-Thailand-
last updated on 2001-10-29

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GENERAL FEATURES OF TRADE POLICY

Thailand was one of the worlds fastest growing economies from 1985 to 1995 annual GDP growth reached about 10%. This dipped sharply with the financial crisis but has since rebounded. In 1999, the Thai economy showed encouraging signs of recovery with GDP growth of almost 4% and 4.2% in 2000. However, private investment was less than 1% growth in 1999.

Thai foreign trade in the early 90s increased at very high pace with peaks reaching up to 20% in 1995 but exploding imports led to a dramatically deteriorated Thai trade balance in 1996 but this recovered a year later due to the effects of the Asian financial crisis and the devaluation of the Baht.

In 1997, Thai exports continued to grow. However, export growth in late 1997 was generated to a large extent by the effect of the devaluation. Thailand began registering trade surpluses in September 1997. Since, the trade balance improved almost every month and reached US $1.3 billion in September 1998. For the full year 1998, Thailand succeeded in reaching its trade balance targets reversing a trend in external trade after years of trade deficits. Although exports were down almost 7% in 1998, Thailand maintained a healthy trade surplus of more than $12 billion due to heavily falling imports that contracted by more than a third compared to 1997. Exports dropped off in 1998, they soon recovered, growing by 7% in 1999 and 19% in 2000.

In 1999, the economic conditions improved and as a consequence, import growth outpaced export growth. Although it has still not retained its high from 1996, imports grew by 16% in 1999 and by 30% in 2000. Therefore, the monthly trade surpluses fell during the course of the year.

Thailand exports most to the U.S., with 21% of its exports destined for that market, but the EU is a close second, receiving 16% of Thai exports and Japan receiving 15%. Thailand imports the most from Japan, from which it receives 24% of its imports, followed by 11% from the US and 10% in the EU.

EU exports in 1995 amounted to ECU 8.5 billion, or 1.49% of total EU exports to third countries, compared to ECU 6.6 billion worth of imports from Thailand into the Community. European exports dropped between 1996 and 2000 whereas Thai growth of has remained steady. The main EU exports to Thailand are machinery and mechanical appliances (about 30% of total exports), electrical machinery (about 10 of total exports), motor vehicles (about 10%) and aircraft (8%).

Over the last two decades, the Thai economy has undergone liberalisation and market-opening, resulting in a rapid expansion of investment, output and trade. In this context, trade-related policies have been targetted to promote domestic production and exports.

Thailand is a founding member of the WTO and of the Association of Asian Nations (ASEAN). ASEAN members have agreed to establish an ASEAN Free Trade Area (AFTA) by 2003. Since January 1993 the Common Effective Preferential Tariff provides for preferential tariffs and the progressive elimination of non-tariff barriers among members. Thailand also participates to the Asia-Pacific Economic Co-operation (APEC) forum.

The following table is an overview of the tradeflow between the European Union and Thailand

Section	Year	Import(Euro)	Export(Euro)
Animals & animal products	1996	265,659,370	79,022,880
	1997	315,429,750	111,153,310
	1998	416,911,110	47,053,980
	1999	302,630,800	65,475,130
	2000	371,399,570	110,051,760
	2001	464,483,430	130,056,470
	2002	302,572,270	84,479,640
	2003	292,641,750	99,534,880
Vegetable products	1996	472,282,420	72,050,810
	1997	426,142,200	73,002,990
	1998	374,275,350	55,855,890
	1999	480,936,110	56,457,880
	2000	520,739,050	64,217,520
	2001	444,868,980	70,168,440
	2002	306,627,230	75,342,310
	2003	313,738,180	84,589,360
Animal or vegetable fats	1996	800,130	3,662,330
	1997	1,918,450	3,004,670
	1998	8,354,600	2,778,660
	1999	9,766,720	2,698,430
	2000	7,490,380	4,083,610
	2001	1,934,190	4,513,010
	2002	1,215,550	5,621,760
	2003	2,113,970	5,263,820
Prepared foodstuffs	1996	548,544,250	126,621,730
	1997	524,247,210	98,225,550
	1998	625,642,900	59,374,970
	1999	633,108,430	88,799,540
	2000	675,557,750	117,683,140
	2001	693,833,550	115,983,270
	2002	705,694,540	123,984,090
	2003	749,995,520	110,910,830
Mineral products	1996	8,747,460	43,350,230
	1997	6,691,950	45,771,560
	1998	8,683,910	30,326,320
	1999	31,293,210	33,913,470
	2000	34,364,140	40,832,210
	2001	40,910,090	40,878,360
	2002	25,089,710	38,030,430
	2003	25,828,070	38,414,740
Chemical products	1996	49,420,040	623,363,970
	1997	48,878,620	625,709,630
	1998	72,198,480	438,948,300
	1999	96,104,040	581,102,800
	2000	208,530,310	728,958,650
	2001	132,545,470	771,088,250
	2002	129,586,590	807,015,690
	2003	145,739,170	814,660,150
Plastics & rubber	1996	571,353,100	151,467,500
	1997	565,810,080	175,101,330
	1998	595,006,780	131,672,030
	1999	591,943,180	168,134,390
	2000	718,784,120	210,520,430

	2001	684,357,820	253,481,730
	2002	667,671,010	254,711,970
	2003	717,822,550	239,425,480
Hides & skins	1996	133,780,170	63,450,370
	1997	122,344,080	63,202,630
	1998	106,900,180	61,793,240
	1999	89,040,490	106,142,480
	2000	95,303,060	88,308,680
	2001	93,781,470	54,779,300
	2002	80,734,760	68,716,200
	2003	63,662,440	77,023,830
Wood & wood products	1996	83,782,740	10,035,550
	1997	87,033,660	13,025,490
	1998	98,524,580	7,739,400
	1999	114,538,990	7,102,380
	2000	131,424,190	11,510,310
	2001	138,153,600	13,189,810
	2002	128,434,250	17,370,280
	2003	123,027,240	15,110,730
Wood pulp products	1996	29,853,660	143,634,650
	1997	44,010,200	131,364,560
	1998	114,548,530	83,047,050
	1999	92,435,650	132,664,870
	2000	137,680,000	154,862,160
	2001	122,983,060	151,896,360
	2002	111,814,040	186,027,470
	2003	123,076,360	173,043,380
Textiles & textile articles	1996	845,702,130	109,828,860
	1997	970,815,090	112,977,690
	1998	987,410,720	86,432,040
	1999	1,070,641,250	100,209,120
	2000	1,256,406,180	144,557,980
	2001	1,147,293,330	145,140,920
	2002	1,102,736,790	150,908,190
	2003	1,046,380,010	148,493,370
Footwear, headgear	1996	242,761,210	9,676,860
	1997	275,990,750	10,256,700
	1998	291,041,420	5,506,730
	1999	260,804,270	6,137,730
	2000	314,298,930	7,235,470
	2001	313,331,750	5,925,410
	2002	287,749,560	6,445,490
	2003	251,076,140	6,715,300
Articles of stone, plaster, cement, asbestos	1996	74,377,960	81,329,390
	1997	79,549,930	63,380,840
	1998	92,700,980	42,680,680
	1999	131,312,580	49,507,120
	2000	216,869,050	64,127,120
	2001	236,211,480	64,272,230
	2002	217,856,830	67,931,280
	2003	196,617,820	82,018,810
Pearls, (semi-)precious stones, metals	1996	531,454,740	466,537,030
	1997	790,352,010	346,672,990
	1998	669,736,400	208,918,120
	1999	584,421,380	265,830,600
	2000	765,384,540	414,283,550
	2001	746,641,560	392,279,050
	2002	768,440,350	338,489,820
	2003	702,431,070	317,664,430
	1996	94,667,050	543,958,320
	1997	107,329,600	400,362,340

Base metals & articles thereof	1998	195,889,340	238,771,180
	1999	170,994,830	245,146,070
	2000	320,107,680	334,598,170
	2001	220,938,520	379,303,550
	2002	169,958,290	393,596,530
	2003	152,934,400	422,353,850
Machinery & mechanical applicances	1996	2,145,948,970	3,482,120,920
	1997	2,505,139,870	2,997,322,230
	1998	2,990,616,520	1,731,584,870
	1999	3,415,228,620	1,482,262,840
	2000	4,348,045,460	2,131,944,570
	2001	3,941,937,740	3,029,919,310
	2002	3,835,612,780	2,655,271,510
	2003	3,931,435,160	2,200,548,260
Transportation equipment	1996	88,699,020	452,359,040
	1997	289,429,880	319,442,470
	1998	389,764,990	211,660,830
	1999	533,348,260	278,389,030
	2000	646,206,130	321,387,060
	2001	637,150,650	302,613,170
	2002	747,317,240	336,243,170
	2003	741,337,580	291,341,740
Instruments - measuring, musical	1996	183,679,370	225,551,880
	1997	211,155,720	237,364,580
	1998	224,424,290	145,946,360
	1999	270,195,200	123,720,040
	2000	333,560,980	192,977,400
	2001	376,919,610	195,091,580
	2002	399,117,370	195,544,040
	2003	369,590,410	198,872,500
Arms & ammunition	1996	650	12,844,980
	1997	13,260	6,163,550
	1998	36,010	35,194,890
	1999	36,890	6,432,310
	2000	246,680	3,422,600
	2001	86,370	3,148,090
	2002	128,390	4,071,770
	2003	73,190	7,222,290
Miscellaneous	1996	340,801,840	63,307,810
	1997	314,538,500	64,358,930
	1998	299,263,720	36,297,550
	1999	386,530,460	39,695,240
	2000	453,607,560	66,307,280
	2001	426,954,420	87,937,760
	2002	401,530,710	70,000,870
	2003	401,893,960	67,279,950
Works of art	1996	2,834,430	3,258,690
	1997	2,370,690	1,241,710
	1998	2,820,210	906,430
	1999	2,008,750	874,830
	2000	2,548,770	2,300,960
	2001	2,101,420	737,550
	2002	2,527,430	1,830,810
	2003	3,199,160	8,809,880
Other	1996	18,177,180	31,843,590
	1997	16,281,540	21,465,110
	1998	29,724,290	26,518,610
	1999	19,245,180	24,641,600
	2000	19,742,850	23,870,710
	2001	29,808,020	26,581,050
	2002	23,963,260	28,032,940

	2003	29,098,750	34,685,410

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TARIFFS AND DUTIES

In September of 1999, Minister of Finance of Thailand reported that to improve medium-term efficiency, tariffs were cut on a broad range of items in August 1999. He also reported that virtually all of the tariff increases implemented at the start of the program have been reversed ahead of schedule, and the remaining items will be liberalised by the end of the year.

The current structure of Thailand's tariff policy divides the Thai tariff schedule into a number of tariff rate categories or bands. The total number of these categories is being gradually reduced from 39 to, as follows: zero percent for certain goods such as medical equipment and fertiliser; one percent for raw materials, electronic components; five percent for primary and capital goods; 10 percent for intermediate goods; 20 percent for finished products; and 30 percent for goods "needing special protection." A revised tariff structure was unveiled during the first half of the year 2000 which categorised goods under three general headings: primary and raw materials, intermediate and semi processed products; and finished products.

In general, for new applications for investment privileges, import of machinery may benefit from 50% tariff reduction or 100% exemption, depending upon the location of the projects (zone of investment). Import duties on raw or essential materials used in export products for a period of up to 5 years are exempted, depending upon the location of the investment project. In addition, promoted investors can enjoy 75% import duty reduction on raw and essential materials used in production for domestic sales for five years if their factories are located in zone 3.

Apart from the Board of Investment scheme, the Customs Department provides importers with two options for dealing with import duties on raw materials used in production for export. A bank guarantee is placed at time of export and is released upon document of export. A tax refund is provided upon documentation that raw material have been used in production for export and that finished goods have been exported.

For a number of product categories, Thailand's ASEAN Free Trade Area (AFTA) rates appear to be above currently applied MFN rates. However, as a result of the ASEAN Agreement to reduce the AFTA transition period from 15 to ten years, Thailand's tariffs on manufactures will be reduced to a maximum of 5% by January 2003.

Since 1 November 1996 tariff preferences, as well as non-tariff privileges and incentives, are being offered under the ASEAN Industrial Co-operation scheme (AICO). This is a new industrial programme that encourages companies located in different ASEAN countries to co-operate in sourcing materials. Participating companies may receive preferential tariff rates of 0-5% ahead of the 2003 AFTA deadline. AICO will be gradually replacing the ASEAN Industrial Joint Venture (AIJV) and Brand-to-Brand Complementation (BBC) schemes which were introduced in 1983 and 1988 respectively in order to create benefits from economies of scale. Privileges under existing BBC and AIJV projects will cease on 31 December 2002.

On 15 October 1997 and February 1998, the Thai government announced increases in the customs duties on a number of items.

In July 1998, the Thai Government approved a restructuring of import duties for steel products. As a result, out of 206 tariff lines 121 steel items will be subject to higher tariff rates.

A preliminary analysis of the changes in the Thai tariff since 1997 shows, that rates for about 400 lines have been increased mostly for finished and semi-finished products. Tariffs on raw materials have been reduced.

In the second half of 1999, Thailand reduced tariffs on a range of products, but did not abolish the customs surcharge of 10% introduced on a temporary basis in 1997.

Prior to the conclusion of the Uruguay Round, tariff binding was very low. In implementation of its commitments under the Uruguay Round, Thailand has increased the number of bound tariffs on industrial products from 2 % to 68 % and the trade-weighted average tariff on these products will be reduced from 37.3% to 28%. Bound rates are generally much higher than applied rates.

Agriculture and Fisheries

Internal Taxation

030056-*Double taxation on spirits* [2003-10-03]

There are concerns on the prevailing double-taxation on "ready to drink" and mixed alcoholic beverages which are produced in Thailand with imported raw materials.

Firstly, the customs tariff and excise tax are imposed on importation of the base spirit raw material and then, the excise tax is imposed for a second time when the "ready-to-drink" product is produced and sold (eg Johnnie Walker ONE, Bacardi breezer).

This double-taxation discourages EU investment in Thailand and has also led to a consequent reduction of competition in the Thai market.

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NON TARIFF BARRIERS

Some customs valuation procedures continue to be a barrier to trade. Thailand does not use the WTO-approved import valuation methodology of “transaction value”, rather, the Customs Department may use the highest previously invoiced price of any product from any given country, disregarding actual invoiced values. In practice, customs officers use a CIF formula for calculating taxes due, or FOB plus 10% freight and 5% insurance. It is apparent that customs officials have a considerable degree of freedom in applying taxes and this can lead to arbitrary valuations and other irregularities. Many importers claim that Custom Department procedures are a barrier to trade because of (often unspoken) demands for unrecorded cash at each of the many steps in the clearance procedure. Damaging delays in releasing goods, arbitrary storage fees, spoiled or damaged goods, or other damages are alleged results of a failure to comply with demands for such payments. Customs procedures lack transparency and can result in inordinate delays and resultant costs.

Instead of the highest previously invoiced price Thailand customs started using the so called "standard appraised price" that is regularly reviewed (every three months).

Customs clearance generally should not to take more than one day according to the Thai authorities. Classification of imported goods and/or the assessment of their values are the most time consuming activities. At least 5 - 10 working days are in reality required to clear imported merchandise through customs.

Custom officers still do not, in general, apply the principle of good faith towards importers and their declarations. Frequently, additional documentation is requested which results in further delaying the release of the merchandise. The lack of transparency in applying customs regulations often consists of customers relying on 'in-house' guidelines and instructions which are not published and usually not made available at any stage of the clearance process.

Imported goods found faulty at the port of entrance cannot be disposed of in Thailand without payment of duty. The duty must be paid and then the faulty goods must be re-exported, with a claim for a refund of the duty. There are frequent reports of endless delays in refunding these deposits, even when the case is decided. The delays of payment also apply to the refunding of VAT for exports and re-exports by the customs authorities. Delays of at least up to nine months have been reported.

In January 1996 the customs authorities began applying the A.T.A Carnet for goods temporarily imported on a duty free basis. No solution has yet been found for a sealed TIR forwarding of imports through Thai ports to neighbouring countries. With the increase of international trade Thailand should be interested not to loose the transit trade to other countries in the region and introduce a system of custom sealed transports within the country.

Under the WTO, Thailand has committed to conform to customs valuation procedures agreed upon in the Uruguay Round. In 1997, the Thai government also agreed to create an electronic data interchange system to increase transparency. Furthermore, the Customs Department has announced a series of reforms aimed at accelerating export procedures. Most importantly, the Customs Department now differentiates between three categories of exporters depending on export records: special, good, and general. Those companies classified as special will be subject to fast-track customs procedures, including accelerated import and export clearance. The section of the Customs Department responsible for duty refunds has been divided into six separate one-stop units, each serving from 500 to 2000 exporters. As a result, exporters will no longer have to deal with multiple units in order to secure refunds. Finally, an "export clinic" has been created in order to provide free information concerning customs procedures. These reforms should increase the transparency and speed of the customs procedures and reduce opportunities for corruption within the system.

Thailand levies a 7% VAT on both goods and services at The basis for calculation includes, where applicable, the excise duties.

On 15 October 1997, the Thai government announced an increase in the rates of the excise taxes on a number of items, such as beverages (new rate between 25 to 50%) and tobacco products (new rate 70%).

There are 4 categories of items subject to import prohibitions.

Import licenses are issued by the Thai Department of Commerce and are valid for three months. Extensions are permitted for items requiring longer delivery periods and for goods produced according to certain specifications.

In addition to the Thai Department of Commerce licensing requirements, the Thai Food and Drug Administration must approve the import of food products, drugs, cosmetics, toxic substances, narcotic and psychotropic substances, and medical devices. Importers of food products and pharmaceuticals must be licensed by the Thai FDA. Under the Hazardous Substance Act of March 29, 1992, import permits, each valid for one year, are required for hazardous chemicals.

Thailand applies non-automatic licensing on granite and marble imports.

Standards and technical requirements are established by the Thailand Industrial Standards Institute (TISI). Most firms operating in Thailand -- including most foreign capital-affiliated firms -- adhere to the TISI standards.

Pursuant to the ASEAN-EEC Industrial Standards and Quality Assurance Programme, Thailand has pledged to harmonise TIS to international or European rules, leading to the prospect of eventual mutual recognition of standards between the EU and Thailand.

In 1995 Thailand imposed countertrade terms on any public project which included the import of goods worth more than 500 million Baht. This threshold was increased to 1 billion Baht in April 1996. Exceptions to this ruling are applied on a case-by-case basis. In addition, the Thai Government can specify markets into which commodities may not be sold.

Thai products meeting the required standards of the Thai Industrial Standards Institute (TISI) are given a 10% margin in government procurement. For those not involving TISI standards, the margin of preference is only of 3%.

Thailand is currently considering membership of the WTO Agreement on Government Procurement. Thailand has actively participated in the WTO Working Group on Transparency in Government Procurement and is committed to undertake further studies to improve the transparency of its policies.

For Thailand, the issue of government procurement is rather complex and involves many government agencies. Thailand lacks a central agency responsible for government procurement. The Office of the Prime Minister has published all applicable rules (several Cabinet resolutions and directives or Ministerial regulations). Therefore, government agencies and economic operators have access to these rules. However, industry is still reporting a lack of transparency concerning the application and implementation of the government procurement regime. In general, domestic suppliers benefit from a preference of up to 7% but no preference is given to those allocated in other ASEAN countries.

Offset policies are applied by Thailand. Companies, even if they have already obtained the contract and the requirement was not mentioned, have to spend at least 20% of the value of the contract on Thai products. Compensation demands can also include transfer of technology or technical assistance. If these conditions are not mentioned in the call for tender, but are imposed later, Thailand is in breach of article X.1 of GATT 1994.

Industrial Credit Refinancing Scheme - Under the Royal decree regulating the Affairs of the Bank of Thailand, the Bank of Thailand is authorised to provide financial assistance to priority projects. Each company, with a total fixed asset not exceeding 200 million baht will be allocated credit lines to issue promissory notes. The amount of refinancing is 50% of the PN's face value. The program is administered by the National Council for Investment and Export Promotion. The scheme provides financial support to the industries for rural development. The Community further examined this scheme and found that extensive loans are given to "export oriented projects" (maximum loans size 30 million baht, average 5-8 years, at preferential interest rates).

The Royal Bank of Thailand is authorised to provide financial assistance to priority sectors and projects through refinancing schemes.

Loans are given with interest rates lower than the market rate by the Bank of Thailand and commercial banks that have joined the policy.

The Unfair Contract Terms Act of 1997 covers the promotion of free trade and fair competition, the abolition of monopolies, the protection of small and medium-sized businesses and of new market entrants. It will prohibit such practices as price fixing, cartels, business boycotts, restrictions on production, market sharing and exclusive dealings.

In determining the fairness and reasonableness of market arrangements in each particular instance, the integrity, the bargaining power of the contestants, their economic strength and all advantages and disadvantages of the contracting parties are to be evaluated.

Registration, Documentation, Customs Procedures

970104- *Arbitrary customs valuation* [2002-04-25]

As a signatory to the World Trade Organization (WTO), Thailand is obliged to adopt the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 by 1 January 2000. In accordance with such commitment, the Ministry of Finance has enacted the Customs Act No. 17 2543 B.E. (2000) effective on 1 January 2000 and the Ministerial Regulation No. 132/2543 B.E. (2000) issued under Customs Act 2469 B.E. (1926) regarding criteria, procedures and conditions respecting application and determination of customs price on 9 March 2000 retroactively on 1 January 2000. This indicates that the assessment of duty of goods imported into Thailand, from 1 January 2000 onwards, must be complied with and based on the GATT Valuation system.

Accordingly, it is understood that the Customs Department has issued an internal notification repealing the use of customs minimum prices on all imported goods. Thus, customs valuation would in theory be based on the transaction value as mentioned in the invoice, and in the case of related party transactions the appropriate test methods would be followed to ascertain the appropriate value.

In contradiction with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 and Ministerial Regulation No. 132/2543 B.E. (2000), Article 9 of the Customs Tariff Decree B.E. 2530 (1987), amended by The Act revising The Customs Tariff Decree B.E. 2530 (No.4) B.E. 2543, has asserted that the Director General of the Customs Department has the authority to announce the customs price of any imported product subject to duty on ad valorem basis.

Despite the repeal of the use of customs minimum price, it is reported that the Customs Department, through the Customs Standard Bureau, requests from customs officials in charge of customs valuation on importation to periodically submit the prices of imported products to the Customs Standard Bureau as registered previously. These prices can be used by the Bureau as references to establish a so-called “indicative price”. Obviously, such inconsistent practical operating procedures cannot be provided for in the legislation. However, the reliance of Customs on an outdated and no longer compliant basis for valuing imported goods indicates that importers face an uphill struggle whilst the officials learn to apply the GATT agreement in both letter and spirit.

In practice, Thai Customs still keeps records of the highest declared price of products imported into Thailand from invoices of previous shipments. The Customs Standard Bureau also uses such data to establish and distribute the indicative price of some products aiming at standardizing customs valuation on certain products throughout the country. The indicative price is then distributed internally among relevant Customs officials and is used when such officials are concerned about the accuracy of the price declared on the invoice.

The use of indicative prices is up to the official at the port of entry. Regularly, this indicative price will be used instead of the transaction value to determine the custom value, and to consequently assess import. This could happen across all sectors and on commercial as well as promotional materials.

It would probably be fair to say that this barrier is one of great concern to all importers, whether EU or other. Given the recent implementation of the GATT valuation agreement, many of the operational officers are still on a learning curve as to what the new rules mean in practice, and they will refer to their previous rules for guidance as to whether the import value of future imported products is acceptable to them.

As the main impact of the change in valuation legislation is one of reduced revenue, the pressure on all officials involved in Thailand should not be underestimated. Currently a newly established Thai Valuation Committee is considering more than three hundred cases of import valuation under appeal. This backlog is only likely to increase in the near future. High level interest is already being shown by trading partners to assist Thailand in developing their approach to customs valuation into one that is fully consistent with their WTO commitments.

Agriculture and Fisheries

Sanitary and phytosanitary measures

040016-*Thailand- Bovine animals, meat and products* [2004-12-20]

Ban on bovine animals, meat and meat products because of BSE; Gelatine products need a certificate to be exported into Thailand which states that Gelatine is free from BSE infection.

EU countries banned:
All 15 EU expect Sweden. Also Poland, Czech Rep, Slovak Rep and Slovenia.

- General statement on BSE to all Third Countries on 17/03/2004 in reaction on the statement of the USA.
  During the XXXI SPS Committee in October 2004 the Commission gas given a general statement on BSE (Bovine Spongiform Encephalopathy). Some WTO members started to lift the ban due to BSE for some EU live ruminants and ruminant derivated products (e.g.: China, New Zealand, Brazil, Philippines). The EC requested other WTO members to follow the same line and to respect guidelines as set up by international organizations (OIE).

Automotive

Quantitative Restrictions and Related Measures

970105- *import ban buses, motorcycles* [2002-09-17]

The importation of 6-wheeled buses, seating over 30 persons, and that of motorcycles is prohibited in order to protect the domestic (infant) industry. These prohibitions were turned into non-automatic licensing. Moreover imports of used automotive products are prohibited on public health grounds.
Imports are allowed by public sector only, or for temporary entry for re-export.

Other Industries

Quantitative Restrictions and Related Measures

970107- *Marble granite import license* [2004-09-30]

On 31 January 1991, the Thai authorities introduced discretionary import licensing on worked monumental and building stones including cut and polished marble and granite (CN Code 6802). On 12 February 1992, they extended this discretionary import licensing system to monumental or building stones (including marble) cut into blocks or slabs (CN Code 2515).

In January 2003, by Ministerial Notification No. 142/2003, Thailand removed the import licence requirement for imports of blocks (HS code 25.15) by local manufacturers for further processing (i.e. cutting and polishing). However, this was of limited benefit to EU companies as they cannot freely import blocks themselves.

Importers need to obtain prior authorisation from the Ministry of Commerce and importation is only authorised for the quantity needed for specified construction projects. No cut and polished stones can be imported for other purposes (e.g. kitchen counters, furniture etc.). This licensing system operates as a de facto import prohibition to the Thai market.

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INVESTMENT RELATED BARRIERS

Thailand is obliged under the Agreement on Trade-related Investment Measures (TRIMs) to eliminate all local content requirements by the end of 1999.
Thailand developed a program offering extensive benefits to new investments. Article 31 of the Investment Promotion Act grants exemptions from corporate income tax for a period of 3 to 8 years. The Board of Investment is the authority responsible for granting the income tax exemption or reduction on a discretionary basis.

Export Promotion Program - Article 36 of the Investment Promotion Act establishes a scheme where special rights and benefits are granted in order to promote exports. Pursuant to the Investment Promotion Act, these special rights are divided in four main categories:

an exemption of import duties on the raw and essential materials imported for use specifically in producing exports;

exemption of import duties on items which are promoted persons imports for re-export;

exemption of export duties on products or commodities which the promoted persons either produces or assembles; and

a deduction from the taxable income under the income tax, in an amount equal to 5% of the increase in income over the previous year, derived from the export of products.

However, the Investment Promotion Act does not provide clear eligibility criteria for these benefits.

Import Duty Exemption - Section 28 of the Investment Promotion Act establishes a scheme in which companies can apply for import duty exemption for imported machinery that is not otherwise produced or assembled in Thailand (provided that such machinery is comparable in quality). Section 29 allows the administering authority to reduce the grant by 50% or not granting the exemption if it considered that granting the full amount to be inappropriate.

The program is administered by the Board of Investment, which is responsible for granting the benefit to the applicant.

The Board of Investment will promote existing activities if they relocate from central to regional areas. In order to evaluate the regional promotion, Thailand has been divided into 3 zones according to the level of industrial development. These criteria are applied on a policy basis without strict legal definition. In order to obtain a benefit from the government, a company needs to meet the following criteria:

the operation must relocate from Zone 1 to Zone 2 or from Zone 1 or 2 to Zone 3;

the type of activity and size of investment must be in accordance with those specified by the Board of Investment Promotion List;

for projects facing environmental problems and required by Thailand's Ministry of Industry to relocate:

the factory must relocate to an industrial estate or promoted industrial zone, the former factory must be closed down and all machinery moved to the new location, the new factory must be ready for operation within two years of receiving the promotion certificate; and

for other types of operation: the existing operation must employ no fewer than 50 people; main production machinery must be moved to the new location and the new factory must be ready for operation within two years of receiving the promotion certificate.

A company which fulfils the conditions will obtain income tax exemption for a 3 to 8 year period (3 years for relocation to zone 2, 7 years for relocation to an industrial estate or a "promoted industrial zone" and 8 years for relocation to zone 3). Relocation to zone 3 entails additional benefits: 50% reduction of corporate income tax for 5 years after the exemption period, double deduction from taxable income of water, electricity and transport costs for 10 years and deduction from net profit of 25% of the costs of installation or construction of the project's infrastructure facilities.

The Board of Investment (BOI) encourages industrial decentralisation and export promotion by granting tax incentives and waiving or reducing import duties in function of the geographical area in which the investment project is located and the proportion of production which is exported.

Thailand's Board of Investment routinely grants promotional privileges and investment incentives to non-Thai firms. These investment incentives include special "category A" privileges for firms agreeing to particular export targets or import balancing obligations. Thai policies include reductions and waivers on taxes, levies, and import duties, agreed limits to the arbitrary use of the "check price" system, and export promotion funds and tax benefits. In response to the current economic crisis, the Board of Investment has temporarily relaxed many of the conditions on waivers of taxes and levies so as to encourage foreign investment

The Government regards foreign investment as a vehicle for technology transfer, worker training and improved product quality and it is thus encouraged. Moreover Thailand works within ASEAN to promote co-operation through complementary foreign investment and trade.

Under the Alien Business Law (of 1972) foreign ownership of companies is limited to a maximum of 49% of registered capital. US companies are exempt from most of these limitations because of the Thai/US Treaty of Amity and Economic Relations and Thailand has obtained a GATS MFN exemption for the discriminatory elements of the treaty.

Foreign Nationals are, as yet, not allowed to buy land in Thailand. BOI sponsored companies who may purchase land either for factory sites or for residential purposes outside the factory site are exempted from this rule are.

In June 1997, the Thai government announced its decision to accelerate the issuance of visas and work permits for foreign businessmen wishing to invest in Thailand. A one-stop service centre at the BOI was established and grants, since June 1997, visa extensions and work permits for nationals of certain countries (including EU) within 3 hours and for a 1-2 year duration. The new arrangements applies to all foreign investors subject to a number of conditions, notably foreign investment transfers. The One-Stop Centre is located at Krisda Plaza, 3-5 floors, 207 Rachadapisek Road, Dindaeng, Bangkok 10310 (phone 662 693-9333-9, fax 662 693-9340.

Throughout the last half of the 90s, FDI in Thailand continued to soar, but dropped off precipitously in each of 1999 and 2000, both years saw 31% drops. In 2000, about 77% of this FDI was geared towards industrial investment, there was a 50% increase in FDI to that sector. But FDI in trade dropped off by an overwhelming 93% from over $1 billion in 1999 to a paltry $76 million in 2000.

On August 19, 1998, the Thai cabinet approved a new foreign investment law abolishing restrictions on majority foreign ownership in all areas of the economy except land ownership. The new law replaces the 26 year-old Alien Business Law which requires every registered business in Thailand to have majority Thai ownership and prohibits even minority foreign ownership in 68 specific sectors. Reform of the Alien Business Law has been in the works since September 1997 and has long been a principal demand of the foreign business community in Thailand.

Repatriation of investment funds, dividends and profits, as well as loan repayments and interest payments thereon, may be made freely, net of all taxes.

The Thai currency, the Baht, is freely convertible and was historically stable before the Baht's 1997-98 slide. Since 1990, commercial banks have been granted full authority to process all foreign exchange transactions involving imports and exports. In addition to the documents listed under "Import/Export Documentation" above, importers are required to file an Exchange Transaction Form for imports valued at more than 500,000 Baht.

Services - Communications & Audiovisual

Direct Foreign Investment Limitations

020011-*Limitation of foreign shareholding* [2002-02-01]

In 2001, the Thai House of representatives approved a new telecommunications services bill which would limit foreign shareholding to 25% of equity in all telecommunication services, reduce domestic competition and, if made retroactive, have severe consequences to already existing and planned European investment in the telecommunication services in Thailand. The bill was signed by the King on 16 November.

Under its commitments to GATS Thailand is committed to complete liberalisation of the telecommunication sector by 2006, although it has made bound commitments for allowing foreign equity and shareholder participation only up to 20% in voice, telex, telegraph and facsimile services and 40% for online database access and processing services (covering internet access), domestic leased circuits, videotext and videoconference services before that date.

Foreign shareholding up to 49% was tolerated under the Foreign Business Act (1999) and some European investments in the telecommunication services sector already exceed the proposed 25% shareholders participation limit.

The telecommunications services bill covers database access and online processing services for which they accepted in the WTO-GATS in the Uruguay round 40% foreign ownership. Thus the horizontal ceiling of 25% is WTO inconsistent.

Thai administration is assuring that the new law will not be applied retroactively. However the bill itself does not guarantee grandfathering (no retroactive application) of companies with FDI over the 25% of equity.

Furthermore the bill will create another problem for companies already operating in the telecommunication services when all telecommunication companies will have to convert from the existing system of concessions to a licensing system, which the law stipulates to take place as part of Thailand's commitment to liberalise the sector by 2006. In contrast to with the concession system, a new license will give the companies greater flexibility to expand operations and they will not have to share profits with the government.

The sticky point is that only companies meeting the 25% foreign ownership ceiling will be eligible for a new license (instead of 49% as currently under the Foreign Business Act, which effectively guaranteed that ALL current foreign operators were eligible).

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