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Trade Policy Review Body  
19-20 December 1995

## TRADE POLICY REVIEW

### THAILAND

### MINUTES OF MEETING

Chairman: H.E. Mr. N. Osorio Londoño (Colombia)

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I. INTRODUCTORY REMARKS BY THE CHAIRMAN

1. The Trade Policy Review of Thailand was held on 19 and 20 December 1995. The Chairman welcomed the delegation of Thailand, headed by Ambassador Danai Tulalamba, and the discussants, Ambassador Wade Armstrong (New Zealand) and Mr. Jorge Riaboi (Argentina).

2. The Chairman recalled the purpose of the Trade Policy Reviews and the main elements of the procedures for this meeting. The report by the Government of Thailand was contained in document WT/TPR/G/9 and that of the WTO Secretariat in document WT/TPR/S/9; the main issues to be raised by the discussants were contained in document WT/TPR/W/12. Copies of written questions submitted by four delegations (the European Union, Hong Kong, Japan and New Zealand) had been transmitted to the delegation of Thailand. If full replies could not be provided during the meeting, supplementary written replies should be provided later.

3. Recalling that intergovernmental organizations would attend meetings of the General Council through decisions taken on the basis of the ad hoc arrangements, the Chairman proposed that the Trade Policy Review Body invite the FAO, EFTA, IMF, OECD, UNCTAD and the World Bank, which had requested observer status, to its next meeting.

## II. OPENING STATEMENT BY THE REPRESENTATIVE OF THAILAND

4. The representative of Thailand said that his country recognized the importance of the Trade Policy Review Mechanism, as it enabled Thailand to examine closely its own trade policies and practices, as well as those of other WTO members. Thailand believed that greater transparency and better understanding of WTO member trade policies would help lessen the friction and misunderstanding that existed in the international trading environment.

5. After having experienced double-digit growth from 1987 to 1991, the Thai economy returned to a more moderate yet sustainable path, with growth averaging around 8 per cent, over the period 1992-95. At the start of 1995, it was forecast that the Thai economy would attain an 8.8 per cent growth rate. However, due to natural calamity, the anticipated growth rate was revised downward to around 8.5 per cent. By the year end, the inflation rate was expected to rise marginally to 5.6 per cent, the trade deficit was expected to decline to 6.1 per cent of GDP, while the current account deficit was estimated to be around 6.5 per cent. The widening trade deficit was, however, more than compensated by a strong net capital inflow, leaving the balance of payments comfortably in surplus; international reserves continued to rise, to over US\$36 billion, approximately 6.6 months of imports.

6. Since Thailand's acceptance of Article VIII of the IMF Articles of Agreement, which resulted in complete liberalization of current account transactions, a number of liberalization measures had been implemented. These included freer repatriation of dividends and proceeds from sales of stocks by foreigners, and the introduction and expanded use of non-resident Baht accounts. The attractiveness of Thailand's financial market was reflected in a strong and sustained capital account surplus.

7. From 1990 to 1995 exports grew at an average annual rate of 18.8 per cent, while the average import growth rate was 14.6 per cent. In 1995 the export value exceeded Baht 1 billion, representing over 1 per cent of world trade. Over 85 per cent of exports were made up of manufacturing products, raising their share to 30 per cent of GDP. The services sector, nevertheless, continued to enjoy the largest share of GDP at 50 per cent, while the agricultural sector represented only 10 per cent of GDP.

8. Although economic expansion may have been remarkable over the past several years, resource utilization had been high and Thailand had encountered a number of problems in the process, such as inadequate infrastructure, a shortage of skilled labour, disparity in income and environmental degradation. The adjustment measures to redress these problems were carefully incorporated into the current national economic and social development plan, the priorities being to achieve a more equitable income distribution, maintenance of a sustainable growth rate, decentralization of economic activity to rural areas, human resource development, environmental conservation and optimal utilization of national resources.

9. Thailand had also continued with a number of economic reforms, as well as implementing trade and financial liberalization policies. The Government was determined to continue its liberalization efforts, with a view to enhancing the country's efficiency and competitiveness in international trade. In this respect Thailand had been actively involved in the Uruguay Round negotiations, with the aim of improving the effectiveness of the rules governing international trade and bringing about a fair and freer trading environment.

10. Since its accession to the WTO on 1 January 1995, Thailand had implemented numerous measures in compliance with its Uruguay Round commitments. In accordance with the Agreement on Agriculture, Thailand had tariffed 23 agricultural products. Administrative procedures concerning the allocation of these respective tariff quotas for 1995 had been completed and publicly announced by the Ministry

of Commerce. In the services sector, Thailand had submitted a schedule of market access covering 95 activities and ten major sectors. In addition, tariff rates on almost 4,000 industrial and fisheries products had been reduced, representing 70 per cent of total tariff lines.

11. Thailand had continued with its national tariff reform, begun in 1990; the tariff reforms announced in December 1994 would cut the average applied tariff rate from about 30 per cent to 17 per cent by 1997, reducing tariff categories from 39 to six. Since Thailand's previous Trade Policy Review, products under import licensing have decreased significantly due to trade liberalization, with total coverage down from 83 items to 31 items. The import surcharge on motor vehicles had been removed, and the scope of export licensing narrowed from 53 to 36 product groups.

12. In recent years, Thailand's investment régime had been further liberalized in line with the Government's efforts to alleviate income disparity. Stronger emphasis was placed on industrial decentralization to encourage rural development, and to comply with obligations under TRIMS and the Agreement on Subsidies and Countervailing Measures. The revised investment promotion policy, effective since 1993, incorporated two major changes: the removal of export conditions attached to a number of activities as well as local content requirements on eight products; and additional incentives to encourage new investment and factory relocation in regional areas. Thailand was divided into three investment zones. Zone 1, which comprised Bangkok and five neighbouring provinces, received the least incentives, whereas the most remote area, Zone 3, was granted the maximum incentives. Joint venture criteria for projects applying for investment promotion had been progressively relaxed, by removing the export requirement previously imposed on projects in Zone 3.

13. On intellectual property rights (IPR), the Government had focused its attention on both enforcement and promotional aspects. Significant achievements were the series of enactments and amendments of intellectual-property-related laws: the Trademarks Act of 1991, the Patent Act (No. 2) of 1992 and the Copyright Act of 1994. This was complemented by the move to set up a specialized court on intellectual property and international trade; the draft law had passed the first reading by Parliament and was scheduled for the second and third readings in March and April 1996, respectively.

14. In the financial sector, liberalization had led to modernization of the domestic financial system. The Financial System Master Plan, with the objectives of enhancing efficiency, strengthening the solvency and quality of the portfolios of financial institutions, channelling credit and financial services to regional and provincial areas, increasing domestic savings and developing Thailand into a regional financial centre, was being implemented and results could already be seen. Examples included the launching in 1993 of the Bangkok International Banking Facility (BIBF), Thailand's offshore banking facility, and the setting up of the Export-Import Bank in February 1994 to replace the operation of the export refinancing facility formerly administered by the Bank of Thailand.

15. As a founding member of ASEAN, Thailand had played an instrumental rôle in launching the ASEAN Free Trade Area (AFTA) in 1993. The intent of AFTA was to reduce intra-regional tariffs on all manufactured items, including capital goods and processed agricultural products, to 0-5 per cent, and to remove non-tariff barriers by the year 2003, advancing the deadline from 2008. At the recent summit meeting, ASEAN members had made further progress by extending preferential trade arrangements to include trade in services, unprocessed agricultural products and greater cooperation on IPR. With the entry in July 1995 of Viet Nam as the newest member, ASEAN anticipated expanding its future membership to include all South-East Asian countries.

16. In promoting economic dialogue through the APEC framework, Thailand's policies towards APEC would be made compatible with commitments under the WTO. Thailand stressed the importance

of voluntary economic liberalization under the concept of open regionalism. At the recent summit in Osaka, APEC leaders announced initial action plans for liberalization and the facilitation of trade and investment. For example, Thailand had announced that it would advance implementation of tariff reductions agreed in the Uruguay Round commitments, improve specific commitments in financial services, and bring forward implementation of the TRIPS Agreement.

17. Regarding Thailand's prospective liberalization programmes, the Government planned to advance the implementation date of commitments in financial services. For example, a number of foreign banks with BIBF licences would be granted full branch status in 1996, in lieu of 1997, as pledged under the WTO. In the services sector, the Government planned to liberalize and deregulate the telecommunication sector by 1998. This would be done through the reform of telecommunications laws and regulations, in order to facilitate and encourage a greater rôle for the private sector.

18. The insurance sector would also be extensively liberalized, with the number of licences for new domestic insurance companies to be expanded as the first stage. In the second stage, the Government would allow foreign companies to increase their shareholding in insurance firms, from the present 25 per cent limit up to 49 per cent. In the final stage, the insurance sector would be fully liberalized to foreign investors. The Government was also revising the Alien Business Law which, in effect, would further liberalize the domestic services sector, particularly in the area of professional practices.

19. Under the Uruguay Round Agreement on Customs Valuation, Thailand and other developing countries were allowed five years for full conformity. Desiring to bring forward its implementation of the Agreement, Thailand would endeavour to bring its customs valuation practices into conformity with the Agreement by 1997.

20. Before concluding, the representative said he wanted to point out a number of issues whose factual information differed from that of the Secretariat's. With regard to the observation that the latest publication of tariff rates was only up to the year 1992, thereby raising concern over the issue of transparency, he wished to clarify that for every tariff modification the Ministry of Finance was obligated by law to make a public announcement, followed by publication in the Royal Gazette. All tariff modifications were systematically compiled and could be referred to at the Ministry of Finance.

21. Concerning tariff bindings in agriculture, the bindings by Thailand fully covered all agricultural products. The non-availability of information on export subsidies could be explained by the fact that Thailand maintained no export subsidies at the time of the Secretariat report, except in the form of the Packing Credit. The latter was fully consistent, in theory and practice, with the provision under the Agreement on Agriculture which allowed for the use of export credits applied in conformity with the internationally agreed disciplines. With regard to the Secretariat statement that all importers in Thailand must be registered with the Ministry of Commerce, there was no such requirement. Importers need only to apply for import licensing for products subject to import restrictions.

22. With reference to the observations made by the Secretariat on Thailand's investment incentive schemes, transparency had always been an important feature in its investment promotion policy, as evident by the relevant details contained in the various publications which were publicly available and had been made available to the Secretariat. It should be noted that the criteria used in granting investment incentives, as well as the list of eligible activities, were spelled out in the Secretariat report. Investment projects that met the set criteria would be granted incentives accordingly. Moreover, data on tariff concessions were available and had been notified to the WTO. In this context the representative pointed out that the Board of Investment, which set investment promotion policies, was a tripartite body consisting of representatives from the public and private sectors as well as from academia.

23. On government procurement, there was no centralized agency in Thailand. Government purchases were usually made through tenders issued by the Ministry or agency concerned. In principle and in practice, procurement procedures were observed in a transparent and consistent manner. Future government policy also called for a reform of procurement regulations. In this respect, technical assistance from the WTO Secretariat would greatly facilitate Thailand's procurement reform process.

24. Lastly, there remained other factual errors in the Secretariat Report, and the representative requested that a separate addendum containing a list of corrections be circulated by the Secretariat to the members.

25. The representative of the Secretariat, asking to reply to the statement of the representative of Thailand alleging factual errors in the Secretariat report, said that any remaining errors were of great concern to the Secretariat, and thanked the Thai representative for his clarifications. Necessary changes would naturally be incorporated into the final published report. The representative pointed out, however, that all Secretariat reports were submitted to the country under review for factual verification, and that this had been done in the case of Thailand. The Secretariat report therefore reflected the comments made by Thailand, together with the information available in WTO documents, and on this basis the Secretariat would stand by the statements made in its report.

### III. STATEMENT BY THE FIRST DISCUSSANT

26. The first discussant (Ambassador Wade Armstrong) said that Thailand's very impressive economic progress demonstrated the value of policies which, in their general thrust, were intended to be outward looking, welcoming of foreign investment and oriented toward the progressive removal of barriers to trade and toward the development of efficiency, competitiveness and transparency. How Thailand was meeting those objectives would be assessed in the course of the trade policy review.

27. Thailand had contributed to the multilateral trading system through the rôle it played in the Uruguay Round. This had led to valuable progress towards liberalization, for example in the area of tariff binding.

28. Concerning Thailand's economic situation and policies, the discussant stated that trading partners would probably be interested in the outlook for domestically generated savings rates and how they would contribute to ongoing investment and growth. Secondly, there would be interest in whether increased consumer spending was likely to generate new import opportunities across a broader range of tariff lines. Noting that the current account deficit had averaged about 5.5 per cent of GDP over the previous three years, as well as Thailand's expectation for the current account to be in surplus after the year 2000, the discussant said it was not clear, strong capital flows notwithstanding, whether there were any adverse implications in the current account situation for the setting of trade policy and the pace at which liberalization was pursued.

29. The steps taken by the Government to improve productivity were commendable, and had obviously produced positive results. The discussant was intrigued, however, as to why price controls needed to be maintained on three items (pork, refined sugar and cooking gas), and what the longer-term outlook was. The Secretariat report also raised questions over the extent to which Thailand's trade policy laws and actions were marked by discretion rather than predictability. Areas where the report identified the continued use of "flexible" approaches included: the system of tax concessions and duty drawbacks associated with export incentives; import licensing requirements, where the protection of domestic industry remained the most common justification, although the scope of such measures had decreased significantly; and use of the "check price" system in customs valuation.

30. On a sectoral basis, the discussant said it would be interesting to know where the Thai Government foresaw the best future growth prospects in employment, and whether it envisaged external competition extending to all sectors or excluding sensitive areas. Observing that Thailand maintained a tariff profile which appeared to be higher than the ASEAN average, he stated that to the extent Thailand could narrow any tariff differences with other ASEAN countries it would reduce the potential for trade and investment diversion.

31. In agriculture, which accounted for 60 per cent of employment and 11 per cent of GDP, as compared with 30 per cent for the manufacturing sector, the tendency for increased government assistance by way of soft loans and input subsidies was a matter for careful scrutiny, given the unfortunate outcomes in many countries where Governments had attempted to shelter the agricultural sector from the realities of the marketplace. Thailand would presumably need to make sure policies towards basic agriculture did not undermine competitiveness in food processing and other agro-industries.

32. Noting the external orientation of much of Thailand's services sector, the discussant said prospects for liberalization would clearly be a focal point of interest. Particularly noteworthy were indications that Thailand was considering opening up accounting, engineering and consultancy services to greater foreign participation. Efforts currently underway to liberalize Thailand's telecommunications services

by 1998 prepared Thailand for making a valuable contribution to the successful conclusion of the current WTO negotiations in this sector. An early move to join the negotiations as a full participant could also reinforce Thailand's domestic efforts at liberalization. Similarly, the intention to open up the Thai shipping sector to greater foreign involvement also offered interesting prospects.

33. Thailand's position among the world's top 20 traders in services suggested it had much to gain from the liberalization of international services trade and from the incorporation of the sector into the multilateral disciplines of the GATS. As a contribution towards this liberalization, Thailand could reconsider its currently suspended m.f.n. exemption in financial services, following the expiration of the present interim agreement. Another important area was cross-border services, where Thailand generally had yet to make binding commitments in its GATS schedule.

34. The discussant observed that inward foreign investment had obviously benefited from Thailand's outward policy orientation. It was valuable that Thailand was working to rationalize and clarify its regulations in the area. Transparency was also important with regard to future intentions, including any plans for progressive removal, within the transition period, of the TRIMS listed in Thailand's notification to the WTO.

35. Thailand's involvement in international trade was marked by the breadth and balance of its principal trading relationships. Thailand also had extensive institutional links and was a leader in regional cooperation through the ASEAN Free Trade Area and in APEC. The implications for Thailand's trade policy of its participation in the ASEAN Common External Preferential Tariff (CEPT) were of broad interest.



#### IV. STATEMENT BY THE SECOND DISCUSSANT

36. The second discussant (Mr. Jorge Riaboi) said that the predominant feature of Thailand's trade policy was that, despite different views or reservations that might be held about particular modalities on the implementation of some commitments, the measures taken or being elaborated by the Government were clearly aimed at meeting all the obligations entered into under the multilateral trading system.

37. Thailand's policies appeared to reflect a potential conflict between import substitution and policy reforms to promote exports, attract investment, etc. In addition, there was a notable degree of prudence in administering the shift from the former to the latter. This duality was characteristic of a society in which growth and adjustment had not afforded equal opportunities for access and development to the population as a whole, especially to sectors depending on traditional production such as agriculture. The risks and uncertainties inherent within policy reforms might explain the gradual, and occasionally restricted, approach adopted by the Thai Government in undertaking and implementing its commitments under the Uruguay Round.

38. When considering the tariff concessions made by Thailand, it should be borne in mind that it was not possible within the WTO framework to resolve either the argument over the methods deemed eligible for quota administration under the minimum access formula nor the argument over the methods to ensure that these measures are consistent with GATT 1994 provisions. Taking into account that Thailand had chosen to use tenders for administering its TRQs, it must be recognized that this was, among the systems discussed within the WTO framework, the most compatible way of handling import quotas for entities involved in State trading. In regard to above-quota imports of tariffed products, it was important to stress that actual applied rates in Thailand were well below the nominal rates agreed under the Uruguay Round.

39. Two features that the Government intended to change and which at present were not consistent or might not be consistent with WTO rules were the idea that market access possibilities should only be opened up once the domestic supply of particular products was exhausted and the concept that these were "necessary goods" such as medical equipment. The discussant also stated that export credits, in theory, should be included within the definition of export subsidies. The scope, nature and real impact of Thailand's investment incentives might also be assessed in the light of such WTO measures as the Agreement on Subsidies and Countervailing Measures.

40. In the area of standards and non-tariff measures, it would be helpful if Thailand could confirm that its domestic rules and practices were related to those of the International Office of Epizootics and the Secretariat of the International Convention on Plant Protection.

41. In services, Thailand had made specific commitments under the GATS for ten important sectors but, in general, had adopted a cautious and restrictive attitude towards market access and ownership rights for such service sectors as banking, insurance, telecommunications and transport. The discussant noted that gradual deregulation and increased international participation in these sectors could provide an impetus for the Government's objective of establishing Thailand as a major financial and transport centre in the Asia region.

42. The economic signals provided by Thailand's trade policies invited reflection on the consistency between the key economic instruments chosen to carry out trade policies and the objectives of the country's economic model, especially the intention to broaden the international competitiveness of traditional sectors and to incorporate new sectors for the production of goods and services. There was little doubt that the formulation of Thailand's trade policies could not help but be influenced by

political and cultural factors, the continuing current account deficit and the legitimate frustration felt by Thailand and other Cairns countries that it did not obtain important concessions during the Uruguay Round from major members of the multilateral trading system.

43. In conclusion, the discussant questioned whether a more neutral system of resource allocation, together with a more rapid rhythm of adjustment, should not be sought so as to meet Thailand's objective of enhancing penetration in global markets.

## V. STATEMENTS BY MEMBERS

44. Members of the TPRB thanked the Thai representative and the discussants for their opening statements, and thanked Thailand and the Secretariat for their respective reports. Members commended Thailand for its rapid economic growth and continued liberalization measures, but noted that infrastructural weaknesses and labour shortages remained key constraints. FDI-related ownership limitations were questioned, and further liberalization urged. Thailand's recent deregulatory measures in telecommunications were welcomed, and many delegations expressed the hope that Thailand would assume full participation in the ongoing WTO telecommunications and maritime transport negotiations.

45. The representative of Malaysia (speaking on behalf of ASEAN) said that one of the benefits of the Uruguay Round for Thailand was in market access and improved rules on agriculture, and therefore the faithful implementation of the results by trading partners was important for Thailand's trade. For ASEAN as a whole, the recent ASEAN Summit reaffirmed the region's commitment to liberalism and open regionalism.

46. The representative noted Thailand's commitment to reduce its average tariff to 17 per cent by 1997, and expected that the average would fall even lower in the future. Further liberalization of the financial, securities, insurance and telecommunications sectors was also foreseen and welcomed. WTO-consistent legislation on anti-dumping and countervailing measures, although delayed, would soon be passed. Recent intellectual property rights legislation was a positive step; however, ASEAN regretted the pressure placed on Thailand in this area by some trading partners. The representative observed that Thailand, and developing countries in general, would require technical assistance in regard to specific aspects of Uruguay Round implementation. He added that the effects of exchange rate fluctuations were very much a trade-related issue, and deserved to be carefully studied by the WTO.

47. The representative of Australia commended the positive developments in Thailand's trade policies, but noted that more needed to be achieved, especially an acceleration of the pace of liberalization. Specific concerns were noted in Australia's written questions. Among the positive developments were continuing tariff reform, reduction of import licensing, the replacement of the system of business taxes with a VAT and Thailand's commitment against new discriminatory measures concerning foreign financial institutions. The representative also welcomed Thailand's commitment to ASEAN's policy of open regionalism.

48. The representative of Canada stated that Thailand's prudent monetary policy should facilitate continued trade liberalization, and that regional development policies were working well. Infrastructural constraints were also being remedied. The representative observed, however, that Thailand had not met the Uruguay Round target of a one-third reduction in bound industrial tariffs, and that certain agricultural products appeared to remain unbound. The Alien Business Law, land ownership limits and other restrictions remained important constraints on FDI, and foreign access in the financial services sector was too limited. Additional effort was urged to reduce the time period required for obtaining import licences. Concerning IPR, the representative hoped that the new legislation would improve enforcement.

49. The representative of Hong Kong commended Thailand's commitment to the multilateral trading system, and urged that the protection of specific industries be resisted as structural changes progressed. Specific concerns were expressed over remaining tariff peaks in textiles, with their effect of shielding the industry from competition, and FDI-related restrictions on commercial presence and ownership limits.

50. The representative of the United States praised Thailand's active Uruguay Round participation and pace of implementation. Concern was expressed, however, over remaining tariff peaks, especially those in products where Thailand was internationally competitive. He asked whether ASEAN would notify AFTA tariff reductions under Article XXIV, rather than under the Enabling Clause. The representative observed that State trading remained extensive, and noted the continued use of import surcharges. He urged that FDI ownership limitations be removed.

51. The representative said that Thailand's commitments in the services area, especially financial services, needed improvement, and noted the especially restrictive shareholding limits in insurance and banking. Details were requested on privatization in basic telecommunications, as well as the expected completion date for IPR legislation. The written questions submitted on Thailand's labour policies were also noted.

52. The representative of the European Union stated that Thailand was a remarkable example of the benefits of outward-looking policies, and commended its prudent macroeconomic management. Thailand was gradually moving toward a more open trade régime, he said, but progress to date was mixed. Tariff peaks and tariff escalation remained in certain sectors, and liberalization had occurred on a selective basis, excluding most recently, for example, the automotive sector. The representative, noting that in many cases industrial tariff bindings were above currently applied rates, said that Thailand could have done more in the Uruguay Round. He also urged that tariff concessions and exemptions be removed.

53. The representative said that Thailand's import prohibitions on granite and marble were no longer justified and should be removed. Customs valuation continued to be a problem, with application of the "check price" system described as arbitrary; full implementation of the Uruguay Round measures on customs valuation was important. Standards-related requirements imposed high costs on food and pharmaceutical imports. Government procurement regulations were not always transparent; membership in the Agreement on Government Procurement was urged.

54. Thailand's investment policies had been liberalized, but equity and land ownership restrictions remained. The occupational restrictions under the Alien Business Law were not on an m.f.n. basis, and the representative urged that the revised Law extend to others the benefits currently granted only to the United States. Regarding IPR, concern was expressed over pipeline protection, as well as the enforcement of trademarks and copyrights. In services trade, further liberalization was urged.

55. The representative of Japan observed that Thailand's good economic performance had permitted liberalization measures to proceed. He expressed concern, however, over FDI ownership restrictions and the use of preferences in government procurement for Thai products and State-trading enterprises. Thailand was urged to deregulate or eliminate these practices, and to further increase transparency. The representative stated that Japan would also pay careful attention to Thailand's implementation of its Uruguay Round obligations, including the elimination of remaining local content restrictions, and IPR reforms.

56. The representative of Hungary stated that Thailand's high growth showed that an open trade environment was a vital factor for success. Although commending the liberalization which had occurred, the representative said that transparency should be further improved, for example by publishing a current consolidated tariff schedule. Thailand's commitment to further liberalization, including in the services sector, was welcomed.

57. The representative of Korea praised Thailand's tariff reductions, but noted that the automotive sector had been excluded from the most recent phase of liberalization. He expressed concern over Thailand's customs valuation practices, and asked about the progress of the government committee examining the issue. He also expressed concern about the preference margins in government procurement, and was of the view that Thailand's requirements under the Bangkok International Banking Facility (BIBF) for paid-up capital were too strict.

58. The representative of India observed that Thailand's export-oriented growth policy had yielded good dividends, and that a conservative monetary policy and strict fiscal discipline were the cornerstone of Thailand's success. Infrastructure constraints and the shortage of skilled labour, however, required attention. In the short term, Thailand could draw upon the skilled labour available in India, thereby contributing to the progress of the region.

59. Prior to responding in detail, the representative of Thailand stated that his country was fully committed to carrying out the Uruguay Round agreements, and observed that some of the concerns expressed by trading partners were also felt in Thailand.

## VI. REPLIES BY THE REPRESENTATIVE OF THAILAND AND ADDITIONAL COMMENTS

60. The Chairman invited the representative of Thailand to focus his response on three main themes: (i) the economic environment; (ii) the trade régime; and (iii) sectoral policies.<sup>1</sup>

### Economic environment

61. The representative of Thailand said the high Thai domestic savings rate was expected to improve further over the medium term, assisted by such factors as the Government's planned establishment after October 1996 of a central provident fund. Most of Thailand's current account deficit had been induced by private investment for the purpose of expanding and upgrading productive capacity; they were not thought a constraint to further liberalization. Growth prospects in employment were seen as especially strong in manufacturing and export-oriented sectors.

62. Thailand's limits on foreign equity participation were not inconsistent with any of its WTO obligations, and there was no sector in which foreign participation was prohibited. Thailand was also in the process of revising legislation to further liberalize the investment régime; the insurance sector, for example might be opened to full foreign participation. Currently, there were no ownership limitations on manufacturing projects locating in the Zone 3 investment region.

63. In financial services, Thailand considered its schedule fair in the light of its level of development and the level of liberalization by trading partners at the same level of development. In about four years, the WTO Council for Trade in Services would review Thailand's m.f.n. exemption concerning the Treaty of Amity between Thailand and the United States. Regarding the minimum level of paid-up capital under the BIBF, this requirement needed to be viewed from both a prudential and a liquidity management perspective, including BIS standards.

64. Thailand was considering participating in the WTO Negotiating Group on Basic Telecommunications as a full member. With respect to the Negotiating Group on Maritime Transport Services, Thailand was already a full member and took part in the regional caucus under that negotiating group.

65. The remaining local content requirements, including those imposed on the automotive sector, were deemed crucial to the country's economic development; nonetheless, they were to be eliminated by the end of 1991. Thailand did not maintain any TRIMS other than the local content requirements which were to be phased out. Thai projects and foreign projects meeting the joint venture criteria were entitled to the same investment incentives. Restrictions on land ownership were neither unique to Thailand nor inconsistent with WTO obligations.

66. ASEAN had notified AFTA under the Enabling Clause, and intended to maintain its rights under this Clause. At the ASEAN summit in December 1995, members agreed to expand AFTA coverage to include agricultural products, and brought forward the target date for completing AFTA to 2003 from 2008. NTB and quota restrictions would be removed starting January 1996. Further AFTA details were available from the Thai Mission to the WTO.

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<sup>1</sup>Answers to some of the written questions submitted to Thailand are also given in the responses by the Thai representative, as indicated in subsequent footnotes.

67. The Chairman asked whether there were any limits imposed by Thailand on profit remittances by foreign-owned entities, and then invited comments from the meeting.

68. The first discussant said he was pleased that Thailand's current account deficit was not seen as a constraint to further liberalization, but expressed concern for the use of input subsidies and related measures. He welcomed the Government's statement on efforts to review the Alien Business Law, and urged that ownership restrictions be relaxed. He hoped Thailand would participate fully in the ongoing telecommunications negotiations.

69. The second discussant noted that volatility in a country's balance of payments could be distortionary in terms of its economic model. Regarding Thailand's Amity Treaty with the United States, he asked how the Treaty related to Article II of the General Agreement. On countertrade, he observed that practical problems existed, in terms of overall WTO rights and obligations, as a result of the non-m.f.n nature of such contracts. Concerning Thailand's investment incentives for six largely sectoral priority areas, the discussant noted possible concerns under Article VIII provisions.

70. The representative of Japan welcomed the possibility of Thailand becoming a full participant in the WTO telecommunications negotiations. He also asked whether a schedule had been established for the phasing-out of Thailand's remaining local-content requirements.

71. The representative of the United States, observing that Thailand's goal of becoming a regional financial centre might suggest revising the current equity limitations, urged that such revisions be made in time for the renegotiation of the WTO Financial Services Agreement scheduled for end-1997.

72. The representative of the European Union said he would welcome details on the Alien Business Law revisions when available. On Thailand's regional development policies, he asked whether any policies other than investment incentives were in place. Regarding balance-of-payment fluctuations, the representative stated that a liberal investment régime was the best defence. He hoped that any measures taken in a regional context would remain consistent with multilateralism.

73. The representative of New Zealand asked whether a schedule existed for revisions of the Alien Business Law. Expressing appreciation that all remaining TRIMS were to be eliminated, the representative asked whether details were available on the scheduling of the phase-out.

74. The representative of Thailand replied that, since 1991, no restrictions had been placed on remittances, subject to a 10 per cent withholding tax. On countertrade measures, all government purchases above the threshold level were examined for possible countertrade "leverage," but no requirement had actually been imposed to date. On corporate tax incentives, Thailand was allowed an eight-year phase-out period under the Uruguay Round agreements, and was moving progressively towards removing the incentives. Regarding TRIMS, the representative said that all remaining measures would be phased-out in 1999, and that no schedule existed for a progressive phase-out. In respect of APEC, Thailand would accelerate some scheduled Uruguay Round reductions on an m.f.n. basis as part of its "down payment" in 1996.

#### Trade régime

75. The representative of Thailand said that the problem of tariff peaks and tariff escalation was common among member countries, and there remained no definitive answer. Automobiles were the only imported item not complying with the new tariff structure; nonetheless, the tariff peak in the sector had already fallen from 200 to 80 per cent. The representative said that Thailand considered

its tariff reductions under the Uruguay Round as balanced compared to those of trading partners. Subsequent tariff reductions, however, would be on a unilateral basis.

76. Thailand was in the process of bringing customs evaluation into conformity with the Agreement on Customs Valuation by 1997, two years ahead of its Uruguay Round commitment. Concerning conditional import prohibitions and non-automatic licensing, Thailand had notified these measures under the relevant notification procedure, with the justification of GATT Article XVIII as a developing country and GATT Article XX to protect health or public morals.

77. Government procurement procedures were currently being reviewed to streamline procedures and to be in accordance with international practices. Membership in the Agreement on Government Procurement would be considered in due course. Thailand's current countertrade policy was intended to supplement normal trade practice, and was not a major trade policy. Countertrade proposals did not constitute a major criteria for selecting goods and services providers.

78. The draft bills of the Business Competition Act and the Price Stabilisation of Goods and Services Act might be put into force by the end of 1996.<sup>2</sup> According to the draft bill of the Business Competition Act, price fixing, cartels, business boycotts, output restrictions, market allocations and exclusive dealings would be prohibited.

79. The reason Thailand had notified only three of its 22 State-trading enterprises to the WTO was that only these enterprises were granted privileges regarding imports or exports; the functions of the remaining enterprises were outside the scope of GATT Article XVII.<sup>2</sup> Concerning import surcharges, the representative said that the Board of Investment no longer imposed surcharges to offset dumping, and that all anti-dumping actions were currently undertaken according to the relevant Commerce Department Notification, which had been reviewed under the WTO in December 1995.<sup>2</sup>

80. The first discussant welcomed Thailand's planned conformity, two years ahead of the Uruguay Round deadline, with the Agreement on Customs Valuation. Regarding tariffs, he said that the availability of the full tariff schedule on a regular basis was important.

81. The second discussant observed that information on competition policy had already been introduced into the Secretariat reports, and that GATT Article XVIII, as discussed in the context of current account-related measures, was one of the WTO's most difficult areas. GATT Article XVII issues were also problematic, and other WTO members had also erred in this area.

82. The representative of Japan asked for clarification on the use of preferences in government procurement.

83. The representative of Thailand replied that Thailand had no plans to remove the granting of a 10 per cent margin of preference in government procurement to products meeting Thai domestic standards.

84. The representative of Australia requested additional details of AFTA liberalization, notably any plans to reduce the differential between m.f.n. and AFTA rates, and urged that Thailand publish an applied rate tariff schedule, including a listing of Uruguay Round-related changes. She asked if Thailand intended to reduce automobile tariffs to the six-rate structure outlined in the current tariff

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<sup>2</sup>Response to written question.



reforms. The representative also asked whether the tariff reforms reduced tariff escalation, and whether Thailand had a plan for phasing out the excise tax exemption currently granted to automobiles meeting local content requirements.

85. The representative of the European Union said that Thailand's automotive sector was an example of selective liberalization, and asked how long infant industry protection would be required for such products as granite and marble. He also asked what the current AFTA rules of origin were.

86. The representative of Thailand replied that the prohibition on marble imports was currently under review. AFTA rules of origin were generally based on cumulation; rules of origin regarding textiles were based on either substantial transformation or cumulation. Regarding APEC, the representative said he hoped that liberalization would evolve on an m.f.n. basis.

87. The representative of the United States asked for clarification of whether ASEAN intended to notify AFTA under GATT Article XXIV.

88. The representative of Thailand replied that there was no intention by ASEAN to notify AFTA under GATT Article XXIV.

89. The representative of the United States strongly suggested that AFTA should be notified under the GATT Article.

90. The representative of Thailand said that the local content exemption for excise taxes would be eliminated in 1999.

#### Sectoral policies

91. The representative of Thailand stated that Thailand had bound all its agricultural tariffs. Perhaps there was a question of classification, however, as Thailand regarded certain unbound items as fishery products.

92. On the question of consistency between the TRIPS Agreement and Thailand's planned eight-year transitional period for modifying the Industrial Estate Authority of Thailand Act, the representative said that the eight-year period was actually in response to the time period permitted under the Agreement on Subsidies and Countervailing Measures.<sup>3</sup>

93. As a developing country, Thailand had an obligation under the TRIPS Agreement to enact the Protection of Plant Varieties Bill within ten years after the WTO Agreement entered into force. It was too early to give details of the Bill, as it was currently in the drafting stage. The Bill would, however, be consistent with the TRIPS Agreement, and would be effective after the grace period.<sup>3</sup>

94. For details of conditions regarding the compulsory licensing of pharmaceutical products, members were referred to Table AIV.15 of the Secretariat Report.<sup>3</sup>

95. The first discussant, observing that extensive IPR-related legislative changes by Thailand were required, urged that Thailand concretely specify the schedules for implementation, as well as consider the benefits for Thailand of early liberalization.

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<sup>3</sup>Response to written questions.

96. The representative of Canada said that notwithstanding the Thai representative's earlier reply certain agricultural tariffs nonetheless appeared to remain unbound, and requested clarification.
97. The representative of Thailand replied that all agricultural tariffs, including those under the heading "other items," were indeed bound, except for the possibility of new items which might be introduced under that heading in the future. The second discussant noted that changes in consumption patterns could not be precluded, indicating that tariffs in all lines should be completely bound in order to avoid future uncertainty on rates.
98. The representative of Japan enquired whether the Industrial Estate Authority of Thailand Act had any connection with the TRIPS Agreement.
99. The representative of Thailand replied that the Act had no connection with the TRIPS Agreement.

## VII. CONCLUDING REMARKS BY THE CHAIRMAN

100. This meeting of the Trade Policy Review Body has now completed the second review of Thailand's trade policies and practices. These remarks, which are made on my own responsibility, summarize the main points of the discussion. They are not intended to substitute for the collective evaluation and appreciation of Thailand's trade policies and practices. Details of the discussion will be reflected in the minutes of the meeting.

101. The discussion developed under three main themes: (i) the economic environment; (ii) the trade régime; and (iii) sectoral policies.

### (i) The economic environment

102. Thailand's rapid economic growth was the background to all discussions. Members remarked on the positive contribution prudent macroeconomic policies and a high domestic savings rate had made to the growth of investment and the facilitation of trade liberalization. Inflation, although recently rising, had been kept at low levels; the complex system of business taxes had been replaced by a value-added tax, and infrastructural constraints were gradually being remedied.

103. Thailand's consistently high economic growth rates since the previous review were also recognized as directly linked to its outward-oriented policies. The shift to a more neutral incentive structure of trade and investment incentives was commended. However, some members noted the adverse effects on competitiveness of rapidly rising wages; this pressure might be alleviated by more rapid market opening. In this connection, limits on most foreign equity participation and on foreign land ownership were seen as remaining constraints.

104. Members observed that Thailand's current account deficits had been more than covered by capital inflows; however, some concern was expressed over the potential adverse implications of continued deficits for the pace of liberalization and some external vulnerability.

105. Members commended Thailand's strong support for ASEAN's policy of "open regionalism"; however, as Thailand's tariffs seemed to be higher than the ASEAN average, some concern was expressed over possible trade and investment diversion. Thailand was also asked whether preferential tariff reductions under AFTA would be notified to the WTO under Article XXIV.

106. In reply, the representative of Thailand said that he expected the savings rate to further improve over the medium term. This would help sustain the current rate of investment and in turn help economic growth. He added that the current account deficit also partly reflected both imports for private investment to upgrade domestic production capacity and the recent rapid trade liberalization, some of which went beyond the commitments Thailand had made under the WTO. Thailand would continue with its outward-oriented strategy of equalizing incentives between export and domestic sectors, thus enhancing efficiency. In this respect, limitations on foreign direct investment were not inconsistent with any Thai commitments under the WTO. However, Thailand had embarked upon an effort to revise its relevant legislation with a view to liberalizing the investment régime.

107. With respect to ASEAN, the representative of Thailand noted that the AFTA regional co-operation scheme had been notified under the Enabling Clause; Thailand retained its rights under the Clause. At a recent ASEAN summit in Bangkok, it had been agreed to expand AFTA's coverage and to bring forward the target date for its completion by five years to 2003. ASEAN had also entered into an agreement on cooperation in services and TRIPS, which was designed to complement

liberalization and intellectual property protection agreed in the WTO. A point was made by one delegation concerning the notification of AFTA under Article XXIV.

(ii) The trade régime

108. Thailand was commended for the progress made in implementing its Uruguay Round commitments, including the tariffication of agricultural products. However, Thailand had not fully achieved a one-third reduction in bound industrial tariff levels and, in many cases, currently applied tariffs were already below final bound rates.

109. Members also noted that Thailand's tariff retained peaks and escalation in certain sectors. They stressed the need for further streamlining and more rapid liberalization. Thailand was requested to publish a consolidated schedule of applied tariffs.

110. The importance of predictability and transparency in such areas as tax concessions, duty drawbacks and trade-related investment measures was emphasized; one member urged the removal of tariff concessions and exemptions. Some members, asserting that customs valuation continued to be applied in an arbitrary manner, urged full implementation of the relevant WTO Agreement and sought information on the progress of the government committee appointed to study customs valuation.

111. It was recognized that Thailand had made good progress in reducing the scope of import licensing. Remaining prohibitions on some items were nevertheless noted. Concern was expressed over the continued use of import surcharges and the scope of State trading. Members queried the need for the policy change in June 1995 imposing certain countertrade requirements as a means of reducing the current account imbalance.

112. There were questions concerning the transparency of government procurement and the preferences granted to Thai goods and services (with the exception of construction) and to State-trading agencies; Thailand was urged to become a member of the Agreement on Government Procurement. Some members stated that standards regulations applied to imports of foods and pharmaceuticals were expensive and time-consuming and asked Thailand to confirm that domestic rules and practices were in conformity with those of the International Office of Epizootics and the International Convention on Plant Protection. A member asked when new Thai legislation on competition policy would come into effect and what the scope of the legislation would be.

113. Members praised Thailand's efforts to strengthen its legal framework for intellectual property, and hoped that the new legislation and the establishment of an intellectual property court would improve enforcement. Pipeline protection for pharmaceuticals was an ongoing concern.

114. In reply, the representative of Thailand said that Thailand's tariff restructuring was in line with the internationalization of its economy; average rates had fallen substantially and tariff escalation had declined. Thailand had made substantial tariff concessions under the Uruguay Round followed by unilateral reductions. All changes in tariffs were required by law to be published in the Royal Gazette and compilations were available on request to the Ministry of Finance, while planned reductions under AFTA were available in publication form.

115. Thailand was in the process of bringing its customs valuation practices into line with the WTO Agreement by 1997, two years ahead of its Uruguay Round commitments.

116. Remaining conditional import prohibitions and non-automatic import licensing were justified under the infant-industry provisions of Article XVIII and under Article XX of the GATT. On TRIMS, the representative of Thailand noted that Thailand was eligible for a five-year transition period but had already started the process leading to conformity with WTO obligations by phasing out the local content requirements on eight products; all other such requirements would be eliminated by end-1999.

117. Countertrade was supplementary to normal trade practice; procedures were clean and transparent and applied to imports over Baht 500 million.

118. Government procurement was normally made through tenders by the Ministry concerned; purchasing methods and procedures were under review with a view to streamlining. International competitive bidding applied to projects over Baht 1 million. Thailand would consider membership of the Government Procurement Agreement in due course.

119. The new Business Competition Act, covering the promotion of free and fair competition, prevention of monopolies and protection of small and medium-sized business and new market entrants, should come into force by the end of 1996. It should prohibit such practices as price-fixing, cartels, business boycotts, restrictions on output, market allocation and exclusive dealing.

120. Thailand no longer imposed BOI-related anti-dumping surcharges; new anti-dumping regulations were reviewed in December 1995 by the WTO Committee.

121. Thailand was in the process of drafting legislation on protection of plant varieties, to take effect under the ten-year grace period provided in the TRIPS Agreement. Patent protection was available for agricultural chemical products. Compulsory licensing conditions for pharmaceutical products were laid down in the Patent Act and related Ministerial regulations. Details were given of protection under copyright and patent provisions. Enforcement of intellectual property rights should be facilitated with the creation of the Intellectual Property Court, with new rules. At present, preliminary measures were available through court injunctions.

(iii) Sectoral policies

122. Members pointed out that tariff peaks of over 200 per cent were applied to some tariffed agricultural products, while the tariff average for the sector was significantly higher than in others. They sought clarification of Thailand's tariff bindings in agriculture. The apparent tendency for increased government assistance to agriculture, in the face of declining inter-sectoral competitiveness, should be carefully scrutinized. Members welcomed Thailand's statement that no export subsidies were applied, but expressed concern over the potential effects of subsidized export credits.

123. In industry, members observed that the automotive sector remained protected, and noted that automobiles were not included in the most recent tariff reductions programme. Import surcharges had been eliminated, but largely replaced by new excise taxes. Tariff peaks on textiles shielded elements of the industry from international competition.

124. Thailand appeared to be taking a cautious and restrictive approach to opening market access for services. Limits on foreign equity holdings were regarded as excessively strict for areas such as banking and insurance. The commitment not to impose new discriminatory measures on foreign financial institutions was welcomed. Thailand was asked to provide details of liberalization measures in the area of basic telecommunications, and urged to participate fully in the ongoing telecommunications and maritime transport negotiations.

125. Members welcomed indications that Thailand was considering the liberalization of accounting, engineering and consultancy services. They regarded the current Alien Business Law as a serious constraint to services trade and investment, and urged that, as part of the expected revisions to the Law, advantages presently extended only to the United States be extended to other trading partners. Some members urged that Thailand take greater advantage of the foreign skilled labour available in the region.

126. In reply, the representative of Thailand said that all agricultural tariffs were bound; the few unbound items in HS chapters 1-24 were regarded as falling into the fisheries sector. Automobiles were the only imported industrial item not fully in line with the new tariff structure, although rates had fallen sharply and imports had grown rapidly.

127. In the area of services, Thailand thought its Schedule appropriate in the light of its own stage of development and in comparison to other partners at the same level. Foreign equity participation limits were the result of negotiations and were in full compliance with GATS Article XX. Thailand's m.f.n. exemption in financial services was in conformity with its rights under GATS and the Second Annex on Financial Services. The m.f.n. exemption for the Treaty of Amity with the United States would be reviewed in the Council for Trade in Services in about four years. Thailand was very likely to participate as a full member in the negotiations on basic telecommunications.