

# Thailand

## 1. Bilateral trade and investment

According to the China Customs, the bilateral trade volume between China and Thailand in 2006 reached US \$ 27.73 billion, up by 27.1% year on year, among which China's export to Thailand was US \$ 9.76 billion, up by 24.9% year on year, while China's import from Thailand was US \$ 17.96 billion, up by 28.4% year on year. China had a deficit of US \$ 8.20 billion. Major Chinese exports to Thailand included electric power machinery and parts, computers and parts, iron and steel products, machinery equipment and parts, chemical products, cloth, household electrical appliances, mineral products and metal scrap, integrated circuits, daily necessities, etc. China's main imports from Thailand included computers and parts, plastic resin, natural rubber, crude oil, chemical products, cassava products, integrated circuits, iron and steel products, timber and products thereof, LPG, etc.

According to the Ministry of Commerce of the People's Republic of China (hereinafter referred to as MOFCOM), as of the end of 2006, the accumulative turnover of complete engineering contracts by the Chinese companies in Thailand reached US \$ 2.42 billion. The volume of completed labor service cooperation contracts was US \$ 210 million. According to MOFCOM, in 2006, approved by or registered with MOFCOM, non-financial Chinese-funded enterprises in Thailand made a direct investment of US \$ 9.55 million in Thailand. According to MOFCOM, in 2006, Thailand conducted 108 investment projects with a contractual volume of US \$ 372 million and paid-up capital reached US \$ 144 million.

## 2. The change of trade and investment administrative regimes

The Thai legislation governing trade and investment promotion mainly includes Controlling Importation and Exportation of Goods Act, Customs Act, Export Standard Act, Anti-Dumping and Countervailing Duty Act, Safeguard Measures Act, Foreign Business Act, Direct Sales and Direct Marketing Act, Electronic Transactions Act, Business Association Act, Foreign Exchange Control Act and Trade Competition Act etc.

Major competent authorities in Thailand responsible for investment and foreign trade include the Ministry of Commerce, the Investment Promotion Committee of the Ministry of Industry and the Department of Customs of the Ministry of Finance. In February 2006, Thai cabinet approved the establishment of National Development Special Investment Commission.

### 2.1 The change of trade administration

### 2.1.1 Tariff regime

Tariff rates in Thailand are still fairly high. On average, the applied MFN tariff rate is 11.46%. The average MFN tariff rate is 24.32% in agriculture sector and 9.48% in Industrial sector. High tariff rates are mostly applied to the import products that constitute competition with Thai products such as agricultural produce, automobile and auto parts, alcoholic drinks, textile products, paper and cardboard products, restaurant equipment and some electric appliances.

(1) Tariff reduction pursuant to the Agreement on Trade in Goods of the Framework Agreement on Comprehensive Economic Cooperation between ASEAN and China. Pursuant to the Agreement on Trade in Goods of the Framework Agreement on Comprehensive Economic Cooperation between ASEAN and China that came to effect in July 2005, tariff rates for 60% of goods between China and six original ASEAN members (Thailand, Malaysia, Indonesia, Philippines, Singapore and Brunei) shall be reduced to 0~5% beginning from January 2007. By 2010, China and ASEAN shall establish a free trade area and the tariff rates of majority of normal products shall be reduced to zero.

#### 1) Knitting products

The tariff rate for knitwear in Thailand will be reduced from 30% to 12% since January 1st 2007. Specialty duties for products such as cotton underwear will be reduced from \$0.16 per piece to \$0.06 per piece and that for products such as cotton shirts will be reduced from \$0.32 per piece to \$0.13 per piece since January 1st 2007.

A total of 28 tax items such as some womens coat, womens trousers, mens and womens shirts, pajamas, baby wear and part of socks are listed as general sensible products by Thailand. The tariff rate of these products would remain the current level of 30% until January 1st 2012.

#### 2) Cotton woven products

Since January 1st 2007, ad valorem duty levied by Thailand on cotton cloth will be reduced from 20% to 12%, specific duty on cotton cloth will be reduced from 0.41 US dollar per kilogram to 0.1 US dollar per kilogram; import duty on cotton yarn will be reduced from 10% to 5%.

#### 3) Staple fibre and filament products

Thailand will reduce the import duty of man made staple fibres and yarn of filaments from 10% to 8% since January 1st 2007; reduce ad valorem duty of man made staple woven fabrics and filament fabrics from 20% to 12%, meanwhile specific duty will be reduced from 0.41 US dollar per kilogram to 0.1 US dollar per kilogram.

## (2) ASEAN new member tariff preferential

Pursuant to ASEAN preferential tariff integration system, Thailand will give three ASEAN new members, e.g. Cambodia, Laos and Myanmar, special import tariff preferential in three years beginning from 2007.

### 2.1.2 Import management regime

#### (1) Import control products

Ministry of Commerce in Thailand is responsible for the management of import and export permits. Ministry of Commerce identifies category of import control products, pursuant to Controlling Importation and Exportation of Goods Act, 1979. For those products, importation of which is under control, import permit application should be submitted to Ministry of Commerce. Those products, which are subject to import control, are generally posing direct competition for Thailand domestic products, currently there are at least 26 categories of products requiring import permit, including various raw materials, petroleum, industrial materials, textiles, medical products, pharmaceuticals, agricultural products etc.

#### (2) Prohibitive import products

Importation of second hand motor vehicles, parts and gambling machines are prohibited.

#### (3) Temporary prohibitive import notice

On April 28, 2006, Thailand Consumer Protection Committee Office announced a consumer protection committee decree on prohibiting the sale of correcting steel wire in Thailand. Contents of the decree include: temporarily prohibit the sale of fashion correcting steel wire in Thailand until the decree is repealed by Thailand Consumer Protection Committee; any person, who wants to sell, produce, order or import into Thailand this kind of product shall contact Thailand Consumer Protection Committee Office, to test and approve that its products will not harm consumers.

### 2.1.3 Export control regime

Main products under Thai s export control are rice, sugar, corn and other agricultural products. Some are regulated reserve products, especially food products like rice and sugar, export is permitted only after domestic demand is met first. Pursuant to export standards act 1979, exporting some products requires export permit.

Thailand levies export duty on small part of products, e.g. rice, animal skin, rubber, lumber, raw silk, iron sheet and fish meal.

#### 2.1.4 Trade remedy system

Pursuant to Thailand Anti-dumping and Countervailing Act, Thailand Dumping and Subsidy Review Commission is responsible for the initial determination of dumping and subsidy, evaluating and levying temporary fines. Thai Minister of Commerce is responsible for reviewing the Commission's recommendations. Department of Foreign Trade of Ministry of Commerce (Department for short) is responsible for dumping investigation and Department of Domestic Trade is responsible for damage investigation. Under the Department, Trade Benefit Protection Office is established for daily routine of Dumping and Subsidy Review Commission and for anti-dumping research, appeal, investigation, damage evaluation and material sorting out to report to commission.

### 2.2 Investment management system and its development

#### 2.2.1 General regulations

Foreign Operated Business Act 1999 is the main law governing Thailand's foreign investment, with foreign investment limit, permit requirement and various fees specifically regulated in it.

The appendix of the act divides foreign investment areas to be prohibited into three categories: the first category is the area clearly closed to foreign investment due to special reasons, there are 9 groups including publishing, radio and television; rice plantation, fruit and vegetable plantation and gardening; animal husbandry; forestry, wood processing of primeval forest; aquaculture and fishing within Thailand waters and Thailand economic waters; refinery of Thailand herbal medicine; sale and auction of Thailand antiques and national historic articles; manufacturing and casting of Buddha and monk's mantle and alms and land sale.

The second category is the area in which foreign investment is strictly controlled; there are three groups in this category. The first group is the sector affecting national security and social stability, including manufacturing of arms and ammunition, various weapons and armament and domestic sea, land and air transportation; the second group involves Thailand culture and arts, traditional and folk handicraft, including manufacturing of wood carving and engraving, silk cloth and thread, Thailand instrument, gold, silver, copper, lacquer ware, pottery and plaster; the third group is sectors affecting natural resource or environment, e.g. salt industry (including underground salt), mining, sugar making, wood and furniture processing.

The third category is the area where Thailand is not competitive to foreign countries, including rice hulling, aquaculture, food and beverage marketing, accounting service, legal service, construction service, project service, advertising, hotel, and tour guiding.

If foreign investors are interested in investing in the second and the third categories areas, they must apply to Thai government for permit and approved by State Council and Business Registration Commissioner respectively. The review shall be completed within 60 days after submission of application. If necessary, review period can be prolonged by no more than 60 days. A permit shall be issued within 15 days after approval.

The above Act also made specific regulation on investment amount. The minimum capital investment of foreigners establishing business operation can not be less than 2 million Thai Baht(54,000 U.S. dollars); if investment belongs to the sectors listed in the appendix of the act and needs to be approved, the minimum capital investment can not be less than 3 million Thai Baht(81,000 U.S. dollars).

## 2.2.2 Investment promotion policy

In August 2000, Thai government divided Thailand into investment regions I, II and III according to its investment policy, each region enjoying different tax preferential policies respectively. Region I is composed of 6 central provinces, including Bangkok and its nearby 5 provinces; region II is made up of 12 provinces, namely periphery of region I; region III includes 58 faraway provinces in east, west, south and north directions with poor infrastructures. Thai investment committee will later on put forward follow up investment encouragement policy each year, to promote investment in target industries.

### (1) Pharmaceutical industry

Medicine and medical industry is a key industry Thai government gives great push on. In December 2005, Thailand Investment Committee extended the scope of investment preferential measures given to medical industry. The new policy covers not only manufacturing of active ingredients, but also of finished medicines, e.g. medicine and vaccine for use of human beings and animals.

Import duties on machines and equipments will be exempted for the investment committee supported medicine projects. Meantime, 5 to 8 years corporate income tax exemption can be obtained depending on different project locations.

Thai government regulates all medicine manufacturers to achieve the medicine good manufacture practice of the international pharmaceutical inspection cooperation convention(PIC/S) by 2008, namely GMP standard; pharmaceutical companies which enjoy preferential policies are required to achieve the GMP standard with two years of operation.

### (2) Three priority industries

On May 22, 2006, Thai Investment Committee approved extra investment encouragement measures for three priority industries, including:

Electronic industry: projects with investment over 30 billion Thai Baht and government priority investment activities will enjoy the maximum tax preferential and other funding measures, including establishing human resources fund and R & D fund.

Petrochemical industry: Companies producing basic preparation for sodium chloride, chlorine, caustic soda, hydrochloric acid and peroxide hydrogen in petrochemical industry will be given investment promotion preferential.

Automobile rubber tire industry: for expansions of projects in investment region I and II, tax exemption for importing machines will be provided, which also applies to the scale expansion of tire producers outside the regions. Previously, projects companies outside the regions were not entitled to such preferential measures.

### (3) Open the door to investment in energy saving automobile industry

In November 2006, Thailand Investment Promotion Committee relieved the investment restriction on energy saving and environmentally clean automobile manufacturing. Specific requirements on investors include: detailed investment and operating plan is required, including automobile parts and engines manufacturing; investment production plan (no less than 5 years), automobile output at the fifth year can not be less than 100,000 vehicles; gasoline consumption of energy saving cars produced can not exceed 5 litres of fuel per 100 kilometers, emission standard must not be below the emission standard of Europe 4.

### 2.3 Management system related to trade and investment and its development

Thailand had a new visa regulation for transit visitors since October 1, 2006. New regulation allows transit visitors on the site visa to be renewed twice a year; for each visa, a visitor is allowed to stay up to 90 days.

Currently, Thailand gives citizens from 41 countries and regions including China, U.S. and India the treatment of transit "landing visa". According to the new measures, citizens from 41 countries and regions, which are given "landing visa", is allowed to stay up to 30 days in Thailand after the first landing visa is issued. Landing visa can be renewed twice at the most. Obtaining this visa, visitors are allowed to stay in Thailand up to 90 days.

### 2.4 Management measures targeted at specific products

#### (1) high carbon steel bar mandatory standard

In April 2006, Industry Standards Institute of Ministry of Industry in Thailand announced to implement mandatory standard towards high carbon steel bars. The standard covers high carbon steel bar used for producing hard drawn steel wire, hot rolled steel wire, pre stressed concrete cold rolled steel wire, zinc coated wire

line and steel cable etc, but doesn't cover steel wire for producing piano string. Thailand divides products into 21 kinds of codes by their chemical components, the standard specifies diameter tolerance, chemical component and exterior of each code. The standard also specifies labelling and tagging, sample and qualification norms and testing methods etc.

(2) Household washing machine safety requirements

In April 2006, Thailand Industry Standards Institute notified WTO of household washing machine safety requirements, regulating safety requirement of washing machines for household and similar use. Single phase rated voltage cannot exceed 250 V, and three phase rated voltage cannot exceed 480V.

(3) Microwave safety requirements

In April 2006, Thailand announced microwave safety requirements, including microwaves with rated voltage not exceeding 250V and safety requirement for composite microwaves.

(4) Optical cable norm

In April 2006, Thailand announced Optical fibre cables Part 3—10: Outdoor cables family specification for duct and directly buried optical telecommunication cables and Optical fibre cables Part 3—20: Outdoor cables family specification for optical self supporting aerial telecommunication cables, regulating the signal and norm of optical telecommunication cables. In September 2006, Thailand Industry Standards Institute proposed the amendment of Optical Fibre cables Part 3—30: Outdoor Cables Family Specification for Optical Telecommunication Cables for Lake and River Crossings and making the above standards mandatory.

(5) Secondary cells and batteries containing alkaline safety requirements

In April 2006, Thailand notified WTO of Secondary cells and batteries containing alkaline or other non acid electrolytes safety requirements for portable sealed secondary cells, and for batteries made from them, for use in portable applications. This standard specifies type approval, tests and requirements, safety device operation, marking and packaging for portable sealed secondary cells and batteries containing alkaline or other non acid electrolytes.

(6) Standard for Harmful Dyestuffs in Fabrics

In April 2006, Thailand notified WTO of Fabrics: Safety from Harmful Dyestuffs and Chemical Substances, The ministerial notification specifies quality of fabrics, including woven, knitted or crocheted fabrics and non woven made from whole natural fibres, man made fibres and combined fibres, and safety from harmful dyestuffs and chemical substances, i.e. aromatic amines derived from azo colourants,

formaldehyde content, heavy metal particle, acidity alkalinity and colour fastness; includes packaging, marking, and labelling, sampling and criteria for conformity.

(7) Synthetic Dyestuff Standard

In July 2006, The Thai Industrial Standards Institute announced a mandatory standard for synthetic dyestuff including sulphur dye and vat dye, replacing previous relevant standard. New standard specifies safety requirements i.e.hazardous aromatic amine, free aromatic amine and heavy metal content; prescribes moisture content(if in solid form), colour difference, colour fastness to artificial light(xenon arc lamp) and washing; and includes packaging, marking and labeling, sampling and criteria for conformity and testing.

(8) Food safety standard

In January 2006, Thailand launched the first food safety standard, regulating livestock, poultry and poultry carcasses to be sold in market must be verified by quality certification authority and with a green “Q” as a safety label. Pork, beef, chicken and egg in Thailand shall be the first be undertaken quality certification.

(9) Sanitary requirements concerning aquatic animal

On March 27, 2006, Thailand Department of Fisheries(DOF) specifies: facilities of Thai aquatic animal farms or companies have to achieve the quarantine standard of the DOF before receiving an import permit; the imported animals and their gametes must be accompanied with Certificate of Origin and Health, the health certificate must be issued by competent authority or authorised laboratories and signed by veterinarian, authorised officer or inspector; aquatic animals will be quarantined for at least 21 days. Fish health inspectors will examine the animals for diseases listed in the OIE, koi herpesvirus and other contagious pathogens. DOF will begin to use the new model of health certificate since May 1, 2006.

(10) Food Standard regarding Chemical Contamination

In May 2006, the Office of Food and Drug Administration of Thailand proposed Food Standard regarding Chemical Contamination, “Malachite Green and its salts” is added to the existing lists of prohibited substances on food.

(11) Regulation proposal on food in sealed containers

To prevent container food from contaminating, in July 2006, the Office of Food and Drug Administration of Thailand published Notification proposal No.144. The proposal specifies bacteria standard and treatment method pertaining to low acid food in sealed containers with different PH levels.

(12) Dairy processing management standard



In June 2006, the Office of Food and Drug Administration of Thailand published dairy processing management standard. It proposes to regulate the dairy processing in particular ready to eat products in liquid form through pasteurization in line with Good Manufacturing Practice(GMP) under which establishment and location, processing equipments, sanitation, personal hygiene, and record and reporting shall meet requirements as stipulated therein. Transitional period is provided for one year upon the effective date of this proposal.

(13) Plant pests and carriers related regulation

In August 2006, Ministry of Agriculture published notification draft concerning plant pests and carriers. The draft notification provides lists of plants and products thereof from any source as prohibited articles with some exemptions and conditions, in particular for those to be withdrawn from prohibited lists must be justified by Pest Risk Analysis(PRA). Transitional Period is also provided for historically imported products over the last 5(five) years before the effective date of this provision whereas the import is granted further pending the completion of pest risk analysis. The NPPO of the concerned countries shall request for import permit together with supportive evidence of afore mentioned trade within 60(sixty) days after the enter into force of this notification. The products covered under trade obligations committed by the government before the effective date of this provision is granted to further import unless there is evidence proved to be otherwise. The proposed date of entry into force is one day after being officially notified.

(14) Snack foods labeling requirement

In October 2006, Thailand published snack foods labeling requirement, involving potato chips, corn chips, rice chips, biscuits, stuffed wafers and other snack foods determined by the Food Commission at a latter stage as deemed necessary and notified under the Thai FDA Notification accordingly. It regulates specific labelling requirements for that particular food, where the word content of “Children Should Take Less” with letter size of 5 mm in red color in white background box be affixed on the Label in addition to those requirements; nutritional labelling as required under relevant provisions regarding both cholesterol(at least 2 mg/eaten unit) and other nutritional claims; labelling of nutritional symbols for nutrient contents of energy, sugar, fat and sodium salts to be shown in traffic light like colour forms altogether with legible letters within a rectangular box, where the green is for low nutrient content, the yellow for moderate nutrient content and the red for high nutrient content, the criterion for each nutrient is also provided therein. The transitional period for compliance with the new provisions is one year.

### **3.Trade barriers**

#### **3.1Tariff and tariff management measures**

### 3.1.1 Tariff spikes

High tariff is still the major barrier for some Chinese products to enter Thailand market. Products with high tariffs include agricultural products, automobile and auto parts, spirit and beverage, textile, paper and paper board products and some electronic products.

Import duty of instant food products in Thailand is 30%—50%, which is the highest in ASEAN countries. Coffee import duty is as high as 90%. Duties on meat, fresh fruits and vegetables, fresh cheese and beans (dry pea, small lentils and chickpea) are fairly high as well. Thailand levies high tariff on products which are seldom made domestically, e.g. Thailand levies 30% import duty on frozen fries.

Some products in Thailand have fairly high excise tax, e.g. unleaded petrol, beer, wine, distilled spirit etc. Adding duty, excise tax and other extra fees together, total tax levied on whisky reaches 169%, 400% on import wine. Excise tax on wine is 60% or 100 Baht per liter (3 U.S. dollars). For ferment wine made of fruit other than grape, namely mangosteen, excise tax is 25% or 75 Baht per liter (2 U.S. dollars), whichever is the higher.

### 3.1.2 Tariff escalation

Tariff escalation exists in Thailand, unfinished and intermediate products have a higher tariff than finished products. Thailand levies 5% of tariff on most primary products, 10% on intermediate products and 20% on finished products generally and 30% on those special goods which need protection.

### 3.1.3 Tariff related quota

Thailand implements tariff related quota management on 23 kinds of agricultural products including longan, coconut meat, milk, cream, potato, onion, coconut, coffee, tea, dried pepper, corn, rice, bean, onion seed, soya bean oil, soya bean cake, sugarcane, coconut oil, palm oil, instant coffee, pipe tobacco and raw silk etc. Low tariff is implemented within the quota and high tariff is implemented outside the quota. e.g. import quota for corn is 5.444 million tons, tariff within the quota is 20%; tariff above the quota is as high as 73.8%.

China will closely follow the process of tariff concessions in Thailand, hope it can open the agricultural market which is under tariff quota management as soon as possible.

## 3.2 Import control

### 3.2.1 Import permit

Currently, Thailand still imposes import permit management on at least 26 categories

of products, including many raw materials, petroleum, industrial material, textile, medicine and agricultural products. Importation of food, pharmaceutical products, minerals, armaments and work of art needs special permit of relevant authorities.

Fairly high fees need to be paid for obtaining import permits of meat products. Beef and pork import permit fee is charged at 114 U.S dollars per ton, poultry import is 227 U.S dollars per ton and 114 U.S dollars per ton for importing viscera. These requirements largely add to import costs. Thailand import permit management is one major barrier for certain foreign products to enter it.

### 3.2.2 Seasonal import control

Although Thai government relatively opened import of forage material in assurance of permit, e.g. corn, bean, and bean pulp, other requirements are added in issuing permits. For example, import of corn can only be done in March and June each year. This seasonal control is not in line with WTO regulations and hinders normal development of international trade.

### 3.3 Technical trade barriers

#### 3.3.1 Food and drugs import verification

Thailand Food and Drugs Administrative Office specifies all food, tobacco, cosmetics, medicine, forage, fertilizers, animal and plant, seeds, medical equipment, mental medicine, volatilizing material must obtain import certification before import. Designated food storage shall be inspected by FDA before being put into use. Food import permit shall be renewed every three years. The certifying process can be fairly complex, requiring sealed by economic and commercial office of the Chinese embassy in Thailand; documents shall be charged again when reaching FDA, time consumed can amount to one year. Drug import permit shall be renewed every year, equally involving certain fees. The above regulation posts unnecessary barriers for the export of relevant Chinese products.

#### 3.3.2 Mandatory certification

Thailand requires 78 categories of products in 10 industries to be verified by mandatory standards, including agricultural products, building material, consumer goods, electronics and accessories, PVC pipes, medical equipment, liquefied petrol gas cylinder and motor vehicles etc. In addition, Thailand implemented new mandatory standards with inadequate preparation and inadequate testing and inspecting devices, causing untimely customs clearance and losses to exporters.

### 3.4 Sanitary and phytosanitary measures

#### 3.4.1 Food chemical additive testing

Thai FDA began to implement food safety testing new regulation since 2005 April, all food imported are subject to various chemical additive testing. Furthermore, Thailand specifies all processing food should provide detailed component list and production course. These regulations add to importers burden and Thailand did not provide risk assessment basis of the regulation.

#### 3.4.2 High risk food import certificate of health

Thailand notified WTO on February 8, 2006, specifying import of high risk food shall be accompanied by certificate of health issued by authorities in producing countries or officially recognized organizations. If it is proved that no such organization in producing country can provide certificate of health, importers can apply to domestic organization recognized by Thai FDA for the certificate. High risk food products range shall be identified by risk assessment of Thai FDA. Unspecified products range and food names by Thai government pose uncertainty to relevant products. China expects Thailand to clarify relevant regulation, undertake full risk assessment and scientifically single out high risk food according to the assessment.

#### 3.5 Government procurement

Thailand didn't sign WTO agreement on government procurement. Though Thai regulation on government procurement specifies non-discriminative treatment to other countries and open competition to all bidders, in actual practice, Thai domestic corporations are automatically entitled to 15% price preferential during the first round of bidding price assessment, Government procurement authorities can accept or decline some or all bids at any time, they can even change technical requirements in the course of bidding, which largely affect and control bidding results. These practices put foreign companies including Chinese companies in an unfair status in bidding.

Furthermore, pursuant to Thai regulation, for each government procurement contract with the value over 300 million Baht or 7.7 million U.S. dollars, foreign winner of bidding must buy back Thai products with the value no less than 50% of the contract. This kind of regulation adds to the operating cost of foreign winner companies.

China expresses its concern over the above Thai practice and expects Thai authorities to create a fair and open trade environment for government procurement tendering.

#### 3.6 Trade remedy measures

Thai Anti-dumping and Countervailing Act is not completely transparent and fair. Department of Foreign Trade of Ministry of Commerce Many is responsible for explaining specific requirements and procedures in many terms of the Notice on Levying Anti-dumping and Countervailing Duties 1995. Anti-dumping and Countervailing Act was enacted in July 1999, however, the Department of Foreign Trade of Ministry of Commerce hasn't put up detailed explanation on many terms in the act. This kind of legal lagging behind gives relevant Thai agencies too much

freedom of arbitration. Though the act is compatible with WTO GATT 1994 Section 6 agreement, Thai government hasn't provided others with the English version of the act yet.

Since 1995, Thailand has in all launched 6 anti-dumping investigations towards China. In 2006, 3 new anti-dumping investigation were targeted at China, including rolling bar, glass brick and oxide zinc.

### 3.7 Export subsidy

Thailand still keeps some programs for supporting some specific industrial products and agricultural products processing trade, including various tax preferential, exemption of import duty, below market interest rate of credit can be obtained in trading Thai rice between government ministries, and special financing treatment given to exporters. All these constitute to export subsidy. China will continue to follow the dynamics of Thailand government export subsidy measures.

### 3.8 Service trade barriers

#### 3.8.1 Telecommunications service

In 2005, though Thai government carried out reform of telecommunication sector and made great progress, foreign investors are still subject to certain qualification limit in entry of Thai telecommunication sector.

Thailand has a limited openness to telecommunications area. Thailand National Telecommunications Committee telecommunication priority plan for 2005—2007 specifies three kind of standards in which telecommunication permit is required.

Currently, mobile phone service in Thailand is dominated by three private Thai companies, all of whom have established certain contacts with foreign investors. However, majority market share of fixed phone service and international long distance phone service are still controlled by state owned TOT and CAT companies. Thai government expressed interest in partially privatizing these two state owned enterprises, specific policies and measures are yet to be seen.

#### 3.8.2 Post service

In 2002, long term loss Thailand Post was restructured into Thailand Post Corporation by Thai government and kept dominating post service in Thailand. After 2004, private companies were allowed to provide limited service, e.g. companies can establish mail receiving networking points and provide sorting service in certain areas, they are not allowed into mail delivery service. Thai government set up long term post plan to ensure Thailand Post Corporation can dominate mail delivery until 2012. After full opening up of market in 2012, private companies will be allowed to free pricing and mail delivery. Currently, private delivery service companies are charged 37 Baht(1

U.S. dollar) per parcel, including mail fee and fines for violating mail service monopoly. Monopoly operation in Thailand post industry violates the rule of fair competition and pose limit to foreign companies access. China is concerned about openness of Thailand post industry.

### 3.8.3 Financial sector

Though Thai government took liberalization measures for foreign investment access to financial sector after the financial crisis, there is still much limitation exists. For example, foreign investors are allowed into agent services, however, Thai securities companies with foreign proportion over 49% still need an individual approval.

Foreign investors can hold at most 25% shares of Thai banks. Thai Central Bank drafted and approved financial sectors management plan, specifies that central bank will raise the proportion to 49% whenever it “thinks appropriate”. The plan also requires all Thai deposit agencies to be retail or commercial banks. Thai bank specified that no new banking license will be issued before Thai bank market conditions are ready for more competition.

Currently, foreign banks are disadvantaged in the competition with Thai domestic banks. Only one branch is allowed for foreign banks and long distance ATM service is prohibited, otherwise it will be treated as opening branches. Foreign banks must spare at least 125 million Baht(3.1million U.S.dollars) value of capital to buy Thai government bonds or SOE bonds or directly deposit in Thai banks.

### 3.8.4 Construction

Thailand keeps its construction contract market conditionally open. Construction is not in the list of encouraged investment. Thai government strictly approves even does not approve those foreign applications of establishing representatives, offices and non profit organizations in Thailand. Foreign companies generally need local partners when they get local registration and operation, foreign ownership can not exceed 49%. Thailand also has strict restriction on foreign contractors introducing operational management personnel. Generally speaking, for companies with registered assets over 100 million Baht, they have to employ four local workers when bringing in one foreigner; for those with registered assets below 100 million Baht, they have to employ five local workers when bringing in one foreigner. There is tough restriction on bringing in labor of general kind. Foreign companies can only undertake infrastructure projects with foreign capital over 500 million Baht(13.5 million U.S.dollars). Projects within government budget are not contracted to foreign companies usually. Foreigners are banned from engineer or architect occupation, they are only allowed for counseling in this field.

### 3.8.5 Transportation

Foreign ownership can not exceed 49% in road transportation by Thai regulation. Multi Combined Transportation Act 2005 poses new barrier to transportation service trade and causes uncertainty to foreign shipping companies business. The act requires foreign shipping companies, when doing multi combined transportation service in Thailand, to form companies in Thailand or designate a Thai agency. Otherwise, heavy fines shall be laid, including 50, 000 Baht (1, 350 U.S.dollars) fine for every contract. China expects Thailand to abandon restrictions on foreign shipping companies in the following implementation regulation.

### 3.8.6 Legal service

Foreign ownership can not exceed 49% of Thai law firms by Thai regulation. Foreign lawyers are banned from practicing in Thailand and are only allowed for legal counseling.

### 3.8.7 Accounting

Foreigners are not eligible for Thailand Registered Accountant Permit, such they can not provide accounting service in Thailand. Foreign accountants can only provide service for business consultant.

### 3.8.8 Medical care

Thai government tightly control medical care service market access(e.g. hospitals, clinics, and health checkup). Thai government medical care agencies do not need to get registered like other private agencies. While government medical care agencies are not subject to safety testing before directly producing and selling popular OTC of foreign market.

### 3.8.9 Labor

Thailand imposes strict market access system on foreign labor. Foreign labor with common skills is strictly banned from entering Thai market. Only after Thailand can not find technically skilled workers and management personnel, foreigners can apply to Ministry of Labor for work permit and find local employment.

## **4. Investment barriers**

### 4.1 Foreign access restriction

Thai Foreign Operated Corporation Act makes framework regulations on foreign investment in Thailand. Many sectors are banned from foreign investment.

Article 15 of the Act specifies foreigners must meet the following two qualifications to work in sectors involving national security, culture and arts and affecting natural environment, regulated in Appendix Group 2 of the Act. This or non foreigners, as

regulated by the Act, own no less than 40% capital of foreign legal companies(unless appropriate reason stated, Minister of Commerce can loose the above ownership shares appropriately to at least 20% by cabinet resolution); Thais own no less than two fifth positions within the boards of foreign operated corporations.

Foreign Operated Corporation Act covers some projects subject to special permit, which is hard to obtain, unless they are in practice special projects agreed upon through governmental negotiations between two countries.

#### 4.2Amendment of foreign investment act

On January 9, 2007, Thai cabinet “principally” agreed to amend foreign investment act and restricting foreign investor ownership or voting rights not more than 50%, which means, once put into actual application, foreign companies with over 50% share ownership shall reduce their ownership within one year; foreign companies with over 50% voting rights shall reduce their voting rights within two years.

The amendments will force foreign investors to sell some share of Thai companies to Thai investors at a low price. Foreign investors are concerned about this. China holds the practice from Thailand is not in accordance with the trend of trade and investment liberalization.