to sell their shares, they may not buy any additional shares, unless the foreign shareholding is less than 49% of the total shares.

V. PARTICIPATION IN REGIONAL GROUPINGS

(i) APEC

85. In spite of the severe economic crisis experienced by Thailand and other countries in the region over the last two years, the Thai Government's position with respect to regional cooperation, including APEC, is unchanged. APEC's goals to achieve trade and investment liberalization by 2020 is still on course, even though the speed at which liberalization had previously progressed has been slowed down by the economic downturn. Resistance by the private sector and domestic industries to liberalize trade and investment, whether it be through tariff reductions or privatization, has made it difficult for the government to advance towards APEC's goals at the desired pace. Nevertheless, the government has continued successfully to reduce any resistance from the private sector by providing reasons and promoting awareness of the benefits to the country as a whole from trade and investment liberalization.

86. Thailand has played an active role in APEC and participated in a number of APEC projects/activities. With regard to the Individual Action Plan (IAP), Thailand continues to make significant improvement to free up trade and investment in all relevant areas such as tariff reduction, non-tariff measures, investment and intellectual property rights. Thailand has also cooperated with other APEC members to carry out work programmes under the Collective Action Plans (CAPs) to promote trade and investment facilitation within the Asia-Pacific region including economic and technical cooperation by focusing on HRD, transfer of technology and development of SMEs in parallel with the liberalization of trade and investment.

(ii) ASEAN

87. The financial and economic crises have severely affected the ASEAN economies and business dynamism in the region. In order to regain business confidence, enhance economic recovery and promote growth, Thailand has actively advocated to accelerate the implementation of AFTA.

Acceleration of AFTA

88. The ASEAN Leaders agreed to accelerate the implementation of the ASEAN Free Trade Area. The six original members (Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore and Thailand) will advance the implementation of AFTA by one-year, from 2003 to 2002. The acceleration will be accomplished in stages. Each country is committed to achieve a minimum of 85% of the Inclusion List with tariffs of 0-5% by the year 2000. Thereafter, this will be increased to a minimum of 90% of the Inclusion List in the 0-5% tariff range by the year 2001. By 2002, 100% of items in the Inclusion List will have tariffs of 0-5%.

89. Member countries also agreed to deepen tariff reduction to 0% and accelerate the transfer of products, which are currently not included in the tariff reduction scheme, into the Inclusion List as soon as possible. All the non-tariff barriers (NTBs) in ASEAN will also be removed.

90. Thailand's 1999 CEPT package consists of 9,066 tariff lines in the Inclusion List which account for 99.52% of total tariff lines. There are 37 tariff lines in Temporary Exclusion List and seven tariff lines in the Sensitive List.

(iii) ASEM

91. The first Asia-Europe Meeting in Bangkok which took place in March 1996, marked a historic turning point in relations between Asia and Europe. The leaders of 25 Asian and European countries together with the President of the European Commission laid down constructive cooperation guidelines covering political, economic and social issues.

92. In the past three years, member countries made a strong effort to come up with concrete results as intended by the first ASEM. For economic cooperation, the Investment promotion Action Plan (IPAP) which was initially drafted by Thailand and subsequently endorsed by the second ASEM in London, April 1998, has been implemented actively in order to create a better investment atmosphere between the two regions. The Trade Facilitation Action Plan (TFAP) which was also endorsed at the second ASEM, is another achievement aiming at reducing non-tariff barriers and promoting trade opportunities in Asia-Europe region. The TFAP consists of trade facilitation goals in several priority sectors, such as customs procedures, standards and certification, and quarantine and SPS procedures. Thailand continues to play an active role in the ASEM economic cooperation.

(iv) Subregional cooperation

93. Thailand continues close relationship with her neighbouring countries through economic links and cooperation under two major subregional groupings, i.e. the Indonesia-Malaysia-Thailand Growth Triangle (IMT-GT) and the Greater Mekong Subregion (GMS-EC).

94. The IMT-GT was established in 1993. The objective of the growth triangle is to provide economic and social support for the three countries by promoting joint usage of economic resources. It is hoped that efficient utilization of resources to achieve maximum production capacity, greater technology transfer and linkage of basic infrastructure will help reduce transportation costs and enable higher competitiveness on the world market.

95. There are ten major areas of cooperation namely: Land Transport and Maritime Transport; Energy; Agriculture and Fisheries; Industry; Tourism; Trade; Investment and Finance; Human Resource Development and Labour Mobility; Air Transport; and Telecommunications.

96. Future Work in IMT-GT will concentrate on promoting trade and investment, identifying common areas for joint development and exploring ways to establish a system for making payments that would reduce reliance on the U.S. dollar amongst the three countries.

97. The GMS-EC was established in 1991 and comprises six countries: Cambodia, China (Yunnan Province), Myanmar, Laos, Viet Nam and Thailand. The cooperation is supported by the Asian Development Bank (ADB) which provides technical assistance in seven areas namely: transportation, energy, communications, human resource development, tourism, environment and natural resource management, as well as trade and investment.

98. Results of various projects under the GMS-EC are mainly focused on land transportation linkages across member countries with common borders, such as the East-West Economic Corridor Development project. Other projects under the GMS-EC include development of water resources aimed at generating electricity supply within the Subregion, and project involving trade and

investment which have been initiated and will be undertaken by the Trade Facilitation Working Group which will be set up.

VI. FUTURE POLICY DIRECTION

99. Although Thailand is beset with one of the most serious economic crises the country has ever experienced, the government remains fully committed to trade liberalization and intends to carry out all the commitments made in every forum. Thailand is an active member of the Friends of a New Round which is pushing for a new round of trade negotiations to be launched at the 3rd WTO Ministerial Conference to be held in Seattle this year. Thailand is also a member of the Cairns Group which played an instrumental role in agriculture negotiations in the Uruguay Round and continues to be a major force in the same area until today. Thailand will continue to participate actively in the WTO with a view to contributing to the improvement of the multilateral trading system.

100. Thailand's trade policies continue to aim at maintaining an open trade regime so that trade growth contributes to sustainable economic growth. It has been the government's policy to allow market forces to determine pattern of trade and to ensure non-discriminatory access to markets. All measures that cause inconvenience to importers and exporters will be minimized. The government will continue to pursue policies aiming toward greater liberalization in our economy.

101. Another area of importance is tariff reform. Although Thailand has undergone a tariff restructuring a few years ago, the government recognizes that further reform is still needed. The Ministry of Finance is in the process of preparing a comprehensive reform of the country's tariff structure in line with the country's development and forthcoming international commitments.

102. Thailand will continue to be open to foreign investors. The government has made reduction of investment barriers and deregulation one of its priorities in economic reform. At present, a number of bills that will ease up investment criteria and allowing for more foreign-ownership are in the parliament. It is hoped that the new laws and regulations will bring in greater transparency and predictability, conditions which are important to foreign investors.

103. Lastly, the government's policies will continue to focus on accelerating the privatization programme, strengthening financial and capital market, encouraging private investment and improving quality of skilled manpower.
