

**IDENTIFICATION OF MISSING ITEMS AND FOLLOW-UP QUESTIONS
TO THE REPLIES BY THAILAND TO QUESTIONS POSED BY VARIOUS
DELEGATIONS REGARDING THE BOARD OF INVESTMENT PROGRAMME**

The following communication, dated 8 May 2003, has been received from the Permanent Delegations of Australia; Canada; European Communities; Japan; Switzerland; Peru; the United States and Venezuela.

We appreciate the efforts made so far by Thailand to respond to the questions posed in G/SCM/Q3/THA/18, with respect to the Board of Investment Programme. However, in our view, the responses provided so far, in G/SCM/Q3/THA/20 (23 April 2003), are incomplete and do not provide a sufficient factual basis for an informed assessment of the BOI's programmes. We recall that Thailand committed, as a condition for the granting of the extension, until 31 December 2003, for the elimination of export subsidies taking the form of the exemption from corporate income tax under BOI, to make every effort to submit all of the additional information referred to in document G/SCM/Q3/THA/18, not later than 15 April 2003.

Missing Items

Q2. Phase-out profile of non-joint venture projects (cf 'Annex 5' to G/SCM/Q3/THA/17).

Observation: The response referred to the phase-out profile of both joint venture and non-joint venture projects. Please provide the phase-out profile for non-joint venture projects only.

Q5(a) A specific description of the product(s) produced under the project during the period 1 January 2001 through 31 December 2002.

Observation: The information provided is at a sectoral or higher level, it is not at a product specific level.

Q5(b) The HTS number (at least at the 4-digit level) for each of the products produced under the project during the period 1 January 2001 through 31 December 2002.

Q5(c) If a production facility is subject to more than one BOI project, please indicate which other rows of the spreadsheet relate to the same production facility.

Q5(e) The value, in US Dollars, of the products produced under the project which were sold in the Thai domestic market during calendar year 2001 and during calendar year 2002.

Q5(h) The percentage of production which is required to be exported under the project.

Observation: Footnote 1 states “the average 80 per cent of production is required to be exported under the above projects”, but does not provide the export performance percentage required for each individual project.

Q5(j) A description of any benefits, other than income tax exemption, provided for under the project. Please indicate which of these benefits were actually granted during the period 1 January 2001 through 31 December 2002.

Q5(k) Whether the project relates to a joint-venture entitled to benefit from the process of removal of export requirements referred to in question 1.

Follow-up Questions

According to the response to question 1, on 8 April 2003, Thailand’s Board of Investment decided to remove the export requirement from all but 178 projects.

- Is the decision by the BOI the only necessary process and hence sufficient to eliminate legally the export requirement for those projects? When did this elimination formally become effective?
- Is there a difference in the treatment of joint and non-joint venture projects with respect to the BOI’s action? If so, please describe.

According to the response to question 1, the BOI decided to form a working group to study the economic impact which would result from the elimination of the export requirement for the remaining 78 projects by the end of 2005.

- When does the working group expect to complete its study? Will the working group prepare a report describing its findings and conclusions?

According to the response to question 5, it is stated that information for question 5(b) is not available, as the BOI does not use HTS numbers to classify its activities.

- Did Thailand request the HTS numbers from project beneficiaries in its questionnaires?

According to remark 3, with respect to the table prepared in response to question 5, it is stated “(*) Value of export or/and tax exemption of the year 2002 are not yet available due to the vary fiscal year of each company. The mentioned information should be ready by the end of 2003.” However, project number 55 appears to be the only project identified with an “(*)”.

- Did Thailand intend to identify any other projects for which the export or tax exemption information for the year 2002 is not yet available. If so, please identify.
- Please explain why no export or tax exemption information was provided for the year 2002, for any reason other than different fiscal year.

According to remark 4, with respect to the table prepared in response to question 5, it is stated “(N.A.) means: 4.1 The company does not return the questionnaire requesting information on value of export and tax exemption. 4.2 The company has not yet started its operation.”

- Please disaggregate the projects that have not yet started operation from the projects for which the questionnaire was not returned, in the table, in order to allow us to have a clear picture as to which projects have not yet started operations.

In reviewing the information provided in the table prepared in response to question 5, we note that all projects have an expiry date of export requirement that extends beyond the expiry date of export subsidy.

- Please describe any consequences that may be imposed, for projects which fail to satisfy export performance requirements. Are such consequences discretionarily or mandatorily applied by Thailand?
 - If a project fails to satisfy an export performance requirement, may the Thai authorities deem a prior year's income tax exemption to be void and retroactively levy income tax on the project? If so, please describe in detail how the amount of forfeiture of such prior year advances of the subsidy is determined and levied.
 - Please provide the number and phase-out schedule of export performance requirements for projects by sector (as was done for the phase out of income tax exemption in the reply to question 3), including any projects for which the subsidies are no longer being provided, if the projects are still subject to export performance requirements.
 - Please provide the number and phase-out schedule of export performance requirements for projects by the following sectors: motor vehicles for transport of goods, air conditioning, rubber, textiles, clothing, and footwear (as was done for the phase out of income tax exemption in the reply to question 3), including any projects for which the subsidies are no longer being provided, if the projects are still subject to export performance requirements.
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