



Trade Policy Review Body

TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

THAILAND

This report, prepared for the seventh Trade Policy Review of Thailand, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Thailand on its trade policies and practices.

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Document WT/TPR/G/326 contains the policy statement submitted by Thailand.

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

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SUMMARY

1. Since its **previous Trade Policy Review in 2011**, Thailand's strong fundamentals and appropriate policy mix have helped maintain macro-financial stability and ensure the resilience of its economy despite several endogenous and exogenous challenges that slowed the pace of recovery from the global financial crisis. After rising to 7.3% in 2012 as a result of robust domestic consumption, real GDP growth decreased progressively to 0.9% in 2014; monetary and fiscal stimulus measures are expected to help raise growth in 2015 and 2016. Developments in Thailand's position among the most competitive economies in the world reflect slight improvements in total factor productivity growth, but also weaknesses in several areas where reforms are either under way or under consideration. Whereas in 2014 headline inflation dropped progressively to 1.9% (half of its 2011 level), the unemployment rate has hardly changed (0.8%).

2. **During the review period limited trade and trade-related structural reforms (e.g. rice and energy pricing) were undertaken.** Long-awaited reforms aimed at spurring productivity growth, thereby improving Thailand's international competitiveness, and enhancing growth are under consideration in areas such as taxation, competition policy, transport infrastructure, management of state enterprises, and promotion of innovation and industries in high value-added sectors. To facilitate economic recovery monetary and fiscal stimuli are being put in place. More specifically, since April 2013 the Bank of Thailand (BOT) has gradually cut its policy interest rate from 2.75% to 1.5%, and fiscal deficit has been on the rise to accommodate additional government spending including on infrastructure investment.

3. The responsiveness of the managed-float exchange rate to economic developments contributed to maintaining macroeconomic stability and remains an effective buffer against balance-of-payments shocks. The nominal exchange rate has slightly depreciated (except in 2013) while the effective exchange rates appreciated owing to, *inter alia*, the domestic political situation, uncertainty in the global economic outlook, divergent monetary policy actions by some major central banks, economic developments in the United States and the eurozone economies, and the volatility of capital inflows into the region's bond and stock markets. The current account surplus (2011) shifted to a rising deficit (2012, 2013), due, *inter alia*, to net gold imports and repatriation of profits and dividends by foreign businesses. In 2014 however, the current account returned to surplus owing mainly to a decline in imports following the economic slowdown and the fall in oil prices towards the end of the year, which more than offset the impact of declines in the prices of export commodities, notably rice and rubber. Thailand's gross official reserves dropped primarily due to valuation changes. Gross external debt increased.

4. The openness of the Thai economy to international trade, and its integration into the world economy continued to be reflected by the high, but slightly lower, ratio of its trade (exports plus imports) in goods and services to GDP that stood at 131.8% in 2014. International trade and foreign direct investment (FDI) trends reflect the continued importance of Asia as Thailand's main regional market and supplier, though China, the United States, the European Union, and Japan remain its major individual trading and inward FDI partners; the intensification of its trade and investment ties with Cambodia, Lao PDR, Myanmar, and Viet Nam and China is noticeable. Although merchandise trade has remained largely and increasingly dependent on manufactures due to the decline of commodity prices and domestic rice policy measures, structural constraints affecting adversely Thailand's competitiveness emerged. Thailand's policy on foreign direct investment remains unchanged. FDI caps are in place in several subsectors, including: media; agriculture; forestry; fisheries; transportation; mining; various businesses relating to arts, handicraft and culture; financial services; telecommunications and tourism. In various other subsectors, official approval is required before foreign investment may proceed.

5. Political issues have continued to dominate the national agenda since Thailand's last review. Following a military coup in 2014, new executive and legislative bodies have been put in place, operating under an interim constitution while a new constitution is being prepared. **A new partial-scope regional trade agreement (RTA) has entered into force with Peru and an RTA has been signed with Chile.** Various other new, and changes to existing, RTAs are under negotiation. **There has been significant progress within ASEAN to realize the ASEAN Economic Community by 2015.** Since April 2015, Thailand has provided duty-free quota-free market access for least developed countries (LDCs). **Thailand's GSP preferences in the US, EU and Turkish markets were terminated**, which may have a negative impact on the automotive industry in particular. Thailand

has not been party to any new WTO dispute settlement cases as complainant or respondent since 2012.

6. The tariff remains one of Thailand's main trade policy instruments, and a relatively significant, albeit declining, source of tax revenue. Thailand undertook unilateral MFN tariff reductions on certain seafood products in 2014, and considers proceeding with further cuts and to simplify its tariff structure in the course of 2015. Nevertheless, as a consequence of tariff line changes relating to the introduction of the HS2012 tariff nomenclature (which resulted in 1,258 more lines) and higher *ad valorem* equivalent (AVE) rates, the average applied MFN tariff rate rose from 11.2% in 2011 to 13.4% in 2014. Non-agricultural products continue to face considerably lower tariff rates (averaging 10.1%) than agriculture items (WTO definition) (34.7%). Some 41% of applied MFN tariff rates are currently in the range zero to 5%. Peak *ad valorem* rates stood at 218% (out-of-quota rate, onion seeds) and 80% (motor vehicles). The tariff structure has become relatively less complex owing to the slight reduction in the number of applied MFN rates, which in 2014 stood at 100 (42 *ad valorem*, 13 specific rates, 45 alternate rates). An increasing number of tariff lines (74.6%) are subject to *ad valorem* rates, which contributes to the transparency of the tariff. Nevertheless, the numerous non-*ad valorem* rates affecting the remaining lines tend to conceal relatively high tariff rates, particularly on tamarind (AVE of 1,091.9%). For most activities, the tariff is characterized by escalation, which means that effective rates of tariff protection can be considerably higher than nominal rates. The fact that 73.6% of tariff lines (as of 2011) are bound imparts a degree of predictability to the tariff. However, the simple average of bound MFN rates could considerably exceed the average applied MFN rate (possibly by about 23 percentage points), providing the authorities with extensive scope for increasing applied tariffs within bindings. The passing to the HS2012 nomenclature involved tariff rate increases for around 600 tariff lines and reductions for 25 tariff lines; however, as Thailand's tariff Schedule of Concessions has remained based on the Harmonized Commodity Description and Coding System 2002 it is virtually impossible to compare its bindings' status with the currently applied HS2012 tariff schedule, thus, making the transposition of binding commitments to HS2012 another pressing task. Tariff rate quotas have remained in place for 22 agricultural items.

7. During the review period, trade facilitation improvements included the replacement of the "gold card" system of importers' benefits by the Authorized Economic Operator (AEO) Programme which was extended to importers. Thailand has become a signatory to the Revised Kyoto Convention as of June 2015 and is to complete the internal process necessary to ratify the WTO Agreement on Trade Facilitation by the end of 2015. No changes were made in the areas of customs valuation and rules of origin.

8. Import licensing and prohibitions on various items for, *inter alia*, economic reasons (infant industry protection) have remained generally unchanged during the review period. New import requirements for automotive tyre imports were imposed and notified to the WTO upon their date of entry into force. The share of national standards that are identical or similar to international standards remains at 32.3%. The maximum residue limits for pesticides in agricultural products was revised in 2013. During the review period, certain Members raised specific trade concerns (STCs) regarding certain standards- and labelling-related measures (pertaining, for example, to meat, food inspection fees, alcoholic beverages, pneumatic tyres of rubber, and ceramic tiles). Thailand remains a relatively infrequent user of anti-dumping measures, taken only in the form of duties, with most of them relating to items originating in Asia. No initiation of any investigation or application of any countervailing duty measures has occurred yet. However, recourse to safeguard measures intensified. Several contingency measures affected steel products.

9. Relatively high statutory export taxes on a few commodities (sawn wood and articles thereof, and hides) and the possibility of re-instating others continue to assist the downstream processing of such commodities, thereby distorting competition and thus the allocation of resources, and imparting an element of uncertainty to Thailand's trade and investment regime. No changes were made to export prohibitions, restrictions, or the licensing regime. Thailand maintains unchanged several schemes aimed mainly at facilitating exports, including bonded warehouses, duty drawback, "tax and duty compensation" as well as tax and non-tax privileges under the Industrial Estate Authority of Thailand Act and the customs free zones scheme. The self-financed and profitable state-owned Export-Import Bank of Thailand (EXIM Bank), which provides financial services in a competitive environment with commercial banks, has launched five new credit facilities for small and medium enterprise (SME) exporters.

10. Support for investment in priority sectors and remote areas continued through several relatively complex tax and non-tax incentives, whose cost-effectiveness is questionable and not rigorously or systematically evaluated. Support for SMEs was reinforced, *inter alia*, through a promotional tax exemption package to upgrade their machinery. Concerns about allegedly discretionary excise tax practices and plans affecting alcoholic beverages and automobiles were raised by certain Members during the review period. Activity-specific support with significant budgetary impact was provided to, *inter alia*, agriculture (e.g., rice-pledging programme) and energy where consumer subsidies and wide-ranging cross-subsidization (possibly equivalent to 1.7% of GDP) remain in place although subject to ongoing reform. State involvement in nine broad sectors of the economy (agriculture and natural resources, energy, manufacturing, financial, telecoms, transportation, infrastructure, social and technology, and other services activities) persists with public enterprises making losses, privatization efforts stalled and "corporatization" plans under way or being considered.

11. Thailand has continued to use government procurement as an important instrument of economic policy, with price preferences of 7% being accorded to domestic suppliers. Its e-Auction, part of the electronic government procurement (e-GP) system, was fully implemented as of late 2014. The Government is drawing up legislation to manage the risk of corruption in this area. Thailand, a non-signatory to the WTO Plurilateral Agreement on Government Procurement, became an observer at the WTO Committee on Government Procurement as of June 2015.

12. During the review period, Thailand continued to consider ways to strengthen protection of intellectual property rights by preparing new laws or legal amendments in several areas to, *inter alia*, align its legislative framework to the provisions of several international treaties (including those of the WTO on compulsory licensing) that it has not yet signed. No new compulsory licences have been issued though one extended licence for HIV/AIDS medication is to remain in place until 2016. Despite some legislative and institutional improvement, effective IPR enforcement remains a concern. The competition policy framework, which does not cover public administration, state-owned enterprises, or farmers' cooperatives, remains unchanged though proposed amendments to, *inter alia*, expand its legislative scope are under consideration; enforcement remains moderate. Many goods and services remain subject to varying degrees of price controls/surveillance. Thailand's relatively comprehensive corporate governance framework and high levels of compliance with international standards in a number of key areas remains unchanged.

13. Thailand remains a major global producer and exporter of various agricultural products and processed foods and maintains a trade surplus in these areas. Thailand continued to pursue a costly and controversial price intervention scheme for rice up until 2014, when it was discontinued by the Interim Government. While various short-term support measures were taken over the period 2014/15, a long-term strategy for the rice sector has yet to be fully determined. Tariff rate quotas remain in place for 118 tariff lines and in a number of cases fill rates have been low. A new Fisheries Act entered into force in 2015, adjusting fisheries resources management measures to be more compatible with international fisheries laws and standards as well as new fisheries technologies. Thailand's commercial forestry sector is small; however, incentives are being provided to grow it as well as to prevent illegal logging.

14. Despite its significant energy endowment and energy policy being focused on becoming energy independent, Thailand remains a net and growing energy importer, reflecting robust domestic demand. Various incentives are being offered to support renewable energy products. The State retains a significant presence in the sector and has a monopoly on the transmission and distribution of electricity. Reforms in the natural gas sector are under way to promote competition and ensure non-discriminatory treatment in the use of natural gas pipeline services. Thailand has developed a policy framework and guidelines on restructuring energy prices so that they reflect actual costs. As a consequence, it no longer subsidizes the consumption of diesel and liquefied petroleum gas, which had been extremely costly. As at mid-2015, only ethanol blended gasolines E20 and E85 and compressed natural gas for vehicles (NGV) remained subsidized.

15. Thailand's has a diverse manufacturing sector which continues to be supported by fiscal incentives as well as high tariff protection on certain products, including completely built-up motorcycles and cars. Over the review period manufacturing was hit by a major earthquake in Japan, which disrupted supply chain activity, and severe flooding. Challenges facing the sector include rising costs, partly as a result of the introduction of a minimum wage in 2013, the limited

production of high-technology products by Thai manufacturers and increased competition from other economies in the region. In 2014, the Government approved a guideline to develop the rubber sector in the face of oversupply and falling international prices. This includes various support measures, including the creation of a buffer stock to stabilize rubber prices and soft loans to farmers.

16. Thailand's services sector has continued to grow. The State maintains a significant presence in banking, telecommunications and transportation through equity stakes in companies or the operation of state-owned enterprises. The banking sector has remained robust and stable throughout the review period and the Bank of Thailand's supervisory mandate has been strengthened to cover government-owned specialized financial institutions (SFIs). There has been some liberalization of banking services; and in both banking and insurance, legal flexibilities allowing greater foreign participation in these subsectors have been used. In telecommunications the launch of 3G services, following a delayed auction process, has resulted in a huge increase in the take-up of mobile and wireless broadband services. Competition between the three key players in the mobile segment has led to retail price decreases. Eight bills designed to transform Thailand into a digital economy are being drafted. In the air transport sector, key challenges are to address safety concerns highlighted in a recent ICAO report and to address capacity constraints at major airports. The Government is actively promoting Thailand as a centre for aircraft maintenance, repair and overhaul services. Key maritime laws are under review and a cargo reservation policy remains in place requiring that goods imported into Thailand by government agencies or public enterprises must be transported by Thai vessels, where they are available. Tourism remains Thailand's main source of foreign exchange. Thailand continues to offer fiscal incentives for various tourism-related activities and to promote itself as the medical hub of Asia.

17. Thailand's economic growth is expected to pick up in 2015 and rise further in 2016. Despite its solid economic fundamentals, downside risks to the economic outlook are posed by, *inter alia*, possible policy slippages, weaker-than-expected domestic spending and private demand, limited production capability in high-technology products, and political uncertainty notwithstanding improvements in this area. The economy also remains vulnerable to exogenous shocks to global growth or risk aversion related to international trade, commodity prices, and global financial volatility. A major economic challenge confronting Thailand, with potential trade policy implications, is to formulate appropriate macroeconomic policies and undertake total factor productivity-enhancing structural reforms to address, *inter alia*, a rapidly aging population, the stalled reallocation of resources from agriculture to higher value-added sectors, and government expenditure-related distortions (e.g., subsidies, SOEs losses). These and related reforms would increase the flexibility of the Thai economy and its ability to respond to external competition, thus enabling it to continue meeting its economic and welfare objectives.

1 ECONOMIC ENVIRONMENT

1.1 Overview

1.1. Since its previous Trade Policy Review in 2011, Thailand's strong fundamentals have helped maintain macro-financial stability and ensure the resilience of its economy.¹ However, the global economic slowdown, the impact from massive floods, intermittent political conflict, structural weaknesses, and a succession of exogenous shocks have hampered policymaking and weakened economic performance to the extent that it lags behind other countries in the region that are recovering faster from the global financial crisis.² Following a peak in 2012 (Table 1.1) resulting from strong private domestic demand and government stimulus measures, growth slowed down. In the context of political transition, the economy is undergoing a modest recovery after a sharp contraction in early 2014, when domestic demand was adversely affected by political unrest. Developments in Thailand's position among the most competitive economies in the world reflect slight improvements in total factor productivity growth (Table 1.1, section 1.2.1), a key long-term determinant of international competitiveness and domestic living standards, but also weaknesses in several areas where reforms are either under way or under consideration (section 1.4).³ Whereas headline inflation dropped progressively to half of its 2011 level (1.9% in 2014), the unemployment rate remained virtually stable at 0.7% (0.8% in 2014). As a result of efforts in achieving main development targets under its 11th National Economic and Social Development Plan (2012-2016) (section 2.3), Thailand has slightly improved both its human development performance and income inequality index.⁴ International trade and foreign direct investment (FDI) trends reflect the continuous importance of Asia as Thailand's main regional market and supplier, though China, the United States, the European Union, and Japan remain its major individual trading and inward FDI partners; however, Thailand, which is intensifying its integration with Cambodia, Lao PDR, Myanmar, and Viet Nam (CLMV) (sections 1.6, 1.7, and 2.4.4.3) and China, has been experiencing a decline in its share of FDI relative to regional peers.⁵

Table 1.1 Selected macroeconomic indicators, 2011-14

	2011	2012	2013	2014
Real GDP (B billion, 2002 prices)	8,296.5	8,904.1	9,154.2	9,233.5
Real GDP (US\$ billion, 2002 prices)	272.1	286.5	297.9	284.3
Current GDP (B billion)	11,300.5	12,354.7	12,910.0	13,148.6
Current GDP (US\$ billion)	370.6	397.5	420.2	404.8
GDP per capita US\$	5,597.5	5,978.4	6,293.3	6,041.9
National accounts				
Real GDP (at 2002 prices) (% change)	0.8	7.3	2.8	0.9
Consumption (% change)	2.1	6.6	1.7	0.9
Private consumption	1.8	6.3	0.8	0.6
Government consumption	3.4	7.5	4.7	1.7
Gross fixed capital formation (% change)	4.9	10.2	-0.8	-2.6
Exports of goods and services (% change)	9.2	5.1	2.8	0.0
Imports of goods and services (% change)	12.4	6.0	1.4	-5.4
XGS/GDP (%) (at current market prices)	70.3	69.3	67.7	69.2

¹ In 2015, Thailand ranked 82nd out of 130 countries in the *FM Global Resilience Index*. It dropped 20 places compared to the previous year due to supply chain factors, in particular, a poorer perception of both the quality of its overall infrastructure and of its local suppliers. Oxford Metrica (2015).

² According to the World Bank, part of the recovery delay is explained by a shift in global demand for products made in Thailand such as hard disk drives. However, domestic factors were also important, including household de-leveraging after a rapid expansion of household debt, slowdown in government spending and withdrawal of global financial crisis-related stimulus measures. IMF (2015); and World Bank (2014c).

³ In 2014 Thailand ranked 29th out of 60 countries (27th out of 59 countries in 2011) in the *IMD World Competitiveness Yearbook*; its drop was due to political uncertainty. Furthermore, in 2014/15, Thailand ranked 31st among 144 economies (39th out of 142 in 2011/12) in the WEF *Global Competitiveness Index*. According to the WEF, in 2014/15 the most problematic factors for doing business included: corruption; government instability/coups; inefficient government bureaucracy; policy instability; insufficient capacity to innovate; inadequate supply of infrastructure; and, an inadequately educated workforce. World Economic Forum (2014a); and IMD online information. Viewed at: https://www.imd.org/uupload/imd.website/wcc/Overall_ranking_5_years.pdf.

⁴ In 2013, Thailand ranked 89th out of 187 countries in the UNDP's human development category (103rd out of 187 in 2011). Its income inequality index (Gini coefficient) dropped from 40 (2000-2010) to 39.4 (2003-2012); a value of 0 represents absolute equality, a value of 100 absolute inequality. UNDP (2013 and 2014).

⁵ IMF (2015).

	2011	2012	2013	2014
MGS/GDP (%) (at current market prices)	68.6	68.6	65.1	62.6
Unemployment rate (%)	0.7	0.7	0.7	0.8
Total factor productivity (2000=1.0)	1.24	1.30	1.30	..
Prices and interest rates				
Headline inflation (% change)	3.8	3.0	2.2	1.9
Core inflation ^a (% change)	2.4	2.1	1.0	1.6
Interbank lending rate (overnight avg., end-period)	3.15	2.69	2.20	1.96
Commercial bank minimum lending rate (end-period)	7.25-7.63	7.00-7.38	6.75-7.25	6.75-7.13
Exchange rate				
B/US\$ (annual average)	30.492	31.083	30.726	32.480
Nominal effective exchange rate (annual average, % change)	-1.0	-0.2	7.0	-2.6
Real effective exchange rate (annual average, % change)	-0.8	0.3	6.5	-3.3
Central government budgetary balance^b (% of GDP)				
Revenue	17.7	18.0	18.5	17.6
Tax revenue	15.8	15.9	16.6	15.4
Expenditure	18.0	18.8	18.5	18.7
Net operating balance	-0.2	-0.8	-0.03	-1.0
Government debt	27.2	29.9	29.8	30.2
Domestic debt	26.8	29.5	29.2	29.7
Savings and investment (% of GDP)				
Gross national savings	30.0	30.6	25.8	29.9
Gross domestic investment	26.3	28.5	26.7	25.9
Savings-investment gap	3.7	2.1	-0.9	4.0
External sector (% of GDP, unless otherwise indicated)				
Current account balance	2.4	-0.4	-0.9	3.2
Net merchandise trade	4.6	1.7	1.6	6.1
Exports	59.1	56.8	53.6	55.5
Imports	54.5	55.1	52.1	49.5
Services balance	-2.9	-0.8	0.9	0.5
Capital account	0.0	0.1	0.1	0.0
Financial account	-2.2	3.2	-1.0	-3.6
Direct investment	-1.3	-0.3	0.5	1.2
Balance of payments	0.3	1.3	-1.2	-0.3
Terms of trade (2012=100)	101.0	100.0	101.7	102.6
Merchandise goods exports (% change) ^c	14.3	3.0	-0.1	-0.3
Merchandise goods imports (% change) ^c	24.9	8.4	-0.1	-8.5
Service exports (% change) ^c	21.1	19.4	18.1	-5.7
Service imports (% change) ^c	15.8	1.6	3.6	-3.1
Gross official reserves (US\$ billion, end period)	206.4	205.8	190.2	180.2
in months of following year's imports	12.3	11.3	10.4	10.8
External debt (US\$ billion)	104.3	130.7	141.9	140.7
Debt service ratio	3.4	4.2	4.0	4.9

.. Not available.

a Excluding raw food and energy items.

b As at end-September. Fiscal GDP for the period October to September is used for the calculations.

c Growth rates on merchandise goods and services trade are based on the US dollar.

Note: The authorities indicated that the official GDP is currently calculated on the basis of a new compilation method that revised both the coverage of economic activities, indicators, and the calculation method of the real national income. The calculation changed from using fixed base year of 1988 prices in the old series to the new series using chain volume measures (CVM). The new quarterly GDP series were released on 18 May 2015 and revised back to the year 1993.

Source: Office of the National Economic and Social Development Board online information. Viewed at: <http://eng.nesdb.go.th/> [22/06/2015]; Bank of Thailand online information. Viewed at: <http://bot.or.th/> [06/05/2015]; IMF International Financial Statistics; Asian Productivity Organization online information. Viewed at: <http://www.apo-tokyo.org/> [20/05/2015]; and data provided by the authorities.

1.2. Despite Thailand's solid fundamentals, risks to the economic outlook remain.⁶ Domestic risks to the economy, *inter alia*, stem from possible policy slippages, the timely implementation of a public infrastructure programme (sections 1.2.1 and 4.5.4), weaker-than-expected domestic spending due partly to higher restrictions on commercial banks' credit provision, lower-than-expected government budget disbursement especially on public investment, weaker-than-expected

⁶ IMF (2015); Bank of Thailand (2014b); and Asian Development Bank (2015).

private demand, the impact of severe drought conditions and lower agricultural prices, the limited production capability of Thai manufacturers in high-technology products, and political uncertainty despite improvements in this area (section 2.2).⁷ Structural challenges including rapid population aging, the stalled reallocation of resources from agriculture to higher value-added sectors, and low global demand growth for some electronics export items as well as sluggish productivity growth, need also to be addressed to enhance growth while maintaining economic and income allocation stability. The main external risks include a surge in global financial volatility and protracted slow growth in advanced and emerging economies (mainly China, Japan, and Europe), as well as currency depreciation of main trading partners (especially yen and euro) against the Thai baht, and the continual plunge in global commodity prices. As of March 2015 the authorities considered risks to growth as roughly balanced, with downside risks coming mostly from the external front, offset by an upside from possible faster-than-expected government spending boosting confidence and low oil prices stimulating domestic demand, investment and exports.⁸ According to the IMF, while monetary and fiscal stimulus would support economic recovery in the near term (section 1.3), a medium-term strategy is needed to tackle structural challenges and reinvigorate inclusive growth.⁹

1.2 Recent Economic Developments

1.2.1 Growth, income, and employment

1.3. Since the global financial crisis Thailand's growth rate has fallen below its pre-crisis performance. After rising to 7.3% in 2012 as a result of robust domestic consumption, real GDP growth decreased progressively to 0.9% in 2014 (Table 1.1). According to the IMF, the reasons for these developments include: Thailand's high degree of openness to trade (section 1.6); large negative supply shocks, in particular, devastating floods in 2011 and the impact of Japan's Tohoku earthquake/tsunami disaster on Thailand's car industry supplies (section 4.6); slow technological upgrading, with considerable capacity in industries with flagging global demand; the apparent interruption in the flow of workers from agriculture into more productive sectors of the economy; and, political instability.¹⁰ The end of large-scale street protests following the May 2014 political change contributed to an improvement in private sector confidence and a modest recovery which is supported by monetary and fiscal stimuli (section 1.3) as well as a US\$95 billion infrastructure investment programme (section 4.5.4).¹¹ Consequently, according to the IMF, GDP growth is forecast to be 3.6%-3.7% in 2015 and 4.1% in 2016, when public fixed investment is to accelerate; according to National Economic and Social Development Board estimates the economy will grow by 3.0-4.0% in 2015, and 4.2% in 2016.¹²

1.4. Since 2011, changes in the overall sectoral pattern of Thailand's GDP and employment consisted of a progressive rise in the contribution of services (including construction) accounting for 55.3% of economic activity, and a decline in manufacturing (hit by slack domestic demand and declining export orders), agriculture and mining (Table 1.2).¹³ Between 2011 and 2013 Thailand's total factor productivity index has risen slightly (Table 1.1).¹⁴ Its participation in global value chains (GVCs) (52% in 2010) and domestic value added in exports (70% in 2010) stood quite high as compared to other top 25 exporting economies.¹⁵

⁷ Bank of Thailand Press Release No. 15/2015, "Monetary Policy Report March 2015", 20 March 2015, Bangkok. Viewed at: <https://www.bot.or.th/Thai/PressandSpeeches/Press/News2558/n1558e.pdf>.

⁸ IMF (2015).

⁹ IMF (2015).

¹⁰ IMF (2015).

¹¹ Asian Development Bank (2015); Asian Development Bank online information. Viewed at: <http://www.adb.org/countries/thailand/economy>; and Bank of Thailand (2014b).

¹² IMF (2015); Asian Development Bank (2015); and Asian Development Bank online information. Viewed at: <http://www.adb.org/countries/thailand/economy>.

¹³ Asian Development Bank (2015).

¹⁴ Productivity performance is crucial to a country's future economic prospects, especially when facing aging populations. Asian Productivity Organization, online Productivity Database 2014, Version 2 (Index) (Updated 31 January 2015). Viewed at: <http://www.apo-tokyo.org/wedo/measurement>.

¹⁵ The GVC participation rate indicates the share of a country's exports that is part of a multi-stage trade process. UNCTAD (2013).

Table 1.2 Basic economic indicators, 2011-14

	2011	2012	2013	2014
GDP by economic activity at constant 2002 prices (% change)				
Agriculture, forestry and fisheries	6.3	3.4	0.4	0.3
Fisheries	0.5	-2.6	-13.7	0.5
Mining and quarrying	-1.6	7.9	1.7	-2.7
Manufacturing	-4.8	7.0	1.7	-0.4
Electricity, gas and water	1.0	9.8	-0.8	2.9
Construction	-4.3	7.5	0.1	-4.4
Services	3.8	8.4	4.5	2.0
Wholesale and retail trade, repair of vehicles, and household goods	0.3	5.8	1.4	0.7
Hotels and restaurants	12.3	14.2	10.5	-2.9
Transport, storage, and communication	3.0	9.4	5.7	3.4
Financial intermediation	6.1	13.4	13.1	6.6
Real estate, renting, and business activities	5.5	10.9	4.0	0.1
Public administration and defence, compulsory social security	3.6	4.4	1.4	3.3
Education	2.8	4.8	1.5	3.8
Health and social work	5.1	5.8	0.8	1.9
Other services	6.7	9.1	5.4	2.6
Share of main sectors in current GDP (%)				
Agriculture, forestry, and fisheries	11.6	11.6	11.3	10.5
Fisheries	1.0	0.9	0.8	0.8
Mining and quarrying	3.5	3.9	3.8	3.8
Manufacturing	29.2	28.2	27.7	27.7
Electricity, gas and water	2.7	2.6	2.7	2.8
Construction	2.7	2.7	2.7	2.6
Services	50.3	51.0	51.7	52.7
Wholesale and retail trade, repair of vehicles, and household goods	14.4	14.4	14.0	13.9
Hotels and restaurants	3.1	3.3	3.7	3.7
Transport, storage, and communication	7.0	7.0	7.0	7.1
Financial intermediation	5.7	5.9	6.5	7.0
Real estate, renting, and business activities	6.6	6.8	6.9	6.9
Public administration and defence, compulsory social security	6.0	5.9	6.0	6.2
Education	4.1	4.1	4.1	4.3
Health and social work	1.6	1.6	1.6	1.6
Other services	1.8	1.9	1.9	2.0
Share of sector in total employment (%)				
Agriculture, forestry, and fisheries	38.7	39.6	34.1	33.4
Mining and quarrying	0.1	0.2	0.2	0.2
Manufacturing	13.8	13.9	16.5	16.8
Electricity, gas, and water	0.5	0.4	0.5	0.6
Construction	6.2	6.4	6.2	6.0
Service	40.7	39.4	42.3	42.9
Wholesale and retail trade, repair of vehicles, and household goods	15.7	15.4	16.2	16.2
Hotels and restaurants	6.6	5.9	6.6	6.7
Transport and storage	2.4	2.4	3.0	3.1
Information and communication	0.5	0.5	0.7	0.7
Financial and insurance activities	1.0	1.1	1.4	1.4
Real estate activities	0.3	0.3	0.4	0.4
Professional, scientific, and technical activities	0.7	0.6	0.9	0.8
Administrative and support service activities	1.0	1.0	1.3	1.3
Public administration and defence, compulsory social security	4.2	4.4	4.2	4.2
Education	3.3	3.1	3.0	3.0
Health and social work	1.7	1.7	1.6	1.8
Arts, entertainment, and recreation	0.6	0.6	0.6	0.7
Other services	2.6	2.4	2.4	2.5
Other	0.1	0.1	0.2	0.2

Source: Office of the National Economic and Social Development Board online information. Viewed at: <http://eng.nesdb.go.th/> [22/06/2015]; and National Statistics Office online information. Viewed at: <http://web.nso.go.th/> [06/05/2015].

1.5. During the review period Thailand's official unemployment rate, among the lowest in the world, remained low and stable at 0.7% except for a slight increase to 0.8% in 2014 (Table 1.1); no major change is expected in the near future. This low rate is explained by: counting informal or part-time workers and underemployed or seasonal agricultural workers as employed; not covering foreign workers (possibly up to 3 million) in unemployment numbers; and, fewer Thais joining the

workforce (low fertility rate).¹⁶ The informal sector, comprising anyone who is not covered by formal work arrangements, was estimated to account for approximately 50% of GDP and more than 64% of the total workforce in 2013; according to the Ministry of Finance, only 30% of the workforce pays tax, and the informal sector is not comprehensively covered by the country's current tax system. The informal sector accounts for a large share of enterprises in all sectors, including agriculture, manufacturing, trade and services. A plan for integrating the informal sector into the tax system consists of information collection (section 1.4.1) and the possible introduction of a negative income tax system; the latter, which is aimed at integrating people who earn income under the poverty line into the tax system, is under consideration by the Ministry of Finance and a study is in progress. The authorities indicated that a more comprehensive population database for the personal income tax is to be achieved through registration of low-income people.

1.2.2 Prices

1.6. **Headline inflation dropped gradually to 1.9% in 2014, half of its 2011 level** (Table 1.1), *inter alia*, on account of weak domestic demand, a sharp fall in domestic oil prices, lower food prices, and weak domestic demand while core inflation increased slightly in 2014 due to the pass-through of higher liquefied petroleum gas (LPG) prices to food prices.¹⁷ According to the IMF with output below potential and sharply lower fuel prices, annual CPI inflation is projected to fall to 0.1% in 2015, undershooting the new target range, largely driven by oil price dynamics and the Government's energy price policy.¹⁸ According to the Asian Development Bank (ADB), in 2016 headline inflation is likely to grow to 2.0% as domestic demand strengthens and global prices for food and other commodities rebound.¹⁹

1.3 Main Macroeconomic Policy Developments

1.3.1 Monetary and exchange rate policy

1.7. Monetary policy remains the responsibility of the Bank of Thailand (BOT) though the Minister of Finance has the power to supervise BOT activities; the BOT is able to maintain operational independence in the formulation of monetary policy through an independent and open decision-making process, including the Monetary Policy Committee (MPC), and mechanisms to ensure accountability and transparency.²⁰ The main objective of Thai monetary policy is to ensure price stability which in turn supports sustainable economic growth and employment in the long run. In January 2015, the Cabinet approved the use of headline inflation instead of core inflation (excluding raw food and energy items), and set the target for the year-average headline inflation at $2.5 \pm 1.5\%$ for 2015, compared with the quarterly average core inflation target at 0.5-3.0% during the period 2009-2014.²¹ To ease recovery, especially given weaker-than-projected domestic demand, and to shore up private sector confidence, Thailand's monetary policy has been increasingly accommodative; since October 2011 the BOT has gradually cut its policy interest rate by 25 basis points each time, bringing it down from 3.5% to 1.5% per annum, the lowest level

¹⁶ Thai employers increasingly rely on cheaper immigrant labor, as a means to better compete with lower-cost industries in Cambodia, Myanmar, Lao PDR, and Viet Nam. Bertelsmann Stiftung (2014); and *Bangkok Post*/Bloomberg News Agency online information, "Why Thailand's unemployment rate is ridiculously low", 4 February 2015. Viewed at: <http://www.bangkokpost.com/learning/work/466226/why-thailand-unemployment-rate-is-ridiculously-low>.

¹⁷ Bank of Thailand (2014b); and IMF (2015).

¹⁸ IMF (2015).

¹⁹ Asian Development Bank (2015).

²⁰ In July 2014, Dr. Prasarn Trairatvorakul, the Governor of the Bank of Thailand, called on the new government to "protect" the central bank's independence, which he described as "the very source" of its credibility, so that monetary policy can remain a cornerstone of Thailand's macroeconomic stability. *The Wall Street Journal*, "Thai Central Bank Chief Says Independence Key to its Credibility", 7 July 2014. Viewed at: <http://blogs.wsj.com/economics/2014/07/03/thai-central-bank-chief-says-independence-key-to-its-credibility/>; Central Banking online information, "Monetary Policy: Thai governor stresses value of independence", 7 July 2014. Viewed at: <http://www.centralbanking.com/tag/bank-of-thailand>; and WTO document WT/TPR/S/191/Rev.1, 6 February 2008.

²¹ According to the IMF, the switch to headline inflation target would facilitate communication with the public by focusing on the most relevant and best understood measure. IMF (2015); Investopedia online information. Viewed at: <http://www.investopedia.com/terms/h/headline-inflation.asp#ixzz3agtBvf00>; Exam online information. Viewed at: <http://exampariksha.com/weekly-current-affairs-update-6-april-12-april-2015/>; and Bullard (2011).

since December 2010.²² However, the authorities believe that fiscal measures would be the main factor supporting the economic recovery in many ways, while the effectiveness of monetary policy transmission may be weakened in the current environment of low interest rates.²³ According to the IMF with inflation remaining low, and a noticeable slowdown in overall credit growth, further easing may be justified and appropriate until recovery in case fiscal stimulus is slow to materialize or if the private sector's response disappoints.

1.8. Thailand has maintained its managed-float exchange rate system which provides an important first line of defence against external shocks and economic imbalances. The value of the Thai baht is largely determined by the market, reflecting supply and demand in the foreign exchange market. However, foreign exchange interventions could be justified in cases of excessive movements of the baht that substantially deviate from economic fundamentals. According to the IMF, the exchange rate is largely floating without evidence of intervention; the authorities indicated that information in this area is confidential.²⁴ Thailand maintains an exchange system free of restrictions on payments and transfers for current international transactions.

1.9. The responsiveness of the exchange rate to economic developments contributed to maintaining macroeconomic stability and remains an effective buffer against balance-of-payments shocks. During the review period, exchange rate movements were driven by both external and internal factors including the domestic political situation. Key external factors, *inter alia*, involved the uncertainty in the global economic outlook, divergent monetary policy actions by some major central banks, signs of economic recovery in the United States, and the sovereign debt problem in the eurozone economies.²⁵ Against these backdrops, the sizes of capital inflows into regional and Thai bond and equity markets have been somewhat volatile. The nominal baht/US\$ exchange rate has slightly depreciated (except for in 2013) (Table 1.1); during the same period, overall the effective exchange rates appreciated, *inter alia*, owing to the depreciation of the yen, euro and rouble in tandem with weak economic recovery in Japan and the eurozone as well as the economic slowdown in the Russian Federation. Thus far in 2015, the Thai baht weakened against the United States dollar mainly due to the MPC's surprise policy rate cut and the BOT's announcement of capital flows relaxation in April 2015. According to the IMF, the exchange rate is broadly consistent with medium term fundamentals.²⁶

1.3.2 Fiscal policy

1.10. During the review period, the fiscal deficit grew from 0.2% of GDP (based on net operating balance figures) in 2011 to 1.0% in 2014 (Table 1.1), partly due to the sluggish economy, recently-approved tax cuts and other measures.²⁷ As fiscal policy is expected to support economic recovery (section 1.2.1), the budget for FY2015 provides for a deficit of B 250 billion, equivalent to 2% of projected GDP²⁸; in FY2016, the fiscal deficit is to widen to B 390 billion to accommodate additional government spending mostly in public investment projects.

²² IMF (2015); Bank of Thailand Press Release No. 15/2015, "Monetary Policy Report March 2015", 20 March 2015, Bangkok. Viewed at: <https://www.bot.or.th/Thai/PressandSpeeches/Press/News2558/n1558e.pdf>; and Bank of Thailand Press Release No. 22/2015, "Monetary Policy Committee's Decision on 29 April 2015", 29 April 2015, Bangkok. Viewed at: https://www.bot.or.th/Thai/MonetaryPolicy/Documents/MPC_32015_n9621.pdf.

²³ IMF (2015).

²⁴ IMF (2015).

²⁵ Bank of Thailand (2012, 2013, and 2014b); and IMF (2015).

²⁶ IMF (2015).

²⁷ IMF (2015).

²⁸ A fiscal stimulus package of about 3% of GDP announced in October 2014 was to boost spending in the first half of the financial year, in particular on infrastructure projects, supplemented by carry-over of unspent funds from previous years. Fuel price reform and elimination of the rice pledging scheme have freed up some fiscal room, which can be used to finance this infrastructure investment programme (sections 1.4.2 and 3.4.2.4). In addition, in FY 2015 the Government was to implement stimulus measures such as a soft-loan programme through state-owned financial institutions by also drawing on funds carried over from past budgets to help finance public investment. IMF (2015); and Asian Development Bank (2015).

1.4 Main Structural Policy Developments and Challenges

1.11. Trade and domestic reform are considered as intrinsically linked. During the review period limited trade and trade-related structural reforms (e.g. rice and energy pricing) were undertaken. The authorities plan to embark on long-awaited reforms in areas such as the tax structure, competition policy (section 3.4.4), transport infrastructure, management of state enterprises, and promotion of innovation and industries in high value-added sectors, aimed at spurring productivity growth, improving Thailand's international competitiveness and enhancing growth.²⁹ Planned reforms cover three aspects, i.e. revenue, expenditure (subsidies, state enterprises), and fiscal processes.³⁰

1.4.1 Tax and fiscal processes reform

1.12. As of 2015, tax reform plans included the introduction of property-based taxation, such as land and property tax and inheritance tax; as well as a crackdown on tax evasion via the introduction of income tax on partnership and non-juridical associations.³¹ The Revenue Code has been amended and has been fully effective as from 26 December 2014. Moreover, the Government plans to introduce measures to reduce existing loopholes in tax collection. The authorities are undertaking a strategic review of the tax administration, in particular the Revenue Department, to, *inter alia*, improve the core tax administration processes, including those for registering taxpayers, filing and processing tax returns and payments, and collecting tax arrears. As from March 2015 efforts to integrate informal economy workers into the tax system have consisted of collecting income data to be utilized for policy making in this area (section 1.2.1).³² A proposed draft of a new Public Finance Act is expected to establish fiscal rules, including a cap on the public-debt-to-GDP ratio and annual budget allocation; it may possibly include requirements on capital expenditure, quasi-fiscal activities, and the state enterprises' operating and public service accounts.

1.4.2 Subsidies reform

1.13. Ongoing energy price reform, which has already resulted in less price differentiation across different fuels while increasing the fiscal revenue, includes an adjustment in the rate of contributions from oil and gas sales to the Government's Oil Fund, and an increase in the excise tax rate on diesel (sections 3.4.2.4 and 4.5.1).³³ These measures should ensure that energy prices will increasingly reflect the true costs of energy, thus promoting more efficient energy consumption and eliminating distortions, i.e., large price cross-subsidies between energy sources and consumers. The Government will also benefit from the reduction in subsidies and the rise in excise tax revenue. The rice pledging scheme that allowed farmers to sell rice at above-market prices to the Government was replaced by various short-term measures, including direct cash transfers to small-scale farmers only (sections 3.4.2.4 and 4.2.3.3.2).

1.4.3 State-owned enterprises (SOEs)

1.14. State enterprise reforms are considered vital to upgrading Thailand's growth potential.³⁴ Despite the lack of privatization plans and few "corporatization" actions since the last TPR in 2011, as from 2014 a State Enterprises Policy Committee has been tasked with spearheading reform policies in this area (section 3.4.3).³⁵ Another proposal is to bring governance standards for SOEs into line with those for companies listed on the stock exchange and the best practices suggested

²⁹ IMF (2015).

³⁰ Bank of Thailand (2014b).

³¹ Bank of Thailand (2014b); and IMF (2015).

³² Cabinet Resolution of 31 March 2015 accepts the principle that every single person must file the income report which is being considered by the Revenue Department in collaboration with Ministry of Interior.

³³ Bank of Thailand (2014b); and IMF (2015).

³⁴ SOEs are responsible for key assets and public utilities, and support the provision of public obligation services at below-cost prices. IMF (2015).

³⁵ The policies are to be anchored on a number of principles in order to ensure the effectiveness of the implementation. According to the authorities the state role in business and the objective of SOEs must first be clearly defined. Second, the policies should encourage not only clear separation of policy maker, regulator and operator roles, but also establish a central governing unit to oversee the performance of SOEs. Third, the governance system at individual SOEs must be enhanced.

by the Organization of Economic Co-operation and Development (OECD).³⁶ Indirect subsidies enjoyed by SOEs, such as government guarantees on debt and exemptions from certain regulations, could be reconsidered in a way to improve efficiency. An Integrity Pact and Construction Sector Transparency Initiative (CoST) programme, is to improve transparency and accountability in government procurement (section 3.2.7) by proactively disclosing the basic data held by procuring entities to the public at key points throughout the project cycle on public infrastructure projects. These reforms should cut down the cost of corruption (section 1.4.4) and improve the quality of service in state enterprises.

1.4.4 Transparency and anti-corruption

1.15. Lack of transparency, and thus lack of public accountability, creates scope for administrative discretion and therefore corruption. Although Thailand has the legal framework and a range of institutions to effectively counter corruption, all levels of Thai society are said to continue to suffer from corruption which is mainly found at the intersection between business, politicians and government bureaucracy, where conflicts of interest and illicit payments are widespread.³⁷ Corruption allegedly serves, *inter alia*, to secure monopolies, protect against foreign competition and protect illegal companies. Public procurement is an area in which the risk of corruption is particularly pronounced; the National Anti-Corruption Commission (previously National Counter Corruption Commission) estimated that up to 30% of the government procurement budget vanishes due to corrupt practices.

1.4.5 Labour market reform

1.16. Thailand kept virtually unchanged its legal and institutional framework for workplace relations. Effective as of 1 January 2013, minimum daily wages have been set at B 300, the first time Thailand has had a single, nationwide minimum-wage rate (previously based on location).³⁸ Official enforcement of minimum wages has been lax, though this is expected to improve now that the nationwide minimum wage has come into force. The authorities indicated that in case of non-observance of the minimum wage pay labour inspectors would issue an order to employers to comply with the requirement, and then would take follow-up action. The labour market remains tight owing to demographic trends, such as slow growth in the working age population and a major exodus of Cambodian migrant labourers in June 2014. Labour constraints could put rising pressure on wages, especially after economic growth starts to recover in 2015. According to the IMF, possible ways to address these difficulties could be to rise the mandatory retirement age for civil servants and regularize migration from neighbouring countries.³⁹

1.5 Balance-of-Payments Developments

1.17. Thailand's current account surplus (2011) shifted to a rising deficit (2012, 2013), due, *inter alia*, to net gold imports and repatriation of profits and dividends by foreign businesses, and in 2014 returned to surplus owing mainly to a decline in imports following the economic slowdown and the fall in oil prices towards the end of the year, which more than offset the impact of declines in the prices of Thailand's export commodities, notably rice and rubber (Tables 1.1 and 1.3).⁴⁰ According to the IMF, the current account surplus is expected to rise somewhat in 2015 due to lower oil prices, and then decline in the medium term.

³⁶ SOEs are to be encouraged to disclose both financial and non-financial information, conforming to the Annual Registration Statement (form 56-1) adopted by the listed companies. This is to allow them to become more transparent toward all groups of stakeholders. Asian Development Bank (2015).

³⁷ Thailand signed the United Nations Convention against Corruption on 9 December 2003 but ratified it on 1 March 2011 only (<http://www.unodc.org/unodc/treaties/CAC/signatories.html>). In 2014 Thailand ranked 85th out of 174 countries (80th out of 182 in 2011) in Transparency International's Corruption Perceptions Index (<http://www.transparency.org/cpi2014/results> and <http://www.transparency.org/cpi2011/results>). Business Anti-Corruption Portal online information. Viewed at: <http://www.business-anti-corruption.com/country-profiles/east-asia-the-pacific/thailand/snapshot.aspx> and <http://www.business-anti-corruption.com/country-profiles/east-asia-the-pacific/thailand/snapshot.aspx>.

³⁸ Economist Intelligence Unit (2014b).

³⁹ IMF (2015).

⁴⁰ IMF (2015); Bank of Thailand (2013 and 2014).

Table 1.3 Balance of payments, 2011-14

(US\$ million)

	2011	2012	2013	2014
Current account	8,901.6	-1,498.8	-3,881.0	13,129.1
Goods and services balance	6,419.3	3,316.6	10,391.3	26,664.0
Goods balance	16,988.8	6,670.3	6,661.2	24,582.1
Exports	219,118.4	225,745.0	225,409.5	224,792.2
Imports	202,129.7	219,074.7	218,748.3	200,210.1
Service balance	-10,569.4	-3,353.7	3,730.1	2,081.9
Receipts	41,571.3	49,646.3	58,641.0	55,284.7
Transportation	5,830.5	5,923.5	6,144.1	5,723.3
Travel	27,184.1	33,855.3	41,779.6	38,437.4
Payments	52,140.8	53,000.0	54,910.9	53,202.8
Transportation	26,719.4	28,724.3	28,398.1	26,714.7
Travel	5,717.3	6,247.6	6,481.4	6,953.9
Income balance	-8,340.4	-17,039.7	-24,760.4	-22,364.5
Credit	6,943.7	7,606.8	6,422.2	6,954.9
Compensation of employees	1,738.0	1,877.5	1,865.5	1,863.6
Investment income	5,205.7	5,729.3	4,556.7	5,091.3
Debit	15,284.0	24,646.5	31,182.7	29,319.4
Compensation of employees	1,408.5	1,458.1	1,647.5	1,658.5
Income on equity	12,502.7	21,536.6	27,914.2	26,094.6
Income on debt	1,372.9	1,651.8	1,620.9	1,566.4
Current transfers	10,822.6	12,224.3	10,488.2	8,829.6
Credit	12,966.9	14,632.0	13,244.2	11,526.2
Debit	2,144.3	2,407.6	2,756.1	2,696.6
Capital account	-40.9	234.4	281.2	100.3
Financial account	-8,269.2	12,790.0	-4,162.5	-14,563.8
Direct investment	-4,702.1	-1,361.5	2,140.0	4,868.5
Direct investment in Thailand	2,473.7	12,899.0	14,416.0	12,728.1
Thailand's direct investment abroad	-7,175.8	-14,260.6	-12,276.1	-7,859.6
Portfolio investment	6,163.3	3,398.3	-4,766.4	-12,072.4
Assets	2,260.0	-6,959.7	-3,398.6	-7,380.9
Equity securities	-464.0	-736.1	-2,041.7	-4,614.4
Debt securities	2,724.0	-6,223.6	-1,356.9	-2,766.5
Liabilities	3,903.2	10,358.0	-1,367.8	-4,691.5
Equity securities	22.9	84.7	-3,293.4	-5,808.3
Debt securities	3,880.4	10,273.3	1,925.6	1,116.8
Financial derivatives	-610.2	538.8	-341.1	308.4
Assets	10,039.2	9,393.4	6,916.7	3,706.4
Liabilities	-10,649.4	-8,854.7	-7,257.8	-3,398.0
Other investment	-9,120.1	10,214.5	-1,195.0	-7,668.4
Assets	-9,166.4	-4,303.4	-10,950.0	-5,164.2
Trade credits	2,856.7	2,333.5	-2,088.3	-1,091.3
Loans	-3,211.7	-2,510.5	-3,016.0	-1,989.5
Other assets	-8,811.4	-4,126.4	-5,845.6	-2,083.4
Liabilities	46.3	14,517.8	9,754.9	-2,504.2
Trade credits	1,583.5	-4,184.6	-4,311.3	40.7
Loans	-477.4	17,908.0	14,218.0	-3,392.1
Other liabilities	-1,059.8	794.4	-151.8	847.2
Net errors and omissions	622.0	-6,261.0	2,713.2	124.3
Balance of payments	1,213.6	5,264.7	-5,049.1	-1,210.2

Source: Bank of Thailand online information. Viewed at:

<https://www.bot.or.th/English/Statistics/EconomicAndFinancial/Pages/StatBalanceofPayments.aspx>
[15/04/2015].

1.18. Thailand's gross external debt increased by 34.9% during the period 2011-14, to US\$140.7 billion (Table 1.1); the debt service ratio rose from 3.4% to 4.9% over the same period. As a percentage of GDP, gross external debt increased from 28.1% in 2011 to 34.8% in 2014. According to the IMF Thailand's external debt is projected to remain relatively low over the medium term, gradually declining to 33% of GDP in 2020.⁴¹

⁴¹ IMF (2015).

1.19. During the review period Thailand's gross official reserves dropped primarily due to valuation changes by an overall 12.6% (Table 1.1); in 2014 they were equivalent to 44.5% of GDP and 10.8 months of imports of goods and services. As of 8 May 2015 international reserves stood at US\$160.8 billion. According to the IMF, reserves are more than adequate as they stood at 213% of its reserve adequacy metric in 2014.⁴²

1.6 Developments in Merchandise Trade

1.20. The openness of the Thai economy to international trade, and its integration into the world economy continued to be reflected by the high ratio of its trade (exports plus imports) in goods and services to GDP; nevertheless, this ratio dropped progressively from 138.9% in 2011 to 131.8% in 2014, partly due to export growth slowdown on account of weaker global demand, government intervention in the rice market, and lower commodity prices (especially rubber) as well as import compression resulting from the decline in oil prices, but more importantly to a sharp domestic demand contraction (Table 1.1).⁴³

1.21. Since its previous review, Thailand's merchandise trade has remained largely and increasingly dependent on manufactures (Chart 1.1, Tables A1.1 and A1.2). The share of transport equipment, electrical machines and non-electrical machinery in total exports has risen whereas the share of agriculture dropped. Nevertheless, in contrast with sound export growth in other Association of South East Asian Nations (ASEAN) countries, Thailand's export share in global markets has declined slightly since early this decade reflecting emerging structural and competitiveness problems; the declining share of electronic products in its total exports was not fully offset by the increase in automotive exports.⁴⁴ According to the BOT, the Thai exports sector's main structural constraints consist of: a lack of investment in new production technology for years resulting in limited production capability to take full advantage of the increasing global demand for higher technology products; and, the relatively high proportion of agricultural products in the export mix.⁴⁵

1.22. Thailand's merchandise trade with countries in the region grew stronger (Chart 1.2, Tables A1.3 and A1.4). Notwithstanding some fluctuation in trade shares, more than 68% of total merchandise trade has continued to be conducted with trading partners from the Asia-Pacific Economic Cooperation (APEC) and 17.2% with ASEAN members. At the same time, trade integration with CLMV countries (Cambodia, Lao PDR, Myanmar, Viet Nam) has proceeded at a fast pace; they accounted for 9.1% of Thailand's total exports in 2014 (6.9% in 2011) (section 3.3.5). China, the United States, the European Union and Japan remained Thailand's main individual markets in 2014; China and Japan were by far its main individual suppliers.

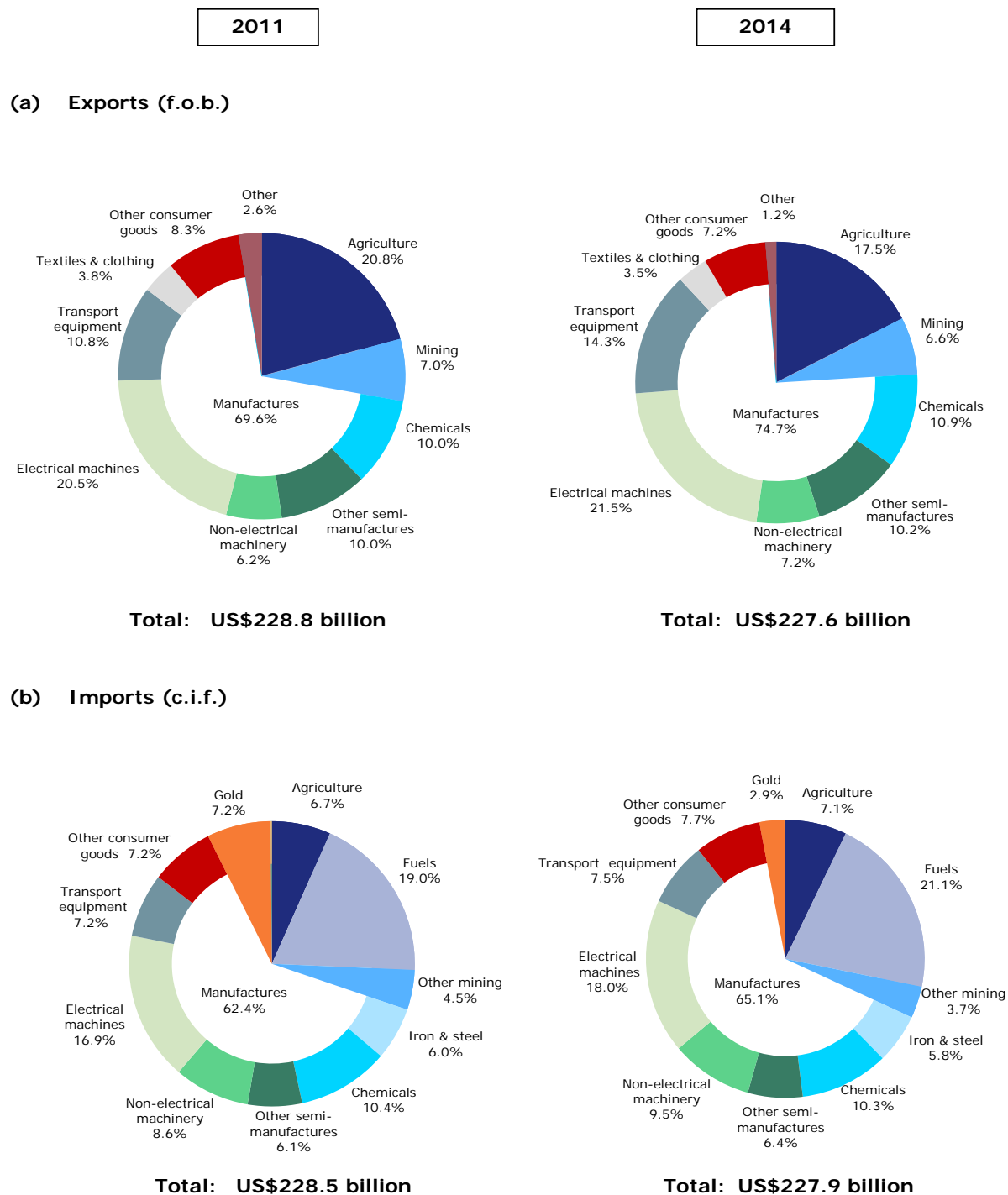
⁴² This amount covers all of Thailand's official reserves comprising gold, foreign currency reserves, Special Drawing Rights, and its Reserve position in the IMF. IMF (2015).

⁴³ IMF (2015).

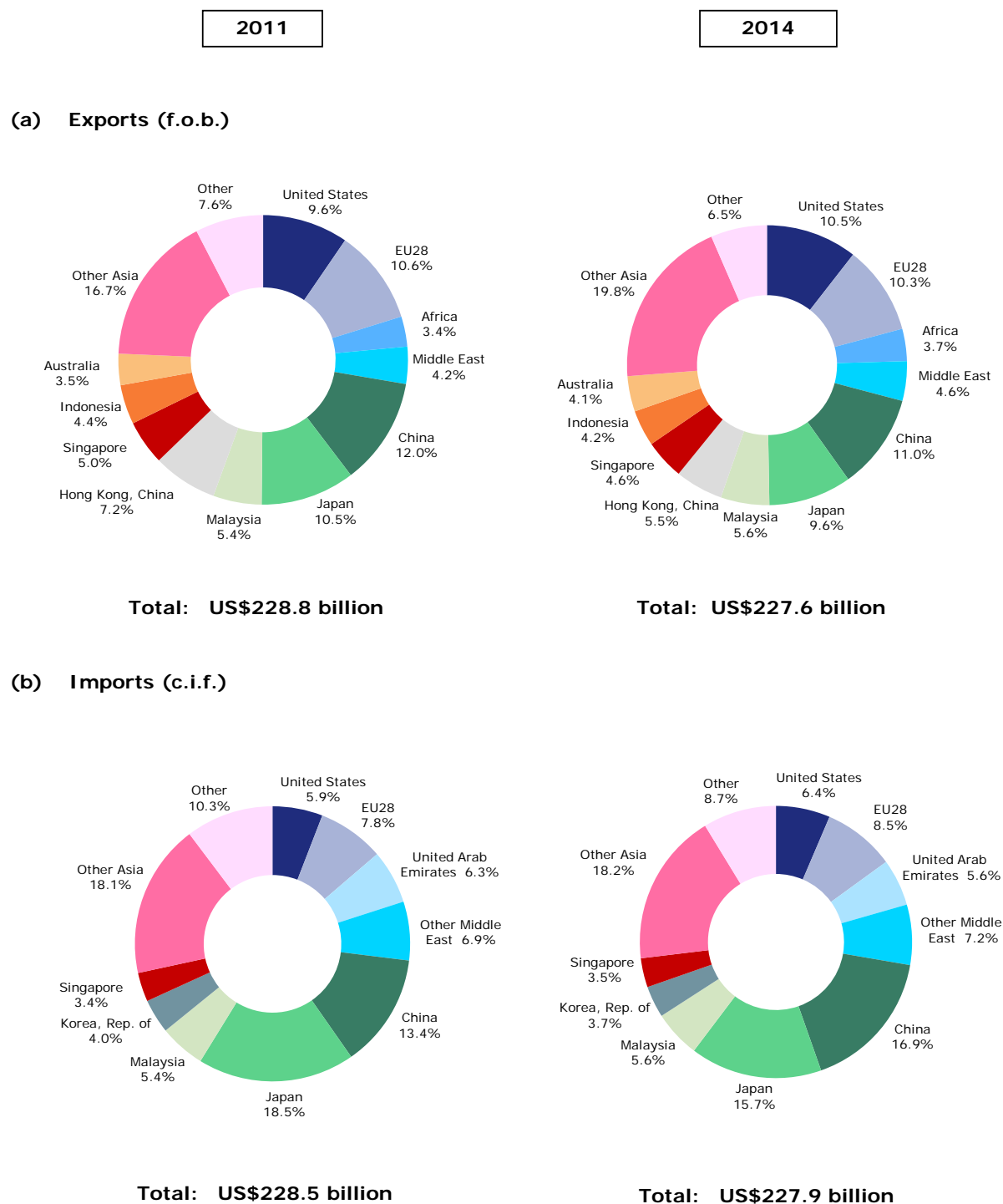
⁴⁴ IMF (2015).

⁴⁵ Bank of Thailand (2014b).

Chart 1.1 Product composition of merchandise trade, 2011 and 2014



Source: UNSD, Comtrade database (SITC Rev.3).

Chart 1.2 Direction of merchandise trade, 2011 and 2014

Source: UNSD, Comtrade database.

1.7 Trends and Patterns in Foreign Direct Investment

1.23. During the review period, foreign direct investment (FDI) inflows peaked in 2013, mainly driven by a rise in merger and acquisition (M&A) activity, and declined in 2014 while remaining more than five times larger than their 2011 level (Table 1.4).⁴⁶ According to the IMF, recent trends

⁴⁶ In 2013, Thailand was the second-largest target of M&A purchases in South-East Asia, behind Singapore, with concluded sales worth US\$6 billion. United Nations Economic and Social Commission for Asia and the Pacific (2014).

in portfolio flows to Thailand have been similar to those in other emerging ASEAN countries, driven mainly by the changing risk appetite of investors. In 2014 FDI inflows originated mainly from Japan, the EU and the United States, and were directed mainly to manufacturing activities, electricity/gas/steam, and transportation/storage; compared to other developing countries, Thailand has a relatively high level of diversity in both the sources and destinations for its FDI. However, Thailand's competitiveness has been deteriorating owing to a rising cost base (particularly for labour) and also as a result of uncertainty about the level of political commitment to liberalization, particularly in important sectors such as telecommunications and utilities; as a result Thailand has been experiencing a fall in its share of inward FDI relative to regional peers.⁴⁷ Nevertheless, the authorities consider that prospects are promising as they are supported by strong fundamentals, planned public infrastructure projects, geographical advantages, and the Board of Investment's (BOI) new approach to investment incentives (sections 1.2.1, 3.4.2.1, and 4.6.1).

Table 1.4 Inflows of foreign direct investment, 2011-14

	2011	2012	2013 ^a	2014 ^a
Total inflows (US\$ million)	2,473.7	12,899.0	14,416.0	12,728.1
	(% of total)			
Inflows by origin				
ASEAN	38.5	-5.8	6.6	7.6
Indonesia	-2.5	0.9	0.8	0.6
Malaysia	0.7	3.9	2.9	0.7
Philippines	-0.7	0.1	0.3	0.4
Singapore	41.1	-10.9	2.4	5.8
EU28	34.1	11.7	-8.6	13.8
Belgium	8.4	1.1	-0.2	-0.3
Denmark	11.0	0.1	0.9	0.4
France	8.2	2.7	1.0	-0.8
Germany	18.5	3.7	1.5	2.3
Italy	0.3	0.2	0.8	-0.3
Luxembourg	-1.4	2.2	0.5	1.2
Netherlands	10.2	6.1	-16.7	8.2
Spain	-9.9	-4.7	0.2	0.1
Sweden	3.5	0.1	-1.0	0.7
United Kingdom	-11.0	0.1	4.2	1.8
Australia	0.3	2.1	1.3	0.9
British Virgin Islands	7.4	1.3	-0.8	2.0
Cayman Islands	25.1	-6.3	0.9	-1.3
China	0.8	4.6	6.4	8.8
Hong Kong, China	11.0	5.5	1.8	10.0
Japan	-55.4	28.7	62.3	33.7
Liechtenstein	0.0	0.1	0.0	0.0
Mauritius	29.2	-1.2	-2.6	0.5
Samoa	7.2	-0.3	-0.1	0.0
Korea, Rep. of	3.9	1.0	2.7	2.8
Switzerland	12.9	2.3	1.2	0.1
Chinese Taipei	-2.6	1.2	1.2	1.8
United States	5.8	30.8	10.7	13.3
Others	-18.2	24.2	17.1	5.8
Inflows by sector				
Agriculture, forestry, and fishing	-0.1	0.0	0.0	0.1
Mining and quarrying	8.8	-0.7	-1.7	1.3
Manufacturing	158.4	12.4	20.6	25.3
Food products	15.5	-1.0	-2.2	2.3
Beverages	-0.4	-0.3	0.6	0.9
Textiles	10.9	0.4	0.1	1.0
Chemicals and chemical products	8.2	1.9	1.3	-1.4
Computer, electronic, and optical products	16.1	7.7	1.4	1.0
Electrical equipment	1.4	3.8	0.6	0.6
Machinery and equipment n.e.s.	17.7	4.0	1.1	1.9
Electricity, gas, steam, and air conditioning supply	27.4	0.3	2.5	8.3
Construction	3.0	1.1	0.3	-5.3
Wholesale and retail trade; repair of motor vehicles and motorcycles	17.4	4.0	3.1	2.8
Transportation and storage	18.8	-3.5	8.6	7.9
Accommodation and food service activities	1.2	0.0	0.1	0.0
Financial and insurance activities	18.0	-0.4	0.2	-1.9
Real estate activities	-0.7	-1.3	-0.3	0.6
Others	10.8	-1.5	8.6	12.9

a Provisional.

Source: Bank of Thailand online information (as at 11.05.2015).

⁴⁷ IMF (2015); and Economist Intelligence Unit (2014b).

1.24. Following a 99% rise in 2012 (compared to 2011), FDI outflows dropped gradually back to their 2011 level (Table 1.5). In 2014 they were largely concentrated in mining and quarrying, finance and insurance, and manufacturing activities. At the same time, they were destined for ASEAN countries (48.3% of total outflows); CLMV countries received 14.5% of Thailand's FDI outflows, more than double their 2012 share. Increased outflows of investment to CLMV countries were facilitated, *inter alia*, by multilateral infrastructure projects, rapid growth and lower labour costs in these countries; both Thai and foreign companies have relocated some basic processing and assembly activities to special economic zones (SEZs) in these neighbouring countries.⁴⁸ The launching of the ASEAN Economic Community (AEC) in 2015 may provide new opportunities to globally competitive Thai conglomerates for investment and trade, including the reduction of tariffs for Thai goods in neighbouring CLMV countries (section 2.4.2.1).

Table 1.5 Outflows of foreign direct investment, 2011-14

	2011	2012	2013 ^a	2014 ^a
Total outflows (US\$ million)	7,175.8	14,260.6	12,276.1	7,859.6
	(% of total)			
Outflows by destination				
ASEAN	31.2	19.0	12.9	48.3
Singapore	13.5	4.9	-8.3	24.4
Myanmar	4.9	2.4	6.2	5.8
Malaysia	2.0	2.6	3.7	5.2
Lao PDR	-1.4	1.7	1.7	3.8
Indonesia	8.1	4.2	4.7	3.2
Viet Nam	4.9	2.0	3.2	2.8
Cambodia	-0.2	0.8	1.1	2.1
Philippines	-0.6	0.4	0.7	1.0
EU28	8.2	14.3	5.1	0.1
France	-0.6	0.3	2.5	-0.8
Germany	0.2	6.2	-5.4	0.0
Netherlands	3.1	2.1	2.6	1.1
United Kingdom	4.9	4.3	4.3	-0.6
Australia	7.0	4.3	8.6	-0.2
Bangladesh	0.3	0.2	0.2	0.3
British Virgin Islands	4.6	6.3	5.7	-1.6
Canada	2.8	0.9	4.0	0.1
Cayman Islands	24.0	11.1	11.7	19.6
China	1.9	3.9	3.3	0.1
Egypt	-0.1	-0.8	0.0	0.3
Hong Kong, China	3.6	12.9	1.5	12.8
India	0.9	1.1	2.1	0.4
Japan	-0.8	6.1	4.0	4.7
Mauritius	8.6	4.5	22.9	13.2
Korea, Rep. of	-0.5	0.6	1.0	0.0
Switzerland	-0.5	0.7	0.2	-0.4
Chinese Taipei	-0.2	0.3	0.4	0.3
United Arab Emirates	0.1	0.2	0.4	0.3
United States	6.6	8.0	6.9	-5.7
Others	2.3	6.5	9.1	7.5
Outflows by sector				
Agriculture, forestry, and fishing	0.0	0.0	0.0	0.0
Mining and quarrying	57.8	22.3	10.3	34.3
Manufacturing	22.3	39.8	23.7	16.9
Food products	1.4	12.2	12.2	-7.9
Beverages	2.3	4.3	-0.7	9.9
Textiles	2.7	0.2	0.6	0.4
Chemicals and chemical products	7.4	2.9	2.9	1.6
Computer, electronic, and optical products	2.3	11.2	0.6	-11.5
Electrical equipment	-0.4	0.4	-0.1	0.4
Machinery and equipment n.e.s.	1.2	1.5	-0.2	1.5
Electricity, gas, steam, and air conditioning supply	0.2	0.4	0.0	0.0
Construction	0.2	0.1	0.4	1.3
Wholesale and retail trade; repair of motor vehicles and motorcycles	-2.9	7.5	21.4	4.2
Transportation and storage	-0.3	0.1	-0.3	0.2
Accommodation and food service activities	-0.3	0.0	0.0	2.1
Financial and insurance activities	19.4	7.9	7.5	18.0
Real estate activities	1.1	0.9	0.3	1.6
Others	2.4	21.0	36.8	21.4

a Provisional.

Source: Bank of Thailand online information (as at 11.05.2015).

⁴⁸ IMF (2015).

2 TRADE AND INVESTMENT REGIME

2.1 Overview

2.1. Political issues have continued to dominate the national agenda since Thailand's last review in 2011. Following a military coup in 2014, new executive and legislative bodies have been put in place, operating under an interim constitution while a new constitution is being prepared. A comprehensive reform agenda has also been proposed by the new interim administration. Over the review period, a partial-scope regional trade agreement (RTA) has entered into force with Peru and an RTA has been signed with Chile. Various other new, and changes to existing, RTAs are under negotiation. There has been significant progress within ASEAN towards realization of the ASEAN Economic Community (AEC) by the end of 2015. Since April 2015, Thailand has provided duty-free quota-free market access for least developed countries (LDCs). Thailand's GSP preferences in the US, EU and Turkish markets have been terminated, which may have a negative impact on the automotive industry in particular. Thailand became an observer to the WTO Committee on Government Procurement in June 2015. It has not been party to any new WTO dispute settlement cases as complainant or respondent over the review period. While Thailand has a good record on fulfilling its notification obligations, some remain outstanding. Thailand's framework governing foreign investment remains unchanged.

2.2 General Framework

2.2. There has been significant political upheaval in Thailand since its previous review. In January 2014, a state of national emergency was declared, after a period of social unrest. There followed a parliamentary election in February 2014 leading to the incumbent party, the Puea Thai, remaining in power. However, the election was boycotted by supporters of the opposition Democrat Party and hence not all seats in the House were filled. The election was declared invalid by the Constitutional Court on 21 May 2014. A day later, a military coup took place and the Parliament was dissolved. The military ruled through an appointed National Council for Peace and Order (NCPO) until July 2014 when an interim constitution was put in place and power handed over to a new National Legislative Assembly comprised of legislators appointed by the NCPO, mainly from the military but also from academia and the civil service.¹ The leader of the coup stepped down from his military position and was appointed Prime Minister in August 2014.

2.3. As set out in the Interim Constitution, a three-phased approach is being taken to restore national peace and order.² The first phase was to deter the use of illegal force and lethal weapons, to cease public mistrust and alleviate economic, social and administrative problems. The second phase is to: bring into force the Interim Constitution so as to establish the National Legislative Assembly (to exercise legislative power) and the Council of Ministers (to exercise executive power); establish the National Reform Council (NRC); and draft and complete a new constitution laying down an appropriate legal system.³ Under the third and final phase, all of the reforms undertaken under the Interim Constitution are to be handed to the newly elected government under the new Constitution, to ensure policy continuity.

2.4. The drafting of a new constitution was entrusted to a government-appointed Constitution Drafting Committee (CDC) and a draft Constitution was released to the NRC in April 2015.⁴ As explained by the authorities, it has been considered by all stakeholders, including through public-forum hearings, symposia involving foreign experts, and NRC debates. In response to wishes expressed by various sectors of society, the Cabinet and NCPO agreed in May 2015 that the

¹ Constitution of the Kingdom of Thailand (Interim), B.E. 2557 (2014). Viewed at: http://library2.parliament.go.th/giventake/content/give/cons_temp2557E.pdf.

² The Interim Constitution replaced the 2007 Constitution, with the exception of Chapter II, relating to the King.

³ As set out in the Interim Constitution, the National Reform Council (NRC) is mandated to study and recommend reforms in the following specific areas: (i) politics; (ii) administration of State affairs; (iii) laws and judicial procedure; (iv) local administration; (v) education; (vi) economy; (vii) energy; (viii) public health and environment; (ix) mass communication; (x) social affairs; and (xi) others. The NRC consists of no more than 250 persons, selected by the NCPO and appointed by the King. It is also charged with providing advice to the Constitution Drafting Committee (CDC) and deliberating and approving the Draft constitution.

⁴ An unofficial translation into English of the draft Constitution was viewed at: <http://www.student-weekly.com/pdf/200415-constitution-en.pdf>. The Thai version of the Constitution may be viewed at: <http://www.student-weekly.com/pdf/200415-constitution-th.pdf>

draft Constitution should be put to a national referendum; the Interim Constitution has been amended to allow this to happen. Meanwhile, the CDC is required to revise the draft Constitution based on recommendations received. The NRC is expected to vote on this new draft towards the latter part of 2015. Thereafter, the Constitution can be put to a referendum and general elections announced (expected in 2016).

2.5. Under the Interim Constitution, a bill may be introduced by the National Legislative Assembly (not less than 25 members), the Council of Ministers or the NRC. Money bills (including those relating to taxes and duties as well as use of state funds or provision of loans) may only be introduced by the Council of Ministers.⁵ The Council of Ministers retains the right to consider bills before they are adopted by the majority of the National Legislative Assembly.⁶ The Prime Minister is charged with presenting bills approved by the Assembly to the King for his signature within 20 days. Bills come into force as Acts upon their publication in the *Government Gazette*; generally there is a two-week period between the King's signature and publication in the *Gazette*. The Government is charged with concluding treaties with other states or international organizations. Treaties with wide-ranging effects on the economic security of the country (including regional trade agreements (RTAs) and customs cooperation area agreements) must be approved by the National Legislative Assembly within 60 days of the day of receipt.

2.6. In order to improve regulatory quality, all government agencies are required to conduct a regulatory impact analysis (RIA) before submitting any draft act to the Cabinet.⁷ The RIA consists of ten questions to be clarified by government agencies which consider the regulation's impact on the economy, society and environment. In December 2014, the Office of the Council of State of Thailand completed a research study on how to improve the quality of RIAs. According to the authorities, it contains three main recommendations to improve the process, content and implementation of RIAs and these proposals are currently being considered.

2.7. There have been no changes to the judicial system since Thailand's previous review. It consists of Courts of First Instance; a Court of Appeal; the Supreme Court of Justice, which includes a Criminal Division for Persons Holding Political Positions; an independent Constitutional Court; administrative courts; and specialist courts such as an Intellectual Property and International Trade (IPIT) Court. Under the Interim Constitution, judges are independent in the trial and adjudication of cases in the name of the King and in accordance with the Constitution and laws.

2.3 Trade Policy Formulation and Objectives

2.8. There have been no changes to the ministries involved in the day-to-day implementation of trade policy since Thailand's previous review. The Commerce and Finance ministries have the main responsibility for trade and investment policies, although some authority extends to the Agriculture and Cooperatives, Industry, Public Health, Energy, Information Technology and Communications, and Transport ministries, and the Bank of Thailand (the central bank).

2.9. Within the Foreign Trade Cluster under the Ministry of Commerce, the Department of Trade Negotiations is responsible for bilateral and multilateral trade negotiations. The Department of Foreign Trade is charged with ensuring compliance with bilateral and multilateral agreements, acting as an issuing authority for export and import certificates and administering contingency measures. The Department of International Trade Promotion is responsible for expanding markets overseas for Thai products and services, enhancing the value-added of exports of goods and services and increasing the competitiveness of Thai entrepreneurs in regional and global markets.

2.10. There are two specifically trade-related strategies currently being implemented by the Ministry of Commerce: the Ministry of Commerce Strategy and the Trade Negotiations Strategy. The key features of the former are set out in Table 2.1. The overall vision of the Trade

⁵ As set out in the Interim Constitution, Section 14, money bills refer to bills with provisions dealing with the imposition, repeal, reduction, alteration, modification, remission or regulation of taxes and duties, or the allocation, receipt, custody or payment of State funds, or the transfer of expenditures estimates of the State, or the raising of, or guaranteeing or redemption of, loans or any binding of State's properties, or currency.

⁶ The requirement for a majority vote to pass legislation is set out in the Rules of the Meetings of the National Legislative Assembly B.E. 2557.

⁷ This requirement was introduced in 2005.

Negotiations Strategy is to enhance the nation's competitiveness for sustainable growth and it is focused on five priority areas: ASEAN; emerging economies; developed economies; the multilateral trading system; and the impact and utilization of RTAs.

Table 2.1 Ministry of Commerce Strategy, main objectives

Objective	Strategies
Restructure trade and investment through deeper integration within ASEAN and the region	<ul style="list-style-type: none"> – Promote ASEAN sourcing for regional value chain linkages – Promote trade and investment in ASEAN and counterparts – Facilitate international trade with new trade agreements
Empower the competitiveness of small and medium enterprises (SMEs) and community enterprises	<ul style="list-style-type: none"> – Upgrade and enhance productivity of SMEs and micro-enterprises to move them up the value chain – Encourage a new generation of entrepreneurs – Promote access to financial and technical support – Facilitate the development of business network and cluster initiatives
Leverage on comparative advantages for high value-added products and services	<ul style="list-style-type: none"> – Ensure protection of intellectual property rights – Foster utilization of intellectual property rights and innovation commercialization – Promote development of emerging, high value-added sectors – Support Thai arts and crafts products – Promote One <i>Tambon</i> (meaning sub-district) One Product (OTOP) products in international markets
Create conducive and fair business environment for trade and investment	<ul style="list-style-type: none"> – Increase the price of agricultural commodities – Strengthen the market mechanism through the Agricultural Futures Exchange of Thailand – Reduce the cost of living and ensure consumer protection – Reform rules and regulations to create a freer and fairer competitive environment
Promote trade infrastructure development	<ul style="list-style-type: none"> – Develop and promote trade logistics systems – Enhance trade facilitation and dispute settlement – Improve knowledge management and information systems
Maintain and expand market and trade channels	<ul style="list-style-type: none"> – Expand domestic and international markets – Promote the use of electronic commerce and mobile commerce – Cultivate national image through Branding Thailand – Develop service sector and service trade – Promote food industry and halal products
Strengthen organizational capacity and good governance	<ul style="list-style-type: none"> – Promote and strengthen measures to prevent and combat corruption – Promote and enforce ethical conduct in public service – Develop public sector personnel that are qualified, highly responsible and result-orientated

Source: Ministry of Commerce.

2.11. The Office of the National Economic and Social Development Board (NESDB) remains responsible for formulating national development strategies, providing recommendations on, and generally evaluating, government policies. It's Eleventh National Economic and Social Development Plan (ENESDP) for 2012-16 is currently being implemented; this is essentially a framework for Thai government agencies to use as a guideline in formulating their own development strategies. The ENESDP 2012-16, which is described in detail in Thailand's previous review⁸, attaches high priority to the development of intellectual property, creative economy and human resources as keys to the country's sustainable development and competitiveness. It incorporates the principles of self-sufficiency contained in previous plans. Examples of concrete measures taken to implement the Plan include: the implementation of a new investment promotion policy of the Office of the Board of Investment (BOI) (section 3.4.2.1); the creation of six special economic zones (sections 1.7 and 3.4.2.1); and amendments to the Customs Act to modernize and streamline cross border procedures. The Office of the NESDB is currently preparing the Twelfth Economic and Social Development Plan (2017-2021). Whereas previous plans needed only to be submitted to the Council of Ministers for approval, the 2017-21 Plan will also need to be consented to by parliament.

2.12. On 12 September 2014, the Prime Minister delivered a policy statement on behalf of the Council of Ministers to the National Legislative Assembly, outlining the Interim Government's 11 point reform agenda (Box 2.1). As noted by the IMF its component devoted to enhancing the country's economic agenda comprises reforms to energy prices, tax reform, transport

⁸ WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

infrastructure, management of state enterprises and promotion of innovation and industries with high value-added sectors.⁹

Box 2.1 The Government's 11 point reform agenda, 2014

1. Protecting and upholding the monarchy	2. Maintaining national security and foreign affairs
3. Reducing social inequality and creating opportunities to access public services	4. Education, learning and fostering religions, arts and culture
5. Improving the quality of public health services and public health	6. Enhancing the country's economic potential
7. Promoting Thailand's role and exploring opportunities in the ASEAN Community	8. Developing and promoting the application of science, technology, research and development and innovation
9. Maintaining the security of the resource base and creating balance between conservation and sustainable use	10. Promoting administration of state affairs that upholds good governance and prevents and suppresses corruption and malfeasance in the public sector
11. Improving laws and the judicial process	

Source: IMF (2015), based on information provided by the Thai authorities.

2.13. Over the review period, new or amended trade-related legislation has entered into force in the areas of: food labelling (section 3.2.6.3); excise taxes (section 3.4.1.1.1); consumer protection (section 3.4.4.3); intellectual property rights (section 3.4.6); fisheries (section 4.3); and financial services (section 4.7.2.1). New, or amendments to existing, legislation is under consideration in the areas of competition policy (section 3.4.4.1.5); consumer protection (section 3.4.4.3); intellectual property rights (section 3.4.6); energy (section 4.5); telecommunications (section 4.7.3); and shipping (section 4.7.4.2.1).

2.4 Trade Agreements and Arrangements

2.4.1 WTO

2.14. Thailand's trade policies have been reviewed six times; the last review took place on 28 November 2011. Thailand accords at least MFN treatment to all WTO Members. While in practice Thailand extends MFN treatment to all non-Members too, it retains the legal flexibility not to do so. Thailand became an observer to the WTO Committee on Government Procurement in June 2015 but is neither a member nor observer to the plurilateral Agreement on Trade in Civil Aircraft. As a party to the Ministerial Declaration on Trade in Information Technology Products (the Information Technology Agreement (ITA)), Thailand phased out tariffs on eligible products in 2005. It has participated in negotiations to expand product coverage of the WTO's 1996 Information Technology Agreement (ITA) and has confirmed its acceptance of the product coverage list, finalized in July 2015.¹⁰ With respect to implementation of the WTO Trade Facilitation Agreement (TFA) concluded at the WTO's Ninth Ministerial Conference in 2013, Thailand has notified its Category A provisions (those that it will implement by the time the Agreement enters into force).¹¹ Thailand expects to ratify the TFA by end-2015. There have been no new WTO dispute settlement cases brought by or against Thailand over the review period.¹²

2.15. Thailand has maintained a good record of notifications to the WTO. However, notifications are outstanding with respect to agriculture (domestic support); TRIPS (response to checklist of issues on enforcement); import licensing (replies to questionnaire); rules of origin; and state trading enterprises (Table 2.2). Additionally, it has not notified its partial scope RTAs with India and Peru (see below).

⁹ IMF (2015).

¹⁰ WTO online information. Viewed at: https://www.wto.org/english/news_e/news15_e/ita_28jul15_e.htm.

¹¹ WTO document WT/PCTF/N/THA/1, 25 July 2014.

¹² Thailand has been involved directly in 16 dispute cases under the WTO, 13 as complainant and three as respondent. It has participated as a third party in 71 cases. Details of each of these cases may be viewed at: https://www.wto.org/english/thewto_e/countries_e/thailand_e.htm.

Table 2.2 Notifications to the WTO, 2011-2015 (30 June)

Agreement/Article	Requirement	Symbol and date of latest notification
Agreement on Agriculture		
Articles 10 and 18.2	Export subsidies (ES:1, ES:2)	G/AG/N/THA/76, 14/04/2014
Article 18.2	Domestic support (DS:1)	G/AG/N/THA/75, 14/04/2014
Article 18.2	Market access, administration of tariff and other quota commitments (MA:1)	G/AG/N/THA/79, 19/05/2014
Article 18.2	Market access, volume of imports under tariff and other quotas (MA:2)	G/AG/N/THA/78, 19/05/2014
Articles 5.7 and 18.2	Market access, special safeguard (MA:5)	G/AG/N/THA/77, 14/04/2014
Unspecified		
Paragraph 4(a) of Enabling Clause	Enabling Clause – RTA	WT/COMTD/N/35/Add.1, 31/05/2012
General Agreement on Trade in Services		
Article III:3	Laws/regulations	S/C/N/670, 22/11/2012 S/C/N/669, 22/11/2012 S/C/N/668, 22/11/2012 S/C/N/667, 22/11/2012 S/C/N/666, 22/11/2012 S/C/N/665, 22/11/2012 S/C/N/664, 22/11/2012 S/C/N/663, 22/11/2012 S/C/N/662, 22/11/2012 S/C/N/661, 22/11/2012 S/C/N/603, 14/10/2011
Article III:4 and/or IV:2	Enquiry/contact points	S/ENQ/78/Rev.13, 04/12/2012
Article V:7(a)	Economic integration agreements	S/C/N/560/Add.1, 03/05/2011 S/C/N/559/Add.1, 03/05/2011 S/C/N/545/Add.1, 09/05/2012
Agreement on the Implementation of Article VI of the GATT 1994 (anti-dumping)		
Article 16.4	Anti-dumping actions (taken within the preceding 6 months)	G/ADP/N/265/THA, 05/02/2015
GATT 1994		
Article XVII:4(a)	State trading activities	G/STR/N/13/THA; G/STR/N/14/THA, 11/10/2013
Article XXIV:7(a)	Agreement establishing a free trade area	WT/REG284/N/2, 09/05/2012 WT/REG277/N/2, 27/07/2011
Article XXVIII:5	Modification of schedules (reserve the right to modify schedules for a three-year period)	G/MA/273, 12/12/2011
Agreement on Import Licensing		
Articles 5.1, 5.2, 5.3	Institution of import licensing procedures or changes thereto	G/LIC/N/2/THA/4, 19/03/2013
Article 7.3	Replies to questionnaire	G/LIC/N/3/THA/6, 12/09/2013
Agreement on Preshipment Inspection		
Article 5	Laws/regulations by which the Agreement is put into force, as well as laws/regulations relating to preshipment inspection	G/PSI/N/1/Add.17, 04/06/2012
Decision on Notification Procedures for Quantitative Restrictions		
G/L/59	Quantitative restrictions	G/MA/QR/N/THA/1, 26/10/2012
Agreement on Subsidies and Countervailing Measures		
Article XVI:1	Subsidies	G/SCM/N/220/THA; G/SCM/N/253/THA, 11/07/2013
Article 25.11	Countervailing duty actions (taken within the preceding 6 months)	G/SCM/N/281/Add.1, 24/04/2015
Agreement on Safeguards		
	Termination of a safeguard investigation with no safeguard measure imposed	G/SG/N/9/THA/1, 12/09/2013
Article 12.1(a)	Safeguard measures (initiating an investigation relating to serious injury or threat thereof and the reasons for it)	G/SG/N/6/THA/4, 03/02/2014
Article 12.1(b)	Safeguard measures (making a finding of serious injury or threat thereof caused by increased imports)	G/SG/N/8/THA/3; G/SG/N/10/THA/3; G/SG/N/11/THA/4, 15/01/2015
Article 12.1(c)	Safeguard measures (taking a decision to apply or extend a safeguard measure)	G/SG/N/8/THA/3; G/SG/N/10/THA/3; G/SG/N/11/THA/4, 15/01/2015
Article 12.4	Safeguard measures (provisional)	G/SG/N/7/THA/3/Suppl.1; G/SG/N/11/THA/3/Suppl.1, 25/09/2014
Article 7.2	Extension of safeguard measures	G/SG/N/14/THA/1, 08/01/2013
Article 9.1, footnote 2	Non-application of safeguard measures against a product originating in a developing country Member	G/SG/N/8/THA/3; G/SG/N/10/THA/3; G/SG/N/11/THA/4, 15/01/2015
Agreement on Sanitary and Phytosanitary Measures		
Article 7, Annex B	Sanitary/phytosanitary regulations	G/SPS/N/THA/202/Rev.4, 14/04/2015

Agreement/Article	Requirement	Symbol and date of latest notification
Agreement on Technical Barriers to Trade		
Article 2.9	Technical regulations	G/TBT/N/THA/460, 18/05/2015
Article 5.6	Conformity assessment procedures	G/TBT/N/THA/383/Rev.1, 09/03/2015
Article 5.7	Conformity assessment procedures (urgent)	G/TBT/N/THA/394, 21/11/2011
Agreement on Trade Facilitation		
Article 15, Section II	Category A commitments	WT/PCTF/N/THA/1, 25/07/2014
Agreement on Trade-Related Aspects of Intellectual Property Rights		
Article 63.2	Checklist of issues	IP/N/6/THA/1, 14/01/2015
Article 69	Contact point	IP/N/3/THA/1, 18/02/2014

Source: WTO Secretariat.

2.4.2 Regional trade agreements

2.16. Over the review period, one partial scope RTA has entered into force with Peru (on 11 December 2011) and an RTA with Chile was signed (in 2013) but has not yet entered into force. In total, Thailand has RTAs in force with 16 countries, largely in the Asia-Pacific region. Thailand is a member of the Association of South East Asian Nations (ASEAN) (see below) and a signatory to ASEAN's five RTAs with third countries (China; Japan; Republic of Korea; India; and Australia and New Zealand). Thailand also has bilateral RTAs with Australia; New Zealand; and Japan as well as partial scope agreements with India and Peru. The key features of these RTAs are set out in Table A2.1. It also provides preferential tariff treatment to a limited number of imports from other developing countries under the Global System of Trade Preferences (GSTP). Thailand's preferential tariff utilization rates for exports under its RTAs are generally high, and in many cases have improved over the review period (Table 2.3).

Table 2.3 Thailand's preferential tariff utilization rate under RTAs, 2012-14

(US\$ million)

Partners	2012			2013			2014		
	Export of eligible goods	Export under RTA	Utilization rate (%)	Export of eligible goods	Export under RTA	Utilization rate (%)	Export of eligible goods	Export under RTA	Utilization rate (%)
ASEAN	31,235	14,794	47	31,567	18,310	58	33,048	19,858	60
China	13,997	11,287	81	15,622	14,025	90	15,228	13,052	85
India ^a	4,790	2,081	43	4,111	2,242	55	4,639	2,803	60
Australia ^b	8,008	5,072	63	8,395	7,612	91	7,687	7,215	94
Japan ^c	9,203	6,310	69	7,645	6,138	80	8,561	6,373	74
Korea (Rep. of)	3,821	2,131	56	3,449	2,329	68	2,935	2,195	75
New Zealand	769	18	2	868	47	5	917	78	8
Peru	65	12	19	69	11	16	86	9	10

a India includes Thailand-India Free Trade Agreement (TIFTA) and ASEAN-India Free Trade Agreement (AIFTA).

b Australia includes Thailand-Australia Free Trade Agreement (TAFTA) and ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA).

c Japan includes Japan-Thailand Economic Partnership Agreement (JTEPA) and ASEAN-Japan Comprehensive Economic Partnership (AJCEP).

Source: Trade Preference Division, Department of Foreign Trade, Ministry of Commerce

2.17. Negotiations have been concluded between Thailand and Peru on a comprehensive RTA which would include chapters on trade in goods, trade in services and intellectual property rights; this is expected to be signed in November 2015 during the APEC summit. An RTA with the European Union has been under negotiation since 2013; although talks have recently been put on hold. RTA negotiations are continuing with: India, Sri Lanka, Bhutan, Myanmar, Nepal and Bangladesh under the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC)¹³; and India, on the remaining goods tariff lines and on services and

¹³ The Agreement on Trade in Goods of the Framework Agreement on the BIMSTEC FTA was finalized during the 19th Meeting of the Trade Negotiating Committee (TNC) in 2011. The TNC is now compiling Tariff Concession Schedules of all member states to be annexed to the Agreement; all member states submitted

investment. RTA negotiations have recently been launched with Pakistan and Turkey. RTA negotiations with the United States and Bahrain remain suspended since 2006. In 2013, the Thai Parliament approved a Thailand-EFTA RTA negotiating framework in order to resume negotiations with EFTA; however talks are still on hold.¹⁴ Thailand is undertaking an impact assessment on its possible participation in the Trans-Pacific Partnership (TPP) RTA negotiations.

2.18. Various studies have been undertaken on the anticipated benefits to Thailand of possible RTAs. These were undertaken for Australia, New Zealand (for which RTAs subsequently entered into force) and have also been undertaken for possible RTAs with EFTA, India, Pakistan and Chile. Additionally a feasibility study was undertaken on an East Asian Free Trade Area (EAFTA) comprising ASEAN, China, Japan and the Republic of Korea; however these discussions have been superseded by the launch of Regional Comprehensive Economic Partnership (RCEP) negotiations (see below).¹⁵ As at end-June 2015, Thailand had undertaken one analysis of an RTA (between ASEAN and China) after its entry into force. This study, dated 1 August 2013, found that from 2008-11, Thailand's preference utilization rates under the RTA increased rapidly due to the elimination of tariffs for products under the normal track in 2010 (more than 7,000 lines or 90% of the trade value between Thailand and China). In the first half of 2012 the utilization rate was at 81%.

2.4.2.1 ASEAN

2.19. Thailand is a founding member of ASEAN, which comprises 10 economies in the region: Brunei Darussalam; Cambodia; Indonesia; Lao PDR; Malaysia; Myanmar; the Philippines; Singapore; Thailand; and Viet Nam. The block is a major trading partner for Thailand, accounting for 19% of its total imports in 2014 and 26.1% of its total exports. The aim of economic integration has been to create an ASEAN Economic Community (AEC), a component pillar of the broader ASEAN Community, transforming ASEAN into a single market and production base with the free flow of goods, services, investment, skilled labour, and freer flow of capital. The target date to launch the ASEAN Community is 31 December 2015. To achieve this, ASEAN has implemented most key measures under the AEC Blueprint¹⁶; the priority task during the rest of 2015 will be to accomplish the yet unimplemented measures. These include: operationalization of transport facilitation; the implementation of the ASEAN single window and self-certification system; the development of an ASEAN Trade Repository; the development of mutual recognition agreements (MRAs) for test reports and certification of production; and the completion of the 10th Package of Commitments under the ASEAN Framework Agreement on Services (AFAS).

2.20. As a consequence of trade liberalization under the ASEAN Free Trade Area (AFTA) and thereafter the ASEAN Trade in Goods Agreement (ATIGA), merchandise trade within ASEAN is almost completely duty-free and quantitative and other non-tariff barriers are being eliminated.¹⁷ With respect to services liberalization, nine packages of services commitments have been concluded under the AFAS since its signature in 1995; although the Protocol to implement the 9th package has not yet been signed. Currently Thailand is in the process of preparing for the 10th, and final, AFAS package. Since 2013, ASEAN members have been negotiating an ASEAN Trade in Services Agreement (ATISA) to replace the AFAS to enhance services liberalization among ASEAN members. The ASEAN Comprehensive Investment Agreement (ACIA) came into force in March 2012, replacing the 1998 ASEAN Investment Area (AIA) and ASEAN Investment Guarantee Agreements and subsequent protocols. It aims to create an open investment environment through provisions on investment liberalization, protection, promotion and facilitation. As a consequence of the Agreement, ASEAN-based investors benefit from non-discriminatory treatment, with a single negative list of reservations and provisions on further progressive liberalization.¹⁸ The ASEAN

their Schedules in 2011 except for Sri Lanka. Additionally, once Sri Lanka submits a complete schedule, there must be a transposition from HS 2007 to HS 2012 before the Agreement on Trade in Goods can be signed.

¹⁴ As noted in Thailand's previous review, FTA negotiations with EFTA had been put on hold in 2006.

¹⁵ These studies were viewed at: <http://www.thaifta.com/engfta/Home/Studies/tabid/169/Default.aspx>.

¹⁶ The AEC Blueprint sets out the targets and deadlines for advancing the AEC. The Blueprint was viewed at: <http://www.asean.org/archive/5187-10.pdf>.

¹⁷ As noted in Thailand's previous review, after the 1997 financial and economic crisis, members agreed in 1999 to eliminate almost all import duties among the original ASEAN-6 members (Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore, and Thailand) by 2015, which they did, and for the remaining ASEAN-4 (Cambodia, Lao PDR, Myanmar, and Viet Nam) to do so by 2020, with some flexibilities including exceptions for "highly sensitive" rice and some other sensitive products.

¹⁸ ASEAN Secretariat (2012).

Agreement on Customs was signed, and entered into force in 2012, replacing the 1997 agreement; and the ASEAN Agreement on the Movement of Natural Persons was signed in 2012, but has not yet entered into force.

2.21. In November 2012, ASEAN plus its RTA partners launched negotiations on a Regional Comprehensive Economic Partnership (RCEP).¹⁹ The intention is to consolidate all of ASEAN's existing RTAs so as to have single rules for trade in goods, trade in services, and investment. As at mid-2015 there had been 8 rounds of RCEP negotiations, with participating countries committing to reach completion by the end of the year. According to the authorities, negotiations on services and investment under the ASEAN-Japan Comprehensive Economic Partnership (AJCEP) are in the final stage of negotiation, with signature expected in late 2015. Negotiations on a second group of services commitments under the ASEAN-China Free Trade Area (ACFTA), and on goods and investment under the ASEAN-Republic of Korea Free Trade Area (AKFTA) are expected to be concluded by end-2015. ASEAN RTA negotiations continue with India on services and investment and formal negotiations on an RTA with Hong Kong, China were launched in July 2014, with a view to finalization by 2016.²⁰ The mandated reviews of the goods and services components of ASEAN's RTA with Australia and New Zealand have been put on hold until the RCEP has been concluded.

2.4.3 Preferential trade agreements

2.22. Thailand is eligible for trade preferences under the GSP schemes of Japan, Canada, Switzerland, Norway, the Russian Federation and ten other members of the Commonwealth of Independent States. Thailand no longer benefits from GSP treatment from the European Union and Turkey as all benefits to high- and upper-middle-income countries, a group to which Thailand belongs, were terminated in January 2015. Additionally, Thailand no longer benefits from preferential access to the US market as its GSP scheme was terminated at end-July 2013 (although the US Congress is considering legislation to renew the scheme).²¹ Most of Thailand's GSP exports in 2014 were to the EU (64% of the total) and the US (25%) (Table 2.4); manufacturers of motor vehicle parts and lenses are reported to have been the main beneficiaries under the US and EU schemes.²²

Table 2.4 Thailand's utilization of preferential tariffs under GSP schemes, 2012-14

(US\$ million)

Countries	2012	2013	2014
European Union	8,348	9,052	8,711
United States	3,710	3,341	3,488 ^a
Turkey	568	685	659
Switzerland	293	305	298
Canada	252	270	286
CIS ^b	172	207	229
Japan	45	30	25
Norway	40	29	28

a While the US GSP Scheme was terminated at end-July 2013, importers of eligible goods are able to seek refunds of duties paid retroactively once legislation to renew the programme has been passed by Congress and become effective.

b CIS includes the Russian Federation and ten other members of the Commonwealth of Independent States.

Source: Trade Preference Division, Department of Foreign Trade, Ministry of Commerce.

2.23. Since 9 April 2015, Thailand has provided duty-free quota-free market access for imports from least developed countries (LDCs).

¹⁹ This supersedes discussions on an East Asia Free Trade Area (comprising ASEAN plus China, Japan and the Republic of Korea) which had commenced in 2002.

²⁰ ASEAN online information. Viewed at: <http://www.aseanbriefing.com/news/2015/05/01/26th-asean-summit-sees-progress-on-aec-and-fta-with-hong-kong.html>.

²¹ USTR online information. Viewed at: <https://ustr.gov/sites/default/files/03112014-FAQs-on-GSP-Expiration.pdf>.

²² EIU online information. Viewed at: <http://www.eiu.com>.

2.4.4 Other agreements and arrangements

2.4.4.1 Asia-Pacific Economic Cooperation (APEC)

2.24. The APEC group's trade objective is "open regionalism" without necessarily creating a free trade area of its own.²³ APEC's trade efforts focus on its members meeting unilateral targets for liberalization and for better quality measures in a broad range of areas, from customs procedures and standards to subsidies and contingency measures. Thailand intends to meet APEC's voluntary target of free and open trade, including in services and investment by 2020. Individual Action Plans (IAPs) are regularly updated roadmaps containing APEC members' intended actions in 15 policy areas to achieve APEC's liberalization goals.²⁴ For the period 2012-2020 IAPs are being submitted biennially under a revised IAP and IAP peer review process, adopted in 2011. Thailand's latest IAPs were in 2012 and 2014.²⁵ Thailand's progress report for the 2014 IAP, *inter alia*, emphasized: tariff reductions due to a change in HS nomenclature but continued imposition of high tariffs for some industrial and agricultural products; continued use of TRQs, import prohibitions and import licensing requirements for certain products; improved commercial presence conditions for foreign companies in the securities and derivatives market; Thailand's encouragement of foreign investment although some restrictions remain; efforts to align domestic with international standards; a decline in physical inspections at customs due to the implementation of risk management techniques and new technologies; gradual implementation of the Electronic Government Procurement System; implementation of a review process for all proposals concerning new legislation; and transparency in official information.

2.4.4.2 Asia-Europe Meetings (ASEM)

2.25. The Asia-Europe Meetings are informal dialogues and cooperation programmes among 48 European and Asia-Pacific partners²⁶; summits are held every two years with discussions on a range of economic, political, security and social issues. ASEM has been working on a Trade Facilitation Action Plan (TFAP) for some years, aiming to reduce non-tariff barriers, increase transparency, and promote trade opportunities within the two regions. It specifies biannual concrete goals in the priority areas of customs, standards and conformity assessment, public procurement, quarantine and SPS, intellectual property, mobility of business people, and other trade activities, such as market access in distribution.

2.4.4.3 Other

2.26. As described in its previous review, Thailand participates in other subregional cooperation or development groups, notably the Greater Mekong Subregional Economic Cooperation programme which aims to enhance economic relations in nine priority sectors²⁷; the Ayeyawady-Chao Phraya-Mekong Economic Strategy (ACMECS) which aims to promote prosperity in the subregion (Cambodia, Lao PDR, Myanmar, Viet Nam, and Thailand)²⁸; the Indonesia-Malaysia-Thailand Growth Triangle which seeks to accelerate economic transformation in the less developed neighbouring provinces of the three countries; and the Asia Cooperation Dialogue which seeks to promote strategic partnerships and cooperation in all of the Asian subregions.²⁹

²³ APEC's 21 member economies are: Australia; Brunei Darussalam; Canada; Chile; China; Hong Kong, China; Indonesia; Japan; Republic of Korea; Malaysia; Mexico; New Zealand; Papua New Guinea; Peru; the Philippines; Russian Federation; Singapore; Chinese Taipei; Thailand; the United States; and Viet Nam.

²⁴ WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

²⁵ Thailand's 2012 IAP and Bogor Goals Progress Report may be viewed at: <http://www.apec.org/About-Us/About-APEC/Achievements%20and%20Benefits/2012-Bogor-Goals.aspx>. Its 2014 IAP and Bogor Goals Progress Report may be viewed at: <http://www.apec.org/About-Us/About-APEC/Achievements%20and%20Benefits/2014-Bogor-Goals.aspx>.

²⁶ The partners are: the 28 EU members, the European Commission, the ASEAN 10, the ASEAN Secretariat, and Australia, China, India, Japan, Republic of Korea, Mongolia, New Zealand, Pakistan, and Russian Federation.

²⁷ The Greater Mekong Subregional Economic Cooperation programme involves Cambodia, China (specifically Yunnan Province and Guangxi Zhuang Autonomous Region), Lao PDR, Myanmar, Thailand, and Viet Nam. The priority sectors are: agriculture, energy, environment, human resource development, investment, telecommunications, tourism, transport infrastructure, and transport and trade facilitation.

²⁸ Key areas of cooperation are trade and investment facilitation, transport linkages, agriculture, industry and energy, public health, tourism and human resource development.

²⁹ Areas of cooperation include: energy; agriculture; biotechnology; tourism; poverty alleviation; information technology development; e-education; and finance.

2.5 Foreign Investment Regime

2.27. There have been no major changes to the regulatory and institutional framework governing foreign investment in Thailand over the review period. The main law remains the 1999 Foreign Business Act (B.E. 2542) which contains a list of restricted activities, stipulating foreign equity limits and approval requirements (Table 2.5). Initial foreign investment is subject to minimum capital requirements of B 2 million and, in the case of restricted businesses, 25% of the total three-year average expected annual expenditure, but not less than B 3 million. There are set time frames for licence applications to be decided (for businesses under Lists 2 & 3) and an appeal mechanism is also in place.³⁰ Requests are rejected in very few cases: in 2012 there were 336 approvals and 9 rejections; in 2013 there were 408 approvals and 10 rejections and in 2014 there were 432 approvals and 8 rejections. The authorities indicated that the Interim Government is considering how to amend the act to make it more investor-friendly, to promote more investment and to enhance transparency; however an amendment to the Foreign Business Act is unlikely to be forthcoming in the near future.

Table 2.5 Business activities restricted for foreign investment under the Foreign Business Act

No.	Business activity
List 1 - Businesses not permitted for foreigners to operate due to special reasons	
<i>Maximum foreign equity participation of 50% for foreigners and foreign companies</i>	
1.	Newspapers, radio or television stations
2.	Upland or lowland farming or gardening
3.	Animal farming
4.	Forestry and wood fabrication from natural forests
5.	Fisheries - marine animals in Thai waters and within Thailand's specific economic zones
6.	Extraction of Thai medicinal herbs
7.	Trading and auctioning Thai antiques or national historical objects
8.	Making or casting Buddha images and monks' alms bowls
9.	Land trading
List 2 - Businesses related to national safety or security or affecting arts and culture, tradition, folk handicraft or natural resources and environment	
<i>Maximum foreign equity participation of 60% (and up to 75% on a case-by-case basis). At least two-fifths of the board of directors must be Thai nationals. Approval required from the Cabinet and permits granted by the Minister of Commerce</i>	
1.	Production, sale, repair and maintenance of (a) firearms, ammunition, gun powder, explosives; (b) components of firearms ammunition and explosives; (c) armaments, military ships, aircraft or vehicles; and (d) equipment or components of all war materials
2.	Domestic land, waterway, or air transportation, including domestic airlines
3.	Trading antiques or art objects and Thai handicraft
4.	Production of carved wood
5.	Silkworm farming, production of Thai silk yarn, weaving Thai silk or pattern printing on Thai silk
6.	Production of Thai musical instruments
7.	Production of goldware, silverware, nielloware, bronzeware and lacquerware
8.	Production of crockery of Thai arts and culture
9.	Production of sugar from sugar cane
10.	Salt farming inclusive of making salt from salty earth
11.	Making rock salt
12.	Mining, inclusive of stone blasting or crushing
13.	Timber conversions to make furniture and articles of wood
List 3 - Businesses in which Thai nationals are not yet ready to compete with foreigners	
<i>No foreign equity limits. Approval required from the Foreign Business Committee and permits granted by the Director-General of the Department of Business Development</i>	
1.	Rice milling, and flour production from rice and farm produce

³⁰ Licence applications by foreigners for List 2 and List 3 businesses must be decided within 60 days of being filed. Under exceptional circumstances, Cabinet may postpone List 2 decisions for another 60 days. Licences must be issued within 15 days of approval. Factors taken into account in assessing licence applications are: national safety and security; economic and social development; public order and morality; art, culture and tradition; natural resource conservation; energy conservation and environment protection; consumer protection; enterprise size; employment; technology transfer; and research and development. If rejected the applicant must be informed along with the reasons within 15 days (List 3) or 30 days (List 2) of the approval decision. Rejection of List 3 applications may be appealed to the Minister of Commerce within 30 days of the date of receipt of the notification and a decision on the appeal must be taken within 30 days of the submission for appeal (WTO document WT/TPR/S/123, 15 October 2003).

No.	Business activity
2.	Fishery, limited to marine animal culture
3.	Forestry from reforestation
4.	Production of plywood, veneer, chipboard or hardwood
5.	Production of lime
6.	Accounting business services
7.	Legal business services
8.	Architecture business services
9.	Engineering business services
10.	Construction, except for (a) construction rendering basic services, requiring special machinery, technology or construction expertise and having a minimum foreign capital of B 500 million; and (b) other categories of construction prescribed by ministerial regulations
11.	Broker or agency businesses, except (a) for underwriting securities or services connected with futures trading of commodities or financing instruments or securities; (b) for trading or procuring goods or services necessary for production or rendering services amongst affiliated enterprises; (c) for trading, purchasing or distributing, or seeking both domestic and foreign markets for selling domestically manufacturing or imported goods in the manner of international business operations having the foreigner's minimum capital of B 100 million; and (d) of another category as prescribed by ministerial regulations
12.	Auctions, except (a) in the manner of international bidding not being the auction of antiques, historical artefacts or art objects which are Thai works of art, handicrafts or antiques or having historical value, and (b) other categories as prescribed by ministerial regulations
13.	Internal trade connected with native products or produce not yet prohibited by law
14.	Retailing – all categories for goods giving a total minimum capital of less than B 100 million, or less than B 20 million per shop
15.	Wholesaling - all categories of goods having a total minimum capital of each shop of less than B 100 million
16.	Advertising
17.	Hotel businesses, except hotel management
18.	Guided touring
19.	Selling food or beverages
20.	Plant cultivation or propagation
21.	Other categories of business services except for those prescribed in ministerial regulations ^a

- a With the issuance of the Ministerial Regulation Prescribing Service Businesses Not Subject to Application for Foreign Business Permission, B.E. 2556 (2013), securities businesses and other businesses under the law on securities and securities exchange, derivatives business under the law on derivatives, and serving as a trustee under the law on trust for transactions in capital markets are excluded from the application of List 3.

Source: Foreign Business Act (B.E. 2542).

2.28. The Foreign Business Act does not apply where an international treaty requires Thailand to provide national treatment to foreign investors. There is only one such case, for US investors under the 1966 Treaty of Amity and Economic Relations between the United States and Thailand. It provides preferential access by extending national treatment to US investors, thereby exempting them from most FDI restrictions. Under the Treaty, Thailand can restrict US investors only in communications, transport, banking, exploitation of land or other natural resources, and domestic trade in agricultural products.

2.29. Foreign investment in certain other business activities (financial services, transportation, commodity exports, mining, tourism, and telecommunications) is restricted under sector-specific laws.

2.30. Investment incentives are offered by the Board of Investment (BOI) with a new incentives scheme coming into effect in January 2015 (section 3.4.2.1).³¹

2.31. Restrictions on the ownership of land remain unchanged. These are set out in the Industrial Estate Authority of Thailand Act, the Land Act, the Condominium Act and the Investment Promotion Act, and are described in the Secretariat report for Thailand's previous review.³²

³¹ Announcement of the Board of Investment No. 2/2557 on Policies and Criteria for Investment Promotion.

³² WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

2.32. Thailand is a member of the World Bank Multilateral Investment Guarantee Agency (MIGA), and party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention). Thailand is a signatory to, but has not yet ratified, the International Convention on the Settlement of Investment Disputes between States and Nationals of other States (ICSID Convention). Several of its RTAs in force contain investment provisions (Table A2.1). It has 35 bilateral investment treaties in force, two of which have entered into force over the review period (with Jordan and Myanmar) and 58 double taxation agreements (DTAs), three of which have entered into force since 2011 (with Chinese Taipei, Estonia, and Myanmar) (Box 2.2). Where there is no DTA in place, there are provisions (contained in Royal Decree No. 300) allowing unilateral credit relief against Thai tax for tax paid in the other country by a Thai juristic person.³³

Box 2.2 Bilateral investment treaties and double taxation agreements in force, 2015

Bilateral investment treaties

Argentina (2002); Bahrain (2002); Bangladesh (2003); Belgium-Luxembourg Economic Union (2004); Bulgaria (2004); Cambodia (1997); Canada (1998); China (1985); Croatia (2005); Czech Republic (1995); Egypt (2002); Finland (1996); Germany (2004); Hong Kong, China (2006); Hungary (1991); India (2001); Indonesia (1998); Israel (2003); Jordan (2012); Korea, DPR (2002); Korea, Rep. of (1989); Lao PDR (1990); Myanmar (2012); Netherlands (1973); Peru (1991); Philippines (1996); Poland (1993); Romania (1994); Slovenia (2002); Sri Lanka (1996); Sweden (2000); Switzerland (1999); Turkey (2010); United Kingdom (1979); and Viet Nam (1992).

Double taxation agreements

Armenia (2002); Australia (1989); Austria (1986); Bahrain (1998); Bangladesh (1998); Belarus (2006); Belgium (1980); Bulgaria (2001); Canada (1985); Chile (2010); China (1986); Cyprus (2000); Czech Republic (1995); Denmark (1999); Estonia (2013); Finland (1986); France (1975); Germany (1968); Great Britain and Northern Ireland (1981); Hong Kong, China (2005); Hungary (1989); India (1986); Indonesia (2003); Israel (1996); Italy (1980); Japan (1990); Korea Rep. of (2007); Kuwait (2006); Lao PDR (1997); Luxembourg (1998); Malaysia (1983); Mauritius (1998); Myanmar (2011); Nepal (1998); Netherlands (1976); New Zealand (1998); Norway (2003); Oman (2004); Pakistan (1981); Philippines (1983); Poland (1983); Romania (1997); Russian Federation (2009); Seychelles (2006); Singapore (1976); Slovenia (2004); South Africa (1996); Spain (1998); Sri Lanka (1990); Sweden (1989); Switzerland (1996); Chinese Taipei (2012); Turkey (2005); Ukraine (2004); United Arab Emirates (2000); United States of America (1997); Uzbekistan (1999); and Viet Nam (1992).

Source: UNCTAD online information. Viewed at:

<http://investmentpolicyhub.unctad.org/IIA/CountryBits/207#iialInnerMenu>; and Revenue Department online information. Viewed at: <http://www.rd.go.th/publish/766.0.html>.

³³ The Revenue Department online information. Viewed at: <http://www.rd.go.th/publish/21973.0.html>.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Introduction

3.1. Since its previous Trade Policy Review, the general thrust of Thailand's trade policy has remained virtually unchanged. While limited unilateral liberalization has been undertaken there have been policy developments in the areas of tariffs, trade facilitation, standards, safeguards, government procurement, and intellectual property rights.

3.2. The tariff remains one of Thailand's main trade policy instruments, and a relatively significant, albeit declining, source of tax revenue. As a result of tariff line changes relating to the introduction of the Harmonized Commodity and Description and Coding System 2012 (HS2012) tariff nomenclature (1,258 more lines) and higher *ad valorem* equivalent (AVE) rates, the average applied MFN tariff rate rose from 11.2% in 2011 to 13.4% in 2014. Non-agricultural products continue to face considerably lower tariff rates (10.1%) than agriculture items (WTO definition) (34.7%). Some 41% of applied MFN tariff rates are currently in the zero to 5% range. Peak *ad valorem* rates stood at 218% (out-of-quota rate, onion seeds) and 80% (motor vehicles). The tariff structure has become relatively less complex by slightly reducing the number of applied MFN rates, which in 2014 stood at 100 (42 *ad valorem*, 13 specific rates, 45 alternate rates). Most activities are characterized by tariff escalation, which means that effective rates of tariff protection can be considerably higher than nominal rates. An increasing number of tariff lines (74.6%) are subject to *ad valorem* rates, which contributes to the transparency of the tariff. Nevertheless, the numerous non-*ad valorem* rates affecting the remaining lines tend to conceal relatively high tariff rates, particularly on tamarind (AVE of 1,091.9%). Thailand undertook unilateral MFN tariff reductions on certain seafood products in 2014, and is considering proceeding with further cuts and simplifying its tariff structure in the course of 2015. The fact that 73.6% of tariff lines (as of 2011) are bound imparts a degree of predictability to the tariff. However, the simple average of bound MFN rates (28.1% as of 2011) could considerably exceed the average applied MFN rate, providing the authorities with extensive scope for increasing applied tariffs within bindings. The change to the HS2012 nomenclature involved tariff rate increases for around 600 tariff lines and reductions for 25 tariff lines. As Thailand's tariff Schedule of Concessions has remained based on the HS2002 it is virtually impossible to compare its bindings' status with the currently applied HS2012 tariff schedule; therefore, the transposition of binding commitments to HS2012 is another pressing task. Tariff-rate quotas have remained in place for 22 agricultural items. Thailand continues to support local industry through a number of schemes involving tariff reductions or exemptions for imports of, *inter alia*, machinery, equipment, and materials.

3.3. During the review period, trade facilitation improvements included the replacement of the "gold card" system of importers' benefits by the Authorized Economic Operator (AEO) Programme which was extended to importers. Thailand is to complete the internal process necessary to ratify the WTO Agreement on Trade Facilitation by the end of 2015. Thailand has become a signatory to the Revised Kyoto Convention as of June 2015. No changes were made in the areas of customs valuation and rules of origin.

3.4. Import licensing and prohibitions on various items for, *inter alia*, economic reasons (infant industry protection) have remained unchanged during the review period. New import requirements for automotive tyre imports were imposed and notified to the WTO upon their date of entry into force. The share of national standards that follow international standards remains at 32.3%. No new mutual recognition agreements (MRAs) in the area of standards, a trade facilitation measure, were signed during the review period. The maximum residue limits standard for pesticides in agricultural products was revised in 2013. During the review period, certain Members raised specific trade concerns (STCs) about certain standards- and labelling-related measures (e.g., meat, food inspection fees, alcoholic beverages, pneumatic tyres of rubber, and ceramic tiles). Thailand remains a relatively infrequent user of anti-dumping measures, taken only in the form of duties, with most of them relating to items originating in Asia. No initiation of subsidy investigations or application of any countervailing duty measures has occurred yet; however, recourse to safeguard measures intensified as compared to Thailand's last TPR. Several contingency measures affected steel products.

3.5. The persistence of relatively high statutory export taxes on a few commodities (sawn wood and articles thereof, and hides) and the possibility of re-instating others constitute assistance to the downstream processing of such commodities, thereby distorting competition and thus the

allocation of resources, and imparting an element of uncertainty. No changes were made to the export prohibitions, restrictions, and licensing regime. Thailand maintains unchanged several schemes aimed mainly at facilitating exports, including bonded warehouses, duty drawback, "tax and duty compensation" as well as tax and non-tax privileges under the Industrial Estate Authority of Thailand Act and the customs free zones scheme. The self-financed and profitable state-owned Export-Import Bank of Thailand (EXIM Bank), which provides financial services in a competitive environment with commercial banks, has launched five new credit facility products for small and medium enterprise (SME) exporters.

3.6. In order to encourage investment in priority sectors and remote areas, Thailand continues to use several relatively complex tax and non-tax incentives, whose cost-effectiveness is questionable and not rigorously or systematically evaluated. Support to SMEs was reinforced, *inter alia*, through a promotional tax exemption package to upgrade their machinery. Concerns over allegedly discretionary excise tax practices and plans affecting alcoholic beverages and automobiles were raised during the review period. Activity-specific support with significant budgetary impact was provided, *inter alia*, to agriculture (e.g., paddy-pledging programme) and energy where consumer subsidies and wide-ranging cross-subsidization (possibly equivalent to 1.7% of GDP) remain in place though subject to ongoing reform. State involvement in nine broad sectors of the economy (agriculture and natural resources, energy, manufacturing, financial services, telecoms, transportation, infrastructure, social and technology, and other services activities) persists with public enterprises making losses, privatization efforts stalled and "corporatization" plans under way or consideration.

3.7. Government procurement remains an important instrument of economic policy, with a price preference margin of 7% given to domestic suppliers; reportedly, language used in procurement tenders may exclude foreign products from the process even though relevant regulations require that wording does not obstruct competition or benefit specific suppliers. The e-Auction, part of the electronic government procurement (e-GP) system, was fully implemented as of late 2014. Criticism about irregularities in government procurement practices, already discussed at previous reviews, remains valid and the Government is drawing up legislation to prevent corruption in this area. Thailand, a non-signatory to the WTO Plurilateral Agreement on Government Procurement, became an observer at the WTO Committee on Government Procurement as of June 2015.

3.8. Thailand's competition policy framework, which does not cover public administration, state-owned enterprises, or farmers' cooperatives, remains unchanged though proposed amendments to, *inter alia*, expand its legislative scope are under consideration; enforcement remains moderate for a number of reasons. Many goods and services remain subject to varying degrees of price controls, i.e., maximum prices, advance notice of price change, and price display; the elimination of the price controls policy was under consideration due to its limited impact on inflation and effects on profitability and investment. Thailand's relatively comprehensive corporate governance framework and high levels of compliance with international standards in a number of key areas remains unchanged.

3.9. During the review period, Thailand continued to consider ways to strengthen protection of intellectual property rights by preparing new laws or legal amendments in several areas to, *inter alia*, align its legislative framework with the provisions of several international treaties (including those of the WTO on compulsory licensing) that it has not yet signed; the Copyright Act and the Trade Secrets Act amendments were the only laws passed but more are expected to be passed in the course of 2015. No new compulsory licences have been issued though one extended licence for HIV/AIDS medication will remain in place until 2016. Despite some legislative and institutional efforts, effective IPR enforcement remains a concern for some of Thailand's major trading partners who, *inter alia*, consider that more needs to be done to address longstanding organizational challenges and to prioritize related activities.

3.2 Measures Directly Affecting Imports

3.2.1 Customs clearance

3.2.1.1 Registration and documentation

3.10. All importers and government agencies continue to be required to register. Until 2013 special treatment was given to companies eligible for a "gold card" system.¹ Their benefits included: processing import procedures via the "green line"; a manifest written off after the clearance of goods; and, goods exempt from regular inspection unless it is a random examination. Government agencies, state enterprises and companies granted duty exemptions by the Board of Investment were also eligible. As from 2013, the beneficiaries of the Gold Card Scheme are being shifted to the authorized economic operator (AEO) system (see below).²

3.11. Improving customs procedures and trade facilitation in general remain important objectives of the Thai Government and a major concern for the private sector (section 3.2.1.2). The main policy objectives are transparency, simplicity, honesty, and quick and secure electronic processing.³ Measures are being taken to address persisting corruption allegations.⁴ Thailand is to complete the internal process necessary to ratify the WTO Agreement on Trade Facilitation by end of 2015 and at the same time establish a National Committee on Trade Facilitation under the WTO.

3.12. Under the entirely paperless Thai Customs Electronic System (renamed as of February 2012), fully operational since 2008, there is no need to submit paper documents as all data is transmitted electronically from an importer computer system to the e-Customs system; according to the authorities the system now covers all shipments entering Thailand.⁵ In case of red line (i.e., high risk) shipments, the minimum set of documents required consists of: import declaration; bill of lading or air waybill; invoice; packing list; import licence (if applicable, section 3.2.4.3); certificates of origin (if applicable); and, other relevant documents such as catalogue, product ingredients, etc.

3.13. In line with United Nations, World Customs Organization and ASEAN Agreement for the ASEAN Single Window provisions, a national single window (NSW) has been operational as from October 2011. The NSW enables electronic data and information sharing and integration between government-to-government partnerships (G2G), government-to-business partnerships (G2B) and business-to-business partnerships (B2B) for imports, exports, and logistics.⁶ It also facilitates international cross-border data and information sharing between government and business sectors in Thailand and other countries. The registration system for electronic document sharing, single window entry, tracking and security service is accessed by 36 government agencies and about 125,000 Thai companies. The NSW aims to reduce time-consuming import and export processes and procedures, and minimize the cost of doing business in Thailand (logistics system) by at least US\$3.2 billion annually.⁷

¹ WTO document WT/TPR/S/255/Rev.1, 8 February 2012; and Customs Department online information. Viewed at:

<http://www.customs.go.th/wps/wcm/connect/custen/traders+and+business/customs+incentive+schemes/gold+card+scheme/gold+card+scheme>.

² If gold card importers or exporters did not apply for AEO status, their gold card status expired on 1 October 2013. Those who applied for the status prior to 1 October 2013 still have the rights under the Gold Card Scheme until the Customs Department approves them as an AEO importer or exporter.

³ WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

⁴ According to both Thai and foreign companies, corruption has remained a serious problem in this area. Preventive measures taken to deal with allegations of corruption are the launch of a customs hotline, the operation of a joint committee with the private sector to develop customs services and better fringe benefits for customs officers. Economist Intelligence Unit (2014b); and USTR (2014).

⁵ The e-Customs system comprises e-Import, e-Export, e-Manifest, e-Payment, and e-Warehouse facilities. WTO document WT/TPR/S/255/Rev.1, 8 February 2012; and Customs Department online information. Viewed at: <http://www.customs.go.th/wps/wcm/connect/custen/e-customs/e-customs>.

⁶ Customs Department online information. Viewed at: <http://www.customs.go.th/wps/wcm/connect/custen/nationsinglewindow/nationsinglewindow>.

⁷ Thailand National Single Window online information. Viewed at: <http://www.thainsw.net/INSW/index.jsp?nswLang=E#>.

3.14. An Authorized Economic Operator (AEO) Programme was introduced covering exporters (as from 2011), and importers and customs brokers (as from February 2013).⁸ The AEO Programme is aimed at facilitating international trade to be speedy, cost-saving and time-saving. It is globally recognized by trading partners of Thailand in Asia, Europe, and the Americas. As of 28 May 2015, there were 128 companies authorized as AEO operators under the category of "importer and exporter", and 125 companies under the category of "customs broker". So far, Customs Administrations in Asia have shown interest in signing mutual recognition agreements (MRAs) with the Thai Customs Administration as one way to facilitate international trade for Thai entrepreneurs. The Customs Department signed an MRA with Hong Kong, China's Customs and Excise Department on 11 June 2015, and is in the process of negotiations with Korea (Rep. of) in line with an Action Plan signed on 24 November 2014. The development of a roadmap for MRA discussions with Singaporean Customs is under way. According to the authorities the content of these MRAs is confidential.

3.15. Thailand, a signatory to the original International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention), became the 100th contracting party to the Revised Kyoto Convention, a trade facilitation tool, on 12 June 2015.⁹

3.16. So far, Customs has conducted time release studies (TRS) four times (i.e., 2003, 2005, 2006/2007, and 2012); whereas prior to 2012 the measured time covered only the clearance process, WCO's guidelines were followed thereafter in line with an ASEAN members' proposal.¹⁰ The 2014 TRS, which will not be available prior to October 2015, will replicate the 2012 TRS in order to produce comparable measurements and identify opportunities for improvement. In 2012, the average time (green, red line) from arrival to release of goods/removal from port control was approximately 19 hours at seaports and about 29 minutes at border crossings.

3.17. According to World Bank Doing Business data, in 2014 Thailand was ranked in 36th place (33rd in 2013) out of 189 economies in the ease of trading across borders; at the same time it ranked 57th out of 138 countries in the World Economic Forum's Enabling Trade Index in 2014, and 56th in its efficiency and transparency of border administration sub-index.¹¹ Importing a standard container of goods required 5 documents, took 13 days, and cost US\$760; exporting the same container required 5 documents, took 14 days, and cost US\$595. According to the OECD trade facilitation indicators, as of 2013 Thailand performed better than the average of Asian and upper-middle-income countries in the areas of information availability, involvement of the trade community, appeal procedures, harmonization and simplification of documents, automation, streamlining of procedures, external border agency co-operation and governance and impartiality.¹² Its weakest performance was in the area of fees and charges, and considerable benefits in terms of trade volumes and trade costs could be drawn from improvements in the area of fees and charges as well as in the area of advance rulings.

⁸ An AEO is defined by the World Customs Organization's (WCO) SAFE Framework of Standards as a party involved in the international movement of goods, in whatever function, that has been approved by, or on behalf of, a national customs administration as complying with WCO or equivalent supply chain security standards. AEOs include, *inter alia*, manufacturers, importers, exporters, brokers, carriers, consolidators, intermediaries, ports, airports, terminal operators, integrated operators, warehouses and distributors. UNECE online information. Viewed at: <http://tfig.unece.org/contents/authorized-economic-operators.htm>; and Customs Department online information. Viewed at: [http://www.customs.go.th/wps/wcm/connect/custen/Traders+And+Business/Customs+Incentive+Schemes/Authorized+Economic+Operator+\(AEO\)/Authorized+Economic+Operator+\(AEO\)](http://www.customs.go.th/wps/wcm/connect/custen/Traders+And+Business/Customs+Incentive+Schemes/Authorized+Economic+Operator+(AEO)/Authorized+Economic+Operator+(AEO)).

⁹ The revised Kyoto Convention, which entered into force on 3 February 2006, promotes trade facilitation and effective controls through its legal provisions that detail the application of simple yet efficient procedures. The revised Convention also contains new and obligatory rules for its application which all Contracting Parties must accept without reservation. WCO online information. Viewed at:

<http://www.wcoomd.org/en/media/newsroom/2015/june/the-revised-kyoto-convention-now-has-101-contracting-parties.aspx> and http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv.aspx; and WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

¹⁰ PowerPoint presentation prepared by Pavarani Panmesin (Thai Customs Department), "Experience of Thailand for TRS", undated. Viewed at: <http://unnex.unescap.org/ttf-sasec-pavarani.pdf>.

¹¹ World Bank (2014a); Doing Business online data. Viewed at: <http://www.doingbusiness.org/data/exploreeconomies/thailand/>; and World Economic Forum (2014b).

¹² OECD online information (viewed at: http://www.oecd.org/tad/facilitation/Thailand_OECD-Trade-Facilitation-Indicators.pdf) based on OECD (2013).

3.2.1.2 Customs valuation procedures

3.18. During the review period, customs valuation procedures remained unchanged.¹³ Under current procedures, valuation takes into account information on invoices and other documents, such as country of origin, quantity, composition of value, and description of goods. Valuation is based on the c.i.f. (cost, insurance, and freight) price of imports. Customs officials accept the declared value shown on the invoice as the transaction value, i.e. the export price actually paid or payable for the goods when sold to Thailand, adjusted and meeting prescribed conditions. If the transaction value cannot be applied, other methods are used in the following sequence: the transaction value of identical goods and similar goods; the deductive value; computed value; and a fall-back estimated value. Importers may appeal valuations within 30 days. The decision of the Appeal Committee is final except if the importer raises concerns in a tax court. The "advance ruling" policy for customs valuation available as an electronic advance ruling on valuation system was suspended in March 2015 due to doubts about the authenticity of documents submitted electronically. Data on under-invoicing cases is only available when officially requested by a market operator.

3.19. According to a major trading partner, there seems to be concern about the lack of transparency in Thailand's customs regime and the significant discretionary authority exercised by Customs Department officials.¹⁴ The Customs Department indicated that it has issued regulations and guidelines on customs valuation which are clear, fair, and consistent with the WTO Customs Valuation Agreement. During the review period the WTO dispute settlement case raised by the Philippines against Thailand's customs valuation practices, excise tax, health tax, TV tax, VAT regime, retail licensing requirements, and import guarantees imposed upon cigarette importers was seemingly concluded; in June 2014, both countries disagreed on the extent of implementation of the Dispute Settlement Body's recommendations and rulings.¹⁵

3.2.1.3 Rules of origin

3.20. Thailand does not have legislation on non-preferential rules of origin and the rules applying to preferential rules of origin are taken from the relevant agreement. For goods to be eligible for preferential tariff treatment, they must meet one of the following ROO criteria: wholly obtained in the country or unmanufactured raw materials of the country; or, substantial transformation.¹⁶ Substantial transformation is defined as: change of tariff classification; value-added above threshold; and, manufacturing processing (minimum transformation). Imports from ASEAN countries are subject to the rules of origin contained in the ASEAN Trade in Goods Agreement (ATIGA). Preferential rules of origin differ among RTAs.

3.2.2 Tariffs

3.2.2.1 Features

3.21. Since 2012, Thailand has applied the ASEAN Harmonized Tariff Nomenclature (AHTN) consisting of 9,558 tariff lines (8,300 in 2011) at the HS 8-digit level (Tables 3.1 and A3.1). The customs tariff and notifications of the Ministry of Finance and Customs are available in English

¹³ Customs Department online information. Viewed at:

<http://www.customs.go.th/wps/wcm/connect/custen/traders+and+business/customs+valuation/gatt+valuation/gatt>.

¹⁴ More specifically, these concerns of the United States refer to: the authority and discretion of the Customs Department's Director General to increase the customs value of imports; the allegedly inconsistent application of Thailand's transaction valuation methodology and reports of repeated use of arbitrary values; overly punitive penalties and the threat of criminal prosecution over minor or technical issues in import documentation; the publication/notification of proposed changes to customs laws/regulations, and insufficient time for comments; and, the failure to publish customs rulings and the lengthy appeals process for these rulings. USTR (2014 and 2015a).

¹⁵ More information on this case is available online. Viewed at:

http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds371_e.htm.

¹⁶ Customs Department online information. Viewed at:

<http://www.customs.go.th/wps/wcm/connect/custen/traders+and+business/rules+of+origin+%28roo%29/preferential+roo/preferentialroo> and <http://www.customs.go.th/wps/wcm/connect/custen/traders+and+business/rules+of+origin+%28roo%29/rulesoforigin%28roo%29>.

online (http://igtft.customs.go.th/igtft/en/main_frame.jsp). Thailand continues to submit its customs tariff and trade data regularly to the WTO Integrated Database; the latest notified customs tariff dated back to 2014.¹⁷

3.22. During the review period, there was no fundamental change in Thailand's tariff legislation. Whereas changes to statutory rates require legislative approval¹⁸, applied rates (or temporary/adjusted rates) may be modified by the Minister of Finance without Parliament's approval, subject to Cabinet consent. The Minister, with the approval of the Cabinet, may also charge a "special duty" for any goods at a rate not exceeding 50% of the relevant statutory rate in the Tariff Schedule (section 3.2.2.7). The Customs Department indicated that currently it does not apply this provision.

3.2.2.2 Applied MFN tariffs

3.23. Thailand's average applied MFN tariff rate rose from 11.2% (2011) to 13.4% (2014) (Table 3.1) as a result of tariff line changes relating to the introduction of the HS2012 nomenclature and higher *ad valorem* equivalent (AVEs) rates (section 3.2.2.3). The movement to the HS2012 nomenclature involved tariff rate increases for around 600 tariff lines in 28 different HS chapters (e.g. coffee and tea, rice, certain vegetable oils, tobacco, plastics and products thereof, iron and steel, certain engines and parts thereof, certain electrical machinery and parts thereof, tractors, parts of motorcycles and bicycles), and reductions for 25 tariff lines (e.g. cocoa, women's blouses of silk, crane lorries, gear boxes and parts thereof). Nearly all tariff rate increases are explained as follows: in 2011 a tariff line was subject to two rates (e.g. zero and 30%) but in 2014 only the higher rate (30%) was kept. Furthermore, Thailand undertook unilateral MFN tariff reductions on certain seafood products whose rates were reduced from 5% to zero and became effective on 30 December 2014.¹⁹ In response to structural changes in the production pattern and in order to reduce production costs and raise the competitiveness of domestic industries, it is also considering proceeding with further unilateral cuts and a simplification of its tariff structure in the course of 2015. MFN applied tariff rates on 54 items contained in the September 2012 APEC List of Environmental Goods that directly and positively contribute to green growth and sustainable development objectives remain subject to tariffs of 5% or less.²⁰ In 2013/14, 5% of total tax receipts were from customs tariffs (Table 3.5, section 3.4.1).

3.2.2.3 Structure

3.24. During the review period, the structure of the customs tariff was changed by, *inter alia*, reducing the number of different *ad valorem* tariff rates and dutiable lines. In 2014, around 74.6% (72.3% in 2011) of the tariff lines were subject to 42 *ad valorem* rates (excluding zero rate, 27 in 2011). Some 17.6% (18.5% in 2011) of tariff lines now carry a zero rate (Table 3.1, Chart 3.1), 23.4% are subject to a rate of 5%, and 20.1% at a rate of 10%. Peak *ad valorem* rates stood at 218% (out-of-quota rate, onion seeds) and 80% (motor vehicles). The main features of the tariff, with respect to MFN duty rates and the full implementation of the Uruguay Round (and the ITA) commitments, are captured by the summary indicators for 2011 and 2014 in Table 3.1.

Table 3.1 Thailand's tariff structure, 2011 and 2014

(%, unless otherwise indicated)

	MFN applied		Final bound ^a
	2011	2014	
Bound tariff lines (% of all tariff lines)	73.6	..	73.6
Simple average rate	11.3 (11.2)	13.0 (13.4)	28.1
WTO agricultural products	26.7 (26.6)	31.6 (34.7)	37.1

¹⁷ WTO document G/MA/IDB/2/Rev.41, 20 May 2015.

¹⁸ There has been no change to statutory rates since the previous review of Thailand.

¹⁹ Ministry of Finance Notification published in the *Royal Gazette* on 29 December 2014 providing further duty reduction schedules under Section 12 of the Customs Tariff Decree B.E. 2530 ("Section 12") for imported seafood products cited at United States Department of Agriculture online information. Viewed at: <http://www.fas.usda.gov/data/thailand-us-exporters-benefit-import-tariff-reductions-seafood>.

²⁰ APEC online information. Viewed at: http://www.apec.org/Meeting-Papers/Leaders-Declarations/2012/2012_aelm/2012_aelm_annexC.aspx.

	MFN applied		Final bound ^a
	2011	2014	
WTO non-agricultural products	9.0	10.1	26.1
Duty-free tariff lines (% of all tariff lines)	18.5	17.6	2.0
Tariff quotas (% of all tariff lines)	1.2	1.2	1.7
Non- <i>ad valorem</i> tariffs (% of all tariff lines)	9.2	7.8	9.6
Domestic tariff "peaks" (% of all tariff lines) ^b	5.5	6.7 (4.1)	0.8
International tariff "peaks" (% of all tariff lines) ^c	24.2	27.4	87.7
Overall standard deviation of tariff rates	14.1	17.5 (23.7)	14.9
Nuisance applied rates (% of all tariff lines) ^d	10.0 (10.3)	9.1 (9.3)	0.1
Total number of tariff lines	8,300	9,558	6,107
Duty-free rates	1,537	1,683	124
<i>Ad valorem</i> rates	6,000	7,129	5,397
Specific rates	38	39	7
Alternate rates	725	707	579

.. Not available.

a Based on 2011 tariff schedule. Calculations only based on 6,107 bound tariff lines.

b Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate.

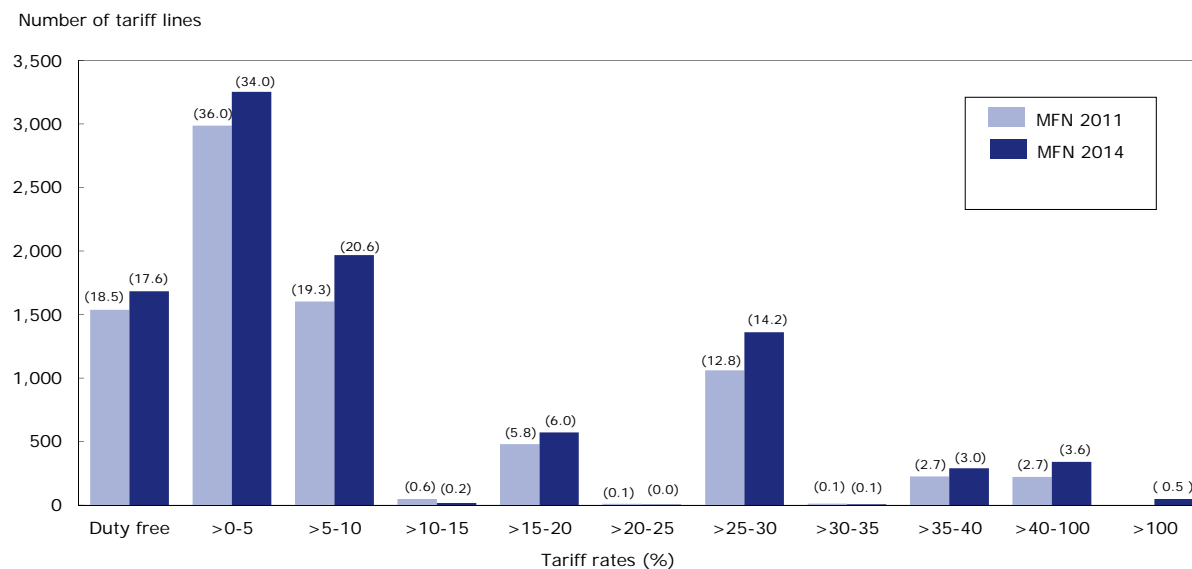
c International tariff peaks are defined as those exceeding 15%.

d Nuisance rates are those greater than zero, but less than or equal to 2%.

Note: 2011 tariff is based on HS07 nomenclature; 2014 is based on HS12 nomenclature. Data in brackets refer to figures including AVEs for non-*ad valorem* rates. For 2011, 36 AVEs, provided by the authorities, are included; for 2014, 427 AVEs, calculated by the WTO Secretariat, based on 2013 import figures, are included. For figures excluding AVEs, the *ad valorem* part of alternate rates (only those stipulating "whichever is the higher") are taken into account. Excluding in-quota rates.

Source: WTO Secretariat calculations, based on data provided by the Thai authorities.

Chart 3.1 Distribution of MFN applied tariff rates, 2011 and 2014



Note: Figures in parentheses denote the share of total lines.

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.25. Some (7.8% (2014), 9.2% (2011)) tariff lines remain subject to non-*ad valorem* (specific and alternative) duties,²¹ which tend to conceal relatively high tariff rates (Table 3.1). These involve 13 specific rates and 45 alternate rates compared to 15 and 69 in 2011, respectively. They

²¹ An alternative duty involves the choice between an *ad valorem* and a specific rate; the rate that yields the higher amount of duty of the two is applied provided the WTO tariff binding commitments are met (section 3.2.2.5).

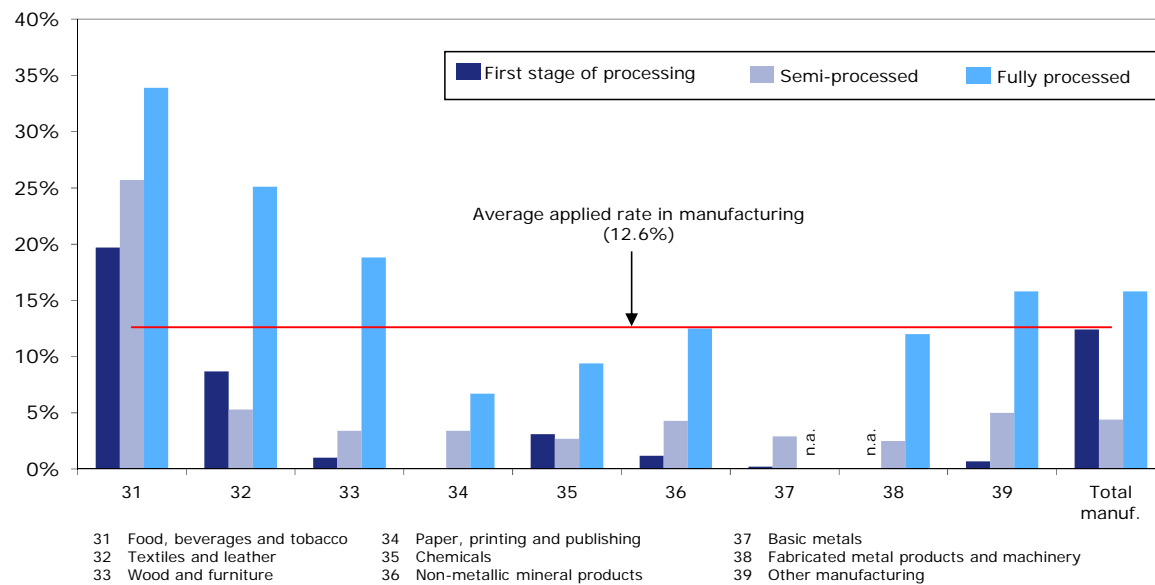
apply mainly to agricultural and food products, textiles, mineral products, and articles of stone. In 2014, *ad valorem* equivalents (AVEs) ranged from zero to 13.2% (table tennis tables) (23.1% (gambling tables) in 2011) for specific rates, and up to 1,091.9% (tamarind) for alternative rates.²² These AVEs are the highest applied tariff rates in place. It should be noted that every method of calculating AVEs is subject to bias and that AVEs can vary widely depending on the import price of the product involved; this tends to be partly determined by exchange rate changes.

3.2.2.4 Tariff dispersion and escalation

3.26. Tariff peaks in some sectors remain a potential distortion and thus a source of inefficiency. In particular, non-agricultural products continue to face considerably lower tariff rates (10.1%) than agriculture items (WTO definition) (34.7%); notably beverages, spirits, and tobacco, coffee and tea, and dairy (Table A3.1) remain significantly higher, thus reflecting sensitivities in these sectors. The highest average tariff outside of agriculture remains in transport equipment (36.5%). Domestic "tariff peaks" continue to affect 6.7% of tariff lines (4.1% excluding AVEs) (Table 3.1).

3.27. Overall, the average MFN applied tariff de-escalates for unprocessed and semi-processed goods, and escalates for fully-processed products (Table A3.1 and Chart 3.2). While partial de-escalation (i.e., first and second stage of processing) occurs in textiles and leather, and chemicals, the remaining activities are subject to positive tariff escalation, a potential impediment to the efficient allocation of resources.

Chart 3.2 Tariff escalation by two-digit ISIC industry, 2014



n.a. Not applicable.

Note: Calculations include AVEs for non-*ad valorem* rates, as available.

Source: WTO Secretariat calculations, based on data provided by the authorities.

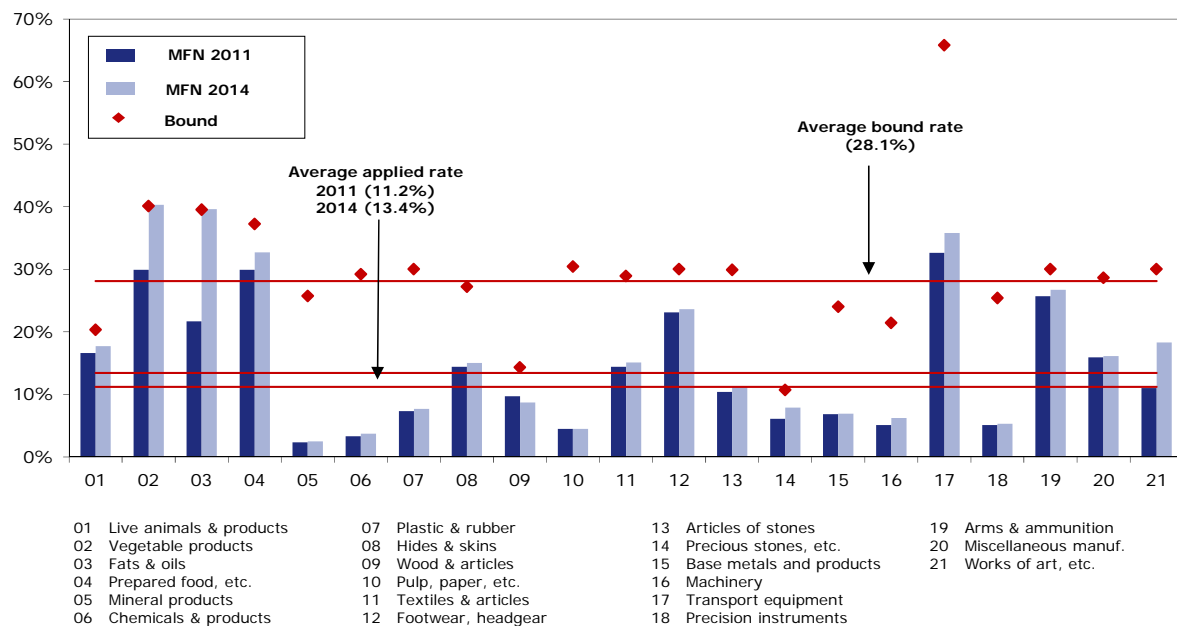
3.2.2.5 Bound tariffs

3.28. Thailand's tariff Schedule of Concessions has remained based on the Harmonized Commodity Description and Coding System 2002 (see below); as a result it is virtually impossible to compare Thailand's bindings' status with the currently applied HS2012 tariff schedule. According to calculations made during the previous TPR of Thailand, based on the then applied HS07 nomenclature, as of 2011 it was estimated that 73.6% of tariff lines were bound (Table 3.1). Bindings covered 100% of agricultural tariff lines and 68% of non-agricultural products (WTO

²² These *ad valorem* equivalents (AVEs) were computed on the basis of unit values for imports of the items concerned over the year 2013. The authorities indicated that according to an income-approach calculation (i.e., custom revenues/commodities values x 100) in 2013 the AVEs for tamarind stood at 0.010% (HS 08.10.90.60) and 0.482% (HS 08.13.40.20).

definitions) in the form of *ad valorem*, specific or alternative duties depending on the item.²³ Bound rates range from zero to 226% (raw silk) for agriculture, and from zero to 80% (motor vehicles). In 2011, Thailand's average bound rates exceeded average applied MFN rates by nearly 17 percentage points (Chart 3.3); maximum gaps of up to 70 or 82 percentage points could possibly affect ambulances of a certain cylinder capacity (HS8703.23.10) and shallots (HS0703.10). Differences between bound and applied rates provide scope for Thailand to raise applied tariffs up to the bound level, especially in sensitive sectors, but due to the non-comparability of nomenclatures mentioned above the use of this flexibility during the review period cannot be confirmed. Moreover, where the applied MFN rate is a specific rate and the bound rate an *ad valorem* rate, observance of the binding commitments depends on the implementation of the "whichever is lower" principle; nevertheless, as of 2014, the new customs tariff contained only two tariff lines in this case (HS0703.10 (shallots), HS1005.10 (maize seed)), a major improvement compared to the past. No complaints on breaches of binding commitments have been made so far.

Chart 3.3 Average applied MFN and bound tariff rates, by HS section, 2011 and 2014



Note: Calculations include AVEs for non-*ad valorem* rates, as available. No HS sections are fully bound. Calculations of bound rates averages are based on the 2011 tariff schedule.

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.29. During the review period and as of May 2014 Thailand has remained covered by waivers from Article II of the GATT 1994 to implement domestically the HS2007 (since December 2006) and HS2012 (since November 2011) changes, pending incorporation of such changes into its Schedule of Concessions (LXXIX).²⁴ Its HS2002 changes were certified on 21 September 2011 (WT/Let/828).

3.2.2.6 Tariff-rate quotas

3.30. In 2014, tariff-rate quotas covered 1.2% of all tariff lines (at HS eight-digit level), all of which related to 22 agricultural product groups (section 4.2.3.2). For tariff-rate quota (TRQ) products the WTO bound rates are the only applicable rates, and the rates used are only *ad valorem* (i.e. the MFN applied/adjusted rates do not apply).²⁵ Unlimited allocations for some items are restricted to certain producer groups whereas for the rest of the items allocation takes

²³ The unbound tariff lines include, salt, mineral fuels, chemicals, fertilizers, pulp of wood, transport equipment, rubber products, and iron and steel.

²⁴ WTO documents WT/L/874, 14 December 2012; WT/L/875, 14 December 2012; WT/L/902, 27 November 2013; and G/MA/W/23/Rev.10, 13 May 2014.

²⁵ WTO document WT/TPR/S/191/Rev.1, 6 February 2008.

place on a demand basis to any importer. Certificates (sections 3.2.4.3 and 4.2.3.2) are required in order to use tariff quotas. Fill rates vary considerably from one quota to another.

3.2.2.7 Special duties (or import surcharges)

3.31. Thailand continues to impose product-specific surcharges.²⁶ Currently, they are levied on two items, i.e. fishmeal with a protein content of less than 60% and maize (Table 3.2). At the time of past TPRs import surcharges were levied in the form of a specific duty on out-of-quota imports of: maize for feedstuff; soybean meal; and, flour/meal/pellets of fish or of crustaceans, molluscs or other aquatic invertebrates (HS 2301.20). The valuation basis for an *ad valorem* surcharge is the rate of special duty times the rate of the import duty divided by 100. According to the authorities these surcharges do not affect Thailand's tariff binding commitments and are solely imposed on out-of-quota imports of maize for feed. Furthermore, as Thailand allows sufficient quotas of maize for feed to cover importers' demands the surcharge has never been levied since the TRQ policy was implemented.

3.32. Under the Investment Promotion Act, the Board of Investment (BOI) can impose special fees on imports of goods similar to those produced by a commercial entity promoted by the BOI at rates that it considers appropriate but not exceeding 50% of the price of the imported products concerned. It may request the Ministry of Commerce to ban such imports in the case that the special fees provide inadequate assistance to the relevant industry (section 3.2.4.1). No recourse to this measure has taken place since 2004.

3.2.2.8 Tariff reduction and exemptions

3.33. Thailand continues to support local industry through a number of schemes involving tariff reductions or exemptions for imports of, *inter alia*, machinery, equipment, and materials. This assistance, largely focused on export-related activities, continued to be delivered mainly through the tax and duty compensation, bonded warehouses (below), free zone, and Board of Investment (BOI) schemes (sections 3.3.4 and 3.4.2.1).

3.34. Goods may be imported into a bonded warehouse without payment of import duties if they are to be used as inputs in products for export or are themselves re-exported; these imports must be stored and used in a production process for export within two years from the date of import (manufacturing-type bonded warehouse).²⁷ No information is available on exports benefiting from this measure or forgone customs duty revenue resulting from it.

3.2.2.9 Preferential tariffs

3.35. Thailand maintains numerous unilateral preferential and regional trade agreements (section 2.4). Since its previous TPR, it has expanded its preferential trading commitments, both at regional and bilateral levels (section 2.4). Tariff- and TRQ-free access is provided to goods originating in ASEAN partners. As a member of ASEAN, Thailand applies the preferential trade agreements signed with China; Japan; India; Korea (Rep. of); Australia; and New Zealand. It also maintains bilateral trade agreements with Australia; Japan; New Zealand; India; and Peru. Preferences are also granted to participants in the Global System of Trade Preferences among Developing Countries (GSTP). Since 2015, Thailand has provided duty-free quota-free market access for imports from LDCs (section 2.4.3).

²⁶ WTO documents: WT/TPR/S/191/Rev.1, 6 February 2008; and WT/TPR/S/255/Rev.1, 8 February 2012.

²⁷ In a bonded warehouse for vessel repair and construction, materials, parts, and accessories may be stored for a three-year period after import; in a bonded warehouse for oil storage, petroleum may be stored for a period not exceeding six months; in the duty-free shop and storage of duty-free goods type bonded warehouse, goods may be stored for a two-year period from the date of importation, which may be extended if necessary; and, in the general-type bonded warehouse, goods may be stored for two years from the date of importation, extendable for up to one year if necessary (e.g. in the case of "force majeure" or when the importer faces economic problems that cause delays). For the criteria and conditions for the bonded warehouse schemes, see Customs online information. Viewed at: <http://www.customs.go.th/wps/wcm/connect/custen/traders+and+business/customs+incentive+schemes/bonded+warehouses/bondedwarehouses>.

3.2.3 Other charges affecting imports

3.36. In addition to fees for cargo handling, customs clearance, and post-clearance compliance activities, imported as well as domestic goods are subject to internal indirect taxes (section 3.4.1.1). Customs fees and charges remain imposed on a cost-recovery basis rather than on import values, and similar for both imports and exports.

3.2.4 Import prohibitions and licensing

3.37. Thailand's system of import restrictions involving licensing and prohibitions has remained generally unchanged since its previous review. A number of import restrictions are in force for economic purposes, including on several additional products made subject to import licensing or prohibition. Infant industry protection has been the main objective behind import restrictions since the 1970s but this has progressively changed.

3.38. Legislative authority for regulating imports is provided by the Export and Import Act B.E. 2522 (1979). The Act empowers the Minister of Commerce, with the approval of the Cabinet, to restrict imports for reasons of economic stability, public interest, public health, national security, peace and order, morals, or for any other reason in the national interest. Imports may be "absolutely" or "conditionally" prohibited; in the latter case (e.g. those requiring non-automatic licensing), they are allowed if specified conditions are satisfied. Various other laws stipulate import restrictions involving licensing requirements.²⁸ Under the Investment Promotion Act, the Board of Investment may request the Ministry of Commerce to ban imports of goods competing with those produced by a domestic industry, if the Board is of the view that other forms of protection (e.g., special fees, section 3.2.2.7) are not sufficient to assist the industry.

Table 3.2 Products subject to import licensing and prohibition, 2015

Commodity	HS code	Rationale	Measures and condition
Albuterol or salbutamol	2922.50.90	Public health	Non-automatic licensing: import permitted with approval of the Food and Drug Administration
Arms, military vehicles, hardware, and spare parts from or originated in the Great Socialist People's Libyan Arab Jamahiriya		UN Resolution	Absolutely prohibited
Baraku/Shisha and electronic cigarette	9614.00.90, 2403.11.00, 8543.70.90	National security, public health and public morals	Import prohibited
Caffeine and its salts	2939.30, 3003.40	Public health, social security	Non-automatic licensing, allowed only with permission from the Department of Internal Trade, FDA, or other authority concerned
Cane or beet sugar	1701.13.00, 1701.14.00, 1701.12.00, 1701.91.00, 1701.99.11, 1701.99.19, 1701.99.90	Comply with market access commitment under the Agriculture Agreement	Tariff quota
CFC refrigerators		Public health and environmental protection	Import prohibited
Clenbuterol	2922.19.90	Public health	Non-automatic licensing: import is permitted with approval of the Food and Drug Administration
Coconut	0801.11.00, 0801.12.00, 0801.19.00	Comply with market access commitment under the Agriculture Agreement	Tariff quota
Coconut oil	1513.11.00, 1513.19.10, 1513.19.90	Comply with market access commitment under the Agriculture Agreement	Tariff quota

²⁸ WTO document G/LIC/N/1/THA/1, 28 September 2007.

Commodity	HS code	Rationale	Measures and condition
Coffee	0901.11.10, 0901.11.90, 0901.12.10, 0901.12.90, 0901.21.10, 0901.21.20, 0901.22.10, 0901.22.20, 0901.90.10, 0901.90.20	Comply with market access commitment under the Agriculture Agreement	Tariff quota
Copra	1203.00.00	Comply with market access commitment under the Agriculture Agreement	Tariff quota
Counterfeit products		To prevent import of imitation and counterfeit products	Absolutely prohibited
Drug and pharmaceutical chemicals in 16 items ^a , in 154 product categories		Economic security, public health, to accommodate domestic production	Automatic licensing, with import certificate from authorities concerned
Dry longan	0813.40.10	Comply with market access commitment under the Agriculture Agreement	Tariff quota
Electrically and mechanically operated games	9504.30.10, 9504.30.20, 9504.30.90, 9504.90.31, 9504.90.39, 9504.90.92, 9504.90.93	To protect public morals and national security	Import prohibited
Fishmeal with protein content of less than 60%	2301.20.10	Stabilize price of raw material used for animal food	Non-automatic licensing: import not generally allowed
Fishmeal with protein content of more than 60%	2301.20.20	Stabilize price of raw material used for animal food	Import surcharge
Garlic	0703.20.10, 0703.20.90, 0712.90.10	Comply with market access commitment under the Agriculture Agreement	Tariff quota
Glazed ceramic wares	6911.10.00, 6912.00.00	Public health	Import prohibited: ceramic wares containing leads or cadmium in excess of a specific amount. Health certificate is required to certify that lead or cadmium is not in excess of a specification
Gold	71.08	Economic security and stability	Automatic licensing: Department of Foreign Trade authorizes the Department of Finance to grant licences
Goods duplicating registered products		To prevent imports that violate registered product rights	Absolutely prohibited
Instant coffee and other extracts, essence and concentrates of coffee, and preparations with a basis of these extracts, essence or concentrates or with a basis of coffee	2101.11.10, 2101.11.90, 2101.12.10, 2101.12.90	Comply with market access commitment under the Agriculture Agreement	Tariff quota
Intaglio printing machinery and colour photo-copying apparatus	8443.19.00, 8443.32.90, 8443.39.11, 8443.39.20, 8443.39.30, 8443.39.90	To prevent making of counterfeit money	Automatic licensing
Logs and sawn woods which are made of teak trees, or forbidden trees from the border of Tak and Kanchanaburi provinces	44.03, 44.07	To prevent the illegal logging along the border between Thailand and Myanmar and conserve natural resources	Import prohibited
Machinery and parts thereof which can be used to violate copyrights of cassette tape, video tape, and compact disc		To prevent the violation of intellectual property	Non-automatic licensing
Maize (corn)	1005.90.90	Comply with market access commitment under the Agriculture Agreement	Tariff quota, import surcharge for non-WTO Members
Marble (except marble block of 50x50x50 cm)	2515 (ex. 2515.12.10)	To be consistent with the need for production and domestic use	Non-automatic licensing: import not generally allowed

Commodity	HS code	Rationale	Measures and condition
Medals, coins		To prevent making of counterfeit medals and coins	Non-automatic licensing: import is allowed only by the Minister of Finance and other authorized entity
Milk and cream	0401.10.10, 0401.10.90, 0401.20.10, 0401.20.90, 0401.40.10, 0401.40.20, 0401.40.90, 0401.50.10, 0401.50.90, 2202.90.10, 2202.90.20, 2202.90.30, 2202.90.90	Comply with market access commitment under the Agriculture Agreement	Tariff quota
Milk and cream in powder	0402.10.41, 0402.10.49, 0402.10.91, 0402.10.99	Comply with market access commitment under the Agriculture Agreement	Tariff quota
Oil cake residues, from the extraction of soya bean oil	2304.00.90	Stabilize price of raw material used as animal food	Tariff quota, import surcharge for non-WTO Members
Onion	0703.10.11, 0703.10.19, 0712.20.00	Comply with market access commitment under the Agriculture Agreement	Tariff quota
Onion seeds	1209.91.10	Comply with market access commitment under the Agriculture Agreement	Tariff quota
Original sculptures and statuary, in any materials	97.03, 97.06	To prevent smuggling of historical objects or antiques	Non-automatic licensing: Department of Foreign Trade authorizes the Department of Fine Art to grant licences
Palm oil and its fractions	1511.10.00, 1511.90.11, 1511.90.19, 1511.90.91, 1511.90.92, 1511.90.99, 1513.21.10, 1513.21.90, 1513.29.11, 1513.29.12, 1513.29.13, 1513.29.14, 1513.29.91, 1513.29.94, 1513.29.95, 1513.29.92, 1513.29.96, 1513.29.97	Comply with market access commitment under the Agriculture Agreement	Tariff quota
Pepper	0904.11.10, 0904.11.20, 0904.11.90, 0904.12.10, 0904.12.20, 0904.12.90	Comply with market access commitment under the Agriculture Agreement	Tariff quota
Potassium permanganate	2841.61	Public morals, drug suppression	Automatic licensing, only for registered importers
Potatoes	0701.10.00, 0701.90.00	Comply with market access commitment under the Agriculture Agreement	Tariff quota
Raw silk	5002.00.00	Comply with market access commitment under the Agriculture Agreement	Tariff quota
Re-treaded or used pneumatic tyres of rubber for buses or trucks	4012.12.10, 4012.12.90, 4012.20.21, 4012.20.29	Public health and environmental protection	Import licensing
Re-treaded or used pneumatic tyres of rubber for cars, motorcycles and bicycles, and waste, parings and scrap of rubber of cars, buses/trucks, motorcycles and bicycles	4012.11.00, 4012.20.10, 4012.19.10, 4012.20.40, 4012.19.20, 4012.20.50, 4004.00.00	Public health and environmental protection	Import prohibited
Rice	1006.10.10, 1006.10.90, 1006.20.10, 1006.20.90, 1006.30.40, 1006.30.99, 1006.30.20, 1006.30.91, 1006.30.30, 1006.40.10, 1006.40.90	Comply with market access commitment under the Agriculture Agreement	Tariff quota
Silk yarn	5004.00.00	Accommodate current situation, industry protection	Automatic licensing, with conditions set by Department of Foreign Trade
Soya bean oil and its fractions	1507.10.00, 1507.90.10, 1507.90.90	Comply with market access commitment under the Agriculture Agreement	Tariff quota

Commodity	HS code	Rationale	Measures and condition
Soya beans	1201.10.00, 1201.90.00	Comply with market access commitment under the Agriculture Agreement	Tariff quota
Tea	0902.10.10, 0902.10.90, 0902.20.10, 0902.20.90, 0902.30.10, 0902.30.90, 0902.40.10, 0902.40.90	Comply with market access commitment under the Agriculture Agreement	Tariff quota
Used car bodies and motorcycle frames	87.07, 8714.10.20, 8714.10.90, 8714.91	Economic security and public safety	Import prohibited
Used diesel engines with displacement of 331-1,110 cc.	8408.90	Public health and safety	Non-automatic licensing: import not generally allowed
Used motor vehicles	8703.21, 8703.229, 8703.239, 8703.249, 8703.319, 8703.329, 8703.339	Public health and environmental protection	Absolutely prohibited
Used motor vehicles for the transport of 30 or more persons (see below)	8702.90	Public health and environmental protection	Non-automatic licensing: import not generally allowed, except as prototype for assembly or production
Used motorcycle engines and accessories	8407.31, 8714.19, 72.04, 76.02	Public health and safety	Absolutely prohibited
Used motorcycles	87.11	Public health	Non-automatic licensing: import not generally allowed
Volatile alkyl nitrite substances	2920.90.90	Public health, social and national security	Non-automatic licensing: volatile alkyl nitrite substances require import permit: (1) Amyl nitrite; (2) Cyclohexyl nitrite; (3) Ethyl nitrite; (4) Isobutyl nitrite; (5) Isopropyl nitrite; and (6) n-Butyl nitrite
Waste and scrap of plastics	39.15	Environmental and public health	Non-automatic licensing: with approval of the Department of Industrial Works
Worked monumental or building stone	68.02	To be consistent with the need for production and domestic use	Non-automatic licensing: import not generally allowed
Yellowfin tuna	0302.32	Environmental protection	Import certificate required from the Department of Fishery

a Aristolochia spp., chloramphenicol, chloroform, chlorpromazine, colchicin, dapsone, nitrofurans, diethylstilbestrol, sulfonamides, fluoroquinolones, glycopeptides, dimetridazole, metronidazole, ronidazole, ipronidazole, and nitroimidazoles.

Source: WTO documents WT/TPR/S255/Rev.1, 8 February 2012; G/LIC/N/3/THA/5, 14 September 2012; and G/LIC/N/3/THA/6k, 12 September 2013; and information provided by the authorities.

3.2.4.1 Import prohibitions

3.39. In general, import prohibitions are used only to protect public morals, national security, human, animal, or plant life, health, and intellectual property rights (IPRs), in accordance with Article XX on General Exceptions of the General Agreement on Tariffs and Trade 1947 (GATT 1947). Products that are absolutely prohibited include counterfeit goods, baraku/shisha and electronic baraku/shisha or electronic cigarette, CFC refrigerators, electrically and mechanically operated game machines, certain glazed ceramics wares, goods duplicating registered products, re-treaded or used pneumatic tyres of rubber for cars, motorcycles and bicycles and waste, paring and scrap of rubber of cars, buses/trucks, motorcycles and bicycles, used car bodies and motorcycle frames, used motor vehicles for the transport of 30 or more persons, and, used motorcycle engines and accessories (Table 3.2). Imports of all endangered species, including fish, molluscs, amphibians, and corals etc., under Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) are authorized only in exceptional circumstances.

3.40. To prevent illegal logging, imports of logs and sawn wood made of teak trees or forbidden trees from the border of Tak and Kanchanaburi provinces remain prohibited. Bans (based on UN Resolutions) on imports of diamonds, logs, and wooden products from Liberia were lifted in 2007, and on diamonds from Sierra Leone in 2007 and 2003. Thailand accepts the Kimberly Certification Process. For SPS and TBT measures affecting imports see section 3.2.6.

3.2.4.2 Import licensing

3.41. Products subject to non-automatic licensing currently include the 22 agricultural items under tariff quota (section 3.2.2.6 and 4.2.3.2) and processed goods (including abuterol or salbutamol, caffeine and its salts, clenbuterol, fishmeal with a protein content of less than 60%, machinery and parts thereof which can be used to violate copyrights of cassette tape, video tape, and compact disc, marble (except marble block of 50x50x50 cm), medals and coins, original sculptures and statuary in any materials, certain re-treaded or used pneumatic tyres of rubber for buses or trucks, used diesel engines with displacement of 331-1,100 cc, used motor vehicles for the transport of 30 or more persons, used motorcycles, certain volatile alkyl nitrite substances, waste and scrap of plastics, worked monumental or building stone (Table 3.2). An automatic import licensing system currently applies to certain drug and pharmaceutical chemicals in 16 items, gold, intaglio printing machinery and colour photocopying apparatus, and potassium permanganate. Product coverage can be changed through Ministry of Commerce notifications. Since 2008, an e-licensing system, part of the system connecting to the 2005 national single window, has been operated under an MOU on Electronic Data Linkage for storing data on the licences/permits relating to customs clearance with 36 government agencies.²⁹

3.42. New import requirements for automotive tyres entered into force on 13 March 2013 after their publication in the *Government Gazette* on 12 January 2013 to ensure public safety by reducing the risks associated with the importation of substandard or non-standard products; they were notified to the WTO in March 2013, i.e., their date of entry into force, and the authorities consider that the transitional period enabled seamless compliance with the measure.³⁰ Besides importer registration, the regulation requires importers to avail themselves of, in addition to required documentation under the existing import Custom Procedure Code, a Certificate of Competent Authority (COCA) issued by the government of the exporting country, or by certified entities or institutions guaranteed by the government, or certified entities empowered to issue the certification of the producing country; it seems that standards required by such regulation remain ambiguous. The new regulation also obliges importers to keep new pneumatic tyres of rubber separately from other types of products and report import and export activities, possession, sales, distribution and stock inventory of tyres to the Department of Foreign Trade (DFT) on a monthly basis. Different storage requirements apply to foreign and domestically produced tyres to facilitate the verification by the authority as the latter are controlled by the Thai Industrial Standards Institute (TISI) (section 3.2.6.1). As of June 2015 Thailand was in the process of drafting a mandatory industrial standard for new pneumatic tyres of rubber; the authorities indicated that when this mandatory industrial standard becomes effective, the necessity and suitability of the measure on imported tyres may be reviewed.

3.43. Despite criticism that conditions attached to import licensing on various items tend to be complex and opaque, and in some cases appear equivalent to quantitative restrictions, the authorities indicated that they publish all the document requirements and procedures in each import licensing notification. The documents required are relevant and necessary for import administration, and the entire procedure is conducted in a uniform, impartial, and reasonable manner.

²⁹ Customs Department online information. Viewed at: <http://www.customs.go.th/wps/wcm/connect/custen/nationsinglewindow/nationsinglewindow>.

³⁰ WTO document G/TBT/N/THA/413, 15 March 2013; European Commission Directorate-General for Trade (2014).

3.44. Thailand indicated that its replies to the WTO Import Licensing Questionnaire submitted to the Committee on Import Licensing in September 2010 remained valid for the years of 2011, 2012, and 2013; its next submission is expected in the course of 2015.³¹

3.2.4.3 Import quotas

3.45. According to the authorities, Thailand maintains no import quotas apart from those relating to its TRQ commitments under the Agreement on Agriculture (sections 3.2.2.6 and 4.2.3.2).

3.2.5 Contingency measures³²

3.2.5.1 Anti-dumping and countervailing measures

3.46. The legislative basis for anti-dumping and countervailing measures, the Anti-dumping and Subsidized Import Act, B.E. 2542 (1999), remains unchanged since the last TPR. The Ministry of Commerce is the government agency responsible for policy on contingency measures, including safeguards (section 3.2.5.2). Its Department of Foreign Trade conducts investigations while the Committee on Dumping and Subsidies is responsible for making preliminary and final determinations. An investigation may be started on the initiative of the Committee or in response to a petition from the Department of Foreign Trade or from the domestic industry. The start of an investigation is announced through its publication in the Royal *Gazette* and local newspapers (in Thai and English). In addition, the Department of Foreign Trade is required to inform petitioners, plus known exporters and importers of the product, or their representatives, of the initiation of an investigation.

3.47. With 61 cases (56 in 2011) initiated between 1995 and end-June 2014, Thailand remains a relatively infrequent user of anti-dumping ranking 19th out of 48 Members having initiated investigations, and at about a third below the average number of investigations launched by WTO Members.³³ Thailand did not initiate any new investigations in the period 2013-2014. As of 31 December 2014, 36 anti-dumping measures in the form of duties were in force on 13 products, mainly several types of steel or steel alloys (9 items) as well as sodium tripolyphosphate, inner tubes of rubber for motorcycles, and certain ceramics (e.g., tiles, and cubes).³⁴ Nineteen of these measures were extensions of existing measures beyond their sunset period. Action affected mostly products originating in Asia (27, mainly China (12), Chinese Taipei (5), and Korea (Rep. of) (4)), but also the Commonwealth of Independent States (3), Africa (2), the EU (2), and South America (2). Thailand has never had recourse to, nor has notified the WTO Committee on Subsidies and Countervailing Measures of the initiation of any investigation or application of any countervailing duty measures.

3.48. The Anti-dumping and Subsidized Import Act allows appeals to the Intellectual Property and International Trade Court. Since 2011, Committee determinations have been challenged three times and these appeals are still with the Court.

3.2.5.2 Safeguards

3.49. Thailand's safeguards legislation, the Safeguard Measures on Increased Imports Act B.E. 2550 (2007), remains unchanged.³⁵ A safeguard investigation may be initiated following a petition to the Department of Foreign Trade (Ministry of Commerce) by a domestic producer of a like or directly competitive product that, after being checked, is passed to the Committee on Safeguard Measures for a determination. The Department of Foreign Trade, which has investigative authority, may also submit a petition to the Committee on its own initiative, based on

³¹ Article 7.3 of the Agreement on Import Licensing Procedures requires all Members to answer the Questionnaire on Import Licensing Procedures by 30 September each year. WTO documents G/LIC/N/3/THA/3, 30 September 2010 and G/LIC/N/3/THA/6, 12 September 2013.

³² More information on Thailand's contingency measures framework is available in WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

³³ WTO online information. Viewed at: https://www.wto.org/english/tratop_e/adp_e/AD_InitiationsByRepMem.pdf.

³⁴ WTO document G/ADP/N/265/THA, 5 February 2015.

³⁵ More information on Thailand's safeguards framework is available in WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

evidence of increased imports and injury to domestic industry. Similarly to anti-dumping and countervailing procedures, the Department of Foreign Trade notifies the initiation of an investigation by publishing it in the *Royal Gazette* and in the national press in English and Thai, as well as directly informing petitioners and other known interested parties. The Committee's final determination may impose a safeguard measure in the form of an additional duty, a quantitative restriction, or another measure to reduce the volume of imported goods so that the domestic producer(s) of the like or directly competitive product can implement an adjustment plan. The maximum period for the safeguard measure is four years, extendable, if necessary, to a total of ten years.

3.50. Recourse to safeguard measures intensified as compared to the situation at the last TPR due to the fact that all rules and regulations relating to the 2007 safeguards legislation were fully announced in 2010. During the review period, Thailand notified the WTO's Committee on Safeguards that definitive safeguards in the form of duties were imposed on: glass block (HS 7016.9000) from 18 August 2011 to 14 January 2014 and extended from 15 January 2014 to 14 January 2017; hot rolled steel flat products with certain amounts of alloying elements such as boron, chromium, etc., in coils and not in coils at *ad valorem* rates of 44.20%, 43.57%, and 42.95% of c.i.f. price, respectively, from 15 September 2013 to 26 February 2016; and, non-alloy hot rolled steel flat products in coils and not in coils, of a thickness of 0.9–50.0 mm and a width of 600.0–3,048.0 mm for a period of three years starting from 24 December 2014 to 6 June 2017 (preceded by preliminary duties as from 7 June 2014).³⁶ An investigation into increased imports of woven fabrics was opened in February 2012 but was terminated in August 2013 without the imposition of measures.³⁷

3.51. Concerning sector-specific safeguards, during the review period Thailand did not invoke the special safeguard (SSG) provisions under Article 5 of the WTO Agreement on Agriculture (section 4.2.3.2).³⁸ Thailand reserved its right to take SSG action on 55 HS02 eight-digit items including milk, potatoes, onions, garlic, coconuts, coffee, tea, pepper, maize, rice, copra, soya-bean oil, crude palm/coconut oil, sugar, non-alcoholic beverages, tobacco, and raw silk.

3.2.6 Standards and other technical requirements³⁹

3.2.6.1 Standards, testing, and certification

3.52. During the review period Thailand's Strategic Plan (2011-2015)⁴⁰ was aimed at developing standards that meet sectoral needs and international standards, developing a conformity assessment system in line with international guidelines, and increasing standards awareness for all stakeholders. As of June 2015, the Strategic Plan was under review and a new plan (2016-2020) was under consideration. The institutional framework for standards and conformity assessment remains unchanged. Several bodies are responsible for different aspects of technical regulations and standards: the Thai Industrial Standards Institute (TISI), under the Ministry of Industry; the National Bureau of Agricultural Commodity and Food Standards (ACFS), under the Ministry of Agriculture and Cooperatives; the Ministry of Commerce (policy and legislation on metrology); and, the National Institute of Metrology (Thailand), under the Ministry of Science and Technology; the Office of the National Standardization Council of Thailand, the Department of Medical Service, the Department of Science Service, and the ACFS are responsible for accreditation of organizations for conformity assessment.

³⁶ WTO documents G/SG/N/8/THA/1/Suppl.3 - G/SG/N/10/THA/1/Suppl.1 - G/SG/N/11/THA/1/Suppl.3, 2 September 2011; G/SG/N/6/THA/3, 17 December 2012; G/SG/N/10/THA/2/Suppl.1 - G/SG/N/11/THA/2/Suppl.3, 6 November 2014; and, G/SG/N/8/THA/3-G/SG/N/10/THA/3-G/SG/N/11/THA/4, 15 January 2015.

³⁷ WTO document G/SG/N/9/THA/1, 12 September 2013.

³⁸ WTO document G/AG/N/THA/77, 14 April 2014.

³⁹ More information on Thailand's standards framework and procedures is available in WTO document WT/TPR/S/255/Rev.1, 8 February 2012; and TISI, ACFS, and MOST online information. Viewed at: <http://www.tisi.go.th/eng/index.php>, <http://www.acfs.go.th/eng/index.php>, and <http://www.most.go.th/eng/index.php/agencies-under-most/detail-nimt>.

⁴⁰ Thai Industrial Standards Institute online information. Viewed at: <http://www.tisi.go.th/eng/index.php/item/124>.

3.2.6.1.1 Voluntary, compulsory, national, and aligned standards

3.53. Voluntary standards are often made compulsory (or regulatory) by reference to technical regulations. In developing standards and technical regulations, the TISI works with other government agencies and private-sector organizations; the network of agencies and organizations involved depends on the standard. Between 2011 and 2015, the TISI established 3,175 Thai industrial standards (TISs) (2,979 in 2011); as of 30 April 2015, 3,075 TISs (2,718 in 2011) were voluntary, and 100 TISs (99 in 2011) were compulsory. As of May 2015, out of the 100 compulsory standards 32 related to electrical/electronic engineering, 26 to civil and construction material, 21 to mechanical engineering and vehicles, and 21 to consumer products. As of March 2015, 161 TISs had been withdrawn and replaced. As of 30 April 2015, 1,025 TISs had adopted international standards (993 in 2011).

3.54. On 25 January 2014 a mandatory conformity assessment procedure was imposed on ceramic tiles, which requires a seemingly burdensome and costly certification process (e.g. on-site certification, the disclosure of manufacturers' confidential information and certification per line of production).⁴¹ Concerns were raised about the practicalities of the new standard, in particular the discrepancies between Thai and international standards ISO 13006:2012 requiring the TISI mark to be attached to each and every tile and differences in the water absorption levels.

3.2.6.1.2 Accreditation and quality management standards

3.55. Manufacturers that have been awarded ISO 9000 certification are exempt from assessment of their quality control systems; a quality management system certificate for a product or product group is generally accepted provided it is issued by either the ISO 9000 certification body accredited by the Office of the National Standardization Council of Thailand, or by the ISO 9000 certification body approved by the Industrial Product Standards Council. As at 7 May 2015, there were 247 TISI-accredited testing laboratories and at 11 March 2015, 152 calibration laboratories. As at 7 May 2015, there were 16 accredited inspection bodies. As at 7 May 2015, there were 9 accredited quality management system certification bodies, 9 accredited environment management system certification bodies, 1 accredited product certification body and 1 accredited energy management system certification body authorized to issue certificates in line with international and national standards, such as the ISO 9000, ISO 14000, ISO 22000 and ISO 27001, and HACCP (Hazard Assessment Critical Control Point) food safety standards. There were 373 companies with ISO 9000 certification, 895 with ISO 14000 certification, and 320 companies certified to other standards.⁴²

3.2.6.1.3 International cooperation

3.56. Since its last review, Thailand has not signed any new mutual recognition agreements (MRAs). Thailand maintains standards-related agreements, including: a bilateral MRA on automotive products; and various APEC MRAs.⁴³ It has also signed: the Pacific Accreditation Cooperation Multilateral Recognition Arrangement and IAF Multilateral Recognition Arrangement, the Asia Pacific Laboratory Accreditation Cooperation Multilateral Recognition Arrangement, the International Laboratory Accreditation Cooperation Multilateral Recognition Arrangement, and the Asia Pacific Legal Metrology Forum Memorandum of Understanding. Thailand is a member of the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), and the International Telecommunications Union. It is also active in regional standards organizations such as the Pacific Area Standards Congress, and the ASEAN Consultative Committee for Standards and Quality.

⁴¹ European Commission Directorate-General for Trade (2014).

⁴² TISI online list. Viewed at: http://app.tisi.go.th/lab/testing/tlas_e.html; and TISI online information. Viewed at: <http://www.tisi.go.th/eng/certification/item/61-system-certifications-in-thailand-iso-9000-iso-14000-ohs-etc.html>.

⁴³ Including the APEC Mutual Recognition Arrangement on Conformity Assessment of Electrical and Electronic Equipment (APEC Electrical MRA - Part I) (since 1999); the APEC MRA on Conformity Assessment of Foods and Food products (APEC Food MRA); the APEC MRA on Conformity Assessment of Telecommunications Equipment (APEC Tel MRA); and the APEC Arrangement for the Exchange of Information on Toy Safety.

3.2.6.1.4 Transparency

3.57. Between 2011 and 2014, Thailand made 83 notifications under the WTO Agreement on Technical Barriers to Trade; the majority being under Article 2.9 of the Agreement (more than 67).⁴⁴ In more than half of these cases (more than 50) the submission allowed for a comment period of 60 days or more. Over the same period specific trade concerns (STCs) were raised by certain Members on Thailand's rules, procedure and condition for labels of alcoholic beverages (sections 3.2.6.3 and 3.4.6.2.2), the TIS for ceramic tiles, the certificate requirement and administrative measure relating to importation of new pneumatic tyres of rubber, and health warnings for alcoholic beverages. The WTO enquiry point for technical regulations relating to industrial products is the TISI, and for food and agricultural products it is the National Bureau of Agricultural Commodity and Food Standards (ACFS). Thailand has accepted the Code of Good Practice for the Preparation, Adoption and Application of Standards in Annex 3 of the TBT Agreement.⁴⁵ In line with the Code, the TISI's work programme, listing draft TISs and their stage of development, is published biannually and available online (http://www.tisi.go.th/work_prg/stage0e.html and <http://www.tisi.go.th/eng/tisi-work-programme.html>) together with TISs in force.

3.2.6.2 Sanitary and phytosanitary measures

3.58. Thailand, a leading world exporter of agricultural and fisheries products primarily due to its well-developed food processing sector, has continued its efforts to maintain an efficient sanitary and phytosanitary (SPS) regime. In several respects, the Thai SPS system is more similar to that of developed countries than that of its neighbouring countries as it needs to serve a modern export industry, as well as traditional production and distribution systems in rural areas and on its land borders.⁴⁶ Responsibility for sanitary and phytosanitary measures remains shared between: the ACFS (policy formulation and implementation, section 3.2.6.1); the Departments of Agriculture (plant health), Livestock Development and Fisheries (animal health) of the Ministry of Agriculture and Cooperatives (MOAC); and, the Food and Drug Administration (FDA) of the Ministry of Public Health. The trend towards primary responsibility being given to the private sector and more coordination by the Government is being continued. Border release processes are backed up by substantive controls focused on hazard prevention. Food safety control measures include hazard prevention, inspections and surveillance on imports and domestic production apparently based on the risk analysis principle and scientific evidence.

3.2.6.2.1 Food standards-setting framework

3.59. During the review period there have been no major changes to Thailand's legislative framework for SPS measures. Regulatory changes have affected: the methodologies for sampling of consignments for phytosanitary inspection (TAS 9036-2012, 19 September 2012); diagnosis of foot-and-mouth disease (TAS 10400-2012, 16 November 2012); diagnosis of swine influenza (TAS 10050-2013, 25 June 2013); maximum residue limits (MRLs) (TAS 9002-2013, 13 February 2014); and, traceability in agricultural commodities and food chains (TAS 9028-2014, 6 October 2014).⁴⁷ Thailand, a member of the World Organisation for Animal Health (OIE), a contracting party to the International Plant Protection Convention (IPPC), and a member of the Codex Alimentarius, generally follows standards set by them where they exist. New regulations are based on an analysis of the risk assessment, risk management, and risk communication. Draft regulations are subject to a public hearing and are notified to the SPS Committee in the WTO (section 3.2.6.2.3) before being approved by the Food Committee of the FDA, which includes consumer and industry representatives.

3.60. Under the Food Act B.E. 2522 (1979), food products are classified into four groups, in descending order of risk, with different requirements for registration, labelling (section 3.2.6.3), and obligatory standards: specifically controlled foods subject to registration before production/import, and FDA specifications, packaging and labelling requirements (7 food products, mainly infant and children formula products); prescribed food to have quality or standard subject

⁴⁴ WTO documents G/TBT/31, 2 March 2012; G/TBT/33, 27 February 2013; G/TBT/34, 7 March 2014; G/TBT/36, 23 February 2015; and, WT/TPR/OV/17, 24 November 2014.

⁴⁵ WTO document G/TBT/CS/N/21, 22 November 1995.

⁴⁶ van der Meer (2014).

⁴⁷ ACFS online information. Viewed at: http://www.acfs.go.th/eng/general_standard.php?pageid=2.

to specific quality of requirements (30 food products including coffee, honey, butter and fish sauce); prescribed food to have Label subject to specific labelling requirements (11 food products including bread, meat, chewing gum and candy); and, lowest risk category subject to other food requirements. Registration for production or imports for all food must meet, and are monitored for, specific hygiene, safety, labelling, and marketing/advertisement requirements.

3.2.6.2.2 Quarantine requirements

3.61. All importers and manufacturers of food products must obtain a licence from the Bureau of Food of the FDA, which must be renewed every three years. Certain food products, whether imported or domestically produced, must comply with the Code of Good Manufacturing Practice (GMP) (since July 2003) set out in Ministerial Notification No. 193, BE 2543 (2000) Re: Production Processes, Production Equipment, and Foods Storages. The 57 products on the list include infant food, several dairy products, edible oils, tea, coffee, and food products of animal origin. Importers are required to show a certificate, from the responsible government agency or another institution recognized by an international accreditation agency, indicating that production standards are equivalent to Thailand's GMP Regulations, such as good practice based on guidelines from Codex Alimentarius or ISO 9000, HACCP or ISO 22000.

3.62. Imports of chilled or frozen meat must have an import permit from the Department of Livestock Development (under the Ministry of Agriculture and Cooperatives (MOAC)) and a health certificate from the country of origin. Upon arrival, each consignment of chilled and frozen meat must be inspected by the Animal Quarantine Station at the port of entry.

3.63. Plants and plant products are divided into three categories: prohibited; restricted; and not prohibited with different import procedures applying to each.⁴⁸ All imports of plants and plant products must be accompanied by a phytosanitary certificate from the competent authorities in the exporting country. An import permit is also required for prohibited articles and the plant quarantine officer must be notified when the consignment arrives at the port of entry. Imports of prohibited or restricted articles must be made through the plant quarantine station for inspection by the plant quarantine official; and a pest risk analysis is also required for imports of prohibited articles.

3.64. Thailand prohibits imports of several food products on health grounds. The list includes foods containing several additives, such as some sweeteners, puffer fish, and some food containing elements derived from genetically modified maize that have a Cry9C DNA sequence in accordance with Notification of the Ministry of Public Health No. 345 B.E. 2555. The 2013 Thai Agricultural Standard on Pesticide Residues: Maximum Residue Limits (MRLs) replaced the 2008 Standard.⁴⁹ The 2013 MRL, a voluntary standard covering 48 pesticides in agricultural commodities used as food and feed, serves as reference for the production, trade, and control and inspection of agricultural commodities produced, imported, and exported. Although Thailand has not deregulated any genetically engineered (GE) plants for cultivation, it allows the importation of GE soybeans, and corn grain for processed foods, feed, and industrial use.⁵⁰ Under the 2008 Cabinet's Resolution, applications for open field trials and commercial cultivation of GM products must be submitted to the MOAC for the evaluation of the application, public hearing, and preparation to the Minister's Officer for government approval; since then, a single application has been received for an open field trial. All agricultural biotechnology regulations remain the same. A GE corn seeds NK603 application for a greenhouse trial was completed in 2011; a request to conduct an open field trial was submitted, went through a public hearing, and is currently under evaluation by the Department of Agriculture. It is estimated that 95% of total soybean imports were biotech soybeans while 60-70% of total cotton imports were also biotech in 2012.

⁴⁸ Plant Quarantine Act BE 2507 (1964), as amended by Act 2542 (1999) and Act 2551 (2008), and the Notification of Department of Agriculture Re: Criteria, Procedures and Conditions for the Importation or Bringing in Transit of Prohibited, Restricted and Unprohibited Articles, BE 2551 (2008).

⁴⁹ Pesticide Residues: Maximum Residue Limits, TAS 9002-2013, Volume 131, Special Section 32 (Ngo), 13 February 2014. Viewed at: http://www.acfs.go.th/standard/download/eng/MAXIMUM_RESIDUE_LIMITS.pdf.

⁵⁰ Four main government agencies are involved in the approval of agricultural biotechnology: the Department of Agriculture (MOAC); the National Center for Genetic Engineering and Biotechnology (BIOTEC) (Ministry of Science and Technology (MOST); the Ministry of Natural Resources and Environment (MONRE); and, the FDA. USDA Foreign Agricultural Service (2014b).

3.65. Some concerns about SPS-related import bans and food safety inspection fees for meat remain. Thailand has not yet lifted its long-standing ban on feed or feed ingredients from the United States that contain, or are derived from, ruminant animals despite the World Animal Health Organisation (OIE) having recognized the United States as a negligible bovine spongiform encephalopathy (BSE) risk country in 2013.⁵¹ It also requires inspection and approval of US manufacturing facilities that produce certain animal-derived products as a condition of import.⁵² The authorities indicated that while the Codex Alimentarius Commission established MRLs for ractopamine in cattle and pig tissues in 2012 the Ministry of Agriculture and Ministry of Public Health had banned the use of beta-agonist compounds in feed and food, including ractopamine both in domestic production as well as import since 2003. Risk analysis by Codex considers the safety of consuming four kinds of tissue only while consumers in Thailand consume many internal organs. Thailand maintains a monitoring and surveillance programme for illegal use of beta-agonists, such as collection of samples of animal feed and animal urine to determine the residues at farms, animal quarantine checkpoints and slaughterhouses. Domestic food safety inspection fees for uncooked meat are significantly lower than those affecting imports in the form of import permit fees; a new Animal Epidemics Act, effective since 2014, whose implementing regulations were still pending as of end-June 2015, could result in a fivefold increase in inspection fees, from the current ceiling rates of B 20/kg (US\$667/MT) to B 100/kg (US\$3,330/MT).⁵³ The authorities indicated that these two types of fees differ in terms of both their perspectives and purposes.⁵⁴

3.66. Some additional SPS issues of concern consist of remaining gaps in the food control system for domestic products and those of neighbouring countries.⁵⁵ Furthermore, concerning imports of fruit, vegetables and fisheries products it appears that limited consideration is given to the safety of the source and the reputation of traders.⁵⁶ The authorities indicated that in general the SPS system functions effectively as a tool for market access, and is moderately effective as a tool for ensuring domestic food safety; the performance of the SPS food safety control system against health hazards is moderately efficient.

3.2.6.2.3 Transparency

3.67. Between 1 January 2011 to 12 June 2015, Thailand made 27 regular notifications to the WTO Committee on Sanitary and Phytosanitary Measures (including revisions), and 9 emergency notifications along with 22 addenda and corrigenda.⁵⁷ Most of the emergency notifications referred to announcements of disease outbreaks or (radionuclide) contaminated food in other countries. The WTO enquiry point and the notification authority remains the ACFS. Most government agencies in charge of SPS policy measures (e.g., ACFS, FDA, and Department of Agriculture)

⁵¹ The authorities indicated that regarding the international equivalency system, in addition to documentation being reviewed, on-site visit for verification is also required to ensure consumer protection. However, some measures are revised based on risk.

⁵² USTR (2015a).

⁵³ It seems that in 2014 the fees for imported meat were US\$160 per ton for red meat (beef, buffalo, goat, lamb, and pork) and offals, and US\$320 per ton for poultry meat. Equivalent fees for domestic meat inspections in the form of slaughtering or slaughterhouse fees, however, were significantly lower at US\$5 per ton for beef, US\$21 per ton for poultry, US\$16 per ton for pork, and zero for offals. USTR (2015a).

⁵⁴ Fees for domestically produced meat are collected under the Animal Slaughter Control and Meat Sale Act B.E. 2535 (1992). The fees cover, among others, the slaughter fee, the fee for using a slaughter house, and the lairage fee or fee for using animal handling facilities before slaughtering. These fees are collected by the local administrative authority under the Ministry of Interior. This Act was enacted for the safety benefit for local consumption and to support free trade in the country. Inspection fees for imported meat are collected in order to ensure safety of meat product imports. The fees are charged under a regulation implementing the Animal Epidemic Act, and they cover testing animal and animal products, including the inspection process, collecting the sample, and laboratory diagnosis.

⁵⁵ As is generally the case with food safety systems in developing countries, the Thai system implements relatively demanding controls for formal imports and formal urban markets, and weak controls for informal local markets (dual system). van der Meer (2014).

⁵⁶ Under the SPS Agreement's equivalence principle, Thailand should accept safety assurances from reputable suppliers in countries where control capacity is generally equal to or better than in Thailand, if they objectively demonstrate that they meet Thailand's appropriate level of protection (ALOP). With further application of risk-based management, there should be further differentiation in inspection and most likely lower costs. van der Meer (2014).

⁵⁷ WTO online SPS Information Management System information. Viewed at: <http://spsims.wto.org/web/pages/search/notification/Results.aspx>.

maintain well-documented online information on all agricultural standards, procedures, and requirements in Thai and a good but less detailed English version.

3.2.6.3 Labelling requirements

3.68. All food products for public consumption must carry a label in Thai providing basic information on the product; for Specifically Controlled Foods (section 3.2.6.2.2), the label must be approved by the FDA before it is used. A new Thai Food Labelling law became effective on 3 December 2014 and provides for a two-year transition period from this date allowing companies to make the necessary changes to their processes and labelling designs. A new MOPH Notification (No. 367 Re: Food Labelling for Pre-Packed Foods), notified to the WTO in August 2013 (G/SPS/N/THA/219), amends existing legislation on food labelling by: changing definitions of pre-packed food, expiry date (use by date), best before, repacking, and allergens; highlighting allergens (e.g. peanuts, tree nuts, grains, milk) in the list of ingredients; minimizing font size requirements; requiring the display of food additives' functional class in the ingredient list; requiring the format and conditions for the declaration of best before date; and including warning messages. Some importers' concerns about the new food labelling legislation relate to the minimum font size of 2 mm and the method of displaying food additives on labels together with their functional class that may confuse or frighten consumers who have limited knowledge of food additives.⁵⁸

3.69. As of 22 April 2015 Thailand implemented a regulation titled Notification of the Alcoholic Beverages Control, Regarding Rules, Procedure and Condition for Labels of Alcoholic Beverages first notified in March 2014 and discussed at the WTO Committee on Technical Barriers to Trade meetings on 5 and 6 November 2014 and on 18 and 19 March 2015.⁵⁹ Several Members consider this measure as more trade restrictive than necessary; concerns, *inter alia*, referred to the measure's apparent administrative complexity in the label approval process, and the lack of clarity on its scope.⁶⁰ The authorities consider that the compliance period for this measure is not unreasonable and the process is not complex.⁶¹ Furthermore, Thai officials expressed their intention to revive a requirement for graphic labels and warning statements on all alcoholic beverages sold in Thailand, initially proposed in 2010. During subsequent TBT Committee meetings, several Members encouraged Thailand to notify the revised measure, which was already published on the website of the Ministry of Public Health, and seek input from affected stakeholders.⁶² As of June 2015 the authorities indicated that the selection of a suitable picture was under consideration and the process of notification and implementation of this measure had started; a sub-committee was drafting a notification to be presented to the Alcoholic Beverage Control Committee, and if approved it would be submitted to National Alcoholic Beverage Policy Committee. Upon its approval, the chairman of the Alcoholic Beverage Control Committee will endorse it in order for it to be published in the *Royal Gazette*; the implementation of the measure would follow. In addition as of 2014 the Ministry of Public Health was considering a plain packaging law on tobacco products (section 3.4.6.2.2); the authorities indicated that as of June 2015 measures regarding rules, methods, and conditions on packaging of tobacco products required only the pictorial and written warnings on the package.

3.70. As for processed food containing GE plant materials, labelling requirements apply to 22 food products containing more than 5% for ingredients derived from genetically modified (GM) or

⁵⁸ USDA Foreign Agricultural Service (2014a).

⁵⁹ WTO documents G/TBT/N/THA/437, 28 March 2014; G/TBT/N/THA/437/Add.1, 27 April 2015; G/SPS/N/THA/221/Add.1, 15 April 2015; and G/TBT/M/64, 10 February 2015; European Commission Directorate-General for Trade (2014); and USTR (2015a).

⁶⁰ European Commission Directorate-General for Trade (2014).

⁶¹ The authorities indicated that the Notification was published in the *Royal Gazette* on 22 January 2015 and implemented 90 days later (22 April 2015). Labels which were printed or imported before the implementation of this measure will be allowed up to not over 180 days (until 18 October 2015) which is 270 days after the Notification was published. In case of an alcoholic beverage container which is not sold or still in its selling place, the manufacturers must change only the label to the new one, stick a new label to cover the old, or take an opaque paper or sticker to cover the message which would contravene the new requirements. In addition, this Notification has not required any label verification or approval process increasing procedural difficulties for alcoholic beverage manufacturers and importers. Manufacturers and importers can consult the Office of Alcohol Control Committee at the Department of Disease Control of the Ministry of Public Health on these matters.

⁶² USTR (2015a).

GE products.⁶³ The labelling requirements are: food containing only one main ingredient should include a statement of "genetically modified" in conjunction with, or in close proximity to, the name of foods such as "genetically modified corn", or "tofu produced from genetically modified soybean", etc.; and, for multi-ingredient foods, labels should include a statement of "genetically modified" in conjunction with, or in close proximity to, or under the names of the top three main ingredients of the food product such as "genetically modified corn starch", etc. These requirements do not apply to small producers who produce and sell directly to consumers. Labelling such as GM free or non-GM food is prohibited.

3.2.7 Government procurement

3.71. Thailand remains a non-signatory to the WTO Plurilateral Agreement on Government Procurement but as from 3 June 2015 it has become an observer to the WTO Committee on Government Procurement. At the time of its previous review, Thailand was considering this possibility as a possible first step towards full membership. Three of Thailand's RTAs (Thailand-Australia Free Trade Agreement, Thailand-New Zealand Closer Economic Partnership Agreement and Japan–Thailand Economic Partnership Agreement) contain government procurement provisions promoting cooperation and government procurement information exchange among the parties.

3.72. The value of Thailand's government procurement market for goods and services is estimated to be at least B 521.5 billion or 4% of GDP (fiscal year 2013, data from Table 1.1), or 75% bigger than in 2011; these figures do not cover procurement by state enterprises and local governments as no such data are available from the authorities.⁶⁴ On the other hand, according to the Bureau of the Budget, the budget allocated for procuring ("use of") goods and services in fiscal year 2014 accounted for B 376.2 billion (B 475.4 billion in fiscal year 2013), representing 14.9% of the overall budget expenses (B 2.5 trillion).⁶⁵ In fiscal year 2014, six Ministries (Interior, Transport, Education, Defence, Public Health, and Agriculture and Cooperatives) were responsible for 81.6% (85.8% in 2011) of the total public procurement amount.

3.73. According to the authorities, the core principles for government procurement remain openness, transparency, fairness, efficiency, accountability, value for money, private sector participation, and local industry development. Procurement regulations are to, *inter alia*, prevent corruption, and respond to the Government's social and economic policies; competitive bidding in the form of open tendering is regarded as the best way to achieve these objectives and must be used for higher value contracts.

3.74. During the review period, the legislative basis for central government procurement remained virtually unchanged. The Office of the Prime Minister Regulations on Procurement B.E. 2535 (1992), which have been amended seven times, most recently in 2009, are the core body of law for procurement by central government and provincial administrative bodies. Local administration and state enterprises are subject to other regulations such as Ministry of the Interior Regulations Regarding Procurement for Local Administrative Organisations B.E. 2538 (1995); the legislative acts establishing large state enterprises and other public entities contain their own procurement regulations. Several other pieces of legislation include provisions (e.g., on good governance or anti-corruption) that could have a bearing on public procurement.⁶⁶

3.75. No changes were made to Thailand's six principal procurement methods which depend on several factors, including the value of the contract, the procuring entity, and the urgency of procurement. They consist of: a price agreement, or negotiation for procurements of less than B 100,000; a price inquiry, or price search for contracts of between B 100,000 and B 2 million; open bidding for contracts from B 2 million and above; electronic bidding (e-Auction, see below), also for contracts from B 2 million and above; special-case methods, which are used by government agencies specified in Regulations for Local Administrative Organisations B.E. 2538 (1995); and special methods for procurement contracts worth more than B 100,000 where other methods are not suitable, such as in case of repeat procurements or where a delay

⁶³ USDA Foreign Agricultural Service (2014b).

⁶⁴ Public procurement data supplied by the authorities.

⁶⁵ Bureau of the Budget (2014).

⁶⁶ More information on Thailand's government procurement practices is available at WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

may cause problems for the procuring agency. In addition to the requirements applying to procurement methods, contracts require authorization; the level of authorization (i.e., Permanent Secretary, Minister, Prime Minister or the Cabinet, mayor of a municipality, or governor) depends on the value of the contract and the method of procurement used.

3.76. The use of different procurement methods has slightly changed over the period under review with electronic bidding remaining the more common method. In fiscal year 2014, electronic bidding represented 45.4% (68.5% in fiscal year 2012) of total procurement value while special methods and negotiation accounted for 19.5% and 15.4% (18.3% and 3.8% in fiscal year 2012), respectively. Among the top six agencies (see above), the use of e-Auction varied from 24% (Ministry of Defence) to 81% (Ministry of Transport) of total procurement value of each entity, while special methods varied from 7.4% (Ministry of Transport) to 36.8% (Ministry of Defence).

3.77. Despite its stated core principles, Thailand continued to use government procurement as a policy instrument to help domestic suppliers of goods and services, particularly small- and medium-sized enterprises, consultants/advisors and contractors to raise their participation in government procurement contracts.⁶⁷ Since 1992, preferential treatment has been provided to domestic suppliers, including subsidiaries of foreign firms registered as Thai companies, through an automatic 7% price advantage over foreign bidders in evaluations in the initial bid round; the authorities indicated that no other preferential margin applies.⁶⁸ However, according to the Foreign Business Act (section 2.5), domestic and foreign contractors with capital of more than B 500 million are considered on an equal basis in bidding for highly technological infrastructure projects.

3.78. Public procurement in Thailand remains decentralized and involves a range of government bodies. For central government, the Committee in Charge of Procurement (made up of representatives from various government agencies) is responsible for interpreting and making recommendations pertaining to the enforcement of the Procurement Regulations, considering complaints and setting up guidelines in line with Procurement Regulations, etc. The Comptroller General's Department (Ministry of Finance) is responsible for implementation and regulation and budget disbursement of the central government. Other agencies responsible for the administration of government procurement include: the Bureau of the Budget (responsible for the budget planning, allocation, and evaluation); the Department of Special Investigation (inspection of the procurement process); the Thai Industrial Standards Institute (registration of products subject to industrial standards requirements in order to be eligible for preference margins); the Office of the Auditor General (procurement audit); the Office of the National Anti-Corruption Commission (inspection of the procurement process); the Administrative Court (the jurisdiction of administrative cases involving such matters as a dispute in relation to unilateral administrative acts); and the Office of Ombudsman (an alternative for complaint and bid protest). The Department of Local Administration in the Ministry of the Interior is responsible for overseeing procurement by local government organizations and the State Enterprises Policy Office in the Ministry of Finance is responsible for overseeing procurement by state-owned enterprises.

3.79. Transparency and competition, along with fair prequalification procedures constitute the main tools against corruption in this area. Thailand's laws, regulations, and policy guidelines on public procurement continue to be published in the *Royal Gazette* as well as being posted on several official websites. The actual procurements *Contracts* from central government agencies must also be posted on the Thai Government Procurement website (in Thai only), which also gives access to the e-Auction (or e-bidding) system and provides information on selection criteria (such as price and bidders' qualifications), the results of the auction, and details for the decision. The e-Auction forms part of the electronic government procurement (e-GP) system which was developed and implemented in three phases from April 2010 to November 2014.⁶⁹ At its last phase

⁶⁷ As described in previous TPR Secretariat Reports, determination of the local preference margin is based on the level of industrial standards met by the product concerned. Where no product meets industrial standards, the suppliers are asked to indicate the origin of the product. If the price proposed for domestic products is no more than 5% higher than that of foreign products, the Government will negotiate with domestic suppliers, but may purchase the domestic products only if the price is no more than 3% higher than that of foreign products. WTO documents WT/TPR/S/191/Rev.1, 6 February 2008, and WT/TPR/S/255/Rev.1, 8 February 2012.

⁶⁸ USTR (2014 and 2015a).

⁶⁹ WTO document WT/TPR/S/255/Rev.1, 8 February 2012; and Shared Services Link online information. Viewed at: <http://www.sharedserviceslink.com/news/thai-government-to-launch-e-procurement-system#>.

in February 2015 it was complemented with an e-market tool which allows suppliers to submit offers. The e-market is a method for procuring commercial products and services through the e-GP system; e-bidding is a method for procuring complicated and technical requirement products and services such as construction projects, pharmaceutical products and information technology systems, etc. Out of the 12 users of the e-GP service, 3 are government-run hospitals, while the remaining 9 agencies fall under the Ministry of Finance. At present, the pilot project has been expanded to cover 148 agencies under all ministries and will cover all agencies in the future. The third phase of the e-GP will lead Thailand to full utilization of the electronic government procurement system which should increase the efficiency and effectiveness of procuring, openness to competition, and transparency while reducing corruption. Additionally, in 2014 Thailand has introduced an Integrity Pact and Construction Sector Transparency Initiative (CoST) programme to improve information disclosure and transparency in government procurement.⁷⁰ As of 20 January 2015 a pilot project was to utilize the CoST integrity pact as a tool for preventing corruption in public contracting for the procurement projects of the Mass Rapid Transit Authority of Thailand and Bangkok Mass Transit Authority; the CoST is to cover more projects and government agencies.

3.80. Criticism over irregularities in Thailand's government procurement practices, already discussed at previous reviews, remains valid.⁷¹ It is claimed that state enterprises and ministries typically apply additional procurement policies and practices that are inconsistent with the non-discriminatory requirements of the core regulations in this area. The authorities indicated that central government entities must abide by the Regulations of the Office of the Prime Minister on Procurement B.E. 2535 (1992) and any additional practices are inconsistent with the regulation. If corruption is suspected, a procuring government agency or state enterprise may accept or reject any or all bids at any time and, in "special circumstances", may also modify the technical requirements during the bidding process; this allegedly allows considerable leeway for government agencies and state-owned enterprises to manage procurements, while denying bidders recourse to challenge procedures.⁷² The modification of procurement requirements, sometimes to favour well-connected companies over others, has led to the formation of cartels, as well as collusion between potential bidders. Arbitration clauses included in concessions and government contracts require cabinet approval and are considered on a case-by-case basis.

3.81. Although Thai officials are required to abide by codes of conduct, both specifically concerning public tendering and more generally, corruption (section 1.4.4) and related costs remain a concern.⁷³ According to a 2011 Oxford Business Group report, state-funded infrastructure and procurement projects were plagued by massive kickbacks from suppliers and contractors. The report states that the average bribe had risen from 3% to 10-30% of a project's cost.⁷⁴ Inspection of fulfilment of procurement contracts, by the Materials Inspection and Acceptance Committee, and auditing of accounts by the Office of the Auditor General are intended to reduce the probability of corruption. Complaints may be taken to the National Anti-Corruption Commission, the Public Procurement Management Committee or the Auditor General. Several offences are punishable by a fine and imprisonment of five years to life. Similar sanctions apply against corrupt bidders. If a complaint is proven before a contract is completed, the bidding is reopened. Otherwise, the bidder will be liable for the economic damage suffered by the procuring entity. The procuring agency

⁷⁰ Bank of Thailand (2014b); and Press Release, 8 June 2015. Viewed at: <http://www.thaibank.com/press/PDF/Ceremony%20of%20Anti-Corruption.pdf>.

⁷¹ WTO documents WT/TPR/S/191/Rev.1, 6 February 2008, and WT/TPR/S/255/Rev.1, 8 February 2012; USTR (2014 and 2015a); and Business Anti-Corruption Portal online information. Viewed at: <http://www.business-anti-corruption.com/country-profiles/east-asia-the-pacific/thailand/corruption-levels/public-procurement-and-contracting.aspx>.

⁷² In the past the authorities indicated that "special circumstances" involve wrongdoing during the bidding process. The procuring agency can reject a bid/bidder that has benefited from links with interested parties that may obstruct fair and free competition; appeals may be initiated by the rejected bidder. If the winning bid exceeds the set budget, the procuring agency will offer the winning bidder the opportunity to accept the set budget; or it has the right to negotiate with all bidders or adjust the scope of works. If the bidding specifications are found to discriminate towards a specific bidder or interested party, the procuring agency may revoke or amend the specifications.

⁷³ For example, the Anti-Money Laundering Act B.E. 2542 (1999), the Organic Act on Counter Corruption B.E. 2542 (1999), the Royal Decree on Good Governance in State Administration B.E. 2546 (2003), the Civil Service Act B.E. 2535 (1992), and the Civil Service Ethic Standards.

⁷⁴ Business Anti-Corruption Portal online information. Viewed at: <http://www.business-anti-corruption.com/country-profiles/east-asia-the-pacific/thailand/corruption-levels/public-procurement-and-contracting.aspx>.

must keep a register of all bids for each procurement operation, and a record of the decisions for at least ten years.

3.82. Following a 2014 UN Development Programme's "integrity risk assessment" of the country's public purchasing system, the Government is drawing up legislation to manage the risk of corruption in public procurement.⁷⁵ The assessment indicates that the regulatory base for public procurement is weak, fragmented and does not reflect international legislative practice; the regulatory framework is not specifically modelled on any of the international legal models, but rather on international "good" practice stemming from the early 1990s. It also found evidence of "weak integrity in public contracts" and a concentration of improvements in public services in Bangkok and the central region, leaving "significant deficiencies" in other parts of the country. Risks to integrity in Thailand's non-regulated public procurement process are "rife" because of the large amounts of money at stake and the interface between the government and private sector, which is characterised by a high volume of transactions. Recommendations involve implementing a 20-point action plan that includes, modernizing the public procurement system based on a revised set of priorities, which would include economic, integrity, environmental, and social goals. Other activities involve adopting a coherent, sound and modern public procurement law with a full set of secondary legislation, including guidance and model documentation. As of June 2015, Thailand was preparing a first draft of a new government procurement act for the Cabinet's consideration; the new act, which would be based on the United Nations Commission on International Trade Law (UNCITRAL) model laws and the WTO Government Procurement Agreement, is to be put in place by the end of 2015. It would apply to all government agencies, local authorities and state-owned enterprises, and would improve transparency, integrity, and public involvement in the government procurement process.

3.2.8 Countertrade

3.83. Countertrade and barter are no longer used for procurement, and the relevant policy regulations were repealed in early 2007. However, it has been reported that countertrades are used occasionally on a case-by-case basis by an administrative decision, for example with countries that have difficulties obtaining the acceptance of letters of credit by commercial banks. Furthermore, in line with past practice, in 2014 Thailand was considering trading its farm products for weaponry needs through mutually beneficial countertrade arrangements with the Russian Federation.⁷⁶

3.3 Measures Directly Affecting Exports

3.3.1 Registration and documentation procedures

3.84. During the review period, export procedures remained unchanged. As a general rule, there are no registration requirements for exporters. However, exports of a few products (mainly agricultural products, such as fresh longan, durian, apple juice, and orchids) require registration with the Department of Agriculture for quality, price monitoring, and food security/safety purposes; in most instances registration is required to meet the importing country's requirements.

3.85. Under the Customs Act B.E. 2469 (1926), all goods being exported or re-exported from Thailand are subject to customs control and approval. Most export declarations are submitted via the e-Export system. In addition to export declaration data, the following documents must be submitted in case of red line (high risk) shipment: invoice, packing list, export licences (if applicable), certificates of origin (if applicable), and other relevant documents such as catalogues,

⁷⁵ The assessment was conducted as part of the "Mitigating Risks to Integrity in Public Procurement project", established by UNDP Thailand with key stakeholders in the Thai Government, including the Offices of Public Sector Development Commission and Public Procurement Management Department and the State Enterprise Policy Office. UNDP Press Release, "UNDP helps Thailand towards a corrupt-free public procurement system", 7 January 2015. Viewed at <http://www.th.undp.org/content/thailand/en/home/presscenter/pressreleases/2015/01/07/undp-helps-thailand-towards-a-corrupt-free-public-procurement-system.html>; and Supply Management online information, "Thailand drafts public procurement law following UNDP review", 12 January 2015. Viewed at: <http://www.supplymanagement.com/news/2015/thailand-drafts-public-procurement-law-following-undp-review#sthash.0XmDZ8Nj.dpuf>.

⁷⁶ Thai-Russian Chamber of Commerce online information. Viewed at: <http://www.trcc.or.th/main/index.php?pim=cevents>.

descriptions of products, ingredients, etc. Once the export declaration has been transmitted to the customs computer system, it is subject to automatic processing, including data validation, data matching, and release status, as appropriate. Where applicable, export duties and taxes may be paid either through the e-Payment system or at banks. In the case of the green line, the declaration is cleared within a few minutes; after the cargo is exported, a shipping company/agent is required to submit the manifest information to the e-Customs system.⁷⁷ The system then automatically loads the goods declaration and transmits the response message back to the exporter/broker. In the case of red line (high risk) shipment, the cargo is removed for physical inspection.

3.3.2 Export taxes, charges, and levies

3.86. There has been no change in Thailand's export duties since 2011 (Table 3.3). Export taxes consist of statutory rates and applied rates; applied rates involve specific (hides of bovine animals) and *ad valorem* (sawn wood and articles thereof, from zero to 40%) duties. In practice they only affect certain sawn wood and hides. The contribution of export taxes to government revenue remains negligible (section 3.4.1, Table 3.5). The persistence of relatively high statutory export taxes, nevertheless, leaves an element of uncertainty in Thailand's trade regime, as export taxes on important products, such as rice or rubber, could in principle be reintroduced up to the level of the statutory rates without legislative approval. In the past the authorities had indicated that export taxes are primarily for the purpose of conserving the environment, are applied in a non-discriminatory manner and are not intended to be protection for domestic industries nor trade barriers.⁷⁸ Whether it is the Government's intention or not, the imposition of export taxes could constitute a form of assistance to domestic downstream industries and, if they were applied to products Thailand is a major supplier of, could exacerbate world price fluctuations.

Table 3.3 Export duties, 2015

(B and %)

Commodity	Applied rate	Statutory rate
Hides of bovine animals		
Raw hides	Exempt	B 5/kg
Other		
Parings, waste, and dust for use in the production of leather	B 0.4/kg	B 4/kg
Tanned hides	Exempt	B 4/kg
Other	B 4/kg	B 4/kg
Wood, sawn wood, and articles made of wood		
Wood and sawn wood	Exempt	40%
Phai ruak (bamboo) and coconut wood	5%	40%
Veneer	10%	40%
Other (except rubber wood, eucalyptus, wattle, etc.)	40%	40%
Articles of wood		
Unsuitable for other conversion	Exempt	10%
Other	Exempt	20%
Rice	Exempt	10%
Metal scraps	Exempt	50%
Rubber	Exempt	40%
Raw silk and silk yarn	Exempt	B 100/kg
Fish, pulverized or only baked, unfit for human consumption	Exempt	75%

Source: WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

3.3.3 Export prohibitions, restrictions and licensing

3.87. No changes were made to Thailand's export prohibitions, restrictions, and licensing regime. The Minister of Commerce, with the approval of the Cabinet, has the authority to specify classes of goods that are subject to export (and import) controls in order to safeguard economic stability, public health, national security, public order and morals, or "other benefits to the State". The Minister is also empowered to control exports, mainly food staples, in order to prevent domestic shortages. Controls may involve export licensing, export surcharges, export quotas or outright prohibitions (Table 3.4).

⁷⁷ Customs Department online information. Viewed at: <http://www.customs.go.th/wps/wcm/connect/custen/importexport/exporter/exporter>.

⁷⁸ WTO documents WT/TPR/S/191/Rev.1, 6 February 2008 and WT/TPR/S/255/Rev.1, 8 February 2012.

Table 3.4 Products subject to export licensing, registration requirements or prohibitions, 2015

Commodity	HS	Rationale	Measures and condition
Agriculture products			
Canned pineapple	2008.20	Regulate the export system	Exporter must be in the list of Thai Industrial Standards Institute
Cassava starches	1108.14	Regulate the export system and comply with the agreement between Thailand and the EU	Automatic licensing, with certificate from Department of Foreign Trade
Coffee	0901, 2101.10	Compliance with International Coffee Agreement	Automatic licensing
Crustaceans (shrimp and octopus) frozen or chilled	0306, 0307, 1605, 1902	Requirement of importing nation (only exports to the United States and the EU)	Exporter must be member of Thai Frozen Food Association
Durian	0810.60	Regulate the export system	Exporters must be registered with Department of Agriculture
Elephants	0106	Animal preservation	Non-automatic licensing, with approval from Department of National Parks, Wildlife and Plant Conservation
Fresh orchids for export to the EU	0603.13.00	According to bilateral agreement	Exporter must be registered with Department of Agriculture; and phytosanitary certificate required
Live black tiger shrimp	0306	Prevent domestic shortages	Automatic licensing, with certificate from Department of Fisheries
Longans	0810.90	Regulate the export system	Exporter must be registered with Department of Agriculture, Ministry of Agriculture
Oil cake and other solid residue, resulting from extraction of groundnut oil	2304, 2305	Prevent domestic shortages	Export is generally not allowed
Oil cake and other solid residue, resulting from extraction of soybean oil	2304.00.0008	Prevent domestic shortages	Export is generally not allowed
Ornamental fish (in 317 lists)	0301.10	Animal preservation	Non-automatic licensing, with approval from Department of Fisheries
Pearl shell and its products	0307, 0508.00.20	Encourage local farming industries	Non-automatic licensing, with export certificate from Department of Fisheries
Rice	1006.10, 1006.20, 1006.30, 1006.40	Prevention of domestic shortages, export control	Automatic licensing, with certificate from Department of Foreign Trade
Rice exported to the EU under tariff quota	1006.20, 1006.30, 1006.40	Comply with the agreement between Thailand and the EU	Automatic licensing, export quota (EU)
Sugar	1701	Monitor exports	Automatic licensing, exporters must be registered with Ministry of Industry
Tuna in airtight containers	1604.14	Regulate the export system	Exporter must be member of Thai Food Processors Association or Thai Tuna Industries Association
Non-agriculture products			
Caffeine and its salt	2939.30, 3003.40	Public health	Automatic licensing: only with approval from FDA or Department of Industrial Works
Coal except briquette from Hongai anthracite coal	27.01, 27.02	Conserve exhaustible natural resources	Non-automatic licensing, allowed only for re-export, or coal imported to produce for exports; export certificate from the Department of Alternative Energy Development and Efficiency, Ministry of Energy
Gold	71.08	Economy security and stability	Automatic licensing, with conditions set by Ministry of Finance
Natural sand	2505.10.00, 2525.90.00	Conserve exhaustible national resources	Export prohibited
Potassium permanganate	2841.61	Public moral, prevention of narcotics	Automatic licensing: only with approval from Office of the Narcotic Control Board

Commodity	HS	Rationale	Measures and condition
Rough diamonds	7102.10, 7102.21, 7102.31	Comply with the UN resolution (subject to the export certification issued by the DFT under the Kimberly Process Scheme)	Automatic licensing, with export certificate from the Department of Foreign Trade
Rubber woods	4403, 4404, 4406, 4407	Forest conservation and prevention of domestic shortages	Automatic licensing
Wood charcoal	4402	Forest conservation	Non-automatic licensing: with approval from Royal Forest Department
Wood, sawn or chipped	4401, 4403, 4404, 4406, 4407	Forest conservation and prevention of domestic shortages	Non-automatic licensing: export is generally not allowed, except pines and eucalyptus with approval from Director-General of Royal Forest Department
Non-categorized HS numbers			
All types of arms, military vehicles, hardware and spare parts to Sierra Leone, Ethiopia, Eritrea, Liberia, Somalia, and Congo		Comply with the UN Resolution	Export prohibited
Antique idols, graven images		Protect national treasures of artistic, historic or archaeological value	Automatic licensing, with export certificate from Department of Fine Arts
Buddha images		To protect national treasures of artistic, historic, and archaeological value	Automatic licensing, with export certificate from Department of Fine Arts
Counterfeit products		Prevent production of counterfeit products	Prohibited
Goods duplicated from copyright products		Prevent exports of imitation products	Export prohibited
Silica sand or quartz sand		Conserve exhaustible national resources	Non-automatic licensing: Department of Foreign Trade authorizes the Department of Mineral Resources to grant licences
Textiles		Export items to the EU as from 2005	Bilateral agreement provisions

Source: WTO document WT/TPR/S/255/Rev.1, 8 February 2012; and information provided by the authorities.

3.88. In general, export prohibitions and export quotas continue to be imposed to comply with Thailand's international obligations for environmental, public health and intellectual property reasons, or to comply with bilateral agreement provisions (Table 3.4). Export licensing remains mostly automatic (13 cases) and to a lesser extent non-automatic (7 cases). It is used to administer quotas, conditional prohibitions, and absolute prohibitions. Membership in the relevant trade association may be required to obtain an export licence for certain agricultural goods. Exports of certain goods destined to the EU, such as textiles and clothing and some agricultural products require export licences or certificates. In accordance with the Kimberly Process Scheme, exports of rough diamonds require an export certificate from the Department of Foreign Trade before exportation from Thailand.

3.89. Under Thailand's foreign exchange regulations, export proceeds equivalent to an amount of US\$50,000 or above must be received in Thailand immediately upon payment and within 360 days from the date of exportation. The proceeds must be converted into Thai currency or deposited in a foreign currency account with an authorized bank in Thailand within 360 days of receipt.

3.3.4 Export assistance and incentives

3.90. Thailand maintains several schemes mainly to facilitate exports, including bonded warehouses (section 3.2.2.8), duty drawback, and other provisions allowing for duty and tax refunds, as well as tax and non-tax privileges under the Industrial Estate Authority of Thailand Act (No. 4) B.E. 2550 (2007) and the customs free zones scheme.

3.91. In line with the Ministerial Decision of 7 December 2013 (WT/MIN (13)/40, WT/L/915, 11 December 2013) Thailand replied to the two WTO Export Competition questionnaires that were circulated on 10 February 2014 and on 26 November 2014, and discussed at the Committee on

Agriculture on 5 June 2014 and 4 June 2015, respectively. In its replies, it indicated the absence of export subsidies as well as the state trading enterprises and export financing mechanisms for agricultural products. Thailand supplied 500 tonnes of rice as international food aid in emergency situations in 2012 (Philippines) and again in 2014 (Malaysia).⁷⁹ Replies to the questionnaire and information coming from the notifications can be found in the meeting documents.

3.3.4.1 Duty drawback

3.92. The duty drawback scheme under Section 19 *bis* of the Customs Act (No. 9) B.E. 2482 (1939) remains unchanged.⁸⁰ Exporters may obtain a refund of import duties paid on imported raw materials that are used in the production, mixing, assembling or packing of goods which are exported within one year. Different formulas apply for calculating these refunds depending on the type of product concerned. Claims for drawback must be made within six months from the date of export. Machinery, tools, moulds, and fuels for manufacturing are not eligible for duty drawback. No information on the total amounts disbursed, total export values, and main beneficiaries under this regime was available from the authorities.

3.3.4.2 Tax and duty compensation

3.93. Under the Tax and Duty Compensation of Exported Goods Produced in the Kingdom Act B.E. 2524 (1981), exported goods manufactured in Thailand continue to be eligible for tax coupons, which may be used to pay taxes and duties.⁸¹ The scheme also covers goods not granted duty drawback or exemption under other laws. Tax and duty compensation for exports is set as a fixed percentage of the f.o.b. value and is calculated on both the proportion of raw materials/inputs used for production (according to the National Economic and Social Development Board input/output table), and their average tariff. In order to minimize the risk of over- or under-compensation, the compensation rate is regularly adjusted to reflect changes in the input/output ratio and the tariff rates on inputs. Items that are not eligible for tax coupons include minerals, goods subject to export duties or fees, goods exported as samples, and other goods declared as not eligible by the Committee for Tax and Duty Compensation of Exported Goods Produced in the Kingdom. According to the authorities, this programme aims to facilitate tax compensation, and the compensation provided must comply with the criteria and conditions prescribed in the 1981 Act. Since 2012 the compensation rates have ranged from 0.01% to 2.38% (3.86% in 2009) of the f.o.b. value. No information on the total amounts disbursed, total export values, and main beneficiaries under this regime was available from the authorities.

3.3.4.3 Industrial Estate Authority of Thailand free zones

3.94. Under the Industrial Estate Authority of Thailand (I-EA-T) Act (No. 4) B.E. 2550 (2007), investors in an I-EA-T free zone are entitled to a number of tax and non-tax privileges.⁸² Tax privileges include exemptions from import duty, value added tax (VAT), and excise tax on factory construction materials, machinery, equipment, components, and raw materials necessary for the production of goods or for commercial purposes, as well as exemption from export duties and taxes. No export requirements are imposed as a condition to obtain these benefits. Non-tax privileges for I-EA-T free zone investors include the right to own land for their business operations, bring in foreign technicians and experts and their dependants, permission to remit foreign currencies, and the eligibility to bring supplies or raw materials for production into an I-EA-T free zone, without being subject to import permits, standard and quality controls, or any other control except for those under the Customs Act. The 2007 I-EA-T Act provides tax burden relief for goods from the I-EA-T free zones sold to the local market; the raw materials and components are entitled to tax and duty exemptions if they are produced locally.

⁷⁹ WTO document G/AG/W/125/Rev.2, 19 May 2015, and its 4 addenda.

⁸⁰ Customs Department online information. Viewed at: <http://www.customs.go.th/wps/wcm/connect/custen/traders+and+business/customs+incentive+schemes/duty+drawback+under+section+19+bis/dutydrawbackunder>.

⁸¹ Customs Department online information. Viewed at: <http://www.customs.go.th/wps/wcm/connect/custen/traders+and+business/customs+incentive+schemes/tax+compensation/taxcompensation>.

⁸² WTO documents G/SCM/N/220/THA - G/SCM/N/253/THA, 11 July 2013 and WT/TPR/S/255/Rev.1, 8 February 2012.

3.95. Operations at I-EA-T free zones have declined during the review period due to the slowdown of the economy. In 2013 there were 60 (166 in 2011) companies operating in all I-EA-T free zones which employed 20,616 persons (11,112 in 2011); their exports represented 8.6% (18.9% in 2011) of total exports, and 6.9% (13.9% in 2011) of total imports.⁸³ Between 2011 and 2013, exports of companies in the I-EA-T free zones have exceeded their imports by 29.2% (2011), 25% (2012), and 13% (2013). Currently, the main industries that requested to use the land in I-EA-T free zones in 2012, 2013, and the first quarter of 2014 produced electronics, automotive and transportation products or items, jewellery, plastic and rubber, engines and parts, steel and metal products, leather and clothing, textiles, food and beverages, and musical instruments, and sports equipment.

3.3.4.4 Customs free zones

3.96. The 2000 Customs Department free zones (FZ) programme to promote investment in and exports from these zones, remains unchanged. Goods imported and moved into an FZ for industrial or commercial operations are eligible for exemption from import duties, VAT, and excise tax (section 3.4.1.1.1) as well as from export duty on re-exports, duty on waste and scrap, and yield loss, and standard and quality control requirements; they may also qualify for export tax refund/exemption schemes.⁸⁴ At present, there are 84 (62 in 2011) FZs consisting of 327 commercial and industrial units (packaging, electronics, machines, tools and jewellery); in 2013 and 2014 they accounted for 7.2% and 9.3% of total exports respectively. No information on the total amounts disbursed under this regime was available from the authorities.

3.3.5 Export financing and insurance

3.97. The state-owned Export-Import Bank of Thailand (EXIM Bank) under the supervision of the Ministry of Finance provides a comprehensive range of credit and insurance facilities to promote exports of goods and services as well as domestic and overseas investment aimed at expanding Thailand's commercial base. Its facilities include working capital loans⁸⁵, term loans, financing for overseas projects, export credit insurance, buyers/bank risk assessment, buyer's credit, and export insurance.⁸⁶ According to the authorities, at the time of the previous TPR the EXIM Bank held approximately 1% of the export financing market and operated in a competitive environment with commercial banks. Since the EXIM Bank must generate its own funds, it offers its credit and insurance facilities at market prices based on risk, so as to ensure that it can make a profit. In 2013 and 2014, the Bank recorded a net profit of B 1.3 billion and B 1.5 billion, with remittance to the Ministry of Finance of B 386 million and B 747.5 billion, respectively.⁸⁷

3.98. The EXIM Bank provides short-, medium-, and long-term credits, in Thailand and overseas, and in local or foreign currency. Export credit is offered pre- or post-shipment. The term of financing is determined by product type: for pre-shipment financing, it does not normally exceed 120 days, while term loans are available from 2 to 7 years. EXIM Bank applied interest rates are available online (<http://www.exim.go.th/en/interestrates/interest.aspx>). Under the EXIM Bank of Thailand Act B.E. 2536 (1993), any severe loss incurred by the Bank from export credit-insurance or business operations carried out in compliance with government policies or cabinet resolutions are to be compensated by the Ministry of Finance through the allocation of funds from the Government's annual budget. According to the authorities that compensation would cover only severe losses from specific operations approved by the Government, and that this has never happened.

3.99. The EXIM Bank offers several types of export-credit insurance covering commercial and political risks (not exchange rate fluctuations). It is the only financial institution providing short-term insurance. Its Exim Flexi export-credit insurance offers reduced premiums and faster approval, and covers up to 90% of loss realized. At present its EXIM 4 SMEs scheme provides

⁸³ I-EA-T (2013).

⁸⁴ For additional information on the FZ regime, see Customs Department online information. Viewed at: http://www.customsclinic.org/index.php?option=com_content&view=article&id=155&Itemid=202&lang=en.

⁸⁵ Working capital financing includes a broad range of facilities such as pre-shipment financing, express export credit, pre-shipment financing for small- and medium-sized enterprises, export supplier's credit, and packing credit, plus export-credit insurance.

⁸⁶ For terms and eligibility for these programmes, see EXIM Bank online information. Viewed at: <http://www.exim.go.th/en/services/services.aspx?Type=Financial>.

⁸⁷ Export-Import Bank of Thailand (2014).

export-credit insurance with discounted premium rates for small and medium-sized enterprises (SMEs)⁸⁸ with export sales not exceeding B 200 million a year. The EXIM Bank participates in a Portfolio Guarantee Scheme with the Small Business Credit Guarantee Corporation (SBCG) that provides guarantees against non-performing loans (NPLs). Under this scheme, the EXIM Bank is able to expand its credits to SME exporters, with a required collateralized amount not exceeding 30% of the credit line. In 2013 and 2014, the Bank approved export credit insurance facilities covering foreign buyers in 79 and 78 countries with an insured export turnover of B 129.4 billion and B 84.7 billion respectively; petroleum, natural gas and related products occupied the largest share of insurance turnover, followed by canned and processed seafood, and chilled and frozen seafood.⁸⁹

3.100. EXIM Bank's financing facilities consist of trade financing (20%) and medium- to long-term loans for investment projects (80%), while its insurance business is composed of export credit insurance (88%) and investment insurance (12%).⁹⁰ In 2014 it posted a net profit of B 1.5 billion, up B 200 million from 2013, generating trade and investment worth B 149.9 billion. Giving priority to SME exporter promotion, EXIM Bank expanded its SME customer base to 83.6% of its overall customer portfolio in 2014; its new SME loan approval during the year amounted to B 10.8 billion, with an aggregate SME loan amount of B 56.3 billion, and loan outstanding worth B 22.9 billion out of the Bank's total loan outstanding of B 73.2 billion. In 2014, the EXIM Bank's aggregate amount of international project financing facilities stood at B 59 billion, 89% of which was dedicated to investment projects in Cambodia, Lao PDR, Myanmar and Viet Nam. As at end-2014, the Bank's non-performing loans (NPLs) accounted for B 4.1 billion or 5.6% of the Bank's total loan outstanding; allowance for doubtful accounts amounted to B 4.7 billion. As at end-December, 2014, EXIM Bank approved B 4.2 billion in new merchant marine loans, a facility aimed at promoting the development and utilization of the Thai shipping fleet, with an aggregate maritime loan approval amount of B 13.2 billion and loans outstanding worth B 11.8 billion, up 24.9% from B 9.4 billion in 2013.⁹¹

3.101. In 2015, EXIM Bank is launching five new products: the SMEs Export Delight (38 cases, B 403 million, as of June 2015), a 180-day working capital loan plus short-term export credit insurance to protect exporters from non-payment risk by foreign buyers, with attractive interest rates and a credit line up to six fold the collateral value targeting non-EXIM customer SMEs⁹²; the SMEs Border Trade (3 cases, B 22 million), a one- to two-year term loan of up to B 10 million per business engaging in cross border trade with Lao PDR, Myanmar, Cambodia, Malaysia and Viet Nam; the SMEs Relocation & Expansion (1 case, B 30 million), a long-term loan featuring a credit line up to B 30 million or baht equivalent with a maximum repayment period of 7 years catering for legal entities registered in Thailand or abroad, having business experience of 3 years and over aiming to relocate or expand their business in foreign countries; the Financing Facility for Special Economic Development Zones (no cases), a long-term loan with a repayment period of up to 15 years to finance investment projects in special economic development zones declared by the Committee on Special Economic Development Zone Policy, industrial estates and border provinces; and, the Buyer's PLUS Supplier's Credit (no cases) – a financial package arranged for Thai exporters to offer to their ASEAN Economic Community counterparts interested in purchasing Thai goods and services.⁹³

⁸⁸ SMEs refer to any Thai companies with fixed assets of less than B 200 million and number of employees not exceeding 200 people.

⁸⁹ Export-Import Bank of Thailand (2014).

⁹⁰ EXIM Bank Press Release, "EXIM Thailand Announces 2014 Operating Results and 2015 Business Policy Launching Five New Products to Promote SME Exporters, Border Trade and Business Expansion", 12 February 2015. Viewed at: http://www.exim.go.th/doc/adn/5800005109_0.pdf.

⁹¹ This facility is for loans repayable in up to 7 years covering up to 75% of the value of a ship (new or not over 20 years old) purchased by a Thai registered company, with majority shares owned by local Thai citizens. The ship must be registered in Thailand and carry the Thai flag, and engage mainly in international cargo shipping. EXIM Bank online information. Viewed at: http://www.exim.go.th/en/services/projectFinance.aspx?type=hls2_1; and EXIM Bank Press Release, "EXIM Thailand Announces 2014 Operating Results and 2015 Business Policy Launching Five New Products to Promote SME Exporters, Border Trade and Business Expansion", 12 February 2015. Viewed at: http://www.exim.go.th/doc/adn/5800005109_0.pdf.

⁹² The authorities indicated that the interest rates are lower than the banks' prime rate, but not lower than the market rate or the financial cost; therefore, they are not considered a subsidy. EXIM Bank uses funds from its money and capital markets.

⁹³ EXIM Bank Press Release, "EXIM Thailand Announces 2014 Operating Results and 2015 Business Policy Launching Five New Products to Promote SME Exporters, Border Trade and Business Expansion", 12 February 2015. Viewed at: http://www.exim.go.th/doc/adn/5800005109_0.pdf.

3.4 Other Measures Affecting Production and Trade

3.4.1 Taxation

3.102. Tax revenues in Thailand were estimated at B 2 trillion in FY2013/14 (B 1.8 trillion in FY2010/11), which was about 15.4% of GDP (15.8% in FY2010/11) (Table 1.1); in FY2013/14, corporate income tax, value added tax (VAT), and excise tax accounted for 74.6% of the tax revenues, while customs duties (import and export) accounted for 5.2%, virtually all collected on imports (down from 6.2% in FY2011/12, a peak year) (Table 3.5).

Table 3.5 Central government tax revenue, by source, 2010/11-2013/14

(Year ending 30 September)

	2010/11	2011/12	2012/13	2013/14
Total tax revenue (B billion)	1,798.0	1,868.8	2,132.8	2,013.4
	(% of total tax revenue)			
Taxes on income, profits, and capital	47.4	46.2	44.6	44.1
Payable by individuals	11.9	12.9	12.6	12.1
Payable by corporations and other enterprises	35.5	33.3	32.0	32.0
Taxes on goods and services	46.3	46.9	49.5	49.9
Value added taxes	21.8	24.1	22.3	23.8
Excise tax	22.0	20.1	20.1	18.8
Profits of fiscal monopolies	0.3	0.3	0.3	0.6
Taxes on specific services	2.0	2.2	2.3	2.6
Taxes on use of goods, permission to use goods	0.2	0.2	4.6	4.1
Taxes on international trade and transactions	5.5	6.2	5.2	5.2
Import duties	5.5	6.2	5.1	5.2
Export duties	0.0	0.0	0.0	0.0
Other taxes	0.7	0.7	0.7	0.7

Source: Ministry of Finance online information.

3.4.1.1 Indirect taxes

3.103. During the review period Thailand's reliance on indirect taxes has slightly risen with the VAT and excise tax remaining the second and third most important sources of tax revenue (Table 3.5). In addition to the customs tariff and import surcharge, two indirect taxes continue to be levied on imports: the excise tax, and VAT. They are all collected on imports at the same rates as on domestic production but the imposition of all indirect taxes may increase considerably the domestic price of an imported item compared to its c.i.f. value.⁹⁴ A longstanding WTO dispute settlement case against Thailand's, *inter alia*, excise tax, and VAT regime imposed upon cigarette importers was seemingly concluded (section 3.2.1.2).

3.4.1.1.1 Excise tax

3.104. Excise taxes are maintained on 15 product groups (including yachts and boats, in practice exempt) and 6 groups of services (including certain telephone services in practice zero rated or exempt), although over 90% (FY2010/11-2013/14) of revenue is derived from four product groups: petroleum products (16.6% in FY2013/14), liquors/alcohol/beer (36.9%), tobacco (15.9%), and motor vehicles (24.4%).⁹⁵ Excise taxes involve *ad valorem*, specific, or alternative rates (an *ad valorem* or specific rate; the higher of the two is applied). Since 1 October 2013, applied *ad valorem* rates have been as high as 87% (for cigarettes); rates of 40% and 50% are charged on automobiles with cylinder capacity exceeding 2,500 cc and 3,250 cc, respectively, thus disproportionately and implicitly affecting foreign luxury vehicles and favouring domestic low engine capacity production subject to rates of up to 35%. The same occurs for motorcycles with rates of 10% and 20% for cylinder capacity exceeding 500 cc and 1,000 cc respectively, as compared to 3% and 5% for lower capacities. On 24 April 2013 a new excise tax

⁹⁴ WTO document WT/TPR/S/191/Rev.1, 6 February 2008.

⁹⁵ More specifically these product groups comprise petroleum and petroleum products, beverages, liquor, tobacco and cigarettes, electrical appliances (including air-conditioners for cars), lead crystal and other type of crystal, automobiles, motorcycles, boats, perfumes and cosmetics, carpet and other floor covering materials, marble and granite (in practice exempt), batteries, ozone depleting halogenated hydrocarbon acrylic, entertainment or recreational activities, playing cards, gambling, and, business with an environmental impact (i.e., golf courses). Excise Department/Ministry of Finance (2013).

structure was approved and expected to enter into force in 2016; the excise tax level is determined by engine size, carbon emission and types of fuel used.⁹⁶ The level of the excise tax rate charged per litre of pure alcohol differs depending on the beverage and alcoholic content; rates range from zero (ethanol spirit) to B 1,000 per litre of pure alcohol (wine from grapes), compared to white spirits at B 145 per litre of pure alcohol and B 155 per litre of pure alcohol on beer. As of December 2014, the authorities changed the basis for determining excise tax rates on beer, now based on alcohol content; they indicated that as a result of a 60% MFN import duty most foreign brands face a higher rate.⁹⁷

3.105. Concerns over allegedly discretionary excise tax practices affecting alcoholic beverages and automobiles were raised during the review period. In September 2013, an amendment of the Thai Liquor Act imposed new applied and ceiling excise tax rates on alcohol which trigger a discrimination between 'white liquor' (most often locally produced) and 'vodka', the latter attracting a higher tax; ceiling rates range from zero to 60% (*ad valorem*) and B 2,000 (specific).⁹⁸ Despite reducing rather than eliminating longstanding unequal treatment between imported and local spirits in 2012, under the 2013 amendments the specific ceiling value of the excise tax rate for wine (which is mainly imported) was sharply increased and the applied (and ceiling) rates now comprise a specific rate duty and *ad valorem* components (calculated as a percentage of the last wholesale price excluding VAT ("LWP")).⁹⁹ Discrimination between "white liquor" and "vodka" as well as sales licensing fees has been maintained. The lack of a definition for wine as well as weak product labelling regulations have created a loophole for domestic bottling operators allowing imports of wine in bulk to be mixed with a minor content of fruit to produce fruit wines sold as local "wines" with lower excise tax rates.¹⁰⁰ Additionally, under the 2013 amendments, the ceiling rate of excise tax varies according to the type of alcoholic beverage.¹⁰¹ The authorities indicated that Thailand maintains the licence application process for all seven categories of liquors/alcoholic beverages; the same excise tax rate is also maintained for both domestically produced and imported wine and other alcoholic beverages containing fruit contents.

3.106. Concerns about automobiles relate to the various vehicle characteristics, such as engine size, weight, and wheelbase used in the excise tax calculation that is considered as complex and favouring domestically manufactured vehicles.¹⁰² Furthermore, the 2016 excise tax structure (see above) may not be technologically neutral, e.g. a hybrid car emitting CO₂ higher than 100 g/km will be subject to a higher excise tax (20%-50% excise tax) than an eco-car emitting CO₂ higher than 100 g/km (17% excise tax).¹⁰³ The authorities indicated that for excise taxes on a hybrid car and an eco-car, in principle, three elements are taken into account: the CO₂ emission, the size of engine, and the type of fuel, to determine the level of environmental friendliness, which the tax structure encourages.

3.107. All export goods are exempt from excise tax. The valuation basis for domestic production is the manufacturer's selling price (i.e. the ex-factory price, except for liquor and alcoholic beverages, which use the last wholesale price as the basis according to the Liquor Act amended

⁹⁶ Ministerial regulations under the Excise Tariff Act, B.E. 2527 (1984); European Commission Directorate-General for Trade (2014).

⁹⁷ Economist Intelligence Unit (2014b).

⁹⁸ European Commission Directorate-General for Trade (2014).

⁹⁹ On 28 August 2012, the authorities increased the excise tax applied to 'white liquor' from B 120 per litre to B 150 per litre and the tax on 'brown liquor' (local whiskey) from B 300 per litre to B 350 per litre, bringing it closer to the levels imposed on imported spirits, and levelled-up retail sales licence fees on domestic spirits moderately. Under the Thai Liquor Act, other imported spirits such as whiskey, brandy and vodka are subject to a higher tax rate of B 400 per litre. European Commission Directorate-General for Trade (2014).

¹⁰⁰ The 2013 amendment also retains a clear differentiation between local "fruit wines" (i.e. wines with some addition of fruit juices) and imported "wines" as well as between local "white spirits" and imported "white spirits" (imported white spirits such as vodka are classified as "other distilled spirits" subject to a higher tax than local white spirits). For spirits, a partially simplified tax structure has been introduced by combining different types of distilled spirits into two main categories, namely "white liquor" (Lao Kao) and "other distilled spirits", thereby maintaining the existing differentiation in favour of white liquor. European Commission Directorate-General for Trade (2014).

¹⁰¹ For fermented products (such as wine), the maximum tax of *ad valorem* tax is maintained at 60% but the specific rate of duty is increased sharply from B 100 to B 2,000 per litre of 100% alcohol or B 300 per litre, whichever is higher. European Commission Directorate-General for Trade (2014).

¹⁰² USTR (2015a).

¹⁰³ European Commission Directorate-General for Trade (2014).

in 2013) and in the case of services the total gross receipts. The valuation basis for imports comprises the c.i.f. price plus import duty and any other taxes and fees (if any).

3.108. As from 27 March 2015 a 2% sports tax on the amount of the excise tax has been levied on alcoholic beverages and tobacco products. Revenue from the sports tax is to be deposited in a Sports Fund.¹⁰⁴

3.4.1.1.2 Value added tax (VAT)

3.109. The standard rate of VAT remains at 7% and the authorities indicated that they do not intend to increase it to 10% by October 2015, a rise scheduled but never implemented in the past; it applies to all goods and services, with exemptions only for books, education, hospitals, unprocessed agricultural products, fertilizers, animal feeds, pesticides, and certain other social goods and services.¹⁰⁵ Also exempt are small businesses with a turnover of less than B 1.8 million, goods exempt from import duties, and imports intended for re-export. VAT on imports is charged on the c.i.f. price plus import duty plus excise tax plus other taxes and fees (if any). A zero rate of VAT is charged on exports of goods and services, air and sea vessels engaged in international transport, and the supply of goods and services between bonded warehouses or enterprises located in free zones (sections 3.2.2.8 and 3.3.4.4).

3.4.1.2 Direct taxes

3.110. Corporate income tax is levied on Thai companies on their worldwide net profits and on foreign companies, with some exceptions, on net profits from business in Thailand. For the fiscal years 2013, 2014, and 2015 tax rates varied from 15% (small company) to 20% (10% to 30% in 2011) depending on the size of the company, whether it is listed on the stock exchange or the Market for Alternative Investment; certain types of income paid to companies are subject to withholding tax at source.¹⁰⁶ Foreign companies engaged in international transport or receiving income from Thailand while not engaged in business in the country pay an income tax at 3% on gross receipts while foreign companies disposing of profit out of Thailand and banks deriving profits from International Banking Facilities (IBFs)¹⁰⁷ pay tax at 10% on the amount disposed. A number of exceptional allowances are applied in calculating taxable profit, including a 200% tax deduction of expenses on R&D, job training, and special measures/equipment for disabled persons; as of end-June 2015 the rise of the 200% tax deduction to 300% was to be submitted for Cabinet's approval. In addition, initial capital allowances of 40% are applied to machinery and computers for SMEs (defined in section 3.3.5). The Government also continues to allow businesses to choose the "double declining balance" method of accelerated depreciation, by which assets can be depreciated at twice the rate of the straight line method.¹⁰⁸ This measure is intended to increase the after-tax cash flow of businesses and encourage them to reinvest their profits in new assets.

¹⁰⁴ *Bangkok Post*, "Cigarette, beer prices hiked by 2%", 28 March 2015. Viewed at: <http://www.bangkokpost.com/news/general/510904/cigarette-beer-prices-hiked-by-2>; *The Phuket news*, "Phuket: Booze, smokes prices set for 2% rise", 24 February 2015. Viewed at: <http://www.thephuketnews.com/phuket-booze-smokes-prices-set-for-2-rise-51144.php#sthash.el215krY.dpuf>.

¹⁰⁵ Thailand's ruling National Council for Peace and Order has extended the 7% VAT rate until 30 September 2015. The VAT rate in Thailand is set by the Revenue Code at 10%. Similarly to past attempts, in 2012, the rate was scheduled to increase to 10% but the 7% rate was extended until 2014. Revenue Department online information. Viewed at: <http://www.rd.go.th/publish/6043.0.html>; Board of Investment online information. Viewed at: http://www.boi.go.th/index.php?page=vat_tax_rates; and Thompson Reuters online information. Viewed at: <https://tax.thomsonreuters.com/blog/onesource/indirect-tax/thailand-maintains-vat-7-vat-rate-october-2015/>.

¹⁰⁶ Revenue Department online information. Viewed at: <http://www.rd.go.th/publish/6044.0.html>.

¹⁰⁷ At Thailand's 2008 TPR it was indicated that the low tax rate to International Banking Facilities (IBFs) was in an attempt to develop Thailand's financial sector by implicitly subsidizing foreign exchange borrowing by Thai enterprises. This incentive applies to "out-out banking facilities" and it means: accepting deposits or borrowing in foreign currencies from sources outside Thailand for the purpose of lending in foreign currencies outside the country; and accepting deposits or borrowing in Thai baht from foreign banks or overseas branches of commercial banks for the purpose of lending in Thai baht to foreign banks or overseas branches of commercial banks. WTO document WT/TPR/S/191/Rev.1, 6 February 2008.

¹⁰⁸ The double declining balance is a depreciation method acceptable by accounting standards. Consequently, the authorities consider that it should not be regarded as an incentive.

3.111. A Petroleum Income Tax (PT) at rates of 23.08%, 35% or 50% depending on the taxpayer's status continues to be levied annually on net profits from petroleum exploration and production; at the same time, a withholding tax is due at rates of 15%, 23.08%, 35%, or 50%.¹⁰⁹ A Specific Business Tax (SBT) continues to apply to certain types of activities that are exempt from VAT, such as banking, life insurance, real estate, pawn brokering, and repurchasing agreements.¹¹⁰ The tax continues to be applied to total income from these activities at 2.5% or 3% depending on the activity; a 10% local/municipality tax is imposed on top of SBT.

3.112. Personal income tax in Thailand is levied on individuals, ordinary partnerships, or undivided estates and is charged on regular income, including dividends, interest on deposits in banks in Thailand, shares of profit, gains from transferring shares, rents, contracts, etc.¹¹¹ A wide range of deductions and allowances is permitted, and the tax rate for the years 2013, 2014, and 2015 for income of more than B 150,000 (tax exempt threshold) continued to be applied progressively at a range of 5% to 35% (37% in 2011) on annual incomes (net of deductions and allowances) over B 4 million. Income from dividends and interest payments from government bonds or financial institutions that are specified by law for lending to promote agriculture, commerce or industry, may be excluded from the calculation of income tax, provided a withholding tax is paid at source.

3.4.1.3 Paying taxes

3.113. In addition to income tax, excise tax, and VAT, companies and individuals are also potentially liable for stamp duties and local taxes. Although in many cases the rates of tax are not necessarily high the structures of different taxes, particularly excise tax, are complex and completing forms and estimating tax liabilities is time-consuming. According to World Bank business data, Thailand stands 62nd in the ranking of 189 economies (91st out of 183 in 2010) on the ease of paying taxes, an above average position within the East Asia/Pacific region; on average, firms make 22 tax payments a year, spend 264 hours a year filing (same as in 2010), preparing and paying taxes and pay total taxes amounting to 26.9% of profit.¹¹²

3.4.2 Production assistance

3.114. Domestic support continues to be largely based on tax incentives such as exemption/reduction of corporate income tax, exemption/reduction of import duties on machinery, reduction of import duties on raw materials, and special (e.g., double) deduction of certain expenditures. During most of the review period Thailand's production assistance legislation remained relatively unchanged until the announcement of the 2014 policies and incentives which were not yet notified to the WTO (section 3.4.2.1). Other changes involved BOI support for flood-affected investment in 2012 and investment promotion for sustainable development in 2013.¹¹³

3.115. Since its last TPR, Thailand has made a single notification pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the WTO Agreement on Subsidies and Countervailing Measures; the notification briefly covers some of the BOI investment promotion incentives (section 3.4.2.1) and the benefits provided by the Industrial Estate Authority of Thailand (section 3.3.4.3) for the period from 1 January 2009 to 31 December 2012.¹¹⁴ According to this notification there is no specific budget earmarked for investment promotion incentives, therefore, neither information on the subsidy per unit nor statistics on corporate income tax exemption and reduction are available.¹¹⁵ Consequently, the tax authorities continue to not publish information on revenue forgone as a consequence of these measures. Nor do they rigorously and systematically evaluate their impact

¹⁰⁹ Revenue Department online information. Viewed at: <http://www.rd.go.th/publish/38686.0.html>.

¹¹⁰ Revenue Department online information. Viewed at: <http://www.rd.go.th/publish/6042.0.html>.

¹¹¹ Revenue Department online information. Viewed at: <http://www.rd.go.th/publish/6045.0.html>.

¹¹² World Bank (2014a); Doing Business online data. Viewed at: <http://www.doingbusiness.org/data/exploreeconomies/thailand/>.

¹¹³ BOI No. 1/2555, Tax Measures to Rehabilitate Flood-Affected Investment, 23 February 2013; Order of Board of Investment 1/2555, Establishment of Sub-Committee on Projects under Measures to Rehabilitate Flood-Affected Investment, 23 February 2013; and BOI No. 1/2556, Investment Promotion for Sustainable Development, 28 February 2013. Viewed at: http://www.boi.go.th/index.php?page=boi_announcements.

¹¹⁴ WTO document G/SCM/N/220/THA - G/SCM/N/253/THA, 11 July 2013.

¹¹⁵ WTO document G/SCM/N/220/THA - G/SCM/N/253/THA, 11 July 2013.

and effectiveness. Experience in other countries suggests that tax incentives are seldom cost-effective.¹¹⁶

3.4.2.1 Board of Investment incentives

3.116. To improve Thailand's regional competitiveness in attracting investment, the Board of Investment's¹¹⁷ (section 2.5) promotion policies were revised for a seven year period (2014-2021) and its new incentives scheme became effective as of 1 January 2015.¹¹⁸ According to the authorities, changes under the new scheme consist of a shift from a zone-based incentive scheme to an activity and merit-based incentive scheme. Generally, the objective for investment promotion is to be more focused and as a result tax incentives are considerably less compared to those of the old scheme. BOI's current policy is to promote valuable domestic and overseas investment that: enhances competitiveness by encouraging R&D, innovation, value creation in the agricultural, industrial, and services sectors, SMEs, fair competition and inclusive growth; is environment-friendly, saves energy or uses alternative energy to drive balanced and sustainable growth; creates investment concentration in line with regional potential and strengthens value chains; helps develop the local economy at border provinces in Southern Thailand in support to efforts for security enhancement; supports special economic development zones, especially in border areas, both inside and outside industrial estates, to create economic connectivity with neighbouring countries and to prepare for entry into the ASEAN Economic Community (AEC); and, enhances Thai overseas investment and Thailand's role in the global economy.¹¹⁹ According to the authorities, currently there are neither incentives in place nor any plans for new incentives for Thai companies investing abroad. The BOI only provides consultation services domestically as well as training programs aimed to prepare companies in their ventures abroad.

3.117. The recently amended rules, which remain similar to those that they replaced and are equally complex, provide for activity- and merit-based (i.e., competitiveness enhancement, decentralization, industrial area development) incentives as well as production efficiency improvement incentives. The amended scheme still covers over 200 business activities, most of which also were covered under the previous set of incentives.¹²⁰ Depending on the type of activity concerned they consist of: total or partial corporate income tax exemptions over different periods of time (from 3 to 8 years); double deduction for transportation, electricity and water costs for 10 years; deduction from net profit of 25% of the project's infrastructure installation or construction costs in addition to normal depreciation; import duty exemptions on machinery and raw or essential materials (for 1 year with possible extension) used in manufacturing export products; and, other non-tax incentives (e.g., permit to own land). Investment in certain activities of special importance and benefit to the country are granted unlimited corporate income tax exemption (i.e., without an exemption cap).¹²¹

¹¹⁶ Most econometric studies show that forgone tax revenues exceed the increase in desired investment. Tax holidays are regarded as a particularly ineffective type of tax incentive compared with tax credits. WTO document WT/TPR/S/191/Rev.1, 6 February 2008.

¹¹⁷ The Board of Investment is under the Prime Minister's Office and is the principal government agency for encouraging investment.

¹¹⁸ Thailand has had difficulties in competing on the basis of low labour costs with Indonesia, India and Viet Nam; at the same time, it has not been successful in attracting high-tech industries, in part because other regional rivals such as Malaysia and Singapore offer more attractive incentives. Economist Intelligence Unit (2014b).

¹¹⁹ Announcement of the Board of Investment No. 2/2557, "Policies and Criteria for Investment Promotion", 3 December 2014. Viewed at: http://www.boi.go.th/upload/content/newpolicy-announcement%20as%20of%2020_12_57_33650.pdf; Announcement of the Board of Investment No. 1/2557, Measure to Promote Improvement of Production Efficiency, 16 September 2014; Announcement of the Board of Investment No. 3/2557, Investment Promotion for Industrial Development in the Southern Border Provinces, 18 December 2014; and, Announcement of the Board of Investment No. 4/2557, "Investment Promotion in Special Economic Development Zones", 18 December 2014. Viewed at: http://www.boi.go.th/index.php?page=boi_announcements.

¹²⁰ Economist Intelligence Unit (2014b).

¹²¹ These activities relate to: economic forest plantations (except for eucalyptus); creative product design and development centres; manufacture of airframes, airframe parts and major aircraft appliances (e.g. engines, aircraft parts, propellers and avionics); electronic design; software development; production of electricity or steam power from waste or refuse-derived fuel; Energy Service Company (ESCO); industrial zones or technology industrial zones; cloud services; research and development; biotechnology, engineering design; scientific laboratories; calibration services; and, vocational training centres. Exemption cap means the limit of corporate income tax exemption which is subject to capital investment excluding cost of land and

3.118. Under the new rules project approval depends on the fulfilment of conditions almost identical to the old rules including: development of competitiveness in the agricultural, industrial and services sectors (including value-added thresholds, modern production processes, new machinery); environmental protection; and, minimum capital investment (generally B 1 million excluding cost of land and working capital) and project feasibility. **Foreign shareholding in projects depends on the type of activity** and is as follows: Thai nationals must hold shares not less than 51% of the registered capital (activities in List One annexed to the Foreign Business Act, B.E. 2542); or no equity restrictions for foreign investors except as otherwise specified in other laws (activities in List Two and List Three of same Act); or the BOI setting foreign shareholding limits as deemed appropriate (section 2.5). Investment promotion zones are set as follows: twenty provinces with low per capita income¹²²; special economic development zones (SEZs, section 1.7)¹²³; and, Science and Technology Parks promoted or approved by the BOI.

3.119. During the period 2011-2015, most of BOI's incentives were tax-related.¹²⁴ The non-tax incentives included permits to own land and to transfer money out of Thailand. A number of restrictions on foreign shareholdings, namely, projects in agriculture, animal husbandry, fisheries, mineral exploration, and mining, as well as certain services, including some telecommunications and financial services and those related to land trading, media, and trading in antiques were applied involving a requirement that at least 51% of registered capital is in Thai hands. In order to qualify for tax incentives by the BOI, a project has to meet value-added, debt to equity ratio, machinery, environmental protection, and investment capital criteria. The incentives granted to investment projects depended on the region of the country and the location of the project, i.e., Zone 1 (the more developed areas (Bangkok and the bordering provinces)) with least incentives, Zone 2 (the provinces around Zone 1 plus Phuket in the south), and the least-developed Zone 3 (the rest of the country) with maximum incentives. In all cases, approved projects qualified for a five-year exemption (with possible one-year extension) from import tariffs on raw material and essential goods used in manufacturing exported products. In addition partial or full exemption of the corporate income tax (from 2 to 8 years with possible 5-year extension of tax reduction) and in import tariffs on machinery was in place. In order to further encourage decentralization, the Board of Investment also provided incentives for the relocation of existing factories to other regions. Incentives were also available under the Skill, Technology and Innovation (STI) Scheme and to promote research and development cooperation between the industrial sector and educational institutions. The aforementioned schemes have either expired or were replaced with the new seven-year BOI investment policy.

3.120. Between 2012 and 2014, approved projects dropped progressively from 2,260 to 1,662 due to the decline of applications in year 2013 compared to 2012, and the massive influx of applications right after the announcement of the seven-year BOI investment promotion policy in December 2014 alone (60% of all applications in the year 2014).¹²⁵ In 2014, 35.4% (39.2% in 2012) of BOI-approved projects were 100% foreign-owned investments and 22.4% (24.8% in 2012) were joint ventures; 26.9% (31.8% in 2012) of these projects were export-oriented.

working capital. Therefore "without exemption cap" means that an investment project enjoys unlimited corporate income tax exemption during the exemption period which varies from 3 to 8 years depending on the activities concerned. Announcement of the Board of Investment No. 2 /2557, "Policies and Criteria for Investment Promotion", 3 December 2014. Viewed at: http://www.boi.go.th/upload/content/newpolicy-announcement%20as%20of%2020_12_57_33650.pdf.

¹²² These provinces are Kalasin, Chaiyaphum, Nakhon Phanom, Nan, Bueng Kan, Buri Ram, Phrae, Maha Sarakham, Mukdahan, Mae Hong Son, Yasothon, Roi Et, Si Sa Ket, Sakon Nakhon, Sa Kaew, Sukhothai, Surin, Nong Bua Lamphu, Ubon Ratchatani and Amnatcharoen.

¹²³ There are currently 5 special economic zones (SEZ) which have somewhat different target activities; 1. Tak SEZ - Agro-industry, fishery industry, ceramic products, textiles and garments, leather products, furniture, gems, jewellery, engine and vehicle parts, machinery, equipment, electronics and electrical appliances, logistics, industrial zones/estates, tourism services; 2. Mukdahan SEZ - Agro-industry, fishery industry, electronics and electrical appliances, logistics, industrial zones/estates, tourism services; 3. Sa Kaeo SEZ - Agro-industry, fishery industry, textiles and garments, leather products, furniture, gems, jewellery, engine and vehicle parts, machinery, equipment, electronics and electrical appliances, logistics, industrial zones/estates, tourism services; 4. Trat SEZ - Agro-industry, fishery industry, logistics, industrial zones/estates, tourism services; 5. Songkhla SEZ - Agro-industry, fishery industry, textiles and garments, leather products, furniture, logistics, industrial zones/estates, tourism services. Data on the number of companies in each SEZ is not available.

¹²⁴ More information about this BOI incentives scheme is available at WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

¹²⁵ BOI online statistics. Viewed at: http://www.boi.go.th/upload/content/1412_app_en_42544.pdf.

They were mostly involved in manufacturing (51.6%) of metals and electronics and electrical appliances, the supply of services and infrastructure (34.2%), and production of agricultural items (14.1%).

3.121. The BOI has never invoked Section 49 or 50 of the Investment Promotion Act, which authorize it to protect investments from foreign competition by charging additional import fees up to 50% of the c.i.f. value of product for up to a year or, if this is not sufficient, banning imports of similar products.

3.4.2.2 Regional and international headquarters incentives

3.122. Regional operating headquarters (ROHs) based in Thailand continued to be eligible for significant tax breaks until December 2014 when their regime was replaced by policies to promote International Headquarters (IHQs) introducing new conditions and additional fiscal incentives.¹²⁶ To promote Thailand's position *vis-à-vis* Singapore; Malaysia; and Hong Kong, China as a location for regional operations, the Government enhanced ROH's incentives in May 2010.¹²⁷ The new IHQ incentives effective as from May 2015 consist of: a 15-year exemption from corporate income tax on service income, royalties, dividend income and revenue on capital gains received from associated enterprises outside Thailand and revenue received from the purchase and sales of goods overseas without importing into Thailand; 10% rate of corporate income tax on service income and royalties received from associated companies in Thailand; exemption from specific business tax on the revenue from lending to associated enterprises and exemption from withholding tax on dividends and interest paid from the ROH in Thailand; and, a 15% flat rate of tax on salaries paid to expatriate employees. To date, only just over 120 companies operate as a ROH in Thailand, lagging behind Singapore (1,600 in 2013); Malaysia; and Hong Kong, China (1,379 in 2013).

3.4.2.3 Small- and medium-sized enterprises

3.123. Support to SMEs was reinforced (definition at section 3.3.5). The third Thailand SME Development Plan 2012-2016 has been focused in four major areas to: business environment enabler; capacity building to enhance competitiveness; sustainable development by region; and, capacity building for internationalization.¹²⁸ The Office of Small and Medium Enterprises Promotion (OSMEP) continues to, *inter alia*, formulate master and action plans. SMEs continued to source low-interest funds from the state-owned development banks, including the Small and Medium Enterprise Bank (SME Bank) as well as some participating commercial banks.¹²⁹ A total of B 120 billion is available under a programme, which is part of a 2007 SME-development plan that aims to encourage small businesses to reduce their costs, increase production efficiency, upgrade product quality, raise productivity and expand product lines to ensure their competitiveness. In November 2013, the BOI added to its promotional package available to SMEs an incentive to upgrade their machinery; qualified firms could receive an eight-year corporate tax exemption and import duty exemption on new machinery, though many restrictions apply. Furthermore, they qualify for additional write-offs in the first year of an asset's acquisition: 40% for computer equipment and machinery (some machinery acquired before 31 December 2013 may qualify for a rate of 100%), 25% for factory buildings and 100% for other fixed assets.

3.124. As of 31 December 2013, SME bank loans were granted as follows: commercial sector (30%), production sector (29%), hotel and restaurant sector (14%), logistics sector (8%), property for rent and business service sector (4%), agricultural, hunting and forestry sector (4%), community service, social and other service sector (4%), construction sector (3%), educational

¹²⁶ EY online information. Viewed at: <http://www.ey.com/GL/en/Services/Tax/International-Tax/Alert--Thailand-approves-tax-incentives-for-international-headquarters-and-international-trading-centers>.

¹²⁷ DFDL online information, "Is Thailand's Regional Operating Headquarters Regime Comparable to its Counterparts in Singapore, Malaysia and Hong Kong?". Viewed at: <http://www.dfdl.com/resources/news/879-is-thailands-regional-operating-headquarters-regime-comparable-to-its-counterparts-in-singapore-malaysia-and-hong-kong>; and Economist Intelligence Unit (2014b).

¹²⁸ MSME News Network online information, "Thailand is supporting its SMEs", 27 November 2012. Viewed at: <http://www.msnewsnetwork.com/index.php/asia-pacific/news/item/903-thailand-is-supporting-smes>.

¹²⁹ The SME Bank's minimum interest rates range from 3.875% (Minimum Hire-Purchase Rate) to 9.5% (Minimum Retail Rate). SME Bank online information. Viewed at: <http://www.smebank.co.th/en/interest-rate-detail.php?cid=1>; and Economist Intelligence Unit (2014b).

sector (2%) and other sectors (2%).¹³⁰ SMEs have very limited participation in export industries; those involved tend to operate with low skills and technology. By 2013, SMEs comprised 97.2% of businesses (about 2,763,997 SMEs), about 81% of jobs, and 28.4% (2010) of them were involved in export activities; their contribution to GDP stood at 37.4%, and 34.8% of their contribution was in the services sector, 29.6% in manufacturing (food and beverages, furniture, chemicals), and 27.7% in trade and repair.¹³¹ In 2013, SME exports accounted for 25.5% of the total export value, a substantial decrease of 14.7% from 2012; as regards imports, they accounted for 30.9% of the total import value, a fall of 8.47% from 2012. In 2013, the external trade balance of SMEs showed a deficit accounting for B 607 billion.

3.4.2.4 Other support

3.125. During the review period the agriculture sector continued to benefit from product-specific and general support programmes, which included a rice pledging scheme, soft loans, and price interventions (section 3.4.4.1.3, 4.2.3, 4.2.3.3.2, and 4.2.3.3.3).

3.126. Following significant energy subsidy reforms, subsidies remain in place for natural gas for vehicles (NGV) and ethanol-blended gasolines (section 4.5). Electricity remains subsidized through the supply of free or half-price electricity to (an estimated 4.9 million) low-consuming poor households and cross-subsidized in different ways. The authorities indicated that the electricity tariff, in general, already reflects the actual long-term marginal cost of production. In 2015 the retail electricity tariff structure distinguished among the following power consumer categories: residential; small general services; medium general services, large general services, and specific business services; non-profit organizations; agricultural pumping service (involving subsidization from all other power consumers); and, temporary power customers (highest rate). Electricity tariffs to other consumers may also be below the costs incurred by the state-owned EGAT, the sole distributor of electricity in Thailand. EGAT may be asked to carry losses when retail prices are not sufficient to cover the cost of inputs such as fuel and electricity purchased from other providers. The main inputs to Thailand's electricity generation—natural gas and lignite—may also be provided at below-market rates. Adjustment of the fuel tariff is not automatically aligned with changes in fuel and purchased electricity prices. EGAT applies to the Energy Regulatory Commission (ERC) for a change in the fuel tariff that reflects its costs. The ERC then uses its discretion to grant an increase or decrease, taking into account EGAT's costs as well as other economic factors. The ERC estimated that EGAT needed to absorb B 9 billion in costs for 2012 due to the fuel tariff being lower than the actual costs of fuel and purchased electricity. Power generators may also benefit from purchasing inputs such as natural gas and lignite at below market prices. EGAT owns and operates the Mae Moh lignite mine, one of Thailand's largest lignite mines, which provides coal to its dedicated power station located at the mine site. According to the International Energy Agency, Thailand's electricity subsidies were estimated at B 173 billion (US\$5.67 billion) in 2011 and down to B 158 billion in 2014 based on ERC data.

3.127. Thailand launched the Second Phase of its Eco-car scheme in September 2013; it provides numerous tax incentives (corporate tax, import duty and other tax benefits) (section 4.6.1.1).¹³² Eligibility to the scheme is conditioned, *inter alia*, on the achievement of substantive investments and production (both in terms of manufacturing lines and volume), with a threshold for manufacturing capacity of 100,000 cars/year (from the 4th year onwards). There is concern that such a high volume of production aimed at achieving economies of scale is not likely to be absorbed by the domestic market, therefore, as part of the output would have to be exported these tax incentives could constitute cross-subsidies to export activities. The authorities indicated that the Eco-car scheme is similar to that of many automobile producing countries, in particular developed countries.

¹³⁰ Small and Medium Enterprise Development Bank of Thailand (2013).

¹³¹ Executive Summary White Paper on Small and Medium Enterprises of Thailand in 2014; MSME News Network online information, "Thailand is supporting its SMEs", 27 November 2012. Viewed at: <http://www.msmenewsnetwork.com/index.php/asia-pacific/news/item/903-thailand-is-supporting-smes>; Asian Development Bank (2013).

¹³² European Commission Directorate-General for Trade (2014).

3.4.3 State involvement in production and trade

3.128. State involvement in the economy persists. The current 56 state-owned enterprises (SOEs) can be grouped into nine broad sectors: agriculture, natural resources, public utilities, energy, telecommunications, transportation, social and technology, industrial and commerce, and, specialized financial institutions (SFI) (Table 3.6). With total assets of B 12.3 trillion and more than 210,000 staff employed, the SOEs generated total revenue and net profit of B 4.1 trillion and B 230 billion in 2014, respectively; the net profit accounted for about 1.9% of their assets.¹³³ The SOEs total expenditure stood at B 3.7 trillion or 42% of the GDP. Consequently, their performance and efficiency are very low and they spend more annually on investment than the Government does.¹³⁴ Thailand's listed public companies and their subsidiaries account for a fifth of the local stock-market capitalization, and their revenues are a source of financing for government projects. There are currently 5 out of 56 SOEs that are listed in the Stock Exchange of Thailand which are PTT Public Company Limited, Krung Thai Bank Public Company Limited, MCOT Public Company Limited, Airports of Thailand Public Company Limited, and Thai Airways International Public Company Limited. In FY2014 the operations of some of these SOEs resulted in losses estimated at B 33.8 billion or 0.3% of GDP.¹³⁵ According to the 2014 Budget, in FY 2014 Central Government income from SOEs accounted for B 116 billion or 4.6% (6.2% in FY 2012) of the estimated total receipts or 66.6% of total non-tax receipts of the Central Government; these receipts consist of government-owned businesses operational profits (B 101.2 billion), and B 14.8 billion from the Government Lottery Bureau. On the other hand, in the same fiscal year these SOEs accounted for B 149.8 million (of which B 31.7 billion of subsidies) or 6% of the estimated total central government expenditure; the Bank for Agriculture and Agriculture Co-operatives, the State Railway of Thailand, and the Mass Rapid Transit Authority of Thailand accounted for 55.2%, 11.1%, and 6.6% of total expenditure respectively. As of January 2015, government guaranteed loans of SOEs (B 1 trillion) accounted for 17.8% (18.5% in June 2013) of the principal outstanding debt of Thailand (B 5.6 trillion).¹³⁶

3.129. During the review period, privatization, a longstanding contentious issue, continued to be a concern of labour unions and parts of civil society and plans in this area have been at a standstill; by November 2013 authorities had essentially abandoned any plans for a new privatization programme.¹³⁷ The focus has been on reforming and restructuring SOEs through various initiatives.¹³⁸ The "corporatization" (i.e., changing the management structure so it resembles a private company's structure, without changing the shareholdings) of the Thailand Tobacco Monopoly, Liquor Distillery Organisation and Playing Card Factory was still on track in November 2013, though progressing slowly. A plan to reduce the Government's stake in flag

¹³³ These SOEs are defined as companies where the State has 50% or more of ownership, but it has minority stakes in dozens of others. According to the World Bank, in the past they had over 250,000 employees, assets of B 6 trillion, and revenue of B 2.7 trillion. World Bank (2013).

¹³⁴ *The Wall Street Journal*, "In Thailand, a Struggle for Control of State Firms", 17 June 2014. Viewed at: <http://www.wsj.com/articles/in-thailand-a-struggle-for-control-of-state-firms-1402930180>.

¹³⁵ Only the following state enterprises are considered for these calculations: Bank for Agriculture and Agriculture Co-operatives, Export-Import Bank of Thailand, The Small and Medium Enterprise Development Bank, Small Business Credit Guarantee Corporation, Government Savings Bank, Islamic Bank of Thailand, The Tourism Authority of Thailand, Sports Authority of Thailand, National Housing Authority, The Marketing Organization for Farmers, Rubber Estate Organization, Office of the Rubber Replanting Aid Fund Board, Fish Marketing Organization, Expressway and Rapid Transit Authority of Thailand, Bangkok Mass Transit Authority, Civil Aviation Training Center, the State Railway of Thailand, Mass Rapid Transit Authority of Thailand, the Forestry Industry Organization, Botanical Garden Organization, Waste Water Management Authority, the Zoological Park Organization, Public Warehouse Organization, Provincial Electricity Authority, the Provincial Water Works Authority, Thailand Institute of Scientific and Technological Research, National Science Museum, and the Industrial Estate Authority of Thailand (section 3.3.4.3). Bureau of the Budget (2014).

¹³⁶ Prior to FY 2013 SOEs were financed from foreign capital markets, and the shift to domestic borrowing based on domestic and export credit sources is aimed at reducing foreign exchange risk and costs of borrowing as well as at promoting the development of domestic debt instruments. Bureau of the Budget (2014).

¹³⁷ Economist Intelligence Unit (2013 and 2014b).

¹³⁸ There are various laws and regulations aimed at enhancing implementation of the privatization programmes, including the Trade Competition Act (1999), the Foreign Business Act (1999), Taxation Laws (amended in 2002), and the Corporatization Act (enacted in 1999). The Cabinet's 7 April 2004 resolution increased the importance of effective regulatory oversight and prevention of abuse of monopoly power of corporatized entities. Under the Corporatization Act 1999, SOEs set up by law are being corporatized (i.e. transformed into companies). More information on the legal framework in this area is available at WTO document WT/TPR/S/191/Rev.1, 6 February 2008.

carrier Thai Airways International to 49.99% from 51.03% was rejected by the airline's board in June 2011, though such a move would still leave the Government in effective control of the SET-listed carrier. The authorities were also considering selling the Government's stake in Airports of Thailand (the SET-listed airports operator) from 70% to an unspecified percentage, while retaining full control of the entity, though no specific timetable had been announced by November 2013.

3.130. Recognizing the importance of state enterprises, since 2014 a State Enterprises Policy Committee has been tasked to spearhead reform policies and monitoring standards, in order to help state enterprises fulfil their missions more efficiently.¹³⁹ The Committee would also resolve financial troubles in enterprises facing losses or liquidity problems before they become a fiscal burden. Currently, the Government is likely to focus on the corporatization of 13 SOEs (6 listed SOEs, 7 corporatized SOEs) by placing these entities under independent supervision (holding company).¹⁴⁰ The holding company will act as an ownership entity responsible for managing and monitoring the performance of these SOEs and shield them from direct political intervention.¹⁴¹ The Act for establishing such holding company is being drafted under the supervision of the State Enterprise Policy Committee and it is expected to be completed by the end of 2015. The remaining 43 "non-commercial" SOEs would remain under the authority of the State Enterprise Policy Office.¹⁴² Both the holding company and the State Enterprise Policy Office would be placed under an SOEs "Super Board".

3.131. Thailand's latest notification to the WTO Working Party on State Trading Enterprises was submitted in 2013 and the next notification will be submitted in the course of 2015. The 2013 notification covered the Public Warehouse Organization (PWO), the Liquor Distillery Organization (LDO), and, the Thailand Tobacco Monopoly (TTM); its trade data covered the period 2008-2013.¹⁴³ In addition, a number of other publicly owned companies are directly or indirectly involved in trade of goods or services (Table 3.6). No statistics on annual imports, exports, procurement or domestic sales of these corporations were available from the authorities.

Table 3.6 State involvement in the economy, 2015

	Function
Financial institutions	
Krung Thai Bank Public Company Limited	Provide all kinds of financial services in competition with private banks
Government Saving Bank	Provide all kinds of financial services, guaranteed by the Government
Government Housing Bank	Provide housing finance for domestic consumers, especially low and medium income borrowers
Bank for Agriculture and Agricultural Cooperation	Provide financial assistance to help farmers and farmer institutions. Increase productivity and incomes/offers deposit services to farmers throughout the country

¹³⁹ Bank of Thailand (2014b).

¹⁴⁰ These SOEs are: Thai Airways International Public Company Limited; Airports of Thailand Public Company Limited; the Transport Company Limited; TOT Public Company Limited; CAT Telecom Public Company Limited; Thailand Post Company Limited; MCOT Public Company Limited; PTT Public Company Limited; the Bangkok Dock (1957) Company Limited; Dhanarak Asset Development Company Limited; the Syndicate of Thai Hotels and Tourists Enterprises Limited; Krung Thai Bank Public Company Limited; and, Aeronautical Radio of Thailand Company Limited.

¹⁴¹ Asian Development Bank (2015).

¹⁴² They cover: Expressway Authority of Thailand; State Railway of Thailand; Mass Rapid Transit Authority of Thailand; Bangkok Mass Transit Authority; Civil Aviation Training Centre; Port Authority of Thailand; Electricity Generating Authority of Thailand; Metropolitan Electricity Authority; Provincial Electricity Authority of Thailand; Metropolitan Waterworks Authority; Provincial Waterworks Authority; Wastewater Management Authority; National Housing Authority; Industrial Estate Authority of Thailand; Thailand Tobacco Monopoly; Playing Cards Factory; Liquor Distillery Organization; the Government Lottery Office; Police Printing Bureau; Marketing Organization; Dairy Farming Promotion Organization of Thailand; Marketing of Farmers Organization; the Fish Marketing Organization; Office of the Rubber Replanting Aid Fund; Rubber Estate Organization; Public Warehouse Organization; the Forest Industry Organization; Botanic Garden Organization; the Zoological Park Organization; Thai Institute of Scientific and Technological Research; National Science Museum; Tourism Authority of Thailand; Sports Authority of Thailand; the Government Pharmaceutical Organization; Government Saving Bank; Government Housing Bank; Bank for Agriculture and Agricultural Cooperatives; Export-Import Bank of Thailand; Small and Medium Enterprise Development Bank of Thailand; Secondary Mortgage Corporation; Small Business Credit Guarantee Corporation; Islamic Bank of Thailand; and, Public Pawnshop Office.

¹⁴³ WTO document G/STR/N/13/THA - G/STR/N/14/THA, 11 October 2013.

	Function
Export-Import Bank of Thailand	Provide financial support to Thai businesses, particularly SMEs, involved in international trade to improve their access to financial resources. Provide financial support to enhance Thai investors competitiveness
Small and Medium Enterprise Development Bank of Thailand	Support government policy for helping and promoting SMEs by financial and other services responses to Thai SMEs needs as well as encourage and develop Thai SMEs for capacity enhancement
Secondary Mortgage Corporation	Develop the secondary market for housing mortgage loan under the principle of asset securitization for fund raising activities for the adequate and stable expansion of housing mortgage financing
Small Industry Credit Guarantee Corporation	Assist SMEs to access greater finance from financial institutions and strengthen the confidence of financial institutions in providing credit to SMEs
Islamic Bank of Thailand	Provide financial services according to Shariah banking system
Public Pawnshop Office	Help customers to get easy access to financial resources with relatively low interest rate
Energy	
Electricity Generating Authority of Thailand	Sole rights for distribution and trade in electricity; owns and operates several types and sizes of reliable power plant
Metropolitan Electricity Authority	Conduct business in pursuit of sustainable growth with qualified, reliable and safe power distribution system in Bangkok, Nonthaburi and Samutprakarn
Provincial Electricity Authority	Conduct business in pursuit of sustainable growth with qualified, reliable and safe power distribution system in provincial areas, not including Bangkok, Nonthaburi and Samutprakarn
PTT Public Company Ltd.	Conduct integrated energy and petrochemical business as the nation's energy company
Telecommunications	
MCOT Public Company Ltd.	Mass communication businesses including TV, radio broadcasting, news service and other joint operation with private parties
TOT Public Company Ltd.	Provide quality telecommunication services and ensure public access to information and communication services
CAT Telecom Public Company Ltd.	Provide quality telecommunication services and ensure public access to information and communication services
Thailand Post Co. Ltd.	Provide delivery of goods and messages nationwide through easily accessible services (exclusive rights for public postal services (letters and postcards))
Transport	
Airports of Thailand Public Company Ltd.	Provide facilities (airports) and related services to airline operators
Port Authority of Thailand	Manage and supervise both central and regional ports
State Railway of Thailand	Manage and operate all railway functions throughout Thailand
Bangkok Mass Transit Authority	Bus service operator in Bangkok and metropolitan areas
Aeronautical Radio of Thailand Limited	Provide air traffic control and aeronautical communication services to airline operators
Thai Airways International Public Company Limited	Air carrier and related service
Transport Co., Ltd.	Domestic bus service operator
Civil Aviation Training Center	Responsible for domestic and international training, and operates related aviation services
Mass Rapid Transit Authority of Thailand	Operate mass rapid transit systems within greater Bangkok and metropolitan area
Expressway Authority of Thailand	Provide expressway development according to standard and safety
Social and technology	
Tourism Authority of Thailand	Promote tourism and tourist industry
Sports Authority of Thailand	Supervise and promote sport in Thailand; and act as the centre for sports coordination domestically and internationally
Thailand Institute of Scientific and Technological Research	Conduct research for the development of science and technology in accordance with national policy and plan; promote knowledge in science and technology to the public
National Science Museum	Provide museum for promoting knowledge in science and technology to the public
Government Pharmaceutical Organization	Procurement of drugs and drug manufacturer
Industry and commerce	
Government Lottery Office	State Lottery operator, responsible for managing, marketing and conducting lotteries in Thailand
Marketing Organization	Distribution centre for agricultural products with fair prices; promotes marketing network amongst producers and buyers

	Function
Thailand Tobacco Monopoly	Supply and produce cigarettes (domestically monopoly); import of tobacco
Playing Cards Manufacturing Factory	Monopoly supply and produce playing cards; exclusive import rights
Liquor Distillery Organization	Produce and supply alcohol, and produce liquor; exclusive rights for 95% ethyl alcohol production
Police Printing	Responsible for security printing for the benefit of Police department
Bangkok Dock Co. Ltd.	Responsible for building and repairing of ships especially for the Thai navy
Syndicate of Thai Hotels and Tourists Enterprises Ltd.	Cooperate the hotel management with private sector (Erawan group)
Agriculture	
Thai Dairy Farming Promotion Organization of Thailand	Promote dairy farming including sales of domestic output to meet domestic - content requirements
Rubber Estate Organization	Produce, purchase, and distribution of rubber and rubber by-products
Marketing Organization for Farmers	Marketing of agricultural products and supply of services
Fish Marketing Organization	Fish marketing facilities
Office of the Rubber Replanting Aid Fund	Promote good quality rubber plants to farmers by using new technology and develops fair market mechanism for farmers selling their products
Public Warehouse Organization	Provide warehouse space equipment and storage facilities services/storage of rice and agricultural products as buffer stock
Natural resources	
Forest Industry Organization	Plantation management, reforestation and forest industries / generate income from forest industry and related activities
Botanical Garden Organization	Responsible for the establishment and administration of botanical, country and regional plant collection centres, and botanical museums
Zoological Park Organization	Cater for endangered species and participate in animal breeding programmes; facilitate visitors and community education and wildlife conservation
Public utility	
National Housing Authority	Provide housing for people in low to medium income groups. Engage in urban development, urban renewal and slum problem solving, in order to bring about better quality of life and society
Metropolitan Waterworks Authority	Provide good quality supply of water to residence, business, and industries in Bangkok, Nonthaburi and Samutprakarn
Provincial Waterworks Authority	Provide good quality supply of water to people residing in provincial areas, not including Bangkok, Nonthaburi and Samutprakarn
Waste Water Management Authority	Manage wastewater management system
Dhanarak Asset Development Co. Ltd.	Develop government project (Government agency center)
Industrial Estate Authority of Thailand	Provide service for the facility and utility systems necessary for industrial and business operations; develop suitable locations for industrial estates

Source: Information provided by the authorities.

3.4.4 Competition policy and consumer protection

3.4.4.1 Competition policy

3.4.4.1.1 Legal and institutional framework

3.132. Thailand's competition policy framework remains unchanged since its previous Trade Policy Review. The Trade Competition Act B.E. 2542 (1999) (TCA) remains the main law defining Thailand's competition policy framework. In addition, several other Acts may affect competition by seeking to protect the consumer and by affecting how businesses behave and interact, such as the Unfair Contract Terms Act B.E. 2540 (1997), the Prices of Goods and Services Act B.E. 2542 (1999), the Direct Sales and Direct Marketing Act B.E. 2545 (2002), and the Liability for Damages Arising from Unsafe Products Act B.E. 2551 (2008) (sections 3.4.4.2 and 3.4.4.3).¹⁴⁴

3.133. The TCA is implemented by the Office of Trade Competition Commission (OTCC) in the Department of Internal Trade (DIT) under the Ministry of Commerce. The Trade Competition Commission (TCC), which is chaired by the Minister of Commerce and includes representatives of

¹⁴⁴ More information about these Acts is also available in WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

the Ministries of Commerce and Finance along with other members appointed by the Council of Ministers, remains the main enforcement body. The TCC has issued guidelines concerning cartels, abuse of a dominant position, and anti-monopoly or a reduction of competition although there are very few reported cases.¹⁴⁵

3.4.4.1.2 Scope

3.134. The TCA regulates virtually all trade practices of business operators over a broad spectrum of commercial activity including agricultural businesses, manufacturing, commerce, financial services, insurance and other service industries.¹⁴⁶ The only groups exempt from the TCA are the central, provincial or local government administrations, state-owned enterprises regulated under the law on budgetary procedures¹⁴⁷, groups of farmers, cooperatives or cooperatives recognised by law whose business objectives are for the benefit of the farming industry and business prescribed by ministerial regulations, which may be fully or partially exempt from the application of the law. No such ministerial regulations have been issued so far. Industry-specific regimes including in the energy and telecommunications industry (section 4.3 and 4.5.3), and certain guidelines on conduct between retailers, wholesalers, manufacturers and suppliers were issued under the TCA.¹⁴⁸ Industry-specific legislation governs anticompetitive conduct, mergers or monopolies and only applies to the industry that it governs. The TCC and sectoral regulatory authorities may have concurrent and overlapping powers, and it is not always clear as to which authority will be the enforcing authority in the case of an overlap.

3.4.4.1.3 Prohibitions

3.135. The TCA prohibits anticompetitive practices as follows: where a business operator has abused its dominant market position (fixing buying or selling prices, applying conditions or restrictions to sales or purchases, or restricting supply of goods or services)¹⁴⁹; where one business operator colludes with another business operator to reduce or restrict competition in the relevant goods or services market; where any merger may result in a monopoly or unfair competition; and, in relation to some other forms of restrictive unfair trade practices.¹⁵⁰ Two business operators may obtain permission from the TCC to enter into certain anticompetitive agreements where they can show a business necessity that is beneficial for the promotion of the business operation, will not create severe damage to the economy and will not affect significant benefits that consumers would receive as a whole. In granting permission, the TCC may set a period of time for compliance with any conditions by the business operator; the authorities indicated that no such permission has been delivered during the review period. Concerning anticompetitive mergers, no business operators can merge if the merger results in a monopoly or unfair competition according to the TCC's thresholds, except where permission is obtained from the TCC.¹⁵¹ However, the thresholds prescribed by the TCC have not yet been issued, so the merger control provision has never become effective though still under consideration.

3.4.4.1.4 Enforcement

3.136. TCA enforcement remained moderate during the review period for a number of reasons including poor transparency in administration and enforcement of the law, the broad discretionary authority of the TCC, political influence and shortfall of independence of the TCC, and the ineffective structure and composition of the TCC.¹⁵² Since 2014, the Ministry of Commerce has

¹⁴⁵ Clifford Chance (2014).

¹⁴⁶ Clifford Chance (2014).

¹⁴⁷ For example, the Government Pharmaceutical Organization, a state-owned entity, is not subject to Thailand's Food and Drug Administration licensing requirements on the production, sale, and importation of pharmaceutical products and is exempt from rules against anticompetitive practices. USTR (2014).

¹⁴⁸ Clifford Chance (2014).

¹⁴⁹ A dominant position is defined as being a market share of more than 50% over a 12-month period, 3 companies having a combined market share of more than 75% with each player having at least 10%. WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

¹⁵⁰ Clifford Chance (2014).

¹⁵¹ In principle, merger approval may be obtained where any business operator can show a business necessity, or it is beneficial for the promotion of the business operation, or will not create severe damage to the economy and will not affect significant benefits which consumers would receive as a whole. Clifford Chance (2014).

¹⁵² WTO documents WT/TPR/S/191/Rev.1, 6 February 2008 and WT/TPR/S/255/Rev.1, 8 February 2012.

been encouraged to expedite amendments to the TCA (section 3.4.4.1.5), whilst, Thailand's National Reform Council (NRC) has proposed the TCA overhaul to enhance the effectiveness of its administration and enforcement.

3.137. Penalties for TCA violations remain unchanged since 1999. Failure to abide by its provisions may result in a term of imprisonment of up to three years and/or a fine of up to B 6 million (a double penalty applies in the case of a repeat offence) and a daily fine not exceeding B 50,000 during the period in which the violation is ongoing.

3.138. Since the TCA came into force in 1999, and as at January 2015, 95 claims covering unfair trade practices (53), restrictive agreements (24), and abuse of dominant position (25) have been made to the TCC which made decisions in 84 cases; the OTCC received just three complaints in 2013 and 2 in 2014, compared with 11 complaints received in 2012.¹⁵³ However, no case has so far reached trial, nor has any criminal prosecution occurred through the TCC. In late 2012, it appeared that the TCC was about to make its first enforcement finding, in a case stalled over nearly 10 years against motorcycle distributor AP Honda's policy of prohibiting its motorcycle dealers from selling other brands; the Commission found substantial evidence of a breach of the TCA and referred the case to the public prosecutor. However, the case has not been brought before the court.¹⁵⁴

3.4.4.1.5 TCA reform plans

3.139. Efforts were made to amend the 16-year-old TCA, a major national reform issue since 2014. In 2012, a bill before parliament sought to expand the powers, independence and transparency of the TCC as well as increase the statute of limitations (prescription period).¹⁵⁵ On 28 October 2014, the OTCC announced proposed amendments to the TCA, a signal that Thailand intends to make the TCA an effective regulatory regime.¹⁵⁶ As of December 2014 the OTCC was considering alternative definitions for dominant players in various sectors, reducing the minimum turnover for companies to be held accountable, and setting different market-share figures (section 3.4.4.1.2).¹⁵⁷ However, it had not yet issued specific drafts. The amendments would expand the scope of the law to cover state enterprises that run businesses in competition with the private sector, an upgrade of the OTCC to an independent body, and enhanced penalties and powers in filing lawsuits against violators.¹⁵⁸ No timetable for implementation of these amendments had yet been announced, nor had the Interim Government indicated its stance on this issue. The authorities seem committed to amending the TCA to ensure the changes are enforced within the current government's tenure.

3.4.4.2 Price controls

3.140. The legal and institutional framework in this area remains unchanged. Under the Price of Goods and Services Act B.E. 2542 (1999) Thailand continues to ensure the fair price of goods and services and adequate supply of goods to meet domestic demand.¹⁵⁹ Its Central Commission on Prices of Goods and Services (CCP) in the DIT has the authority to set out: the goods and services subject to price controls; controls for their sale or purchase prices; and, procedures and conditions

¹⁵³ Clifford Chance (2014); Economist Intelligence Unit (2014b); and *Bangkok Post*, "Monopoly rules set to be tightened", 5 March 2015. Viewed at: <http://www.bangkokpost.com/business/news/489481/monopoly-rules-set-to-be-tightened>.

¹⁵⁴ Bertelsmann Stiftung (2014); and *Bangkok Post*, "AP Honda faces unfair trade suit", 11 January 2013 and "Monopoly rules set to be tightened", 5 March 2015. Viewed at: <http://www.bangkokpost.com/lite/breakingnews/330345/favicon.ico> and <http://www.bangkokpost.com/business/news/489481/monopoly-rules-set-to-be-tightened>.

¹⁵⁵ Bertelsmann Stiftung (2014).
¹⁵⁶ DFDL online information, "Recent proposals to amend the Trade Competition Act", 5 December 2014. Viewed at: <http://www.lexology.com/library/detail.aspx?g=2d4373db-43ba-4bb7-ad89-79ae864f968d>.

¹⁵⁷ It was proposed that a business entity would be regarded as dominating the market if it held a market share of more than 30% and had sales of more than B 500 million in the preceding year. *Bangkok Post*, "Monopoly rules set to be tightened", 5 March 2015. Viewed at: <http://www.bangkokpost.com/business/news/489481/monopoly-rules-set-to-be-tightened>; and Economist Intelligence Unit (2014b).

¹⁵⁸ *Bangkok Post*, "Monopoly rules set to be tightened", 5 March 2015. Viewed at: <http://www.bangkokpost.com/business/news/489481/monopoly-rules-set-to-be-tightened>.

¹⁵⁹ More information on the legal and institutional framework governing price controls is available at WTO documents WT/TPR/S/191/Rev.1, 6 February 2008 and WT/TPR/S/255/Rev.1, 8 February 2012.

relating to the display of prices. In addition to the CCP, provincial commissions regulate prices locally.

3.141. The CCP continues to maintain three lists of items subject to varying degrees of price control: the Controlled List of 38 goods and 3 services (39 and 2 in 2012 respectively) for which manufacturers must have approval from the CCP before raising prices or give advance notice of a change in prices¹⁶⁰; the Administered/Monitoring List of 205 goods and 20 services under TCC surveillance (Table 3.7); and, the Price Display List of 315 (previously 232 goods and 47 services) for which retailers must display the price of goods and services.¹⁶¹ The CCP Monitoring List remains divided into three categories (Table 3.7): the Sensitive goods and services whose prices are monitored daily because they are expected to increase in the near future; the Priority Watch goods and services that are monitored twice a week; and the Watch goods and services that are monitored twice a month. Products in the Administered/Monitoring List may be reclassified onto the Controlled List when necessary and based on the circumstances of a particular case.

3.142. The Ministry of Commerce may also ask manufacturers and retailers to freeze or cap prices voluntarily. Its latest request was in June 2014, when retailers were urged to freeze retail prices until end-2014.¹⁶² Under its Blue Flag programme the Ministry also operates a number of "blue flag" food stalls and restaurants which provide low cost meals. Between October 2012 and September 2013, it spent B 606.4 million to hold 2,003 low-price fairs.¹⁶³ It was claimed that the programme was able to reduce the cost of living for 6 million people. Similarly between October 2014 and June 2015, it held 2,217 low price fairs, and was able to reduce the cost of living of 6.3 million people equivalent to approximately B 660 million.

3.143. The DIT may take legal or administrative actions against those who do not comply, and if despite these actions they still do not comply, their products will be reclassified into the Controlled List and subject to more stringent requirements. No legal or administrative action against any business entity was taken during the review period. Hoarding controlled goods and refusing to sell, controlling goods or providing controlled service, fixing unreasonably low or high prices, or causing fluctuations in the price of goods or services leads to imprisonment for up to seven years, or a fine of up to B 140,000, or both.¹⁶⁴ Failure to display the retail price of goods or services results in a fine of up to B 10,000; failure to comply with the maximum price of goods or services set forth by the CCP results in imprisonment for up to five years or a fine of up to B 100,000, or both.

¹⁶⁰ As of end-June 2015, sugar was the only commodity subject to price control. Other products under the controlled goods and services list were not subject to any price control. The content of the list is subject to change or modification depending upon the necessity and appropriateness of the circumstances of each year for each commodity. PVC pipes were added to the list in 2015 because PVC pipes are widely used as construction and agricultural materials. As of June 2014 products on the controlled list included: garlic; paddy, rice; corn; cassava and its products; egg; pig; pork; sugar; oil and fat from vegetables or animals; sweet condensed imitation cream, condensed milk, reconstituted milk, modified fat milk powdered milk, fresh milk; wheat flour; food in sealed off container; palm oil seed; detergent; sanitary napkins; toilet paper, tissue paper; fertilizer; pesticides for plants and plant diseases; intensive feeds and animal feeds; water pumper; paddy tractor; rice harvest tractor; rice moisture hygrometer; rice quality inspecting device; measurement of percentage of flour in raw cassava; cement; structural steel, iron plate, steel rod; electric wire; crepe paper, parchment; writing and typing papers; pulp paper; car battery; tires of motorcycle and tires of car; motorcycle, car, truck; category of petroleum products; liquid petroleum gas; fuel oil; plastic pellets; medicine; school uniform; right to broadcasting copyright on song for commercials; service on goods deposit or rent out a warehouse; service on agricultural equipment; and, lottery tickets. List of controlled goods and services, as of September 2013. Viewed at: <http://www.dit.go.th/en/backoffice/uploadfile/255610011120316495749.pdf>; and Economist Intelligence Unit (2014b).

¹⁶¹ The Nation online information, "Next govt should review price controls as living costs rise regardless", 7 January 2014. Viewed at: <http://www.nationmultimedia.com/business/Next-govt-should-review-price-controls-as-living-c-30223629.html>.

¹⁶² Economist Intelligence Unit (2014b).

¹⁶³ The Nation online information, "Next govt should review price controls as living costs rise regardless", 7 January 2014. Viewed at: <http://www.nationmultimedia.com/business/Next-govt-should-review-price-controls-as-living-c-30223629.html>.

¹⁶⁴ Economist Intelligence Unit (2014b).

Table 3.7 Products and services subject to monitoring, April 2015

List	Products
	Goods
Sensitive	1. Packed Rice, 2. Gasoline, 3. Diesel, 4. Natural Gas for Vehicles NGV, 5. Vegetable oil, 6. Finished meal, 7. Pork, 8. LPG
Priority Watch	1. Steel rod, 2. Electric wire, 3. Cement, 4. Pesticides, 5. Egg, 6. Battery, 7. Sugar, 8. Animal feed, 9. LPG for car, 10. Chemical fertilizer, 11. Fish sauce, 12. Lemon
Watch	1. Hen, 2. Chicken, 3. Fresh chicken, 4. Duck egg, 5. Beef, 6. Giant Tiger prawn, white shrimp, 7. Mackerel, 8. Walking catfish, 9. Mango fish, 10. Mackerel streaming, 11. Morning glory, 12. Chinese vegetable, 13. Coriander, 14. Spring onion (leek), 15. Chili, 16. Noodle, 17. Chinese cabbage, 18. Cabbage, 19. Flowering cabbage, 20. Cockles, mussel, 21. Powdered milk, 22. Fresh milk, 23. Yogurt, 24. Condensed imitation cream, 25. Instant coffee, 26. Imitation cream, 27. Soybean oil, 28. Sweetened condensed milk, 29. Ice, 30. Carbonated water, 31. Drinking water with hermetically sealed container, 32. Juice, 33. Instant tea with hermetically sealed container, 34. Instant coffee with hermetically sealed container, 35. Fruits with hermetically sealed container 36. Vegetables with hermetically sealed container, 37. Finished chocolate flavour drinking on liquid and powder, 38. Salt, 39. Soy sauce, 40. Vinegar, 41. Soybean sauce, 42. Oyster sauce, 43. Tomato sauce, 44. Chili sauce, 45. Chicken sauce, 46. Monosodium glutamate, 47. Wheat flour 48. Cassava flour, 49. Dyer rice noodle, 50. Vermicelli, 51. Convenience food with hermetically sealed container, 52. Finished seasoning and condiment, 53. Food with hermetically sealed container, 54. Cayenne pepper with hermetically sealed container, 63. Dye hair gel, 64. Talcum powder, 65. Deodorant products, 66. Detergent, 67. Washing liquid, 68. Clothes stain eradicate products, 69. Clothes bleach products, 70. Fabric conditioner, 71. Ironing conditioner, 72. Dishwashing liquid, 73. Bathroom cleaning products, 74. Floor cleaning products, 75. Furniture cleaning products, 76. Leather shoes care, 77. Tooth plate, 78. Tooth brush, 79. Sanitary pad, 80. Diaper, 81. Dry battery, 82. Absorbent cotton, 83. Razor blade, 84. Mosquito-repellent and pesticide, 85. Paper pulp, 86. Parchment, 87. Corrugated paper, 88. Paper sheet, 89. Newsprint, 90. Facial tissue and paper towels, 91. Student notebook, 92. Electric bulb, 93. Electric hair dryer, 94. Fan, 95. Electric rice cooker, 96. Refrigerator, 97. Television, 98. Electric vacuum bottle, 99. Food processing equipment, 100. Iron, 101. Air condition, 102. Washing machine, 103. Vacuum cleaner, 104. Water heater, 105. Air Cleaner, 106. Radio and cassette, compact disk player, 107. Microwave, 108. Water pumper, 109. Car, 110. Pickup truck, 111. Motorcycle, 112. Bicycle, 113. Oil filter, 114. Air filter, 115. Brake pad, 116. Car tire, 117. Motorcycle tire, 118. Bicycle tire, 119. Light filter, 120. Helmet, 121. Floor tile, wall tile, 122. Roof tile, 123. Gypsum sheet, 124. Insulation, 125. Floor cement sheet, 126. Mirror, 127. Cement pipe, 128. PVC Pipe, 129. Aluminium pipe, 130. Galvanized iron, 131. Aluminium rod, 132. Plywood, 133. Nail, 134. Stone, 135. Sand, 136. Red brick, 137. White brick, 138. Cement block, 139. Ready-mixed concrete, 140. Ready-mixed concrete floor, 141. Tin plate, 142. Chrome-plate, 143. Hot-rolled sheet and stainless, 144. Steel structure, 145. Paint house, 146. Tank, 147. Grease trap, 148. Lubricant, 149. Bunker oil, 150. Gasohol, 151. Plastic pellets, 152 Plastic bags, 153. Plastic bags, 154. Rubbish plastic bags, 155. Flexing temperature, 156. Painkiller medicine, 157. Analgesic-antipyretic, 158. Muscle painkiller medicine, 159. Antiseptic, 160. Plaster, 161. Cotton wool, 162. Face mask, 163. Hands washing gel, 164. Pushcart, 165. Tractor, 166. Lawn mower, 167. Rice harvest tractor, 168. Water pumper, 169. Plastic mesh, 170. Hoe, 171. Spade, 172. Agricultural chemical sprayer, 173. Grass shears, 174. Fishmeal, 175. Polystyrene paper, 176. School bag, 177. School socks, 178. School uniform, 179. School shoes, 180. Water filter, 181. Magnetic sound and picture-recording tape, 182. Mobile telephone, 183. Mobile telephone battery, 184. Call time refill card, 185. Ornament and bar gold
	Services
Sensitive	1. Delivery services (goods, document, package, and fax)
Priority Watch	1. Repair service, 2. Installation of electrical devices, plumbing or telephones, 3. Changing or replacing engine oil services, 4. Auto repairing services
Watch	1. Ticket service, 2. Flower arrangement, 3. Laundry services, 4. Hairdressing or barber services, 5. Sewing services, 6. Photo services, 7. Photocopy services, 8. Locksmith services, 9. Car park services, 10. Veterinary services, 11 Sport/leisure facilities services, 12. Beauty salons, 13. Video/compact disk rental services, 14. Rental/short-term/hotel accommodation services, 15. Library services

Source: Department of Internal Trade online information. Viewed at:
<http://www.dit.go.th/en/backoffice/uploadfile/255610011351485115749.pdf> and
<http://www.dit.go.th/en/backoffice/uploadfile/25561001147057425749.pdf>.

3.144. The long-standing price controls policy was to be discontinued by the end of 2013, but this has not been the case so far in order to help people cope with high living cost, depending on necessity and changing external and internal circumstances. As indicated at the 2008 TPR, according to a 2006 World Bank study, the two lists cover slightly less than half of the Thai manufacturing sector's value-added, and account for less than 20% of the CPI basket; at present the administered/monitoring list accounts for approximately 47% of the CPI basket. These price controls allegedly depress profitability and private investment while having a relatively small impact on inflation.¹⁶⁵ In light of increasing production costs it seems that in recent years many

¹⁶⁵ WTO documents WT/TPR/S/191/Rev.1, 6 February 2008 and WT/TPR/S/255/Rev.1, 8 February 2012.

producers have shifted to making other goods¹⁶⁶ and downsizing content of existing items to avoid increasing prices. According to Thailand's Minister of Energy since 2014, in early 2013 conglomerates with a dominant position have been the principal cause of rising prices for several consumer goods, while the Government's creation of outlets for cheap goods has failed to address the problem's root causes.¹⁶⁷

3.4.4.3 Consumer protection

3.145. During the review period, Thailand's policy, legislative and institutional framework governing consumer protection remained unchanged. Its policy consists of raising awareness, promoting and supporting the role of public and private organizations working on consumer protection, and using legal mechanisms to protect consumers from being taken advantage of by such means as excessive advertising, misleading advertisements, or use of media for personal interests.¹⁶⁸ In addition to the relevant Constitutional provisions, the Consumer Protection Act 1979 (last amended in 2013) is intended to protect consumers against false labelling, misleading advertising and unfair contracts. Moreover, it provides protection against unsafe products and services mainly by strengthening the powers of the Consumer Protection Board. The third amendment of the Consumer Protection Act mandated the Consumer Protection Boards (CPB) to ban, withdraw and recall unsafe products, including general products, kitchen equipment, foodstuffs, health supplements, cosmetic products, toys and electronic equipment. However, there are many other laws in the consumer protection area, such as the Direct Selling and Direct Marketing Act 2002, the Product Liability Act 2008, the Consumer Case Procedure Act 2008, the Computer-Related Crimes Act 2007, the Cosmetics Act 1992, the Commercial Bank Act 1962, and the Food Act 1979. Amendments to the Computer-Related Crimes Act 2007 were to be passed by the legislature in the second quarter of 2015, along with a Cybersecurity Bill.¹⁶⁹ These bills, along with planned amendments to the Electronic Transactions Act may allow more effective prosecution of internet sites selling counterfeit goods. The Consumer Protection Act indirectly covers e-commerce transactions, and it also lets dissatisfied buyers seek redress through a mechanism under the Sub-Committee on Mediation. As of December 2014, the Electronic Transactions Development Agency was drafting regulations governing certification authorities. The Consumer Protection Board (CPB) remains the main governmental body implementing the policy in the area assisted by the Office of the CPB (OCPB) under the Prime Minister's Office.

3.4.5 Corporate governance¹⁷⁰

3.146. Thailand is a regional leader in corporate governance with a relatively comprehensive framework and high levels of compliance with international standards in a number of key areas.¹⁷¹ Corporate governance reforms have enhanced investor trust and protected investors' rights, especially non-majority shareholders, increased board professionalism and promoted high levels of

¹⁶⁶ The Government has no authority to order manufacturers to freeze their prices if they add value or innovations to their goods. Therefore, more new products were to appear in the marketplace, while traditional goods that are under the DIT controls would gradually disappear. The Nation online information, "Next govt should review price controls as living costs rise regardless", 7 January 2014. Viewed at: <http://www.nationmultimedia.com/business/Next-govt-should-review-price-controls-as-living-c-30223629.html>.

¹⁶⁷ Bertelsmann Stiftung (2014).

¹⁶⁸ Office of the Consumer Protection Board PowerPoint presentation (undated). Viewed at: <http://www.aseanconsumer.org/misc/downloads/usftc-s8-kt.pdf>.

¹⁶⁹ Economist Intelligence Unit (2014b).

¹⁷⁰ Improving corporate governance can serve a number of important public policy objectives. Good corporate governance reduces emerging market vulnerability to financial crises, reinforces property rights, reduces transaction costs and the cost of capital, and leads to capital market development. Weak corporate governance frameworks reduce investor confidence, and can discourage outside investment. This section is based on World Bank (2013).

¹⁷¹ According to the 2013 World Bank Detailed Country Assessment of the OECD Principles of Corporate Governance, which looks at both legal requirements and actual practice, Thailand obtained a score of 82.83 points from a possible total of 100, receiving the highest score in the disclosure and transparency areas. According to the World Bank information disclosures in the annual reports of listed companies are primarily in line with international standards. There are also a variety of channels for distributing listed companies' information to investors in an appropriate and timely manner. In addition to legal and regulatory reforms to facilitate corporate governance improvement, the Thai capital market also shows other key areas of improvement, such as, determination of basic shareholder rights and board duties and responsibilities.

corporate transparency.¹⁷² According to the ASEAN Corporate Governance Scorecard 2013 overall, the 2013 findings suggest a continued improvement in the corporate governance practices of Thai Publicly Listed Companies (PLCs).¹⁷³ The average score in 2013 was 75 points, 8 points higher than in 2012. Companies do well in the Rights of Shareholders and Equitable Treatment of Shareholders categories. The finance sector obtained the highest average score, followed by technology and telecommunications, and energy and utilities. The consumer goods sector exhibited the narrowest range of scores, suggesting the least variation in corporate governance practices among peer companies. In contrast, the range between the minimum and maximum scores in the energy and utilities sector suggested a high variation of governance practices among peers.

3.147. During the review period, Thailand's legal and institutional framework remained unchanged. Corporate governance is mainly regulated by the Public Limited Companies Act 1992 (PLCA), the Securities and Exchange Act 1992 (SEA), and the Principles of Good Corporate Governance for Listed Companies 2012. The 2013 World Bank Report on the Observance of Standards and Codes (ROSC) indicates that while the underlying legislation is generally clear, it has been supplemented by a range of regulations and guidelines, many of which are still considered relevant or in force from several years before, even when more recent statements may cover the same ground. There are also potentially confusing differences and overlap between the SEA and PLCA. In spite of widespread training and awareness raising, the market participants may not always fully understand relevant parts of the corporate governance framework.

3.148. According to the ROSC the Securities and Exchange Commission (SEC) and Bank of Thailand (BoT) are well resourced and active in enforcing the various rules and requirements under their jurisdiction. The SEC screens directors of listed companies, and can disqualify them under the SEA. Listed companies have audit committees of independent members, and many also have nomination and remuneration committees. In response to the growing importance of diversified financial companies to the Thai economy, although the SEC and BoT have not conducted joint inspections yet, they have shared information on a regular basis and planned to start joint inspections by 2015. Between 2011 and the first quarter of 2015 the SEC received 321 complaints, 94% of which were processed. Listed companies that accomplish a high level of information disclosure are awarded with Top Corporate Governance Report Awards arranged by the Stock Exchange of Thailand (SET); there are 10 top companies from the SET and 2 companies with highest score from MAI (Market for Alternative Investment) awarded annually. The State Enterprise Policy Office (SEPO) has continued its efforts to improve the governance of state-owned enterprises (SOEs), which include some of the largest listed companies (section 3.4.3).

3.149. Foreign shareholders face limits on their participation in certain companies, and custodians do not have explicit requirements to act on their behalf. As indicated by the ROSC, accounting standards still have some significant differences from international standards, particularly with respect to financial instruments. Independence requirements for auditors still allow for the provision of a range of non-audit services to clients, and, until recently, there was little oversight of audit quality or independence. Other reputational agents also have limited requirements in terms of disclosing or managing conflicts of interest. SOEs are audited by the Office of Auditor General (OAG), a state auditor with limited capabilities to audit statements prepared in accordance with current accounting standards. Consequently the ROSC suggests that Thailand's corporate governance framework could be further strengthened by: improving SOEs governance and making the state a more effective owner; protecting the independence and effectiveness of the SEC and BoT; making rules and regulations clearer for market participants; improving shareholder redress, including through SEC enforcement; finalizing convergence to International Financial Reporting Standards (IFRSs) and enhancing beneficial ownership disclosure and other non-financial disclosure; strengthening auditor independence and effectiveness of market intermediaries; and, continuing to increase board independence and effectiveness.

3.150. In response to ROSC's comments, as from 2013 the SEC has introduced many measures to improve corporate governance of listed companies. It, *inter alia*, announced a sustainability development roadmap for listed companies in 2013, which included the implementation of CG practices, corporate social responsibility (CSR), and anti-corruption. The SEC is now widely

¹⁷² More information about Thailand's corporate governance regime is also available at WTO document WT/TPR/S/191/Rev.1, 6 February 2008.

¹⁷³ Asian Development Bank (2014).

recognized as a trustworthy and effective independent audit regulator for the Thai capital market, as evidenced by its acceptance as a member of the International Forum of Independent Audit Regulators (IFIAR), an organization established to promote collaboration between independent regulators that oversee auditors, and a member of ASEAN Audit Regulators Group (AARG). Moreover, in June 2013, the European Commission (EC) acknowledged the SEC's audit oversight system as being equivalent to that of the European Union (EU) member states. Moreover, regarding IFRSs, the SEC has cooperated with the Federation of Accounting Professions to support IFRS implementation in Thailand within the globally acceptable timeframe. The SEC has also proposed further legal amendments to the Securities and Exchange Act of 1992 with regard to various issues; for instance, unfair securities trading practices, legal enforcement and capital market linkages. Amendments would permit class actions, as one way of initiating a lawsuit on behalf of a large number of injured parties. Civil penalties would be introduced as an alternative measure of legal enforcement in addition to enforcement through criminal sanctions.

3.4.6 Intellectual property rights

3.151. Intellectual property is regarded as a key factor for creating added value for goods and services and strengthening the country's competition potential as reflected in Thailand's National IP Strategy 2013-2016.¹⁷⁴ During the review period, Thailand's limited international commitments on the protection of IPRs remained unchanged. It has been a member of the World Intellectual Property Organization (WIPO) since 1989 and a party to three of its 26 administered treaties, namely the Berne Convention for the Protection of Literary and Artistic Works (since 1931), the Paris Convention for the Protection of Industrial Property (since 2008) and the Patent Cooperation Treaty (since 2009). Thailand is not a contracting party to the WIPO Internet treaties (i.e., the Copyright Treaty and the Performances and Phonograms Treaty), the Singapore Treaty on the Law of Trademarks, or the Patent Law Treaty, and it has not signed any post- Trade-Related Aspects of Intellectual Property Rights (TRIPS) FTA that includes substantial provisions on IP rights.¹⁷⁵ Nevertheless, forthcoming RTAs are still considered as opportunities for improving Thailand's IPRs protection regime.¹⁷⁶ At its previous TPR Thailand planned to accede to the Protocol relating to the Madrid Agreement Concerning the International Registration of Marks by the end of 2012; as of 2014, it planned to join it in 2015.¹⁷⁷ The authorities had also indicated that although it was not a signatory to the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations most of its principles were already incorporated into current copyright legislation, in accordance with Article 2 of the WTO Agreement on TRIPS.

3.152. Thailand's participation in the WTO's TRIPS Council's work was limited during the review period, compared to past involvement which, *inter alia*, was related to biopiracy and inappropriate patenting, as well as protection for geographical indications and traditional knowledge.¹⁷⁸ As a developing country, Thailand has been implementing the WTO TRIPS Agreement since 2000. Thailand has implemented the 2003 WTO General Council waiver on compulsory licensing, set up under Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health to allow compulsory licensing for exports to countries lacking their own production capacity (the Paragraph 6 system); it initiated the patent protection of pharmaceutical products in 2005. It has not yet accepted/ratified the 2005 decision to convert the waiver into a TRIPS Agreement amendment.¹⁷⁹ At the time of its previous TPR, it was preparing to amend the Patent Act, and the procedure for implementing the Paragraph 6 system was to be discussed and then included in the draft amendment. As of end-June 2015 the acceptance of the Protocol amending the WTO TRIPS

¹⁷⁴ Department of Intellectual Property (2014).

¹⁷⁵ US Chamber of Commerce's Global Intellectual Property Center (2015).

¹⁷⁶ According to the EU, which on 6 March 2013, launched negotiations for a Free Trade Agreement with Thailand (section 2.4.2), an FTA with Thailand would provide provisions on addressing and improving its deficiencies in the registration, protection and enforcement of IPRs. European Commission Market Access online Database. Viewed at: http://madb.europa.eu/madb/barriers_details.htm?barrier_id=095301&version=3.

¹⁷⁷ ASEAN members had agreed to do this by end-2015 under the ASEAN Economic Community Blueprint; though as of December 2014 only Singapore and Viet Nam had joined. In October 2012 the National Legislative assembly allowed the authorities to apply to join the Madrid Protocol, though the new government as of December 2014 had not announced a timetable regarding accession to this treaty. Economist Intelligence Unit (2014b).

¹⁷⁸ WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

¹⁷⁹ See WTO online information. Viewed at: www.wto.org/tripshealth; and WTO document IP/C/57, 10 December 2010 on the "Paragraph 6" review.

Agreement was in the process of Parliamentary approval as provided under the Interim Constitution B.E.2557 (2014) (section 2.2).

3.4.6.1 Legislative and institutional developments

3.153. Since Thailand's last Review in 2012, several legislative developments relating to amendments to existing laws as well as new pieces of legislation, which had been blocked for several years, were either passed or enforced in 2015.¹⁸⁰ Thailand considered several amendments to its IP regime, including the Copyright Act, Trademark Act, Trade Secrets Act, Customs Act, and the Computer Crime Act. The amendments, *inter alia*, seek to address Internet Service Providers' (ISP) liability, protection of technical protection measures (TPMs) and rights management information (RMI), enforcement of TPMs, unauthorized camcording in movie theatres, copyright exceptions for temporary copying, copyright exceptions to facilitate access to copyright works for disabled persons, and customs action against transshipments of infringing goods. A number of bills have been discussed by the National Legislative Assembly and marked for expedited passage and enactment; those relating to the amendments of the Copyright Act and the Trade Secrets Act were passed in November 2014. The Copyright Act (No.2) B.E. 2558, the Copyright Act (No. 3) B.E. 2558 and the Trade Secrets Act were enacted and published in the Government *Gazette* in February 2015. The Copyright Act (No. 3) B.E. 2558 and the Copyright Act (No. 2) B.E. 2558 have come into force on 4 April 2015 and 6 August 2015 respectively, while the amendments to the Trade Secret Act entered into force on 6 February 2015. The amendments are directed toward closing outstanding gaps in Thailand's IP framework.¹⁸¹

3.154. The IPRs institutional framework remains unchanged. Under the Ministry of Commerce, the Department of Intellectual Property (DIP) remains responsible for implementing laws and initiating reforms on intellectual property protection covering copyrights, trademarks, patents, integrated circuit topographies, geographical indications, trade secrets, optical disc production, traditional knowledge, and other subjects, including registration and approvals. The DIP supports the Office of Higher Education Commission, in order to set up Technology Licensing Offices (TLO) at various universities to liaise with start-up companies and new entrepreneurs searching for market opportunities, as well as to set guidelines for using IP at commercial level. Moreover, the DIP and universities signed agreements to promote and commercialize IP; the DIP planned to extend its cooperation to 14 universities by co-signing Agreements in July 2015. The Ministry of Science and Technology has an Intellectual Property Management unit in its National Innovation Agency that promotes partnerships between private companies and local researchers, and a consultant on registration of patents and IP rights and a provider of various services.

3.4.6.2 Industrial property

3.4.6.2.1 Patents

3.155. There has been virtually no change to Thailand's patent legislation since its previous review. The Patent Act B.E. 2522 (1979), as amended in 1992 and 1999, grants national treatment to nationals of other countries that are party to any international convention that Thailand has signed. The next amendment of the Act is under consideration. The importation of patented products by the patentee is considered as "working the patent". The Patent Act covers inventions and designs, and products and processes. It includes full patents for inventions that are new, industrially applicable, and represent an inventive step; and petty patents, which do not require an inventive step. Terms of protection, applied from the date of filing, are 20 years for inventions, 10 years for designs, and 6 years for petty patents.¹⁸² Under the Patent Act, an invention is defined as any innovation or invention that creates a new product or process, or any improvement on a known product or process.¹⁸³ A product design is defined as any form or

¹⁸⁰ English translations of Thailand's intellectual property laws and related legislation, regulations, and treaties are available in the World Intellectual Property Organization's database, WIPO Lex. Viewed at: <http://www.wipo.int/wipolex/en/profile.jsp?code=TH>.

¹⁸¹ US Chamber of Commerce's Global Intellectual Property Center (2015).

¹⁸² These terms of protection can be extended twice for periods of two years.

¹⁸³ Under the Act (Section 9), the following are unpatentable: naturally occurring microorganisms and their components, animals, plants or extracts from animals or plants; scientific or mathematical rules or theories; computer programs; methods of diagnosis, treatment or cure of human and animal diseases; and inventions contrary to public order, morality, health or welfare.

composition of lines or colours that gives a special appearance to a product and can serve as a pattern for an industrial or a handicraft product.

3.156. Annual patent applications to the DIP for inventions rose from 3,906 (2011) to 7,930 (2014), while for designs they were relatively steady at around 3,787.¹⁸⁴ During the same period, all patent approvals increased gradually from 2,153 to 4,007 and slightly decreased to 3,763 in 2014; in 2014, foreign patents represented 59% of all approvals. There were more foreign applications and approvals than Thai ones for inventions, but the reverse for designs. In late 2013, patent examination guidelines, which appear to limit patentability of medical use claims and of new uses for known substances, were released to streamline the patent examination process and to help reduce severe patent backlogs as well as evergreening of drug patents.¹⁸⁵ However, so far the guidelines have seemingly resulted in further delays and requests for additional information from patent applicants, particularly for applications related to second medical use. The reduction of backlog has been DIP's priority. Efforts were made to increase the number of examiners, outsource some administrative functions to research entities, public universities, and government institutions and enhance IP registration efficiency to improve IT systems. In addition, the DIP tries to reduce duplication on search and examination work by accepting search and examination results of other IP offices as follows: participation in the ASEAN Patent Examination Cooperation (ASPEC) to share search results between the participating offices allowing applicants to obtain corresponding patents faster and more efficiently; and the signature of a MOU on pilot Patent Prosecution Highway programme (PPH) on work sharing with the Japan Patent Office (JPO) on 24 September 2013, in force since 2014. As of December 2014, the backlog of pending applications, a longstanding concern, had reached over 20,000.¹⁸⁶ According to the DIP as of late 2014 the average time required to obtain a patent stood at over seven years.¹⁸⁷

3.4.6.2.2 Trademarks

3.157. The Trademarks Act B.E. 2534 (1991), last amended in 2000, remains unchanged and includes national treatment and extended coverage to coloured and three-dimensional marks. Owners of registered trademarks are granted protection for ten years; registration may be renewed every ten years. Trademarks that are identical or similar to well-known marks may not be registered and those already registered may be revoked. Criteria from the Joint Recommendation Concerning Provisions on the Protection of Well-Known marks of WIPO are considered by the Registrant as well as the Trademark Board to determine whether a mark is well known; the relevant decision may be subject to appeal at court. Also protected are service marks, certification marks, and collective marks.

3.158. As of end-2014 the Cabinet was reviewing two important amendment proposals to the existing Trademarks Act that were merged and already considered by the Council of the State; as of end-June 2015 the amendment was to be considered by the National Parliament and could come into effect in 2015.¹⁸⁸ The proposed amendment is to take into account new developments in the field of trademarks and bring the legislation in line with the principles of the Madrid Protocol to which Thailand is to become a party, one among the key objectives of the ASEAN Intellectual Property Rights (IPR) Action Plan (2011-2015).¹⁸⁹ The draft amendment will extend the scope of

¹⁸⁴ Department of Intellectual Property (2014).

¹⁸⁵ The Nation online information, "Price of medicines may soar if evergreen patents granted", 27 February 2013. Viewed at: <http://www.nationmultimedia.com/national/Price-of-medicines-may-soar-if-evergreen-patents-g-30200825.html>; The Rouse online information, "New Patent Examination Guidelines in Thailand", 13 September 2013. Viewed at: <http://www.rouse.com/magazine/articles/ip-komodo-blog/new-patent-examination-guidelines-in-thailand?tag=chemical>; and US Chamber of Commerce's Global Intellectual Property Center (2015).

¹⁸⁶ USTR (2015b).

¹⁸⁷ Economist Intelligence Unit (2014b).

¹⁸⁸ Interlegal Newsletter, "Thailand Legal Updates December 2014". Viewed at: <http://www.interlegal.net/es/news/interlegal-newsletter-thailand-legal-updates-december-2014>; Economist Intelligence Unit (2014b).

¹⁸⁹ Once all ASEAN countries become members to the Madrid Protocol it will be possible to designate these countries under the international trademark system, saving costs for trademark applicants and greatly simplifying the requirements to protect and manage trademark applications and trademark portfolios in the region. Currently, except for a few countries (Singapore, Viet Nam, and the Philippines), it is not possible to designate ASEAN countries through the Madrid System (viewed at: <http://www.wipo.int/madrid/en/general/>). Interlegal Newsletter, "Thailand Legal Updates December 2014". Viewed at:

trademark protection to include an unconventional mark, namely sound mark, and to make it clear that illegal re-filling is an infringing activity. The draft amendment also aims to simplify the process of registration and to reduce registration time as well as to provide a grace period for renewal after the trademark has expired. The criminalization of illegal re-filling is also to be included. These changes seem in line with Thailand's obligations under the TRIPS Agreement by acceding to international conventions on cross-border registration; applicants could claim a priority right within WTO Member countries based on a registration application made in Thailand if application is made within six months of the first filing date abroad. As of 2014 the Ministry of Public Health was considering a plain packaging law, the Tobacco Consumption Control Act, which includes language prohibiting the display of product names, marks, and importer or manufacturer names on tobacco products, and similar regulation could also be extended to alcoholic products (section 3.2.6.1.5).¹⁹⁰ The new regulation could require warning labels on all cigarette packages to cover 85% of a package (up from 55%), thus restricting the existing size of trademarks on tobacco product labels; the authorities indicated that the relevant registered trademarks are still protected under the Trademark Act.

3.159. To qualify, a trademark must be distinctive, different from other registered trademarks, and not violate public order or morality. Goods and services are classified according to the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks. Between 2011 and 2014 the number of trademark applications to DIP slightly fluctuated, with a slight increase from 44,963 in 2012 to 46,097 in 2013 and slightly decreased to 45,661 in 2014. However, the number of registrations dropped -1.3% in 2013 when compared with the previous year and picked up again in 2014 at 5.4%, 20,617 marks being registered in total. Thai applications and registrations continue to exceed those of foreign applicants, and in 2014 they stood at 60.3% and about 55.7% of the total respectively.¹⁹¹ According to the DIP as of beginning of 2015 the average time required to register a trademark stood at 8-12 months as a result of the prioritization policy of the DIP and Ministry of Commerce to clear all backlogs before joining the Madrid Protocol and to bring the country's performance in line with the internationally accepted practice.¹⁹²

3.4.6.2.3 Trade secrets

3.160. Under the Trade Secrets Act B.E. 2545 (2002), last amended in 2015 (section 3.4.6.1), undisclosed information remains protected only when not generally known or readily accessible within the business, its secrecy makes it valuable, and it is in the control of the information owners who have taken steps to keep it secret. Generally, the Government has to keep secret any confidential information it receives subject to limited exceptions. The protection lasts as long as the information remains confidential. Test data for pharmaceutical and agricultural chemicals products qualify, but Thai law does not give data "exclusivity"; it neither prevents the data from being used for the approval of generic versions. The latest amendments to the Act are minor and relate to procedural issues such as the composition of the Trade Secrets Board and nominations to the Board.¹⁹³ It seems that in practice few trade secret applications are being filed with applicants fearing that disclosure of their trade secret to the authorities is not worth the benefit of trade secret protection under the Trade Secrets Act. The number of industrial and commercial trade secrets notified to the DIP rose from 247 (2011) to 273 (2012).

3.4.6.2.4 Geographical indications

3.161. Under the Geographical Indications Act B.E. 2546 (2003) protection is provided to domestic and foreign geographical indications in Thailand and includes terms associated with places as well as the place names themselves, allowing protection, for example, for fragrant rice such as Khao Hom Mali Thung Kula Rong-Hai (Jasmine rice). Once a term is registered, similar or

<http://www.interlegal.net/es/news/interlegal-newsletter-thailand-legal-updates-december-2014>; Economist Intelligence Unit (2014b).

¹⁹⁰ In addition to Australia, which already enforced such requirements, several economies, including France, New Zealand, South Africa, Thailand, and the United Kingdom, are considering introducing plain packaging legislation. US Chamber of Commerce's Global Intellectual Property Center (2015).

¹⁹¹ Department of Intellectual Property (2014).

¹⁹² Economist Intelligence Unit (2014b).

¹⁹³ Interlegal Newsletter, "Thailand Legal Updates December 2014". Viewed at: <http://www.interlegal.net/es/news/interlegal-newsletter-thailand-legal-updates-december-2014>; Economist Intelligence Unit (2014b); and EU (2014).

identical terms must not be used if that could cause confusion or be misleading about the product's geographical origin, quality, reputation or characteristics. Thailand applies "GI extension" to a limited number of products under Chapter V of the Act; Ministerial Regulation of Geographical Indications B.E. 2547 (2003) identifies rice and silk as well as wines and spirits as products benefiting from a higher level of protection, which protects their names against goods from other geographical areas using the same or similar terms even when their true origin and qualities are clearly identified so there is no risk that anyone will be misled or confused. Nevertheless, concerns have been raised regarding the non-prohibition of misleading expressions such as "kind", "type", "style" or "imitation" or the like (e.g., "Scotch-type Whisky").¹⁹⁴ According to the authorities GI protection is provided in line with the relevant provisions of the TRIPS Agreement. No protection is available if a term is generic or if it violates public order, morals or policy.

3.162. Registration is valid until it is cancelled. As of June 2015 Thailand had a total of 118 applications for GI products which could be divided into Thai GI products for 104 applications and foreign GI products for 14 applications. There are 70 products protected consisting of 59 Thai and 11 foreign GIs. The examples of latest Thai GI applications are Rongrien Nasarn Rambutan from Surat Thani province, Pugo Yarang Pomelo from Pattani Province, Lamphun Golden Dried Langan, Kham Hom Phrae Rice, Wiang Kalong Pottery from Chiang Rai Province, and Mae Chai Phayao Lychee. Among the foreign terms registered are: Champagne and Cognac (France); Brunello di Montalcino, Barbaresco and Barolo, and Prosciutto di Parma (Italy); Scotch Whisky (UK); Pisco (Peru); Napa Valley (United States); Tequila (Mexico); and Boun Ma Thuot Coffee (Viet Nam). Registered Thai geographical indications include fruits, coffee, wine, rice, agricultural products, food stuffs, and handicrafts. Between 2011 and 2013, 35 new GIs were registered of which 5 were foreign.¹⁹⁵

3.4.6.2.5 Protection of plant varieties

3.163. Protection under the *sui generis* Plant Varieties Protection Act B.E. 2542 (1999), is for up to 27 years. It defines plant varieties eligible for protection and stipulates that genetically modified varieties may only be registered after they are officially appraised as safe for the environment, health, and public welfare. Farmers may replant the protected varieties they have grown for their own use, if the Government has announced it is promoting the variety, and up to a limit of three times the original quantity that the farmer obtained. The Act is administered by the Agriculture Ministry. Thailand remains a non-member of the International Union for the Protection of New Varieties of Plants (UPOV), and a non-signatory to its Convention.

3.4.6.3 Copyright and related rights

3.4.6.3.1 Copyright

3.164. Thailand's copyright legislation was amended in 2015 to bring it up to date with technological changes in general and the spread of the internet in particular as well as to align the Copyright Act with the so-called WIPO Internet Treaties (section 3.4.6.1). The Copyright Act B.E. 2537 (1994) provides protection for the life of the creator, plus 50 years¹⁹⁶, except for works of applied art, which are protected for 25 years from the date of creation.¹⁹⁷ Copyright applies from the time a work is created. Registration is not required, but the DIP issues certificates for notified copyrighted works. Protected works are literary works (including computer programs), dramatic works, artistic works, musical works, audio-visual materials, cinematographic works, sound recordings, sound/video broadcasts, and all other work in the literary, scientific or artistic fields irrespective of the means or form of expression. Authors' moral rights and performers' rights are also protected. Computer software is exempt if the copying or modification thereof is for research, study or other personal use, and if it is not for profit.

¹⁹⁴ These concerns by EU companies relate to provisions under TRIPS Articles 22 and 23. EU (2014).

¹⁹⁵ Department of Intellectual Property (2014).

¹⁹⁶ For joint authorship, copyright lasts for the life of the authors plus 50 years after the death of the last surviving author. If the author is a legal person, copyright lasts for 50 years from the date the work was created; if the work is published during the period, copyright lasts for 50 years from its first publication.

¹⁹⁷ If the work of applied art is published within 25 years of its creation, copyright lasts for 50 years from its first publication.

3.165. In case of infringement, copyright holders have the right to seek injunctions, compensation for damages, and to recover investigation costs and legal expenses. Under the 2015 amendments to the Copyright Act (see below), in case of an appearance of clear evidence that an infringement of a copyright is a wilful and intentional act which causes a copyright work to be widely accessed by public, the court shall give an order to the infringer to pay more damages, but not exceeding twice as much for the damages specified in normal cases. Competent authorities under the Copyright Act have the right to seize pirated goods upon the request of the copyright holder and to enter any premises where they suspect such goods are being held. Penalties for direct infringement for commercial purposes range from B 100,000 to B 800,000, with prison terms of six months to four years.

3.166. On 27 November 2014, two separate amendments to the Copyright Act were passed by the National Legislative Assembly and on 5 February 2015 they were published in the Government *Gazette*. The first amendment, effective as of 4 August 2015 (the Copyright Act (No. 2) B.E. 2528) comprises mainly provisions to protect copyright in the digital environment, i.e. the protection of right management information (RMI) and technological measures (TPM), the exception for temporary copying of a copyright work necessary for the process of utilization of the computer system, and the limitation on ISP liability.¹⁹⁸ The amendment carries a penalty of up to 2 years of imprisonment or a fine of B 400,000, or both for the offence of RMI and TPM. The second amendment, in force as of 6 August 2015, provides exceptions to facilitate access to copyright works for disabled persons and for the offence of unauthorized camcording in movie theatres. Concerns over the 2015 amendment of the Copyright Act were expressed as it seems that they add difficulties with respect to addressing Internet piracy. The proposed protections against the circumvention of technological protection measures (TPMs) (key protections that would enable Thailand to accede to and ratify the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT)) fail to adequately address trafficking in circumvention technologies and introduce over-broad exceptions; it also seems that they omit a much-needed landlord liability provision and fall short of addressing the concern of including deterrent penalties in the Copyright Act.¹⁹⁹

3.167. In February 2013, IPRs infringement was included as a predicate offence under the Money Laundering Prevention and Suppression Act (2013) and the Cabinet approved the principles of the draft Computer Crime Act, including IPR infringement as a predicate offence, in order to submit it for the consideration of the National Legislative Assembly.

3.168. Copyright notifications remained relatively stable with an annual average of 16,697 over the period 2011-2014.²⁰⁰ The largest numbers remain in musical, artistic, and literary notifications, equivalent to 44.3%, 29%, and 20.6% of the total of notifications respectively.

3.4.6.3.2 Layout designs of integrated circuits

3.169. Under The Protection of Layout Designs of Integrated Circuits Act B.E. 2543 (2000) a layout design must be the designer's own work and must not be commonplace. It must be registered with the DIP. Protection enters into force upon registration and a certificate is issued. The certificate is valid for ten years from the date of filing or the date of the first commercial exploitation, within or outside Thailand, whichever occurs first, but no longer than 15 years from when the layout design's creation was completed.

3.4.6.4 Government use and compulsory licensing

3.170. There has been no change to Thai legislation on government use and compulsory licensing. Regarding copyright, any interested person may apply for compulsory licensing to translate a work

¹⁹⁸ Articles 11 and 12 of the WIPO Copyright Treaty, and Article 18 and Article 19 of the WIPO Performances and Phonograms Treaty (WPPT) regarding Obligations concerning Technological Measures and Obligations concerning Right Management Information, were used as models for making the TPM and RMI drafts.

¹⁹⁹ A landlord liability provision targets a person whose action "facilitates" infringing activities such as allowing a tenant to sell counterfeit goods liable for secondary or contributory infringement. International Intellectual Property Alliance (2015); USTR (2015b); Interlegal Newsletter online information, "Thailand Legal Updates December 2014". Viewed at: <http://www.interlegal.net/es/news/interlegal-newsletter-thailand-legal-updates-december-2014>.

²⁰⁰ Department of Intellectual Property (2014).

into Thai or to reproduce a translation published in Thai, under special circumstances, for example for study, teaching or research without a profit-seeking purpose. Under the Section 46 (Annex III) of the Patent Act any person may apply for a licence three years after the grant of a patent or four years from the date of application, whichever is earlier. In addition, Section 51 provides for the grant of licences for government use purposes, *inter alia*, to carry out any service for public consumption or to prevent or relieve a severe shortage of food, drugs or other consumption items.

3.171. Since 2009 no new compulsory licences have been issued though one extended licence for HIV/AIDS medication will remain in place until 2016.²⁰¹ Seven compulsory licences for medicines for heart disease (1), HIV/AIDS (2), and cancer (4) were issued during 2006-08, under Section 51 of the Patent Act and Article 31 of the TRIPS Agreement, for non-commercial use under the Government's policy of providing affordable universal healthcare.²⁰² In return for the compulsory licences, the Government Pharmaceutical Organization (sections 3.2.7 and 3.4.4.1) was granted the rights relating to these medicines and offered to pay royalties of 0.5–5.0% of total sales value to the rights holders. It appears unlikely that more such compulsory licences will be issued as the authorities prefer to come to negotiated settlements with pharmaceutical companies either to offer medicine at reduced rates or to allow the Government Pharmaceutical Organization to manufacture generic versions for domestic use only.²⁰³

3.4.6.5 Traditional knowledge

3.172. Thailand continues without a *sui generis* law on traditional knowledge but there are laws dealing with specific types of traditional knowledge such as traditional Thai medicinal intelligence, cultural arts, etc. Traditional knowledge in medicine remains the sole expression protected under the Protection and Promotion of Traditional Thai Medicinal Intelligence Act, B.E. 2542 (1999), administered by the Public Health Ministry. The DIP registers traditional knowledge through notifications; the number of notifications has dropped from 808 in 2009 to an annual average of about 68 (2010-2013) following DIP's cancelation of the DIP Notification on traditional knowledge on 16 March 2015 as traditional knowledge is protected under laws implemented by other relevant agencies.²⁰⁴ Thailand is a signatory to the 2007 Bandung Declaration on the Protection of Traditional Cultural Expressions, Traditional Knowledge and Genetic Resources, an outcome of the Asian-African Forum on Intellectual Property and Traditional Cultural Expressions, Traditional Knowledge and Genetic Resources.

3.4.6.6 Parallel imports

3.173. Parallel imports are allowed for goods protected by copyrights or by registered or unregistered trademarks. By contrast, under the Patent Act, the patentee has an exclusive right to import patented products or products produced by the patented process. However, after a patented product has been produced or sold by a third party with the authorization or consent of the patentee, the patentee's rights over these products are deemed exhausted, including the right to prevent parallel imports. Right holders under the Protection of Layout Designs of Integrated Circuits Act also have an exclusive right to import the protected layout design.

3.4.6.7 Enforcement

3.4.6.7.1 Features

3.174. Despite efforts to tackle piracy and counterfeiting, it is claimed that Thailand remains a major market for pirated goods, especially audio and film products and computer software (in both the public and private sectors), as well as a transit/transshipment/smuggling point for infringing goods from neighbouring countries.²⁰⁵ Due, *inter alia*, to increasing online and mobile piracy, along

²⁰¹ More information on this matter is available in WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

²⁰² Among these licences one conditional compulsory licence issued for imatinib, a cancer medicine, cannot be implemented until Novartis (Thailand) Co., Ltd., can sufficiently provide the drug under the company's access initiative called GIPAP for all needy patients under a universal coverage.

²⁰³ Economist Intelligence Unit (2014b).

²⁰⁴ Department of Intellectual Property (2014).

²⁰⁵ WTO document WT/TPR/S/191/Rev.1, 6 February 2008. International Intellectual Property Alliance (2015).

with physical piracy (mostly in malls and tourist areas), unauthorized camcording (mostly focused on audio feeds), the market for creative content in Thailand remains difficult. In 2014, Thailand ranked last out of 30 countries (nearly 80% of world GDP) after Indonesia, Viet Nam and India in the 2015 Global Intellectual Property Center (GIPC) International's IP Index, which is based on effectiveness and administrative performance.²⁰⁶ According to the Business Software Alliance, the percentage of software that is pirated in Thailand remains high, but declined from 75% in 2009 to 72% in 2011 and 71% of installed software, compared with a 62% average for the Asia Pacific region in 2013.²⁰⁷ The estimated US\$869 million (US\$852 million in 2011) commercial value of the pirated software of installed software placed Thailand 17th in the world in 2013, after the three major North American countries, five large EU countries, China, the Russian Federation, Brazil, India, Japan, and Indonesia, although the developed countries' piracy rates are estimated to range from 18% (United States) to 47% (Italy) of installed software.

3.175. Effective IPR enforcement remains a concern for some of Thailand's major trading partners who, *inter alia*, consider that more needs to be done to address longstanding organizational challenges and to prioritize related activities.²⁰⁸ Longstanding and multi-faceted enforcement concerns include: the use of provisional measures (preventive injunctions rarely granted); customs procedures (available only against trademarks and copyright infringement, lack of transparency and burdensome nature of evidence to be submitted, etc.); lack of sufficient resources (both financial and human) and proper training of the enforcement agencies; leaks from police sources and corruption compromising raids; civil IPR proceedings (lengthy and expensive) and low civil damages; and criminal procedures (search warrants difficult to obtain, criminal sanctions not deterrent enough, judges reluctant to impose harsh penalties).²⁰⁹

3.4.6.7.2 Border enforcement

3.176. The border enforcement framework remained virtually unchanged during the review period. Upon request of the rights holders or suspicion and in collaboration with the DIP, customs officers are allowed to seize, at the border, trademark- or copyright- infringing goods that are being imported or exported. Customs' jurisdiction is not confined to border points. In case of suspected smuggling of IPR-infringing products, Customs may invite the IPR owners to inspect the goods, and joint inspections take place regularly at Klong Toey Port. In 2014, the efforts to improve border enforcement consisted of installing additional checkpoints at key border crossings. An amendment to the Customs Act, which was published in the *Royal Gazette* on 4 December 2014 and became effective 90 days later, expanded the Royal Thai Customs' *ex officio* powers to inspect, suspend, and seize illegal goods in transit and transshipment. No efforts to broaden the scope of border enforcement to cover all intellectual property rights, another project cited in previous TPRs, were undertaken during the review period. Similarly to domestic enforcement (section 3.4.6.7.3) between 2011 and 2014 the number of arrests for IPRs violations under the Customs Act increased by 38.7% to 809, and materials seized by 8.4% to about 341,907.

3.4.6.7.3 Domestic enforcement

3.177. During the review period action was taken to intensify enforcement actions and reduce IPRs violations. A Memorandum of Understanding (MOU) between the DIP and the Royal Thai Police establishing special IPR Suppression Centres in major cities in Thailand was signed in April 2012, and a National IPR Centre of Enforcement (NICE) consisting of 25 agencies, was set up by the National Committee on Intellectual Property Policy (see below) in March 2013 to support the coordination between IP enforcement agencies, the private sector and the DIP, which acts as

²⁰⁶ The Index is based on indicators of robust IPRs protection system. US Chamber of Commerce's Global Intellectual Property Center (2015).

²⁰⁷ Business Software Alliance (2014).

²⁰⁸ In 2007 Thailand was moved from the USTR's Special 301 to the Priority Watch List where it still remains in 2015. The United States considers that IPR enforcement does not seem to be a top priority and poor coordination among government entities and prosecution has seen limited improvement whereas the EU notes that enforcement efforts have been inconsistent and insufficient and serious violations of IPRs continue. USTR (2015b); European Commission online Market Access Database. Viewed at: http://madb.europa.eu/madb/barriers_details.htm?barrier_id=095301&version=3; and Economist Intelligence Unit (2014b).

²⁰⁹ USTR (2015b); European Commission online Market Access Database. Viewed at: http://madb.europa.eu/madb/barriers_details.htm?barrier_id=095301&version=; and EU (2014).

the focal point. NICE's Action Plan for 2014 was to focus on trademark infringements related to medicines, cosmetics, wines and spirits and emphasis was to be put on software, music, films, and computer games.²¹⁰ It was to target large-scale infringers and dangerous goods particularly in IPR "Red Zones", or priority areas, such as MBK and Panthip Plaza in Bangkok, Patong, Kata, and Karon beaches in Phuket, Walking Street in Pattaya, etc. Furthermore, a joint IP database would soon be established by the DIP and other IPRs enforcement agencies to keep track of and increase information flows on the status of infringement cases, court decisions and repeat offences.²¹¹ The 2009 National Intellectual Property Committee was institutionalized (previously an *ad hoc* body) by the Prime Minister's Office Announcement of 27 August 2012 effective as of 2 September 2012; it is chaired by the Prime Minister.²¹² It appears that this institutional setting has only coordinated a small number of trademark infringement raids.²¹³ The DIP maintains 9 plurilateral MOUs signed between 2002 and 2010 between relevant government agencies, private entities, and the private sector, in order to enhance cooperation on the suppression of IPR violation such as the MOU related to cooperation on border enforcement, the MOU related to prevention and suppression of sales of infringing goods, etc.

3.178. The Royal Thai police have stepped up their campaigns at the retail and production levels in recent years.²¹⁴ However, although cases of government operations exist, such as the destruction of about 80,000 goods seized by DIP, in 2014, police and judicial action against IP rights violations was sluggish compared with previous years.²¹⁵ Between 2011 and 2014 the number of arrests for IPR violations rose by 0.8% to 9,924, and materials seized decreased by 76.3% to about 1 million. The authorities indicated that this drop was due to continued suppression efforts targeting large-scale infringers.

3.4.6.7.4 Court action

3.179. During the review period, court action was seemingly reduced, possibly reflecting similar trends at border and domestic enforcement actions. Since 1997, the Intellectual Property and International Trade (IPIT) Court, a separate and specialized court of original jurisdiction covering other trade issues, such as anti-dumping and countervailing measures, as well as intellectual property has enhanced IPR enforcement.²¹⁶ Civil litigation seems rarely used in Thailand; in 2010, 138 civil litigation cases were brought to the IPIT Court, while in 2011 and 2012 this number decreased to 119 and 120 respectively.²¹⁷ By comparison, 5,148 and 4,766 criminal cases were respectively brought to Court in 2010 and 2011 (4,463 cases between January to October 2012). In 2014 the 5,072 criminal cases filed with the IPIT Court were about 30% less than in 2013.²¹⁸ Most involved trade mark violations (4,127) and copyright infringements (602). Only 9 involved patents. Generally a fine is imposed and the infringing goods are destroyed.

²¹⁰ EU (2014).

²¹¹ ASEAN Briefing online information, "Thailand's Intellectual Property Regime", 21 August 2014. Viewed at: <http://www.aseanbriefing.com/news/2014/08/21/thailands-intellectual-property-regime.html#sthash.m2spAAZ1.dpuf>.

²¹² More information about this Committee is available at WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

²¹³ International Intellectual Property Alliance (2015).

²¹⁴ Economist Intelligence Unit (2014b).

²¹⁵ US Chamber of Commerce's Global Intellectual Property Center (2015).

²¹⁶ More information about IPIT is available at WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

²¹⁷ EU (2014).

²¹⁸ US Chamber of Commerce's Global Intellectual Property Center (2015).

4 TRADE POLICIES BY SECTOR

4.1 Introduction

4.1. Agriculture, forestry and fisheries remain an important pillar of the Thai economy, accounting for around one-tenth of GDP and one-third of employment. Thailand is a major global producer and exporter of various agricultural products and processed foods, and it maintains a trade surplus in these areas. As mentioned in previous reviews, Thailand's key challenge in the agricultural sector is to raise productivity. Thailand continued to pursue a costly and controversial price intervention scheme for rice up until 2014, when it was discontinued by the new Interim Government. While various short-term support measures were taken over the period 2014/15, a long-term strategy for the rice sector has yet to be fully determined. No notifications have been made by Thailand to the WTO on domestic support provided since 2008, although the authorities indicated that this data will be forthcoming shortly. Thailand's simple average applied MFN tariff on agricultural products (WTO definition) remains high at 34.7% in 2014. Tariff quotas remain in place for 118 tariff lines; in a number of cases fill rates remain low. Restrictions on foreign investment in various farming activities remain in place. The fisheries sector is dominated by aquaculture production. Frozen and preserved shrimps and prawns continue to be the country's main fisheries export. A new Fisheries Act entered into force in 2015, adjusting fisheries resources management measures to be more compatible with international fisheries law and standards as well as new fisheries technologies. Foreigners are prohibited from commercial fishing in Thai fishery waters and within its exclusive economic zone. Just less than 4% of Thailand's total area is devoted to productive plantation forestry. New incentives are being given to increase commercial forestry and efforts are being made to prevent illegal logging.

4.2. Despite its significant energy endowment and energy policy being focused on becoming energy independent, Thailand remains a net and growing energy importer reflecting robust domestic demand. It has been well ranked in international indices for access to electricity and for the strength of its energy architecture. Various incentives are being offered to support renewable energy products. The State retains a significant presence in the sector and has a monopoly on the transmission and distribution of electricity. Reforms in the natural gas sector are underway to promote competition and ensure non-discriminatory treatment in the use of natural gas pipeline services. Thailand has developed a policy framework and guidelines on restructuring energy prices so that they reflect actual costs. As a consequence it no longer subsidises the consumption of diesel and liquefied petroleum gas (LPG), which had been extremely costly. As at mid-2015, only ethanol blended gasolines E20 and E85 and compressed natural gas for vehicles (NGV) remained subsidized.

4.3. Thailand has a diverse manufacturing sector producing, *inter alia*, automotive and automotive parts, electronic and electrical goods, steel and iron products and textiles. While the manufacturing sector's contribution to GDP has decreased over the review period (to nearly 28% of GDP in 2013), employment in the sector has witnessed an increase (to nearly 17% in 2014). The sector continues to be supported by various fiscal incentives as well as high tariff protection on certain products, including completely built-up motorcycles and cars. Over the review period, manufacturing was hit by a major earthquake in Japan in March 2011, which disrupted supply chain activity particularly in the automotive sector, and severe flooding in 2011. Challenges facing the sector include rising costs, partly as a result of the introduction of a minimum wage in 2013, the limited production capability of Thai manufacturers in high-technology products, and increased competition from other economies in the region. In 2014, the Government approved a guideline to develop the rubber sector in the face of oversupply and falling international prices. This includes various support measures including the creation of a buffer stock to stabilize rubber prices and soft loans to rubber farmers.

4.4. Thailand's services sector has continued to grow. Its GDP share was 46.3% in 2014 and in the same year its share in total employment was 42.9%. The State continues to have a significant presence in banking, telecommunications and transportation through ownership/equity stakes in companies or the operation of state-owned enterprises. The banking sector has remained robust and stable throughout the review period and the Bank of Thailand's supervisory mandate has been strengthened to cover government-owned Specialized Financial Institutions. Following the enactment of legislation on anti-money laundering and anti-terrorism, Thailand has been upgraded from the G7 Financial Action Task Force's black list of countries failing to meet international standards to combat money laundering to "grey" status. There has been some liberalization of

banking services, and in both banking and insurance, legal flexibilities allowing greater foreign participation in these sub-sectors have been used. In telecommunications the launch of 3G services, following a delayed auction process, has resulted in a huge increase in the take-up of mobile and wireless broadband services. Competition between the three key players in the mobile segment has led to retail price decreases. Eight bills designed to transform Thailand as a digital economy are being drafted. In the air transport sector, key challenges are to address safety concerns highlighted in a recent ICAO report and to address capacity constraints at major airports. The Government is actively promoting Thailand as a centre for airline maintenance, repair, and overhaul services. With respect to maritime transport, key laws are currently under review. Maritime transport remains the principal mode of transport for the import and export of goods, both in volume and value terms. A cargo reservation policy remains in place requiring that goods directly or indirectly imported into Thailand by government agencies or public enterprises must be transported by Thai vessels, where they are available. Cabotage is restricted to Thai-flagged vessels, with a minimum of 70% domestic equity. Tourism remains Thailand's main source of foreign exchange. Thailand continues to offer fiscal incentives for various tourism-related activities and promote itself as the medical hub of Asia.

4.2 Agriculture and Food Processing

4.2.1 Features

4.5. In 2014, agriculture (excluding food processing), forestry and fisheries contributed 10.5% to GDP (compared to 11.6% in 2011) and accounted for 33.4% of employment in 2014 (down from 38.7% in 2011 (Table 1.2).

4.6. Of a total land area of 51.3 million hectares, about 46% is used for agriculture (2012 data, up from 41% as reported in Thailand's previous review). Of this, nearly half is in rice paddies (Table 4.1). Preliminary data from the 2013 agricultural census indicate that there are 5.9 million farm holdings in Thailand (up from 5.79 million in the previous (2003) census), with an average farm size of 3.1 hectares.¹

Table 4.1 Agricultural land use, 2009-13

('000 hectares)

	2009	2010	2011	2012	2013
Paddy land	11,376.1	11,500.9	11,197.7	11,194.9	11,194.4
Orchard and perennial crop	5,535.4	5,313.1	5,585.2	5,586.3	5,586.4
Upland field crop	5,598.8	5,130.2	4,983.9	4,984.8	4,984.6
Vegetable and ornamental plant	242.8	242.3	223.2	223.6	223.7
Other	1,900.1	1,882.6	1,889.5	1,888.9	1,888.6

Note: Data in the *Statistical Yearbook of Thailand* is in rai, this has been converted into hectares (6.25 rai = 1 hectare)

Source: *Statistical Yearbook of Thailand* 2014, 2013, 2012 (Chapter 10).

4.7. Thailand is the world's biggest producer of natural rubber and cassava (in 2013), and a major producer of: mangos (the 2nd biggest producer worldwide); palm oil (3rd biggest); sugar cane and pineapples (4th biggest); paddy rice (6th biggest); and coconuts (9th biggest).² Agricultural production was severely impacted by the 2011 floods which destroyed up to 7 million tonnes of rice, representing nearly half of the anticipated harvest in the fourth quarter.³ More recently, the agriculture sector has been negatively affected by a drought at end 2013/beginning 2014 and further flooding in September 2014. Notable trends since 2008 have been a steady increase in chicken meat, mango, rice, and, in particular, sugar cane production, while coconut production has shown a steadily decreasing trend (Table 4.2). According to the authorities, Thailand is self-sufficient in the following agricultural products: rice; cassava; tropical fruits; sugar cane; chicken meat; shrimp; and processed food.

¹ Presentation by the Ministry of Agriculture and Cooperatives on the Agricultural Census in Thailand. Viewed at:

http://www.fao.org/fileadmin/templates/ess/documents/apcas25/APCAS_14_5.7_Thailand_census.pdf.

² FAO STAT online information. Viewed at: <http://faostat3.fao.org>.

³ IMF (2012).

Table 4.2 Production of selected agricultural products, 2008-13

('000 tonnes)

	2008	2009	2010	2011	2012	2013
Crops						
Paddy rice	31,651	32,116	34,409	36,128	37,469	36,063
Maize	4,249	4,616	4,861	4,973	4,948	5,063
Cassava	25,156	30,088	22,006	21,912	29,848	30,228
Sugar cane	73,502	66,816	68,808	95,950	98,400	100,096
Soybeans	187	176	177	176	180	190
Coconuts	1,484	1,381	1,298	1,055	1,057	1,010
Palm oil	1,544	1,388	1,288	1,650	1,780	1,970
Shallots	199	202	181	195	220	129
Onions	46	45	46	50	54	40
Garlic	86	71	68	76	85	78
Mangos, mangosteen, and guava	2,374	2,470	2,551	2,794	2,986	3,142
Pineapples	2,278	1,895	1,966	2,593	2,400	2,209
Chillies and peppers, dry	163	165	159	152	156	156
Natural rubber	3,167	3,090	3,052	3,349	3,625	3,863
Livestock						
Cattle meat	173	177	177	170	165	160
Pig meat	895	871	895	880	949	967
Chicken meat	1,158	1,154	1,220	1,243	1,319	1,379

Source: FAO STAT. Viewed at: <http://faostat3.fao.org>.

4.8. According to the US Department of Agriculture (USDA), Thailand has the most advanced food processing industries in South East Asia; it is highly export-orientated and a major source of employment.⁴ This is partly as a result of the Government's "kitchen of the world" initiative developed in the 1980s, which encouraged cooperation between farmers, contract companies, financial sector institutions and agri-industrial firms to produce processed food. Concerns have been expressed that domestic production of spirits is supported by a discriminatory excise tax structure.⁵

4.9. The Board of Investment (BOI) offers tax incentives for various agricultural activities (e.g. plant and animal breeding, and livestock propagation and husbandry); agriculture-related services (e.g. crop drying and silo facilities; slaughtering; grading, packaging and storage of plants, vegetables, fruits or flowers; cold storage and transportation; and trading centres for agricultural goods); and for the production of a wide variety of goods derived from agriculture (e.g. fertilizers, oils, rubber and leather products, fuels, food and beverages). These incentives comprise corporate income tax holidays and import duty exemptions (sections 3.4.2.1).

4.2.2 Trade

4.10. Thailand continues to maintain a trade surplus in agricultural goods (Chart 4.1).

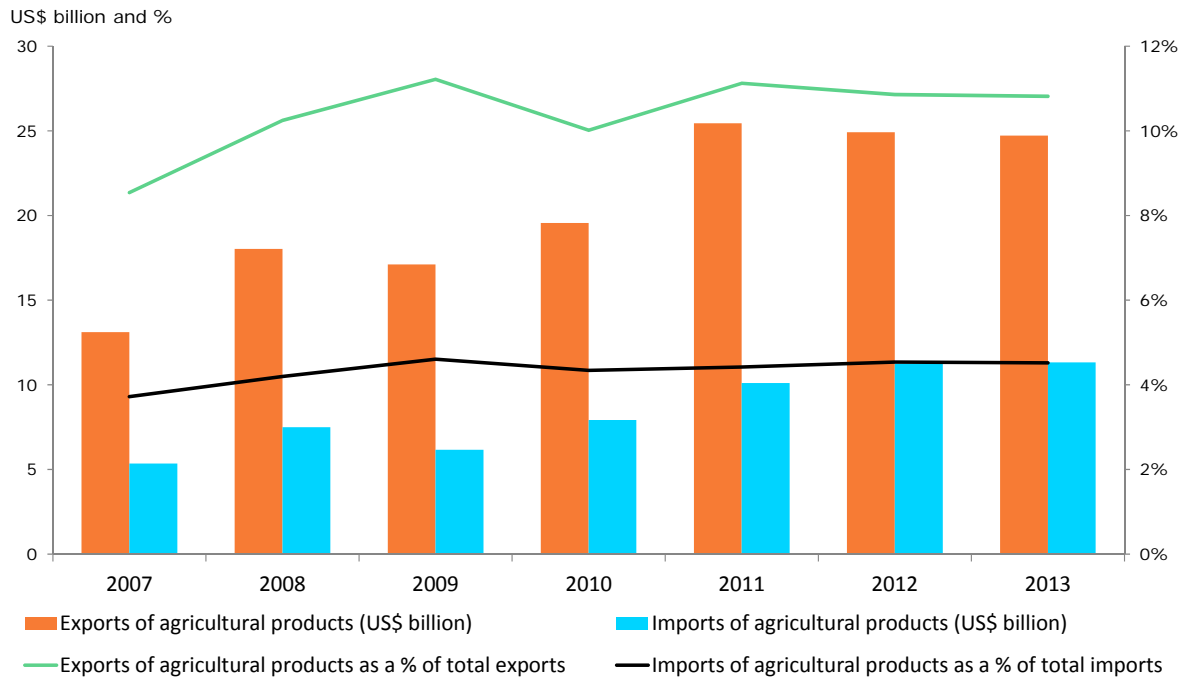
4.11. In value terms, Thailand's key exports are rice, cane/beet sugar and preserved and prepared meat (Table 4.3). The main export destinations for these products are Nigeria, Benin, and the United States for rice; Indonesia, Japan, and China for sugar; and, Japan, the EU, and Singapore for prepared/preserved meat. Export taxes are levied on hides of bovine animals (section 3.3.2).

4.12. In value terms, major imports are soya bean oil cakes, soya beans, food preparations and cotton (Table 4.4). The main sources of soya bean oil cakes and soya beans are Brazil, Argentina and the United States; of food preparations, the United States, Singapore and China; and of cotton, the United States, Australia, Brazil, and Mali. Import licensing requirements apply for SPS reasons (section 3.2.6.2). Complaints from Thailand's trading partners have included that it maintains excessively burdensome import requirements for feed products containing dairy ingredients.⁶

⁴ USDA online information, "Thailand: Food Processing Ingredients". Viewed at: www.fas.usda.gov/data/thailand-food-processing-ingredients.

⁵ USTR (2014).

⁶ USTR (2015).

Chart 4.1 Trade in agriculture, 2007-13

Source: UNSD Comtrade database.

Table 4.3 Exports of selected agricultural products, 2008-14

HS code		2008	2009	2010	2011	2012	2013	2014
1006 - Rice	US\$ million	6,107.6	5,046.5	5,341.1	6,507.5	4,632.3	4,420.4	5,438.8
	'000 tonnes	10,216.0	8,619.9	8,939.6	10,706.2	6,734.4	6,612.6	10,969.4
1701 - Cane or beet sugar in solid form	US\$ million	1,431.7	1,803.4	2,152.4	3,635.1	3,952.6	2,859.9	2,738.1
	'000 tonnes	5,011.8	5,052.6	4,500.7	6,520.7	6,853.1	5,994.4	6,293.6
1602 - Other prepared/preserved meat	US\$ million	1,788.5	1,641.4	1,831.8	2,138.1	2,215.3	2,237.0	2,151.6
	'000 tonnes	407.9	397.9	438.6	454.0	477.1	451.3	440.2
0714 - Manioc, arrowroot, etc.	US\$ million	480.3	607.2	816.8	982.3	1,098.6	1,321.3	1,527.4
	'000 tonnes	2,888.0	4,363.6	4,279.0	3,741.9	4,702.6	5,822.1	6,806.5
1108 - Starches, inulin	US\$ million	449.1	487.7	771.8	946.9	1,003.8	1,156.8	1,288.2
	'000 tonnes	1,234.5	1,759.5	1,711.3	1,882.9	2,225.0	2,443.1	3,014.0
2309 - Animal feed preparations	US\$ million	707.8	702.3	802.4	933.6	1,085.5	1,152.6	1,228.9
	'000 tonnes	455.9	460.8	491.1	552.1	626.9	608.7	671.6
2106 - Food preparations, n.e.s.	US\$ million	530.2	580.3	658.9	897.1	875.7	991.2	1,115.7
	'000 tonnes	395.7	398.6	421.5	461.2	475.3	505.9	555.9
2008 - Fruit/nuts prepared/preserved	US\$ million	964.4	805.3	891.9	1,102.9	912.1	902.4	928.2
	'000 tonnes	904.5	780.0	767.4	886.3	824.1	808.1	714.6
2202 - Waters incl. added sugar/other non-alcoholic beverages	US\$ million	210.2	262.1	375.7	524.8	647.9	786.8	909.6
	'000 tonnes	382.2	337.9	365.3	501.0	610.1	857.1	1,246.0
3505 - Dextrins, other modified starches	US\$ million	458.3	391.5	510.4	649.6	630.8	676.2	719.1
	'000 tonnes	726.5	712.0	705.6	806.5	862.9	909.2	957.7

Note: WTO definition of agriculture used.

Source: UNSD Comtrade database.

Table 4.4 Imports of selected agricultural products, 2008-14

HS code		2008	2009	2010	2011	2012	2013	2014
2304 - Soya bean oil cakes	US\$ million	1,027.7	879.0	1,053.7	1,095.7	1,352.1	1,554.9	1,675.3
	'000 tonnes	2,193.2	2,076.6	2,615.6	2,398.6	2,815.4	2,821.2	2,889.2
1201 - Soya beans	US\$ million	968.4	692.0	810.3	1,125.8	1,282.0	1,018.4	1,076.7
	'000 tonnes	1,723.3	1,534.6	1,818.7	1,994.4	2,119.9	1,678.7	1,898.3
5201 - Cotton, not carded/combed	US\$ million	715.3	484.6	729.6	1,120.0	748.9	734.2	676.3
	'000 tonnes	435.9	349.7	383.7	319.2	305.8	344.9	322.3

HS code		2008	2009	2010	2011	2012	2013	2014
2106 - Food preparations n.e.s	US\$ million	246.6	236.8	271.6	383.2	487.2	766.9	521.3
	'000 tonnes	36.9	33.4	39.1	56.8	69.0	83.6	90.8
0402 - Milk and cream, concentrated/sweetened	US\$ million	341.5	169.3	292.2	350.1	365.0	385.6	479.4
	'000 tonnes	87.0	75.2	91.2	102.7	130.7	94.1	107.3
1001 - Wheat and meslin	US\$ million	331.5	312.7	443.1	503.7	825.3	600.2	474.8
	'000 tonnes	695.6	1,104.9	1,699.6	1,426.2	2,582.0	1,758.9	1,557.5
1901 - Malt extracts, flour/dairy preparations, etc.	US\$ million	270.0	237.5	277.1	331.0	419.3	410.5	409.6
	'000 tonnes	78.8	67.5	77.8	88.4	124.3	84.6	71.1
2309 - Animal feed preparations	US\$ million	221.4	207.3	243.8	275.4	308.1	296.4	322.7
	'000 tonnes	216.8	212.1	245.5	246.3	251.1	254.7	252.2
2208 - Alcohol of strength less than 80% vol.	US\$ million	187.4	149.9	188.8	223.5	243.5	273.8	289.0
	'000 tonnes	42.7	32.0	37.1	37.1	60.5	35.6	33.0
0808 - Apples, pears and quinces, fresh	US\$ million	119.1	127.3	151.4	166.5	189.8	223.8	201.7
	'000 tonnes	147.9	164.3	168.2	156.6	167.1	182.5	154.7

Note: WTO definition of agriculture used.

Source: UNSD Comtrade database.

4.2.3 Agricultural policies

4.2.3.1 Legal, institutional, and policy framework

4.13. In spite of reforms to encourage movement towards higher value crops and increased mechanization, there is a shortage of farmers and productivity remains low.⁷ The latter has been attributed to a number of factors, including: lack of irrigation; widely scattered ownership of land, preventing small farmers benefitting from economies of scale; limited use of technology; and, inadequate research into, and development of, better farming methods. The OECD has encouraged Thailand to pursue productivity gains through increased mechanization and the use of new technologies in farming methods, rather than to continue costly price intervention policies (see below).

4.14. The Ministry of Agriculture and Cooperatives (MOAC) remains the principal authority responsible for formulating and implementing Thailand's agricultural policies. Over the period 2012-15 it has followed a three-pronged approach to assist the sector, which remains largely unchanged since Thailand's previous review. Firstly, the Farmers Development Strategy has focused on stabilizing farm incomes through crop insurance programmes, supporting the National Farmers Council in the area of policy formulation and also encouraging young farmers to work in the sector. Secondly, the Production Development Strategy has concentrated on improving agricultural productivity, quality, standards, product management and food security through cost-reductions, research and development, technology transfer, marketing and certification. Thirdly, the Agricultural Resources Development and Management Strategy has been focused on expanding irrigated areas, improving soil and developing land.

4.15. To help ensure the success of these strategies, the MOAC formulated a roadmap in 2015, comprising six schemes:

- a. The Farmer Market Scheme aims to help farmers sell, and consumers buy, high-quality agricultural products directly (i.e. without middlemen) at the local price. These markets are established in 77 provinces of Thailand;
- b. The Drought Relief Scheme seeks to help drought-affected farmers by restoring infrastructure, career training and improving production efficiency;
- c. The Water Sources Development Scheme focuses on expanding irrigation and constructing small irrigation systems (so far 16,510 small irrigation systems have been built);
- d. The prevention and suppression of illegal activities;

⁷ OECD (2014).

- e. The Legislation and Legislative Amendment Scheme focuses on modifying laws to reflect current realities (so far 6 legislative amendments have been undertaken); and
- f. The Large Fields Scheme helps to group together small farms to achieve greater economies of scale.

4.16. The MOAC is also working to encourage private sector participation in the areas of product inspection and certification and is taking various actions to promote administrative and commercial efficiencies.

4.17. Various agricultural and food products are subject to retail price controls under the Prices of Goods and Services Act, B.E.2542 (1999)(section 3.4.4.2).

4.18. There have been few changes to the restrictions on foreign investment in agriculture since Thailand's previous review. The Land Code B.E: 2497 (1954) continues to prohibit the purchase and ownership of land by foreign persons or foreign-owned enterprises based in Thailand, although they may lease land and buildings for periods up to 30 years.⁸ The Foreign Business Act B.E. 2542 (1999) prohibits foreigners from: rice farming; horticulture and the farming of animals. Approval is required from the Ministry of Commerce for foreigners to engage in sugar cane farming; rice milling and production of flour from rice and economic plants; cultivation, propagation or development of plant species; and, internal trade related to traditional agricultural products or produce not yet prohibited by law (see Section 2). In 2013, an amendment to the latter activity granted an exception for agricultural futures trading on the Agricultural Futures Exchange of Thailand, without delivery or taking delivery of agricultural commodities within the country.⁹

4.2.3.2 Border measures

4.19. In 2014, the simple average applied MFN tariff rate on agricultural products (WTO definition) was 34.7% (including *ad valorem* equivalents). Particularly high tariffs, ranging from 50% to 1,092% (the latter being an *ad valorem* equivalent) applied to 206 tariff lines and were levied on various fruits and vegetables; milk powder, raw silk, various oils, sugar; maize (for feedstuff); rice; coffee; tea, soya beans and alcoholic beverages (Table A4.1). Imports of almost all of the main products produced in Thailand are subject to the highest tariff rates (Table 4.2 and Table A4.1).

4.20. Thailand maintains 22 tariff quotas covering 118 tariff lines (at the eight digit level) (section 3.2.2). Tariff quotas have been expanded for: non-fat dry milk/cream; potatoes; unmanufactured tobacco (tobacco leaves); soya beans and soya bean cake. Quota fill rates vary significantly according to the product and year. However, consistently low fill rates are observed for garlic, coconut, copra, maize, rice palm oil, coconut oil, raw silk and dried longans (Table 4.5). Over the review period, various Members have raised questions in the WTO Committee on Agriculture about the reasons for low fill rates for certain products (maize, coffee, rice, and soya bean oil). Thailand has responded that imports of maize and coffee have taken place under preferential trade agreements and there was no need to import rice given sufficient domestic production.¹⁰ No explanation was given for low fill-rates for soya bean oil and garlic.¹¹

Table 4.5 TRQ fill rates, 2011-13

Product	Number tariff lines (2013)	Tariff quota quantity as scheduled (tonnes)	Eligible importers	Fill rates (%)		
				2011	2012	2013
Milk and cream (not concentrated and/or sweetened)	9 4	2,372.74 27.26	No restrictions	47 27	23 27	47 100

⁸ The Land Code was viewed at: <http://www.thailawforum.com/database1/Thailand-Land-Code.html>.

⁹ Royal Decree Amending Categories of Businesses in the List Annexed to the Foreign Business Act, B.E. 2542 (1999), B.E. 2556 (2013).

¹⁰ Response by Thailand to a question posed by Australia at the WTO COA of 13 November 2014 (AG-IMS ID 75012) and Switzerland at the WTO COA of 13 June 2013 (AG-IMS ID 70077).

¹¹ Questions by Canada and the US at WTO COA of 26 March 2013 (AG-IMS ID 69043 and AG-IMS ID 69034).

Product	Number tariff lines (2013)	Tariff quota quantity as scheduled (tonnes)	Eligible importers	Fill rates (%)		
				2011	2012	2013
Non-fat dry milk/cream	4	55,000.00 ^a	Any manufacturing company (for use as input to production)	104	95	98
Potatoes	2	302.00 ^b	No restrictions	11,582	13,039	14,225
Onions	3	365.00	Marketing Organization for Farmers	100	100	97
Garlic	3	65.00	Public Warehouse Corporation	0	0	0
Coconut	3	2,427.00	Any manufacturing company (for use as input to production)	4	4	3
Coffee	10	5.25	No restrictions	40	32	66
Tea	8	625.00	Historical import performance requirement	80	81	70
Pepper (dried)	6	45.00	No restrictions	44	9	13
Maize, for feedstuff	1	54,700.00	Public Warehouse Corporation	0	0	0
Rice	10	249,757.00	No restrictions	0.3	0.3	0.8
Soya beans	2	10,922.00 ^c	listed domestic companies/associations	18,287	17,918	15,370
Copra	1	1,157.00	Any manufacturing company (for use as input to production)	0	0	0
Onion seeds	1	3.15	Thailand's Cooperative of Onion farmers)	100	100	100
Soya bean oil	3	2,281.00	Thai Food Processors' Association	27	0.6	35
Palm oil	18	4,860.00	Public Warehouse Corporation	0	0	0
Coconut oil	3	401.00	Any manufacturing company (for use as input to production)	0	0	0.07
Sugar and sucrose	7	13,760.00	Any manufacturing company (for use as input to production). Historical import performance requirement	87	0.9	0.8
Instant coffee and coffee extracts	4	134.00	Partial historical import performance requirement	51	56	55
Soya bean cake	1	230,559.00 ^c	Listed domestic associations	1,044	1,116	649
Longans, dried	1	8.00	No restrictions	0	0	0
Raw silk	1	483.00	Ministry of Agriculture and Cooperatives	2	0.5	0.2
Unmanufactured tobacco; tobacco leaves	13	6,435.00 ^c	Any manufacturing company (for use as input to production)	54.8	60.5	47.6

a Expanded to: 61,514.66 tonnes in 2011; 61,840.36 in 2012 and 58,226.70 tonnes in 2013.

b Expanded to: 36,000 tonnes for potatoes and unlimited quantities for potato seed in 2011, 2012, and 2013.

c Expanded to unlimited quantities in 2011, 2012, and 2013.

Source: WTO document G/AG/N/THA/78, 19 May 2014.

4.21. As at the time of Thailand's previous review, all tariff quotas are open to all supplying countries. Import certificates, generally valid for 30 days, are required from the Department of Foreign Trade in the Ministry of Commerce for all products, except sugar.¹² The authorities indicated that there is no regulation imposing domestic purchase requirements as a condition for obtaining import certificates. However in practice there is cooperation from the private sector to undertake domestic purchases.¹³ Allocation of tariff quotas to importers tends to be complex;

¹² For sugar, import certificates are issued by The Office of Cane and Sugar Board, Ministry of Industry.

¹³ Thailand's response to a question raised by the United States in the WTO COA on 13 November 2014 (AG-IMS ID 75038) as well as information provided by the Thai authorities.

quotas are partially allocated on a first-come-first-served basis, while some quotas are allocated to manufacturers of imports of raw materials and to historical importers. In most cases there are restrictions on eligible importers. Since Thailand's previous review, in-quota imports of coconut are no longer subject to specific time periods for importation and the validity of import certificates for rice has been reduced from 30 days to 15 days; as indicated by the authorities this time reduction was in order to prevent the same certificate from being used repeatedly.¹⁴ Complaints from trading partners about Thailand's tariff quota administration include that non-transparent quotas apply to non-fat dry milk and corn (i.e. maize) and that there is a limited import window for tariff quotas on corn.¹⁵ The authorities commented that for milk, if demand is higher than the quota, then they expand the quota (with allocations partly on a historical basis). With respect to imports of corn, they noted that the quota is in place to allow imports during the non-crop season in Thailand. Thailand reserved the right to use the special agricultural safeguard (SSG) on 55 tariff lines (HS2002); many of the products involved are those for which tariff quotas are in place (see below). As at June 2015, Thailand had never invoked the SSG (its most recent notification covers the years 2009-2013).¹⁶

4.22. In its most recent notification to the WTO, Thailand has reported that over the period 2009-13 it did not provide any export subsidies to products subject to reduction commitments.¹⁷

4.2.3.3 Domestic support

4.23. In spite of pressure from various WTO Members, up-to-date information has yet to be submitted to the WTO on Thailand's domestic support measures; its last notification in this area covers the 2008 calendar year.¹⁸ The lack of transparency with respect to domestic support for the rice sector has been of particular concern, with several Members posing questions in the WTO's Committee on Agriculture (COA) about the implementation and costs of its Paddy Pledging Scheme (now terminated, see below).¹⁹ In the context of this review, the authorities indicated that they intend to submit a notification on domestic support measures by the end of 2015.

4.24. According to notifications by Thailand, in 2008, Green Box support amounted to just over B 64 billion (up from B 35 billion the previous year); 67% of this was spent on infrastructural services, 18% on national extension and advisory services, 6% on the Agricultural Research and Development Plan, 4% on pest and disease control, 3% on the marketing and promotion of farmers' organization programme, 2% on inspection services, and under 1% on agricultural training services.²⁰ The Thai authorities explained that the big increase in spending in 2008 compared to 2007 related to an increase in the number of beneficiaries of national extension and advisory services and greater priority being given to water management.²¹ The authorities reported that the value of Green Box support since 2009 has been: B 69.62 million (2009); B 55.86 million (2010); B 73.97 million (2011); B 76.54 million (2012); and B 72.55 million (2013).

4.25. In 2008, according to Thailand's notifications, Amber Box support to rice, garlic, manioc and longan amounted to just over B 30 billion. With the exception of garlic, all support was *de minimis*. Support to garlic amounted to B 169.21 million (current total AMS). With respect to rice domestic support has taken place through the Paddy Pledging Scheme (as described below). Domestic support for longan, garlic and manioc has taken the form of government purchases without any buy-back condition.²²

¹⁴ WTO documents G/AG/N/THA/70, 12 February 2010 and G/AG/N/THA/79, 19 May 2014.

¹⁵ USTR (2013).

¹⁶ WTO document G/AG/N/THA/77, 14 April 2014.

¹⁷ WTO document G/AG/N/THA/76, 14 April 2014.

¹⁸ WTO document G/AG/N/THA/75, 14 April 2014.

¹⁹ Since 2011, questions about the Paddy Pledging Scheme have been posed by: the United States; Canada; Pakistan; India; Australia; and the European Union (current as at March 2013).

²⁰ WTO document G/AG/N/THA/75, 14 April 2014. Percentages add up to more than just over 100% due to rounding.

²¹ Thailand's response to a question from Canada at COA meeting of 05/06/2014.

²² Thailand's response to a question from the European Union at the WTO COA meeting of 5 June 2014 (AG-IMS ID 74035).

4.2.3.4 Recent developments in key sectors

4.2.3.4.1 Rice

4.26. Price support to the rice sector has continued to be subject to frequent policy changes, and has been a key source of recent political tensions and allegations of corruption.²³ In October 2011, Thailand re-introduced a price intervention scheme to support farmers' incomes, the so-called paddy-pledging scheme.²⁴ As of mid-2013 there were nearly 3 million participating farmers. During the period under which the paddy-pledging scheme was in operation, guaranteed intervention prices were well above world prices for rice (as much as 50% above at some points) and an anticipated rise in world prices failed to materialize. As a consequence, it has been estimated that the Government spent B 425 billion purchasing 17.8 million metric tonnes of grain rice that it was unable to sell (official data on the quantities procured and the cost of the scheme have not yet been released).²⁵

4.27. Concerns were expressed about the scheme from various external parties, including with respect to its considerable negative fiscal impact, administrative complexities and its potential to mis-target beneficiaries (i.e. large-scale producers and middlemen rather than poor farmers).²⁶ Additionally, concern has been expressed that the large stockpiles produced might, or are, being released onto global markets, depressing world prices.²⁷ It has also been suggested that the policy led to smuggling of rice from neighbouring countries, so that it could be passed off as locally-grown and sold to the government at high prices.²⁸

4.28. The paddy-pledging scheme was terminated in February 2014. According to the authorities there are five release channels for rice stocks: (a) government-to-government transactions, based on the world market price; (b) public auctions to domestic producers, based on the domestic market price; (c) sales to agencies or entities, domestic and international, for public use purposes; (d) trade on the agricultural products futures market, under the normal market mechanism; and (e) donations to persons affected by natural disasters. The authorities indicated that none of the release channels will affect the world market price of rice. The Rice Policy and Management Committee started the government rice auction in August 2014 and by end 2014, the Committee had approved four rice tenders amounting to 622,131 metric tonnes. Between beginning to mid-2015, the Committee had approved three tenders amounting to 2,112,372 metric tonnes.

4.29. Following termination of the paddy pledging scheme, various measures have been put in place to assist farmers and a database is being developed containing Thai farmers' incomes and other information in order to facilitate the Government's assistance programmes.²⁹

- In June 2014, the National Council for Peace and Order approved B 4.7 billion in financial aid for low-income rice farmers for the 2014/15 crop under the Rice Farmer Assistance Program; this was effective from November 2014 to January 2015.³⁰ Under the

²³ The Thai National Anti-Corruption Commission (NACC) launched a probe into the policy in January 2014.

²⁴ This scheme was similar to that in operation from 2001 to 2009/10. WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

²⁵ Reuters online information. Viewed at: <http://www.reuters.com/article/2013/11/12/us-imf-thailand-idUSBRE9AB02F20131112>.

²⁶ IMF (2012).

²⁷ USTR (2014). In a question posed by the US in the WTO Committee on Agriculture on 04/03/2015 (AG-IMS ID 76058), the US noted that the administered price under the Paddy Pledging Scheme was B 14,400 per tonne for the main crop in 2013/14 and that since the programme was discontinued market prices in Thailand had fallen to around B 7,000 per tonne. Noting the conduct of tenders in October and December 2014 it asked Thailand to provide information on whether any tenders were exported and the sales price of these tenders. A response from Thailand on these issues has not yet been provided.

²⁸ *The Telegraph* online information. Viewed at: <http://www.telegraph.co.uk/news/worldnews/asia/thailand/10618134/Burmese-smugglers-get-rich-on-Yingluck-Shinawatrass-13-billion-Thai-rice-subsidies.html>.

²⁹ *Bangkok Post* online information. Viewed at: <http://www.bangkokpost.com/business/news/464229/thailand-to-slash-rice-crop-sell-stockpilesto-cut-glut>. According to this article, over the next two years the Government also intends to switch around 700,000 rai from rice to sugar cane and 1.1 million rai to mixed farming as well as to eliminate planting during the dry season across 400,000 rai (subject to the approval by a rice policy committee).

³⁰ WTO document: WT/TPR/OV/17, 24 November 2014.

programme, the Government provided eligible farmers a fixed amount of B 1,000 per rai (0.4 of an acre) not exceeding 15 rai's per household, capped at B 15,000 per household per year. The fund was paid as a one-off measure for the 2014/15 marketing year without any production requirement; its aim was to relieve the expense burden, including agricultural input costs, incurred by low-income rice farmers.³¹

- The Government has sought the cooperation of the private sector to reduce the costs of inputs and services to farmers, such as fertilizers, pesticides and seeds to reduce the cost of production to B 432/rai (6.25 rai is equivalent to 1 hectare); this was an emergency programme which has now been terminated.
- Loan interest rates for farmers were lowered during the period July to December 2014.
- Over the period 1 October 2014 to 30 September 2015 soft loans are being provided to rice farmers to increase the value-added of rice.
- Various measures have been put in place to help rice marketing, including: assistance to private stockholders to buy and keep the produce (July 2014 to September 2015); loans to farmers to keep their produce in stock rather than release it to the market (November 2014 to September 2015); and arrangements for farmers markets for rice and other field crops to give farmers alternative options to directly sell their produce.
- An insurance programme for seasonal rice was introduced to insure against natural disasters and other unexpected negative impacts to the produce (June-December 2014).
- The MOAC is encouraging large-scale farming to reduce costs and enhance productivity (see Large Fields Scheme, above).

4.2.3.4.2 Sugar

4.30. The sugar industry in Thailand is overseen by the Cane and Sugar Board, which is comprised of representatives from sugar cane farmers and sugar producers (i.e. the milling industry), facilitated by representatives from the Ministry of Industry. The Board's aim is to monitor, promote, conduct research and development, and regulate the sugar industry. Each year the Board agrees on quotas for allocating sugar production: (a) to the domestic market; (b) for export by the Thai Cane and Sugar Corporation Limited; and, (c) for export freely by private companies. Quota allocations are decided based on various factors, including; domestic and global production of sugar cane; domestic consumption; and, the world sugar trade situation (including world market prices and fluctuations in exchange rates).

4.31. The ceiling prices for sugar sold on the domestic market under quota "a" are set by the Ministry of Commerce; the objectives of this policy are to ensure adequate availability of sugar in the domestic market and to prevent smuggling of sugar out of the country. The actual domestic prices are set by the market as long as they do not exceed the ceiling. The Thai Cane and Sugar Corporation (which is privately owned by the sugar cane farmers and sugar producers) sets a reference price for sugar exports under quota 'b' and is solely responsible for exporting the raw sugar; the purpose of this process to enable the calculation of revenue sharing between cane farmers and sugar producers at the end of the production year.

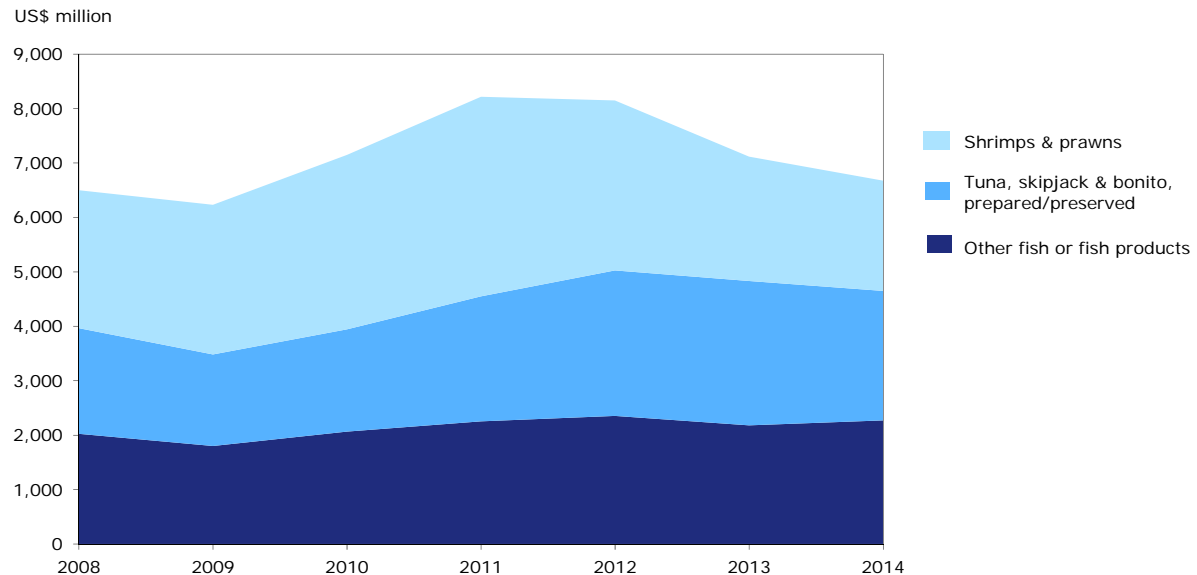
4.32. The National Council for Peace and Order (NCPO) approved a loan to increase sugar cane prices for the production year 2013/14, to B160 per tonne. This was paid directly to farmers who had sent their sugar cane to the sugar factories. According to the authorities, the measure was temporary with the main purpose of supporting farmers' incomes which had been diminished during a period of unusually low sugar cane prices. Soft loans are provided to sugar cane farmers to allow them to rent harvesting tractors; according to the authorities, this scheme has been in place for more than five years.

³¹ Thailand's response to a question from Canada at the WTO Committee on Agriculture on 13 November 2014. Agriculture Information Management System online information. Viewed at: <https://agims-gna.wto.org>.

4.3 Fisheries

4.33. The fisheries industry in Thailand contributed 0.8% to GDP (2013), 2.9% to total exports (2014), and 2% to total employment (2014) for both fishing and fish processing. Nearly half of all exports of fish products are frozen or preserved shrimps, mainly from aquaculture rather than capture fisheries. Exports peaked in 2011 and there has been a downward trend since (Chart 4.2). The main destination market is the United States, followed by Japan and the EU.

Chart 4.2 Exports of selected fisheries products, 2008-14



Note: Shrimps and prawns = HS 0306.13, 0306.23, and 1605.20 (up to 2011); HS 0306.16, 0306.17, 0306.26, 0306.27, 1605.21, and 1605.29 (as of 2012); Tunas, skipjack, and bonito prepared/preserved = HS 1604.14.

Source: UNSD, Comtrade database.

4.34. Thailand's licensed fishing fleet totalled 16,548 vessels in 2013 (down from 17,203 in 2011 but up from 12,920 in 2008), representing a gross tonnage of 391,972 (up from 378,598 in 2011 and 359,038 in 2008). Most vessels are between 6 and 30 metres long.³² As explained by the authorities, the increase in fishing licences granted over the period 2008-12 was due to the government's ongoing project to build artificial reefs, particularly in coastal areas. This led to an increase in aquatic animals, in turn causing fishermen to apply for more fishing licences.

4.35. In value terms, the aquaculture subsector is worth around double that of marine capture fisheries (Tables 4.6 and 4.7). Coastal aquaculture remains dominated by shrimp and prawns, and freshwater aquaculture by catfish and tilapia. Since 2012, shrimp and prawn production has dramatically declined (Table 4.7) due to early mortality syndrome (EMS).

Table 4.6 Marine capture fisheries: national landings in domestic ports, 2009-14

	2009	2010	2011	2012	2013 ^b	2014 ^b
Volume (tonnes)						
Fish	857,472	905,769	917,861	916,562	910,025	908,755
Crustaceans	86,313	86,241	84,617	86,036	84,549	87,413
Shellfish and molluscs	133,012	152,993	146,636	134,158	144,145	143,937
Other marine animals	118,242	37,327	105,491	41,712	126,132	131,733
Fish for reduction ^a	468,807	418,990	355,813	321,732	365,196	347,556
Total	1,663,846	1,601,320	1,610,418	1,500,200	1,630,047	1,619,394

³² Fishery Information Technology Center. Thai fishing vessels statistics 2013. Department of Fisheries, Ministry of Agriculture and Cooperatives No. 2/2015.

	2009	2010	2011	2012	2013 ^b	2014 ^b
Value (B million)						
Fish	22,600	24,482	27,156	30,090	26,302	26,869
Crustaceans	9,606	8,593	9,056	10,345	9,634	9,910
Shellfish and molluscs	7,776	9,620	10,812	11,860	10,238	10,525
Other marine animals	73	66	123	114	241	241
Fish for reduction ^a	2,704	2,745	2,484	2,502	2,519	2,437
Total	42,758	45,506	49,631	54,911	48,934	49,982

a Refers to low value fish of various species.

b Estimate.

Source: OECD (2015), Thailand: Country Statistics 2014, *Review of Fisheries Country Statistics 2014*. Viewed at: http://www.oecd-ilibrary.org/agriculture-and-food/oecd-review-of-fisheries-country-statistics-2014/thailand_rev_fish_stat_en-2014-38-en; and information provided by the authorities.

Table 4.7 Main aquaculture production, 2009-14

(Tonnes)

	2009	2010	2011	2012	2013 ^a	2014 ^a
Fish	539,694	516 804	403 236	476,409	510,182	509,058
Sea bass	14,818	17,415	16,157	19,318	17,313	18,631
Catfish	160,264	167,790	121,607	150,334	163,023	160,953
Carp	50,617	44,820	32,888	35,353	42,968	43,164
Tilapia	221,042	204,680	155,544	203,030	212,724	204,787
Eel	3
Other fish	92,950	82,099	77,040	68,374	74,154	81,523
Shellfish	876,887	735,259	797,924	795,413	546,502	479,338
Oyster, edible	26,204	10,757	8,378	16,130	20,412	20,257
Mussel	193,626	123,879	126,618	103,203	127,823	143,674
Clam	81,959	40,979	51,734	66,528	69,232	62,441
Shrimp and prawn	575,098	559,644	611,194	609,552	329,035	252,966
Total	1,416,581	1,252,063	1,201,160	1,271,822	1,056,684	988,396
Total value (B million)	89,861	88,165	102,461	108,313	97,145	86,372

.. Not available.

a Estimate.

Source: OECD (2015), Thailand: Country Statistics 2014, *Review of Fisheries Country Statistics 2014*. Viewed at: http://www.oecd-ilibrary.org/agriculture-and-food/oecd-review-of-fisheries-country-statistics-2014/thailand_rev_fish_stat_en-2014-38-en; and information provided by the authorities.

4.36. The Fisheries Act 2015 is the main law governing the sector.³³ The main government body in charge of managing and developing fisheries and aquaculture is the Department of Fisheries within the Ministry of Agriculture and Cooperatives.

4.37. The new Fisheries Act aims to adjust fisheries resources management measures in the country to be more compatible with international fisheries law and standards (International Plan of Action on Illegal, Unreported, Unregulated Fishing; Law of the Sea; UN Fish Stocks Agreement; Port State Measure Agreement) and EC Regulation 1005/2008; new advanced fisheries technologies; and present social surroundings. Legislative reform was due to obsolete provisions under the 1947 Act. Its provisions focused in particular on inland fisheries management and mentioned very little about marine fisheries development measures. There was also no regulating provision on aquaculture practices. Under the new Act, inland, coastal and marine fisheries zones are designated in order to regulate the fishing capacity of fishermen and the types of fishing gear that may be used. The Act also improves fisheries monitoring, surveillance and control as well as aquaculture and sanitary standards.

4.38. The Department of Fisheries has set out five strategies for fisheries management over the period 2013-16 (Table 4.8)

4.39. Under the Foreign Business Act B.E. 2542 (1999) and the Act Governing the Right to Fish in Thai Fishery Waters B.E. 2482 (1939), foreigners are prohibited from commercial fishing in Thai

³³ This replaces the 1947 Fisheries Act.

fishery waters and within its exclusive economic zone. However, the latter Act permits foreigners to work in the crew of a fishing vessel provided they are registered under the Working of Aliens Act B.E. 2551 (2008).³⁴

Table 4.8 Strategies for fisheries management

Strategy	Components
1. Increase fish production	<ul style="list-style-type: none"> – Enhance fish production capability of fish farmers. – Promote and transfer fish production technology.
2. Develop fish production and fishery products	<ul style="list-style-type: none"> – Improve aquaculture system in compliance with international standards. – Promote sustainable and responsible aquaculture and fishing. – Promote quality and safety of fish and fishery products throughout the production chain. – Expand the scope of the aquaculture certification scheme and enhance the certification body for accreditation against ISO/IC Guide 65.
3. Manage aquatic resources to ensure sustainability and biodiversity	<ul style="list-style-type: none"> – Rehabilitate and conserve fisheries resources. – Promote community-based aquatic resources management. – Explore new fishing grounds.
4. Fishery technology research and development	<ul style="list-style-type: none"> – Conduct research according to the Fisheries Research Master Plan 2012-2016 of the Department of Fisheries. – Increase innovative research. – Transfer research technology to the private sector.
5. Organization and human resource development	<ul style="list-style-type: none"> – Develop human resources according to knowledge, skills and competency required by their job. – Promote learning organization. – Develop information technology systems. – Establish cooperation between government and private sectors. – Prepare personnel to be ready for changes. – Improve organizational management. – Promote organization integration.

Source: Information provided by the authorities.

4.40. Government assistance to the fisheries sector comprises disaster relief payments and management, research and enforcement services; in 2014 these amounted to over B 881 million (Table 4.9). The authorities indicated that a big increase in disaster relief payments in 2011 for the marine capture and in 2011/12 for the aquaculture sector was due to the more frequent incidence of storms and floods in the country.

Table 4.9 Government financial transfers to the fisheries sector, 2009-14

(B '000)

	2009	2010	2011	2012	2013	2014
Marine capture fisheries	158,369	142,002	209,431	216,344	226,897	221,853
Direct payments	3,365	3,112	31,560	3,102	6,739	5,095
Disaster relief payments	3,365	3,112	31,560	3,102	6,739	5,095
Cost-reducing transfers	0	0	0	0	0	0
General services	155,004	138,890	177,871	213,242	220,158	216,758
Management services	23,600	19,929	56,808	96,206	96,206	91,628
Research services	17,476	19,876	15,199	17,918	24,551	12,250
Enforcement services	113,928	99,085	105,864	99,118	99,401	112,880
Cost recovery charges	0	0	0	0	0	0
Aquaculture	773,116	489,675	1,305,667	1,980,000	512,651	659,448
Direct payments	414,843	162,897	965,153	1,683,301	202,293	384,664
Disaster relief payments	414,843	162,897	965,153	1,683,301	202,293	384,664
Cost-reducing transfers	0	0	0	0	0	0
General services	358,273	326,778	340,514	296,699	310,358	274,784
Management, research and enforcement services	358,273	326,778	340,514	296,699	310,358	274,784
Cost recovery charges	0	0	0	0	0	0
Marketing and processing	0	0	0	0	0	0
TOTAL	931,485	631,677	1,516,500	2,196,344	739,548	881,300

Source: OECD (2015), Thailand: Country Statistics 2014, *Review of Fisheries Country Statistics 2014*. Viewed at: http://www.oecd-ilibrary.org/agriculture-and-food/oecd-review-of-fisheries-country-statistics-2014/thailand_rev_fish_stat_en-2014-38-en; and information provided by the authorities.

³⁴ WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

4.41. The Board of Investment offers incentives for certain fisheries activities. Businesses undertaking aquatic animal propagation and aquaculture (except shrimp) may receive a three-year corporate income tax exemption, an import duty exemption for machinery (generally available for 30 months after issuance of a promotion certificate, but a one year extension is permitted upon request) as well as import duty exemptions for raw or essential materials used in manufacturing export products (for 1 year, extendable). Certain conditions apply such as the requirement to use modern technology and have traceability systems in place. Similar incentives are also offered to deep sea fisheries (but in this case the corporate tax exemption is for 5 years). Additional years of tax holidays can be granted (but not exceeding 8 years in total) to a project that has investments or expenditure on one of the following: (a) research and development; (b) donations to technology or human resource funds; (c) intellectual property acquisition or licensing fees; (d) advanced technology training; (e) the development of local suppliers; and (f) product and packaging design given that the qualified expenditures or investments reach the determined threshold. Conditions relate to the size of fishing vessels and the equipment used.³⁵

4.4 Forestry

4.42. Of Thailand's total area of just over 51 million hectares, 31% (16.3 million hectares) comprised forest in 2013 (down from over 50% in the 1960s). The vast majority of the total forested area is natural forest, owned by the State; commercial logging has been banned in all natural forests since 1989 in an attempt to curb rapid deforestation. The State also owns 74,560 hectares of protected plantation forest, with a view to rejuvenating forestry within the country. Licences may be granted by the Royal Forest Department on a case-by-case basis to the Forest Industry Organization to undertake logging in these areas. The commercial forested area, owned by the private sector, occupied 320,000 hectares in 2012.

4.43. Under the National Forestry Policy of the Ministry of Natural Resources and Environment, Thailand aims to achieve a total forest area of 40% (20.4 million hectares). 25% of Thailand's total area (12.75 million hectares) should be protected forest in order to preserve the environment, soil, water resources, and wild fauna and flora; prevent natural disasters; conduct research and development; and provide for recreational activities. 15% (7.65 million hectares) of Thailand's total area should be devoted to commercial purposes. To encourage a significant increase in commercial forestry, various incentives are provided. Commercial forestry was listed as one of the Board of Investment's activities of special importance and benefits to the country in 2014. Uncapped corporate income tax exemptions for eight years and other fiscal incentives are available to approved economic forest plantation projects, which must be at least 300 rai (48 hectares) and involve research and development activity. Additionally, the Royal Forest Department offers research and development services to promote faster tree growth and prevent pests. It also donates young trees for planting.

4.44. Thailand is a net importer of wood. In 2014, total imports of wood in the rough or roughly squared (HS 4403) were valued at US\$70.4 million, with 77% of these imports coming from Myanmar. In the same year the value of exports was US\$543.000. However, when considering exports of all wood and wood products contained in HS 44 (including, for example, manufactured articles such as crates, windows, doors and furniture), Thailand maintains a trade surplus. The value of exports of wood and articles of wood was US\$2.3 million in 2014, while the value of imports was US\$641 million.³⁶

4.45. Efforts are being made by a newly established National Land Committee (NLC) to deal with the problem of trespassers on state land, by allowing poor persons who have settled on forest land to remain there and take care of the forest while at the same time preventing trespassers from undertaking illegal logging. In this regard, measures are being taken to more clearly demarcate forest boundaries as well as to improve coordination between the relevant government bodies and officials (the Justice Ministry, the Anti-Money Laundering Office, Police, Army and forestry and park officials).

³⁵ Announcement of the Board of Investment No. 2/2557 on Policies and Criteria for Investment Promotion (2014). Viewed at http://www.boi.go.th/upload/content/newpolicy-announcement%20as%20of%2020_12_57_33650.pdf.

³⁶ COMTRADE database.

4.46. Government revenue from forest products has shown a gradual increase since 2008 (with the exception of 2009). It is largely derived from licence fees (Table 4.10). Export taxes of between 5% and 40% are levied on wood, sawn wood and articles made of wood.³⁷

Table 4.10 Government revenue derived from forest products, 2008-13

(B '000)

	2008	2009	2010	2011	2012	2013
Royalties	810	913	260	537	1,422	1,886
Fees	19,443	11,625	12,290	11,836	11,874	5,228
Sales of timber	2,181	709	709	758	1,171	4,368
Licence fee	20,227	25,926	30,457	36,054	36,050	41,000
Other	4,125	1,843	8,144	3,816	3,808	2,800
Total	46,786	41,016	51,860	53,001	54,325	61,794

Source: *Statistical Yearbook of Thailand*, 2014; and information provided by the authorities.

4.5 Energy

4.47. The Government's energy policy is focused on becoming energy independent while maintaining stable and fair prices, supporting the production of renewable and alternative energy and promoting energy conservation.³⁸ Energy security has become increasingly important as Thailand's energy consumption over the last 25 years has grown at 6.2% per year, while its oil and gas reserves have been declining.³⁹ In addition to implementing strategies to increase and diversify domestic energy production, Thai companies are increasingly investing in infrastructure in neighbouring countries, to secure energy imports.⁴⁰

4.48. Thailand's Power Development Plan (PDP) is the master plan for the long-term development of the power system; it aims to fulfil the country's demand for electricity and promote economic growth. In December 2014, the National Energy Policy Council approved the framework of the PDP2015, which will cover the period up to 2036. It has (mid-2015) been submitted for Cabinet approval. Its focus is in three areas: (a) to enhance the energy security of Thailand through fuel diversification (reducing the use of natural gas as the major energy source); (b) to produce electricity at a reasonable cost for both residential and business sectors to support Thailand's long-term development and promote energy efficiency; and (c) to alleviate environmental and social impacts (especially CO₂ emission reductions). As set out in the plan, fuel share targets in 2036 are: imported hydropower (15-20%); bituminous and lignite (20-25%); renewable energy (15-20%); natural gas (30-40%) and nuclear (0-5%). Two other plans have been revised to also cover the period 2015-2036, so to coincide with the PDP2015. These are the Alternative Energy Development Plan and the Energy Efficiency Development Plan.⁴¹ Moreover the Ministry of Energy is developing an Oil Plan and a Gas Plan, in order to have the country's first Integrated Energy Blueprint.

4.49. There have been no changes to the institutions responsible for the energy sector over the review period. The Ministry of Energy remains responsible for government policy for the exploration and extraction of hydrocarbons as well as for the production, transmission and sale of electricity. Within the Ministry, the Energy Policy and Planning Office (EPPO) develops energy policies, including plans for managing energy shortages and improving conservation as well as coordinating, monitoring, and overseeing implementation of government policy. The National Energy Policy Council, which is chaired by the Prime Minister and includes several government ministers and the Director-General of the EPPO, is responsible for submitting policy plans to the

³⁷ WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

³⁸ Ministry of Energy (2012). Not available online in English.

³⁹ World Economic Forum (2012).

⁴⁰ As noted by the Oxford Business Group, for example, PTT Public Company Limited (PTT) and its subsidiary PTT Exploration and Production (PTTEP) has been active in investing in energy companies with interests in Indonesia, Mozambique and Canada. Likewise, EGAT has, *inter alia*, been investing in electricity generating infrastructure in Viet Nam and Myanmar.

⁴¹ The Alternative Energy Development Plan (2015-2036) aims to promote the use of renewable energy for power generation by 2036. The projected breakdown would be: biomass (5,570 MW); biogas (600 MW); solar (6,000 MW); wind (3,002 MW); hydro (3,282.4 MW); municipal solid waste (MSW) (500 MW); and energy crop (680 MW). The Energy Efficiency Development Plan (2015-2036) has a target of reducing energy intensity (i.e. the ratio of energy consumption to GDP) by 30% in 2036, compared to 2010 through energy saving and efficiency programs.

Council of Ministers, establishing the rules for setting prices, and monitoring private and public entities involved in energy to ensure that their operations comply with national energy policy. Regulation of the electricity and natural gas sectors rests with the Energy Regulatory Commission (ERC), operational since 2008.

4.50. Likewise, there have been no changes to the main laws governing the energy sector: the Petroleum Act (1971); the Petroleum Income Tax Act (1971); the Fuel Trade Act (2000); the Energy Conservation and Promotion Act (1992, amended in 2007); and, the Energy Industry Act (2007).⁴² According to the authorities, the National Legislative Assembly is studying issues related to the enforcement of the Petroleum Act and the Petroleum Income Tax Act to decide whether to amend both laws.

4.51. Thailand's energy endowment includes crude oil (215 million barrels of proven reserves in 2012), natural gas (10 trillion cubic feet of proven reserves), and coal (2,075 million tons of proven reserves).⁴³ It has no nuclear power plants (although one is scheduled to be constructed and commence operations in 2035 according to the PDP2015) and is the third largest producer of biofuels in Asia (behind China and Indonesia) through its 22 ethanol plants (using molasses and cassava) and 11 biodiesel plants (largely using palm oil) (Table 4.11).⁴⁴ Thailand ranks 12th out of 189 economies under the category of getting electricity in the World Bank's 2015 doing business report.⁴⁵ Likewise, it ranks in 55th place out of 124 countries, in the World Economic Forum's Energy Architecture Performance Index. The latter index assesses whether countries' energy architecture supports economic growth and development in an environmentally sustainable way, while providing energy access and security.⁴⁶ Thailand has been commended, in particular, for its efforts to reform gasoline prices by removing distorting subsidies and introducing taxation that promotes efficient energy use (see below).⁴⁷ The State continues to maintain a significant presence in the energy sector, with the most recent liberalization and privatization initiatives taking place in the 1990s and early 2000s.⁴⁸

Table 4.11 Energy production and consumption, 2007-2013

	2007	2008	2009	2010	2011	2012	2013
Crude oil	(barrel (bbl)/day)						
Total production	134,563	143,935	154,041	153,174	139,991	148,977	149,481
Total consumption	915,582	916,594	929,657	954,645	927,378	971,422	1,073,202
Natural gas	(million cubic feet per day (MMSCFD))						
Total production	2,515	2,778	2,990	3,506	3,577	3,996	4,044
Total consumption	3,288	3,444	3,564	4,039	4,143	4,534	4,568
Coal	('000 tonnes oil equivalent)						
Production	4,912	4,793	4,715	4,950	5,992	4,753	4,682
Consumption	13,943	15,051	15,121	15,478	15,807	16,407	15,846
Hydroelectricity	('000 tonnes oil equivalent)						
Production	1,764	1,540	1,543	1,185	1,758	1,868	1,199
Consumption	2,178	1,780	1,755	1,805	2,679	2,767	2,273

Source: Information provided by the authorities.

4.52. Thailand remains a net, and growing, importer of energy, reflecting robust domestic demand. In 2012, energy imports amounted to B 1,447 billion, while in the same year the value of energy exports was B 401 billion.⁴⁹

⁴² The Energy Industry Act was viewed at: <http://www.thailawforum.com/database1/energy-industry-law.html>; the Petroleum Act was viewed at: http://thailaws.com/law/t_laws/tlaw0430.pdf; and the Petroleum Income Tax Act was viewed at: http://thailaws.com/law/t_laws/tlaw0431.pdf.

⁴³ Ministry of Energy (2012). Not available online in English.

⁴⁴ US Energy Information Administration online information. Viewed at: <http://www.eia.gov/countries/country-data.cfm?fips=TH>.

⁴⁵ World Bank (2014b).

⁴⁶ World Economic Forum (2013).

⁴⁷ World Economic Forum (2012).

⁴⁸ As noted by the Oxford Business Group, legislative amendments allowed the Electricity Generating Authority of Thailand EGAT to cooperate with independent power producers and small power producers in 1992. A very small power producer programme followed in 2001. The PTT Public Company Limited was partially privatized in November 2001.

⁴⁹ Ministry of Energy (2012). Not available online in English.

4.53. Thailand started providing support for renewable energy projects in 2006. These incentives are still offered, and include: import duty exemptions for energy efficiency/renewable energy equipment; 8-year corporate income tax exemptions for renewable energy manufacturers and energy services companies; and, corporate income tax reductions for companies that improve their energy efficiency or develop renewable energy projects.⁵⁰ The Board of Investment has included "Renewable Energy and Environmental Services" as a target industry in its Investment Promotion Policy (2015-2021). Incentives offered under this strategy are corporate income tax exemptions, and import duty exemptions for machinery. Various other incentive programmes are in operation (Table 4.12)

Table 4.12 Renewable energy incentives, 2015

Programme	Description
Fit for RE programme	Very Small (VSPP) suppliers of renewable energy provided with per-KWh payments ("feed-in tariffs") above those paid to standard wholesale producers by the state-owned utilities companies (the Metropolitan Electricity Authority (MEA), the Provincial Electricity Authority (PEA), and the Electric Generating Authority of Thailand (EGAT)). Rates vary according to technology used: solar (B 5.66-6.85 per KWh); biomass (B 5.34 per KWh); wind (B 6.06 per KWh); and hydro (B 4.90 per KWh). The programme was introduced in 2006 and has been revised several times.
Solar rooftop programme and solar ground-mouth programme	In 2014, the Government issued a request for 200 MW of power through solar rooftop installations (with total capacity to be split 50/50 between commercial and residential structures). The feed-in tariff ranges from B 6.01 per KWh to B 6.85 per KWh. Under the solar ground-mouth programme, which is for government agencies and agricultural cooperatives only, each location can establish 5 MW of output and receive a feed-in tariff of B 5.66 per KWh. The contract length is for 25 years, with systems having to be installed by end 2015.
Solar water heater subsidy programme	Commenced in 2008 and runs until 2021. 25% subsidy of investment costs through 2017 and 15% thereafter. Programme is available only for commercial hybrid systems, combining a minimum of 40m ² collector area per project with the use of waste heat from air conditioners / boilers etc. The subsidy is provided by the Department of Alternative Energy Development and Efficiency, through the Energy Conservation Promotion Fund.
Energy Conservation Promotion Fund (ENCON Fund)	Commenced in 1992 under the ENCON Act (B.E. 2535). Fund is used as a revolving fund, aid or subsidy for projects, research, demonstrations, public relations, investment and human resources development related to energy efficiency, renewable energy and energy conservation. The fund is managed by the ENCON Fund Committee. To be eligible for subsidies or grant funding foreign and domestic companies' business must be directly related to energy conservation or environmental protection and the correction of environmental problems arising from energy conservation, and may not have political or profit-orientated objectives. Money in the ENCON fund is collected from fuel users (B 0.25/litre). The National Energy Policy Council (NEPC) approved B 7 billion/year to be used as ENCON fund's expense framework for the budget years 2012-16. The balance of the ENCON fund (end May 2015) was B 40.8 billion, of which just over B 20 billion has been allocated, leaving the remaining half available for use.

Source: Oxford Business Group (2015), *The Report: Thailand 2014*. Viewed at: <http://www.oxfordbusinessgroup.com/thailand-2014-0>; Global Solar Thermal Energy Council online information. Viewed at: <http://www.solarthermalworld.org/content/government-subsidy-programme-2013>; and information provided by the authorities.

4.5.1 Hydrocarbons

4.54. With its excess refining capacity, Thailand is a net exporter of refined petroleum products using imports of crude as the raw material; its six operating refineries had an output of 1,242 billion bbl/day in 2014.⁵¹

4.55. While specific licencing requirements are in place for foreign investors⁵², the hydrocarbons sector is fully open to foreign investment at the exploration and production levels. Oil and gas exploration and production rights are granted by the Ministry of Energy with the approval of the Cabinet. Royalty rates range from 5% to 15% and the compulsory exploration period is six years.

⁵⁰ Industrial Efficiency Policy Database online information. Viewed at: <http://iepd.iipnetwork.org/policy/tax-incentives>.

⁵¹ Information provided by the Energy Policy and Planning Office.

⁵² Under the provisions of the Foreign Business Act B.E. 2542 (1999) and the Petroleum Act B.E. 2514 (1971), a foreign business licence, issued by the Ministry of Commerce, is required for: foreign participation in petroleum exploration; production/distribution of petroleum products; and companies with foreign shareholding of 50% or more.

The concession is for 20 years, and the total exploration area of any single concessionaire may not exceed five blocks of 20,000 square kilometres. Concessionaires are allowed to sell or otherwise dispose of the petroleum produced insofar as they meet their royalty and tax obligations.⁵³

4.56. The oil sector is fully deregulated. PTT Public Company Limited (PTT) which is majority-owned (51%) by the State remains a key player, with 37% of market share of the oil sector. Other major fuel traders are ESSO (11%), Bangchak (10%), Shell (9%), and Chevron Thailand (7%). PTT has exploration and production interests and has substantial shares in four (out of six) refineries in Thailand.⁵⁴ This has reportedly generated some domestic criticism about it having a monopoly in this area.⁵⁵ Chevron Texaco and PTT Exploration and Production Public Co. Ltd. are the top natural gas and crude oil producers in Thailand. PTT is the main operator involved in the transmission and distribution of natural gas and the import of liquefied natural gas (LNG), with tariffs controlled by the Energy Regulatory Committee. However, reforms in the natural gas sector are underway to promote competition and ensure non-discriminatory treatment in the use of natural gas pipeline services.

4.57. Major energy subsidy reforms have been undertaken over the review period to address the significant costs of these subsidies to the national economy. In 2012, Thailand's fuel and electricity subsidies were estimated to cost at least B 194.9 billion (equivalent to 1.7% of GDP) consisting of a diesel excise tax exemption borne by the National Budget (55.5%), liquefied petroleum gas (LPG) sales losses borne by the Oil Fund and oil companies (29.4%), losses from compressed natural gas for vehicles (NGV) sales borne by PTT (6.6%), a regulated electricity base tariff borne by EGAT (4.6%), and cross-subsidization to free or half-price electricity to low-consuming households (3.8%); several other support measures could be quantified. Under instructions from the Cabinet⁵⁶, the National Energy Policy Council (NEPC) approved a policy framework and guidelines to restructure energy prices on 15 December 2014. This comprises the following elements: (a) energy prices must reflect actual costs; (b) excise taxes applied to each fuel in the transportation sector should be similar; (c) the Oil Fund should be used to stabilize energy prices and encourage the use of renewable energy; (d) energy cross subsidies should be reduced; (e) marketing margins should be at an appropriate level; (f) low-income people should be assisted and, (g) the amount of money collected from each fuel into the Oil Fund should be similar and according to their calorific values. As at mid-2015, only ethanol blended gasolines E20 and E85, NGV, and LPG for low-income households remained subsidised.

4.58. Ethanol blended gasolines with a concentration of 20% ethanol (E20) and 85% ethanol (E85) (largely used by certain automotives) are subsidized in order to promote the use of renewable energy, particularly biofuel. Subsidies are provided through the Oil Fund mechanism; the more ethanol is blended, the higher the subsidy from the Oil Fund. These ethanol blended gasolines are also subject to lower taxation.

4.59. NGV retail prices are set below the cost of production. NGV is produced and distributed solely by PTT which is not reimbursed for losses incurred by selling below cost. However, prices were increased on 31 December 2014 to reduce the cost of the subsidy: for private cars it was increased from B 12.50/kg to B 13/kg; and for public busses and taxis from B 9.50/kg to B 10.00/kg.

4.60. Subsidies to diesel, which were financed through temporary excise tax reductions so to keep retail prices below B 30/litre, have largely been removed. This policy change was facilitated by the recent fall in oil prices. The pre-reduction tax rate was B 5.31/litre, this was lowered to B 0.005/litre in April 2011, and has now been raised back to B 4.25/litre. Diesel is largely used in agriculture and manufacturing. Biodiesel blending is compulsory for all diesel sold in Thailand, providing a subsidy mandatory consumption; biodiesel is subject to an excise tax exemption.⁵⁷

⁵³ WTO document WT/TPR/S/191/Rev.1, 6 February 2008.

⁵⁴ PTT has a 49.10% share in TOP, 48.89% in PTTGC, 38.51% in IRPC and 36% in SPRC (May 2015).

⁵⁵ Reuters online information. Viewed at: <http://uk.reuters.com/article/2015/02/03/bangchak-ptt-stake-sale-idUKL4N0VD5FF20150203?feedType=RSS&feedName=rbssFinancialServicesAndRealEstateNews>.

⁵⁶ In its policy statement delivered to the National Assembly, the Cabinet stated in its policy on energy price reform that fuel prices must be in line with costs, there should be an appropriate tax burden between different fuels and different users in order to increase the country's efficient use of energy and that people should be careful not to use energy wastefully.

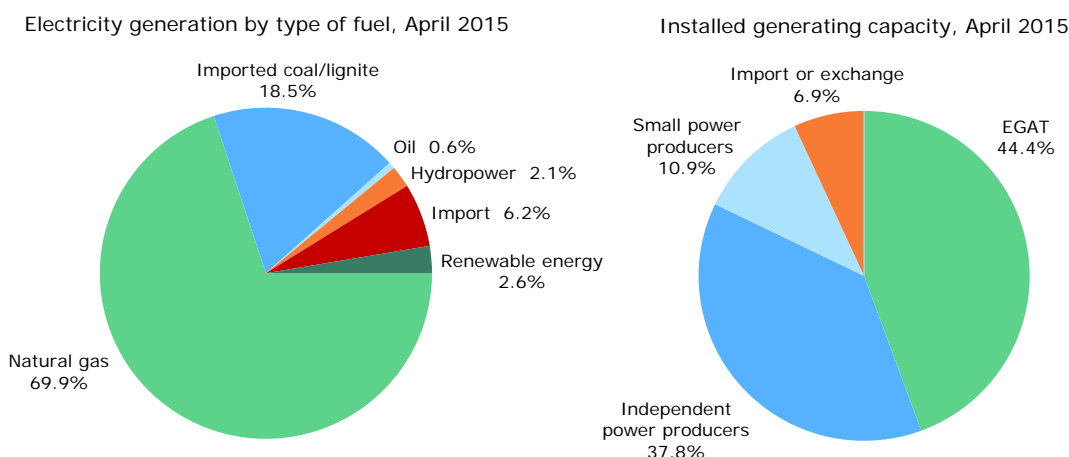
⁵⁷ International Institute for Sustainable Development (2013).

4.61. LPG used to be subsidised by the Oil Fund such that in 2012 Thailand's LPG retail prices were the second lowest (after Malaysia) in Southeast Asia. An ex-refinery price was set below the cost of production or acquisition on the world market; the Government then paid the difference to the LPG refiner or importer.⁵⁸ Additionally, LPG rates used to be variably applied to users in different segments, which raised concerns about costs and fairness (rates were fixed at B 19/kg for cooking (32% of consumption); B 21/kg for automobiles (24% of consumption) and B 30/kg for industrial consumers (44% of consumption)).⁵⁹ The price disparity also provided an incentive for fuel smuggling to neighbouring countries and misappropriation, e.g. LPG for cooking to be used illegally by the industrial sector. In January 2015, a new formula for calculating retail prices was adopted, which is based on the weighted average of LPG costs from three major sources: imported LPG, local gas separation and oil refineries. At present, LPG prices for all segments are at the same level.

4.5.2 Electricity

4.62. In January 2015, Thailand had an installed generating capacity of 34,690 MW; 99% of the population had access to electricity (in 2012).⁶⁰ Major capacity was from the state-owned Electricity Generating Authority of Thailand (EGAT), accounting for 44.4% (Chart 4.3). Over the review period, the EGAT's relative share of generating capacity has dropped slightly (from 47% in 2010) while that of small power producers has increased (from 7%). Natural gas remains the main fuel source for electricity generation (Chart 4.3)

Chart 4.3 Electricity generation and installed capacity, April 2015



Source: Data provided by the authorities.

4.63. Thailand's electricity imports (some 7% of electricity consumed) come largely from Laos and a minimal amount is imported from Malaysia; these are the only two countries with which Thailand has direct connections. A number of future connections with other countries are being planned; of these, Myanmar is foreseen as having the greatest potential. All natural gas imports are from Myanmar (imports/joint developments are being discussed with Cambodia).⁶¹ Thailand started importing liquefied natural gas (LNG) in 2011 under spot and short-term contracts. In 2014, Thailand imported 1.34 million tons of LNG. The first imports of LNG under long-term contracts, from Qatar, started in January 2015.

4.64. As well as being a major power producer, the EGAT has the exclusive right to purchase electricity from private power producers under power purchase agreements and has a monopoly on power transmission. The Metropolitan Electricity Authority (MEA) and the Provincial Electricity Authority (PEA), both state-owned enterprises, have exclusive rights to undertake distribution and

⁵⁸ International Institute for Sustainable Development (2013).

⁵⁹ *Bangkok Post* online information. Viewed at: <http://www.bangkokpost.com/business/news/455156/new-lpg-formula-will-use-median-to-flatten-out-prices>.

⁶⁰ ERC presentation October 2012. Viewed at: <http://www.eria.org/events/Power%20Tariff%20Structure%20in%20Thailand.pdf>.

⁶¹ Oxford Business Group (2014).

retailing activities within their respective geographical areas of jurisdiction.⁶² There are no plans to privatize these entities.

4.65. The ERC regulates the operation of the electricity and natural gas industry as well as related interconnection networks. Among its responsibilities are to regulate electricity tariffs in such a way that they reflect the actual costs of efficient industry operation. In this regard, the ERC sets criteria for tariff setting by licensees based on government policy. Licensees must propose tariffs to the ERC, which reviews them, with the input of stakeholders, before these are approved and publically announced. The electricity structure varies according to different consumer categories (section 3.4.2.4).⁶³ The ERC issues licences to privately-owned power and natural gas operations; settles disputes between consumers and operators and makes disbursements under the Power Development Fund. The Fund is, *inter alia*, used to: expand electrification in rural areas; subsidise services for underprivileged energy users (those using less than 50 units/month); develop and rehabilitate communities surrounding power plants; promote the use of renewable energy and low impact technology in electricity generation. The Fund's revenue mainly comes from levies on industry licensees. Contributions to the Fund during plant construction are levied at a rate of B 50,000 MW/year. Thereafter they are classed at different rates depending on the fuel type used for power generation, and range from 1-2 satangs/KW-hour (100 satang = B 1).⁶⁴

4.6 Manufacturing

4.66. In 2014, manufacturing (including food processing) accounted for 27.7% of GDP (down from 29.2% in 2011) (Table 1.2). The sector's share in total employment increased from 13.8% in 2011 to 16.8% in 2014. The manufacturing sector (particularly the automobile and electronics sub-sectors) was badly hit by a series of natural disasters. A major earthquake in Japan temporarily disrupted supply chains and slowed production as Japan is a major source of intermediate and capital goods (see section 4.6.1.1, below). This was followed by severe flooding in Thailand from end July 2011.⁶⁵

4.67. Key manufacturing sub-sectors (in terms of GDP originating from these activities at current market prices) include: food products and beverages; motor vehicles; chemicals and chemical products, rubber and rubber products; and refined petroleum products (Table A4.2). In value terms; exports are dominated by office machines and telecommunications equipment (15.7% in 2014), automotive products (11.5%), and chemicals (10.9%).

4.6.1 Policy objectives and measures

4.68. As noted by the authorities, government policy is focused on enhancing and supporting the industrial sector for two main purposes: firstly, to prepare it for the entry into force of the ASEAN Economic Community through training/seminar activities and the development of special economic zones (SEZs) (sections 1.7 and 3.4.2.1); and secondly, to develop the food and the non-food industries in areas where it is envisaged that Thailand has the greatest potential.

4.69. Current challenges facing the sector include rising costs (partly as a result of the implementation of a minimum wage law introduced in January 2013), the limited production capability of Thai manufacturers in high-technology products (section 1), competition from emerging regional players, and integration within the ASEAN Economic Community (AEC). It has been suggested that Thailand now needs to transform itself from a low-cost exporter to creating and selling products of a higher value.⁶⁶ As noted by the authorities, Thailand is, *inter alia*, looking to address some of these challenges through its SEZ scheme which involves moving production to the borders with neighbouring countries so as to benefit from lower costs of labour and resources.

⁶² The MEA's service areas are Bangkok, Nonthaburi and Samut Prakarn. The PEA covers the rest of the country.

⁶³ Electricity tariff information was viewed at: <http://www.mea.or.th/profile/index.php?l=en&tid=3&mid=112&pid=109>; and <http://www.mea.or.th/profile/index.php?l=en&tid=3&mid=2991&pid=2989>.

⁶⁴ ERC online information, "Power Development Fund". Viewed at: <http://www.erc.or.th/ERCWeb2/EN/Default.aspx>.

⁶⁵ IMF (2012).

⁶⁶ Oxford Business Group (2014).

4.70. The simple average MFN tariff rate for non-agricultural products (WTO definition) was 10.1% in 2014, up from 9.0% in 2011.⁶⁷ For manufactured products (ISIC definition) average applied tariff protection was 12.6% in 2014, up from 10.8% in 2011. The increased tariff protection over the review period is due both to a change in HS nomenclature as well as tariff rate increases (see section 3.2.2). Highest tariffs apply to motor vehicles (80%).

4.71. A large number of manufacturing activities are eligible for corporate income tax holidays and customs duty exemptions under the BOI's seven year Investment Promotion Policy (2015-2021). Eligible activities include the manufacturing of certain products from agricultural goods (for example fertilizers, oils, rubber and leather products, fuels, food and beverages); products manufactured from metals and minerals; light industry products (such as textiles, clothing, toys, jewellery and medical devices); metal products, machinery and transport equipment; electronics and electrical appliances; and chemicals, paper and plastics (sections 2 and 3.4.2.1). In order to support Thailand's growing aircraft maintenance and overhaul services industries, the manufacture of aircraft frames, parts and appliances was designated by the BOI in 2014 as an activity of special importance, to which corporate income tax exemption caps do not apply.⁶⁸

4.6.1.1 Automotive sector

4.72. Thailand is a major automotive producer and exporter as well as a big regional producer of motorcycle and automotive parts. In 2014, Thailand was the world's twelfth-largest producer of passenger and commercial vehicles producing around 2% of the world's vehicles and is the biggest vehicle manufacturer in Southeast Asia.⁶⁹ It has a particular strength in the one-tonne pick-up truck segment. Vehicle production has fluctuated in recent years, as a result of the global financial crisis and incentives granted in the wake of the 2011 floods.

4.73. Thailand does not have its own nationally-branded car. Its automotive sector consists of large-scale assembly businesses (predominantly Japanese and to a lesser extent US and European, Indian, and Chinese multinational companies). There are also numerous parts manufacturers and small-scale local suppliers. Taken together these businesses are estimated to employ around 500,000 workers.⁷⁰ 85% of the parts used in pickup truck assembly are manufactured locally, around 70% of passenger car parts, and nearly 100% motorcycle parts.⁷¹ The strategic aim of the sector over the period up to 2021 is to consolidate Thailand's position as a global green automotive production base with strong domestic supply chains which create high value-added for the country.

4.74. Thailand is one of the world's biggest car exporters; more than 50% of production is exported, mainly to other Asia-Pacific economies. In the context of the ASEAN, work is ongoing to harmonize standardization and certification measures as well as to eliminate non-tariff barriers to trade in motor vehicles.⁷² The value of exports of auto parts amounted to over US\$17 billion in 2014, with major export items including internal combustion engines and parts thereof and vehicle tyres.⁷³ As noted by Thai AutoBook, auto parts exported to ASEAN nations are duty free

⁶⁷ WTO non-agricultural products, *inter alia*, includes fish and fishery products; minerals and metals and petroleum (which, for the purposes of this report, are considered in other sections).

⁶⁸ Board of Investment online information. Viewed at: http://www.boi.go.th/index.php?page=pdf_page&menu_id=96.

⁶⁹ According to the Thai Automotive Institute, Thailand produced around 2% of the world's vehicles in 2014. The world's biggest producers, in order of volume are: China, the United States, Japan, Germany, the Republic of Korea, India, Mexico, Brazil, Spain, Canada, Russian Federation, Thailand, France, the United Kingdom, and Indonesia.

⁷⁰ Board of Investment online information. Viewed at: <https://www.boi.go.th/index.php?page=pdf-pages&menu-id=89>.

⁷¹ Thai Autobook 2015. Viewed at: <http://www.slideshare.net/fullscreen/ulikaier/thai-autobook-2015-preview/11>.

⁷² Within ASEAN a mutual recognition arrangement framework on motor vehicle standards and certification has been agreed. Work to harmonize standards and certification measures and to eliminate NTBs has been taking place through the ASEAN Consultative Committee for Standards and Quality's (ACCSQ) Automotive Product Working Group (APWG).

⁷³ In 2014, exports of internal combustion engines and parts thereof were valued at US\$3.4 billion; output shafts and crankshafts (US\$329 million); electric generating sets and parts thereof (US\$400 million); wiring harnesses for motor vehicles (US\$436 million); batteries and parts thereof (US\$916 million); vehicle

(as of 2015). There is significant domestic demand for motorcycles. Most motorcycles produced domestically are sold domestically; a 60% import duty is levied on completely built-up (CBU) motorcycles.

4.75. With respect to the domestic market, an estimated 7% of the Thai population owned a car in 2014 and car ownership is projected to steadily rise to nearly 10% by 2018. 95% of the domestic market is served by domestic production, given high import duties (80%) applied to completely built units (CBUs).⁷⁴ The excise tax structure provides incentives for the purchase of small-engine cars (i.e. those with a capacity of 2000cc or below), to help promote the production of fuel-efficient and environmentally-friendly cars. Concerns have been expressed that Thailand's excise tax structure favours domestically-manufactured vehicles; for example, while excise taxes on passenger vehicles range from 30% to 50%, pickup trucks, mostly produced in Thailand are taxed at a rate of 3%.⁷⁵ The authorities indicated that these excise taxes, which are mainly on luxury goods, are applied equally to imported and domestically-manufactured goods. They also noted that the lower excise tax rate as applied to pick-up trucks is due to the fact that Thailand's agriculture sector is large, therefore 1 ton pick-up trucks are considered necessary and supportive vehicles for the agricultural society. A change in excise tax policy is expected in 2016, with a movement away from being based on engine size and towards one based on carbon emissions.

4.76. Quantitative import restrictions in the form of non-automatic licensing remain in place on certain used diesel engines (331-1,100cc). Imports of used motorcycles engines (except for those of 50cc) as well as used passenger cars are prohibited (Table 3.2).

4.77. Government support to the sector takes the form of a variety of fiscal incentives, including corporate income tax holidays and customs duties exemptions. To support the sector in the wake of the 2011 floods and to encourage low-income people to buy new, more environmental-friendly cars, the Government paid first-time and 2011-flood-victim car buyers an amount equivalent to the excise tax imposed on the particular automobile (up to a maximum of B 100,000). It would appear that this scheme was successful, as car registrations surged by over 80% in 2012. There followed a contraction in the second half of 2013 once all the vehicles purchased under the scheme had been delivered.⁷⁶ Temporary fuel excise tax reductions have been extended several times, also stimulating demand (section 4.5). More recently, Government policy has expanded from promoting the pick-up truck as a product champion to promotion of the Eco-car, and this is also reflected in new incentive schemes offered (Table 4.13).

Table 4.13 Automotive industry incentives, 2014

Administering body	Date introduced / terminated	Summary description
..	September 2011 / end 2012	First-time buyer rebate scheme: temporary scheme applied to domestically-produced cars and pickup trucks and involved payment to the buyer of the amount equivalent to the excise tax but not exceeding B 100,000. Eligible vehicles were: cars with an engine smaller than 1500 cc and a retail price below B 1 million, and pickup trucks of any engine size.
Board of Investment (BOI)	August 2000 / end 2014	Automotive Incentive Scheme: Corporate tax holidays of between 5 and 6 years to encourage manufacture of passenger cars and new automobile models in Thailand. Minimum investment of B 10 billion.
Ministry of Energy	Introduced in 2006	Natural Gas Vehicle Initiative: NGV subsidies of B 2-3/kg offered through the PTT Public company for new natural-gas-powered cars. These vehicles are also exempt from import duties (see section 4.5).
Ministry of Finance (MOF)	Introduced in January 2011	Scheme to promote the use of E85 ethanol: three-year exemption from import duties on foreign auto parts used to make vehicles E85-ready. Additionally, the excise tax on cars using E85 has been reduced to 22%, 27%, and 32%, depending on the engine size.

tyres (US\$3.7 billion); safety glass and car class (US\$188 million); parts and other equipment (US\$7.2 billion); and spare parts for motorcycles (US\$599 million).

⁷⁴ Economist Intelligence Unit (2014a).

⁷⁵ USTR (2015).

⁷⁶ Economist Intelligence Unit (2014a).

Administering body	Date introduced / terminated	Summary description
BOI and MOF	Phase I 2007/2007 Phase II 2013/2014	Eco-Car Programme: BOI offers a 6-8 year corporate income tax holiday and duty-free importation of machinery for Eco-Car projects with a minimum investment value of B 5 billion. Vehicles must have fuel economy of at least 20km/litre and meet specified emission and safety standards. Certain parts must be produced locally, although imported raw material is permitted. MOF offers a reduced excise tax of 17% on cars with petrol-powered engines smaller than 1,300 cc and diesel-powered engines below 1,400 cc (equivalent to a US\$1,000 reduction in the retail price). The requirements for fuel consumption, emission, and safety standards are stricter under the Phase II program and the corporate income tax exemption is for 6 years.
BOI	2014	BOI seven year investment promotion scheme (2015-2021): various manufacturing activities related to the production of metal products, machinery and equipment for the automotive sector are eligible for corporate income tax holidays of between 3-8 years as well as import duty exemptions for machinery and raw/essential materials used in manufacturing export products (see also section 3.4.2.1).

.. Not available.

Source: Thai Autobook 2015. Viewed at: <http://www.slideshare.net/fullscreen/ulikaier/thai-autobook-2015-preview/11>; and BOI Announcement No. 2/2557 on Policies and Criteria for Investment Promotion. Viewed at: http://www.boi.go.th/upload/content/newpolicy-announcement%20as%20of%2020_12_57_33650.pdf.

4.6.1.2 Electrical and Electronics industry

4.78. A diverse range of electrical appliances are produced, including air conditioners, refrigerators, digital cameras, and video camera recorders. Main electronics goods produced were hard disc drives, integrated circuits and automotive electronics.⁷⁷ No foreign direct investment restrictions are in place, with 100% foreign shareholding permitted. Various incentives are available including corporate income tax exemptions, import duty exemptions on machinery and import duty exemptions on raw or essential materials used in manufacturing export products.⁷⁸ Under the BOI's seven year investment promotion policy, microelectronics design and embedded design are exempt from corporate income tax for 8 years.

4.6.1.3 Rubber

4.79. In 2014 the Government approved a guideline to develop the whole supply chain of the rubber sector, from upstream, middle-stream to downstream, with an emphasis on rubber processing. Specifically, it aims to: (a) manage the public stock of rubber to address oversupply; (b) improve liquidity for agricultural institutions and other market operators and improve rubber quality; (c) encourage increased value-added in the subsector by supporting the establishment or renovation of rubber processing plants and increasing liquidity for rubber processing industries; (d) help manufacturers to expand production to increase the value-added of domestic rubber products and the domestic utilization of rubber; and (e) increase sustainability of the rubber industry by controlling the areas for rubber plantations, improving their efficiency and maintaining a balance between production and utilization. To implement the guideline, sixteen measures were approved in August and October 2014 (Box 4.1).

4.80. According to external sources, the measures approved in October 2014 amounted to a subsidy plan of B 58 billion to support rubber prices. Under this plan, the Government reportedly held two successive rounds of government purchases of rubber from the market for resale (in December 2014 and February 2015). In each case, the value of purchases amounted to B 6 billion, and were undertaken by the state-run Rubber Estate Organization through the

⁷⁷ BOI online information. Viewed at: http://www.boi.go.th/index.php?page=pdf_page&menu_id=90.

⁷⁸ These incentives are set out in the Announcement of the Board of Investment No. 2/2557 on Policies and Criteria for Investment Promotion (section 5). Viewed at: http://www.boi.go.th/upload/content/newpolicy-announcement%20as%20of%2020_12_57_33650.pdf.

B 20 billion buffer fund.⁷⁹ B 420 million has reportedly been provided by the Government and seven private companies to shore up the prices of rubber futures on the Agricultural Futures Exchange of Thailand.

Box 4.1 Measures to implement the guideline for rubber development

A. Measures approved by the National Council for Peace and Order on 26 August 2014

Emergency measures

1. Credit (soft loans) to support revolving funds for agricultural institutions, including community cooperatives to purchase rubber from farmers to distribute to the market.
2. Credit (soft loans) to assist agricultural institutions in expanding and improving efficiency of basic manufacturing processing.
3. Credit (soft loans) to assist rubber manufacturers in adjusting machinery used for manufacturing processing.

Continuous measures

4. Management of the public stock of rubber.
5. Development of the rubber market in accordance with the structural adjustment of the market.
6. Seek new overseas rubber markets.
7. Investment promotion for rubber manufacturing processing.
8. Consultations to integrate rubber research and development.
9. Control of rubber production including encouraging farmers to grow other plants/crops.
10. Education for rubber farmers to efficiently and effectively utilize resources and inputs, including how to reduce production costs.
11. Technology transfer.
12. Encouragement of less density of rubber trees in plantations, including mixed plantations.

B. Measures approved by the Cabinet on 21 October 2014

13. Creation of a buffer stock to stabilize rubber prices by taking a loan from the Bank for Agriculture and Agricultural Cooperatives to purchase rubber smoked sheet and block rubber from agricultural institutions and central rubber market to avoid fluctuations in rubber prices (to be implemented for an 18-month period from November 2014 to April 2016).
14. Income compensation to eligible rubber farmers who plant rubber trees with a concession from the government. Eligible farmers received a fixed amount of B 1,000 per rai not exceeding 15 rai's per household. The fund was paid as a one-off measure.
15. Credit (soft loans) to support small-scale rubber farmers to engage in additional occupations.
16. Credit (soft loans) to support revolving funds for rubber manufacturers.

Source: Information provided by the authorities.

4.81. The BOI extends an 8-year corporate income tax exemption for the manufacture of natural rubber products, import duty exemptions also apply to machinery and raw or essential materials used in manufacturing export products.

4.7 Services

4.7.1 Introduction

4.82. Services account for a significant part of the Thai economy. Their share in GDP has increased from 50.3% in 2011 to 52.7% in 2014, and their share in total employment has risen from 40.7% in 2011 to 42.9% in 2014. The main services subsectors in 2014 were wholesale and retail trade, repair of vehicles and household goods (13.9%); transport, storage, and communication (7.1%); and financial intermediation (7%) (Table 1.2).

4.83. Thailand's Schedule of Specific Commitments covers 75 of the 160-odd service sectors under the GATS.⁸⁰ Thailand accepted the GATS Fourth Protocol on basic telecommunications and

⁷⁹ Reuters online information, "Thailand starts second round of rubber buying via \$180 million fund", 18 February 2015. Viewed at: <http://wardsauto.com/thailand-starts-second-round-rubber-buying-180-mln-fund>; and Reuters online information, "Thai govt to spend over \$180 mln in rubber market to support prices", 12 December 2014. Viewed at: <http://www.reuters.com/article/2014/12/12/thailand-rubber-idUSL3NOTW2R920141212>.

⁸⁰ WTO document GATS/SC/85, 15 April 1994. For a summary of Thailand's GATS commitments, see WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

Fifth Protocol on financial services.⁸¹ In the framework of the DDA negotiations on services, Thailand submitted initial and revised offers in August 2003 and October 2005, respectively.

4.84. At the regional level, Thailand has adopted services liberalization commitments under the ASEAN Framework Agreement on Services (AFAS) and the ASEAN Economic Community Blueprint (signed in 2007); the latter includes a commitment to substantially reduce all restrictions on trade in services by 2015. Services commitments are contained in ASEAN's RTAs with: Australia and New Zealand, China, and the Republic of Korea. Services commitments also form part of Thailand's bilateral RTAs with Japan, Australia, and New Zealand (section 2).

4.7.2 Financial services

4.85. The financial sector grew over the review period with financial intermediation services contributing 7% to GDP in 2014 up from 5.7% in 2011. In 2014, the sector accounted for 1.4% of employment (up from 1% in 2011) (Table 1.2).

4.86. As set out in the national accounts, Thailand's financial landscape is comprised of 3 types of financial institutions: the Bank of Thailand; depository corporations; and non-depository corporations.⁸² At end 2014, the financial institutions' assets were valued at B 43 trillion, some 3.3 times the value of GDP. Commercial banks accounted for 40% of the total financial institutions' assets (Table 4.14)

Table 4.14 Number and assets of financial institutions (end 2014)

	Number	% of total assets
Bank of Thailand	1	13.8
Depository corporations	2,025	58.6
Commercial banks	30	40.3
Specialized financial institutions	6	12.6
Saving cooperatives and credit unions	1,943	5.1
Money market mutual funds	41	0.6
Finance companies	2	0.0
Credit foncier companies	3	0.0
Non-depository corporations	7,042	27.5
Mutual funds	1,495	8.3
Insurance companies	86	6.4
Financial institutions development fund	1	3.0
Credit card and personal loan companies	29	2.3
Provident funds	418	2.0
Government pension fund	1	1.7
Securities companies	47	0.7
Leasing companies	661	2.6
Agricultural cooperatives	3,748	0.4
Pawn shops	556	0.2

Source: Bank of Thailand online information. Viewed at:
<https://www.bot.or.th/English/FinancialInstitutions/FIStructure/Pages/default.aspx>.

4.87. Over the review period, Thailand completed implementing the second phase of its Financial Sector Master Plan (FSMP II (2010-2014)). The FSMP aims to create a more efficient, inclusive and internationally competitive financial sector. Under FSMP II, a greater degree of competition and foreign participation is being encouraged through tax incentives to encourage existing foreign bank branches to upgrade to become subsidiaries (see below). A third phase of the FSMP is being prepared and is expected to be finalised in 2015 (FSMP III); it is likely to include measures to promote financial inclusion and further liberalization. According to the authorities, voluntary mergers are being encouraged so that financial institutions may reap the benefits of economies of scale and scope.

⁸¹ WTO document GATS/SC/85/Suppl.2 11 April 1997 and GATS/SC/85/Suppl.3, 26 February 1998.

⁸² Bank of Thailand online information. Viewed at:
<https://www.bot.or.th/English/FinancialInstitutions/FIStructure/Documents/Thai%20Financial%20System%20Structure.pdf>.

4.7.2.1 Banking

4.7.2.1.1 Market structure

4.88. Thailand's banking sector remains dominated by Thai banks; nonetheless foreign presence has increased significantly in recent years as a result of the Japanese company Mitsubishi UFJ Financial Group's acquisition in 2013 of a 72% stake in the Bank of Ayudha (BAY) (Thailand's fifth biggest bank in terms of assets). Following the BAY acquisition, the share of Thai commercial banks with more than 49% foreign ownership, together with foreign bank branches and subsidiaries, thus increased to 25% of total commercial banking assets in 2014, from 19% in 2012.

4.89. Thailand has 30 commercial banks, including 15 locally-incorporated commercial banks, 13 foreign bank branches, and two foreign bank subsidiaries (Table 4.15).

Table 4.15 Structure of the Thai banking system: number of institutions and their respective market share, 2011-14

	2011		2012		2013		2014	
	No.	Share ^a	No.	Share ^a	No.	Share ^a	No.	Share ^a
Thai commercial banks	15	86	15	87	15	88	15	88
Locally-incorporated and controlled by Thai nationals	11	80	11	81	11	81	10	75
Locally-incorporated, with more than 49% foreign ownership	4	6	4	6	4	7	5	13
Foreign bank subsidiaries	1	0	1	0	1	0	2	0
Foreign bank branches	15	14	15	13	14	12	13	12
Total	31	100	31	100	30	100	30	100

a Market share in terms of assets.

Source: Information provided by the Thai authorities.

4.90. **The State continues to have a significant presence in the banking sector:** the Ministry of Finance, through the Financial Institutions Development Fund (FIDF)⁸³, owns 55.3% of the Krung Thai Bank (KTB), Thailand's second largest bank. The Crown Property Bureau and the Finance Ministry (through its Vayupak Mutual Fund) are shareholders (with stakes of 23.69% and 23.12%, respectively) in the Siam Commercial Bank, Thailand's third largest bank.⁸⁴

4.91. The State also owns eight Specialized Financial Institutions (SFIs), four of which take deposits from the public: the Government Savings Bank (assets of B 2,255,189 million); the Bank for Agriculture and Agricultural Cooperatives (B 1,431,040 million); the Government Housing Bank (B 853,185 million); and the Islamic Bank of Thailand (B 104,253 million).⁸⁵ Their mandates were to provide financing to those without access to commercial bank services. However, following the global economic crisis in 2009, the Government expanded their role, using them to give loans to tackle problems of informal debt, debt restructuring and debt moratorium for small farmers and the poor. According to the authorities, as the Thai economy began to recover, SFI credits returned to their normal trend.

4.92. Following the same trends reported in Thailand's previous review, the banking system has remained robust and stable since early 2012. Commercial banks' balance sheets have strengthened (nonperforming ratios dropped between 2011 and 2013, rising slightly thereafter⁸⁶); capital adequacy has improved with a high level of loan loss provision; and solid profitability has been posted.

4.93. Possible vulnerabilities identified by the IMF relate to an increasing degree of interconnectedness in the financial system; the rapid pace of credit growth (particularly compared

⁸³ The FIDF is funded by the Bank of Thailand and was established in order to deal with bad assets resulting from the 1997-98 Asian Financial Crisis.

⁸⁴ Oxford Business Group (2014).

⁸⁵ The other four SFIs are the Export-Import Bank of Thailand (EXIM), the SME Bank, the Thai Credit Guarantee Corporation and the Secondary Mortgage Corporation.

⁸⁶ As noted by the IMF while nonperforming loans are rising, they remain low and commercial banks appear well able to deal with them. IMF (2015).

with other economies in the region); and rising levels of household debt (85.9% of GDP in 2014 up from 63% in 2010).⁸⁷ However, the BOT considers that the impact of household debt on financial stability is limited, since growth in household debt has slowed, financial institutions have tightened credit standards, and most borrowings are for asset acquisitions and business undertakings.

4.94. As noted by an external source, the Government has taken steps to encourage lending to small and medium-sized enterprises (SMEs), including through loan guarantees by the Thai Credit Guarantee Corporation. Due to the lack of proper documentation provided by SMEs, the BOT has developed a SMEs loan database to help banks to approve loans. A national strategy on financial inclusion is also being drafted to assist the poor and small firms.⁸⁸ Additionally, as aforementioned, the FSMP III is expected to include measures to promote financial inclusion.

4.7.2.1.2 Legal and institutional framework

4.95. The main law governing the activities of commercial banks is the Financial Institutions Business Act (FIBA), 2008.⁸⁹ In 2013, an Anti-Money Laundering Act was passed together with an Anti-Terrorism Act; as a consequence, Thailand has been upgraded from the G7 Financial Action Task Force's "black" list of countries failing to meet international standards to combat money laundering and the financing of terrorism to "grey" status.⁹⁰

4.96. As reported in Thailand's previous review the foreign ownership of commercial banks (and other financial institutions) is capped at 25% and the limit on foreign directors is one quarter of the total. However, the Bank of Thailand (BOT) can, on a case-by-case basis, raise foreign ownership to 49% and the limit of foreign directors to one-half. The BOT has not done so over the review period.

4.97. The Minister of Finance, on the advice of the BOT, may allow foreign investors to hold more than 49% of a commercial bank's shares, where this is deemed necessary to improve financial performance or strengthen the stability of any financial institution, or the financial system as a whole. Over the review period, such authorization has been granted in only one case (relating to the above-mentioned acquisition by a Japanese bank of a majority interest in BAY). Prior to that, four such authorizations had been granted, which were asset sales by the FIDF.⁹¹

4.98. The BOT is responsible for supervising commercial banks. It has undertaken stress-testing activities to assess banks' resilience to potentially challenging situations, such as the tapering of quantitative easing measures in 2013, political situations, and the domestic economic slowdown in 2014. In December 2014, a Cabinet resolution approved a SFIs supervisory reform that assigns the BOT to regulate and supervise SFIs and in April 2015, the Minister of Finance issued the order to the BOT to supervise the eight SFIs. The BOT's role relating to SFIs includes issuing regulations, reviewing the fit and proper criteria for directors and senior management, supervision through on-site examination and off-site monitoring and mandating resolution. Ownership functions and government policy oversight remains under the Ministry of Finance's purview. As noted by the IMF this is a very positive development, as having a separate regulatory regime for SFIs and granting them special privileges raised level-playing-field concerns as well as the possibility of distorting competition. The IMF has emphasised the importance of continuing efforts in this area, including strengthened supervision of non-bank financial institutions such as credit cooperatives.⁹² While no concrete steps have been taken to extend BOT supervision to credit cooperatives, which remain supervised by the Ministry of Agriculture, the BOT has encouraged them to become members of the National Credit Bureau (NCB). In addition, the BOT, in collaboration with the Cooperation

⁸⁷ IMF (2013 and 2015). As noted by the BOT, the increase in household debt is due to several factors: (a) the Government's stimulus policies such as the first-car tax rebate scheme; (b) accommodative monetary conditions which were conducive to household debt accumulation as reflected by low interest rates; and (c) competition among financial institutions in retail lending. Bank of Thailand (2014a).

⁸⁸ Economist Intelligence Unit (2015).

⁸⁹ There have been no amendments to this Act over the review period.

⁹⁰ Economist Intelligence Unit (2015).

⁹¹ As noted by the Oxford Business Group, these were: "the UK-based Standard Chartered's acquisition of 75% of Nakornthon Bank in 1999, raised to a 99.87% stake in 2005; Singapore's United Overseas Bank's purchase of a 99.66% stake in Bank of Asia in 2004 and its integration with UOB Radanasin Bank in 2005; Malaysia's CIMB Group's acquisition of 93% in Bank Thai in 2009; and the Industrial and Commercial Bank of China's acquisition of 97.24% of ACL Bank in 2010.

⁹² IMF (2009 and 2015); and WTO document: WT/TPR/S/255/Rev.1, 8 February 2012.

Promotion Department, the Cooperative Auditing Department, and the Thai Bankers' Association are helping to build the capacity of credit cooperatives in terms of governance and risk management, as well as strengthening the supervision skills of their examiners. Basel III capital requirements have been implemented and the Basel III liquidity requirement will be implemented from 2016 onwards.

4.99. Foreign bank branches and subsidiaries may provide the same services as local banks. However, Thailand limits the number of branches permitted. Representative offices are permitted to undertake research services, but may not provide commercial banking services.⁹³ Since 2010, foreign bank branches have been able to open a second branch. New reforms introduced under FSMP II allow existing foreign bank branches to apply to become subsidiaries. As subsidiaries, they may establish up to 20 branches and 20 off-premise ATMs.⁹⁴ The policy started to be implemented in mid-2013 and by May 2015, 2 new foreign commercial bank subsidiary licences had been granted. It has been suggested that the reason why few branches have applied for licences is that although 20 branches represents a tenfold increase in foreign banks' reach, this remains too limited to roll-out a convincing retail or SME strategy in the face of competition from leading domestic retail lenders which operate over 1,000 branches.⁹⁵ To ensure that new banks are strong, they are required to have a capital adequacy ratio of no less than 12%, a non performing loan ratio below 3.5% and B 10 billion in capital. Once upgraded to subsidiaries, those new foreign commercial banks are subject to the same ongoing supervision standards as domestic commercial banks.

4.100. As part of the AEC integration process (section 2), work is ongoing to allow "qualified ASEAN banks" (QAB) to expand regionally and there should be full ASEAN-wide liberalization of the banking sector by 2020.⁹⁶ QABs should be granted market access and operational flexibility by the host country, subject to reciprocity through bilateral arrangements and negotiations. As noted by the authorities, this would heighten competition and diversity in the Thai banking sector and promote further financial integration in the ASEAN region.

4.7.2.2 Insurance

4.7.2.2.1 Market structure

4.101. Following a similar trend evident during Thailand's previous review, the insurance industry has continued to grow, albeit from a relatively small base. As of 2014, insurance penetration was 5.8% compared with 5.4% in 2013. Between 2010 and 2014, the average annual growth rate of total direct premiums was 14%. In 2014, they totalled B 704,000 million. Life insurance premiums increased by 13% to B 498,752 million and non-life insurance premiums by 1.05% to B 205,247 million.

4.102. The domestic insurance industry was not badly impacted by major flooding in 2011, as related insurance claims (amounting to US\$12 billion) were largely picked up by foreign, particularly Japanese, reinsurance companies. In response to the floods, the government set up a National Catastrophe Insurance Fund (NCIF), to reinsure against losses from floods, earthquakes and storms. It provided initial capital of B 50 billion to the Fund and sets premium rates for insurance providers; these range from 0.5% of the insured sum for individuals, 1% for SMEs and 1.25% for industry.⁹⁷

4.103. Insurance companies include life insurance companies and non-life insurance companies; a licensed life insurance company may not engage in non-life insurance business and vice versa. Shareholders may hold shares in both types of company at the same time. Non-life insurance in

⁹³ USTR (2015).

⁹⁴ Bank of Thailand online information. Viewed at: <http://www2.bot.or.th/fipcs/Documents/FPG/2556/engPDF/25560155.pdf>.

⁹⁵ Oxford Business Group (2014).

⁹⁶ A QAB means a candidate which, along with meeting the host country's prudential requirements has the following characteristics: (a) is strong, well-managed and effectively supervised by the home country; (b) is recognised by the home country as an indigenous ASEAN bank, and supported by the home country as a QAB candidate. An indigenous ASEAN bank means a bank headquartered in ASEAN, constituted or otherwise organized under the laws of an ASEAN Member State, and is majority owned or controlled by ASEAN persons.

⁹⁷ Economist Intelligence Unit (2015).

Thailand is sub-divided into four broad categories: fire insurance; auto insurance; marine insurance; and miscellaneous insurance.

4.104. As at mid-2015, there were 80 locally-incorporated insurance companies (Thai insurance companies), comprising 22 life insurance firms, 52 non-life insurance companies, 4 health insurers and 2 reinsurers. There are 6 licensed branches of foreign insurance companies (1 life insurance company and 5 non-life insurance companies). Of these, 17 Thai life insurers and 45 Thai non-life insurers have foreign participation. As at end 2014, Thai insurance companies accounted for 82% of the market in premium terms; branches of foreign insurance companies had an 18% market share.

4.105. The life insurance sector remains concentrated, with the top three companies holding about 50% of the market (by premium) while the non-life sector is still fragmented with only three companies holding a market share of more than 7% (2014). Two non-life insurance companies merged in 2012 and two life insurance companies merged in 2014. Further industry consolidation is expected as the OIC has started to enforce a risk-based capital framework⁹⁸, tax disincentives to merger activity have been removed and legal barriers are being reviewed.⁹⁹

4.7.2.2.2 Legal framework

4.106. The Office of the Insurance Commission, an independent state agency under the Ministry of Finance, remains responsible for regulating the industry, including for approving premium rates.¹⁰⁰ The OIC is conducting a study on the possibility of liberalizing its tariff-setting role for certain non-life classes like motor, fire and marine.

4.107. Over the review period, its operations have been guided by the Second Insurance Development Plan (2010-2014) whose key objectives are to: build confidence in and access to the insurance system in every sector and strengthen the stability and competitiveness of the insurance system. The OIC is currently working on the third Insurance Development Plan. Key regulatory developments over the review period have, *inter alia*, included the issuance of advertising standards; development of a stress test framework and stress testing of insurance companies to determine their stability and flexibility to meet the risk of losses¹⁰¹; audit activities; the issuance of revised regulations on insurance companies' investments in other businesses; the creation of a National Catastrophe Fund (see above); the development of a composite risk assessment and composite risk rating framework; and developing a main season rice insurance project with the Cabinet and the Bank for Agriculture and Agricultural Cooperatives to provide assistance and access to insurance for farmers.¹⁰²

⁹⁸ Enforcing the risk-based capital framework has required all insurance companies in Thailand to hold solvency capital at a level not lower than prescribed. This minimum Capital Adequacy Ratio (CAR) as of January 2013 is 140%. As noted by the authorities this will be a factor that encourages small insurance companies with less CAR to merge together.

⁹⁹ As noted by the authorities, in the past when two insurance companies merged, their premium reserves (usually recorded as liabilities) would be combined and converted into incomes, thus, they would be faced with a large amount of taxable income. However, this problem no longer exists due to the passing of the Royal Decree regarding prescription of items not considered as expenses in calculating net income (No. 574) B.E. 2556 (2013) issued on 8 December 2013. According to this legislation, the premium reserves would not be calculated as income when the companies merge. Another legal restriction is that the law requires the merging companies to obtain a written consent from all policyholders to be insured under the new company. This law is currently being reviewed.

¹⁰⁰ The insurer has to submit a request for the OIC to approve the premium rate of every policy before they can sell it. After the OIC receives the request, it will calculate the premium rate according to actuarial standards, using past statistics on claims and damages related to the policy type. According to the authorities it takes normally a few weeks to approve the premium rate. However, if there are complications, it may take months. The insurer then picks up the approved policy at the OIC.

¹⁰¹ The OIC's first quantitative impact study of the stress test indicated that 85% of life insurance companies passed the test in all situations by being able to maintain their capital higher than the legal requirement.

¹⁰² OIC (2013). Not available online in English. Other developments are: the development of an e-claims system for motor vehicle accident victims compensation; provision of a guidance paper on corporate governance and internal control to insurance companies; improvements to the system to issue and renew insurance agent and insurance broker licences; and the creation of insurance awareness to the public through various activities.

4.108. Laws governing the subsector, remain the Life Insurance Act, B.E. 2553 (as amended) and the non-life Insurance Act, B.E. 2535 (as amended).¹⁰³ These acts were amended in February 2015 by the Life and Non-Life Insurance Act (No. 3) which introduces amended sections relating to shareholder participation and the Life and Non-life Insurance Funds. The latter allows for more rapid pay-outs to insured persons in the event of insurance company bankruptcies. Licensing conditions and FDI restrictions have not changed.¹⁰⁴

4.109. As reported in Thailand's previous review, in order to engage in life or non-life insurance in Thailand, a company must be either a locally-incorporated public limited company, or a foreign branch with separate capital (no additional branches are permitted). There is a 25% cap on foreign ownership in insurance companies and the limit on foreign directors is one-fourth of the total. If the OIC deems it appropriate, it may raise the foreign equity limit up to 49% and permit the number of foreign directors to exceed one-fourth (but no more than one-half) of all directors; so far this has been allowed in seven cases (2 life insurers and 5 non-life insurers). Factors the OIC takes into account when deeming a higher FDI limit appropriate, relate to: compliance with capital adequacy ratios and improvements to management, stability and performance capacity of insurance companies. The Minister of Finance, upon recommendation of the OIC, may further relax these limits if an insurance company faces financial trouble that might cause damage to the insured or to the public at large (so far, this has happened in six cases (2 life insurers and 4 non-life insurers)). As noted by the authorities, there is currently no time-frame for full market liberalization.

4.110. Foreign reinsurers abroad may accept risk transferred from Thai insurers/reinsurers. The OIC hired a consulting team to develop reinsurance supervision; in their guideline they proposed that foreign reinsurers should be registered or authorized so they can be regulated. However this recommendation has not been adopted.

4.7.3 Telecommunications

4.111. In 2014, the Information and Communications Technology (ICT) sector contributed 5.7% to GDP. Within the ICT sector the communications market held the biggest share (72% of the total).¹⁰⁵ Thailand is ranked in 81st place out of 166 economies in the ITU's 2013 ICT Development Index, compared to 91st place the previous year.¹⁰⁶ This positive leap in rankings is attributed to a large increase in mobile and wireless broadband subscriptions.

4.112. Over the review period, fixed line penetration has decreased slightly, while there has been particularly strong growth in mobile subscriptions (mainly for pre-paid services¹⁰⁷), with penetration rates reaching over 140% by 2013. Fixed wired broadband subscriptions have gradually increased, albeit from a relatively low base (Table 4.16). As reported by the ITU, penetration rates for wireless broadband are now among the highest in the Asia and Pacific region. They reached 52% by end 2013 with some 28 million new subscribers being added over the period 2012-13. This followed the long-awaited auction of 3G licences in December 2012 (see below). The rapid uptake of mobile broadband services in Thailand was apparently prompted by strong competition between operators offering subsidized smartphones and promotions on mobile data plans.¹⁰⁸

Table 4.16 Selected telecommunications indicators, 2010-13

	2010	2011	2012	2013
Fixed (number)	6,835,146	6,661,000	6,377,000	6,056,000
Fixed (per 100 inhabitants)	10.29	10.01	9.55	9.04
Mobile (number)	71,726,300	77,449,000	85,012,000	93,849,000

¹⁰³ Life Insurance Act viewed at: <http://www.oic.or.th/upload/lifeinsurance/download/883-4137.pdf>; and Non-Life Insurance Act viewed at: <http://www.oic.or.th/upload/nonlifeinsurance/download/884-9305.pdf>.

¹⁰⁴ For minimum capital and security deposit requirements, see Chapter IV(4)(ii)(b) of the Secretariat Report for Thailand's previous review. WTO document WT/TPR/S/255/Rev.1, paragraphs 95 and 96, 8 February 2012.

¹⁰⁵ The rest of the ICT sector was divided among the computer hardware and computer services markets.

¹⁰⁶ ITU (2014).

¹⁰⁷ According to the Economist Intelligence Unit at the end of the first quarter of 2014 the installed user base was 88% pre-paid. Economist Intelligence Unit (2014c).

¹⁰⁸ ITU (2014).

	2010	2011	2012	2013
Mobile (per 100 inhabitants)	108.02	116.33	127.29	140.05
Fixed (wired) broadband subscriptions (number)	3,251,851	3,822,000	4,352,000	4,926,000
Fixed (wired) broadband subscriptions (per 100 inhabitants)	4.90	5.74	6.52	7.36

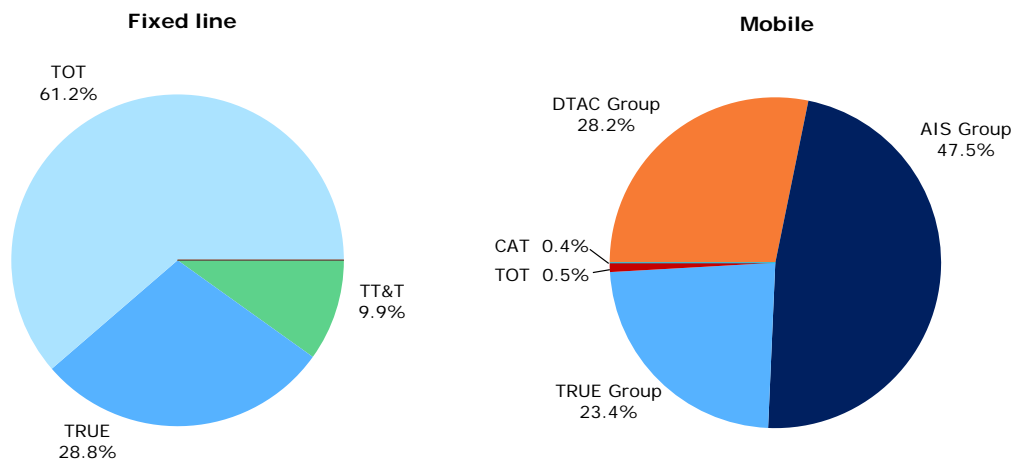
Source: ITU Time Series by Country online information. Viewed at: <http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>.

4.113. As reported in Thailand's previous review, reform of the telecommunications sector has been complicated by the legacy of build-transfer-operate (BTO) revenue-sharing "concession" agreements between the state-owned former monopoly providers of telecommunications services (TOT Public Company Limited (TOT) and CAT Telecom Public Company Limited (CAT Telecom)) and private sector operators.¹⁰⁹ While the statutory state monopolies were terminated in 2001, the terms of existing concession agreements were upheld; this means that while new licence holders in the telecommunications market must pay a licence fee to the regulatory body (NBTC – see below) and comply with its rules, existing operators continue to operate under the provisions of concession agreements, until their expiration; the last concession agreement in the sector will expire in 2018.¹¹⁰

4.114. Two communications priorities have been set by the Interim Government. The first is to revolutionize the country's broadband infrastructure in order to reduce operators' costs and thus retail tariffs as well as expand broadband networks to rural and hard-to-reach areas. The second is to put in place a spectrum management scheme that maximises public interest. The authorities indicated that the Government is considering various options regarding restructuring of the state-owned enterprises operating in the sector.

4.115. There are three main providers of fixed line telecommunications services: TOT which provides service throughout the country; True Corporation which offers services in Bangkok and the vicinity; and TT&T Public Co. Ltd. which provides services in the regions. There are two additional smaller providers which have been operational since 2008, but have limited numbers of allotted to them: Triple T Broadband Public Co. Ltd. (131,000 allotted numbers) and True Universal Convergence Co. Ltd (25,000 allotted numbers). Among the main providers of fixed line services, TOT is the biggest player with more than 60% share in 2014 (Chart 4.4).

Chart 4.4 Market share fixed line and mobile, Q3 2014



Source: NBTC, Telecommunications Market Report for Q3 2014.

¹⁰⁹ TOT had a monopoly on the provision of domestic fixed-line telephone services, public payphone services, mobile services, wireless communication services, international telephone services, data services, multimedia and broadband services, network access and other value-added services, such as card phones. CAT was responsible for providing international telephone/fax services, leased circuits, microwave radio networks in rural areas, and mobile phones and international internet gateway.

¹¹⁰ The remaining concession agreements still in force are: (a) between TOT and AIS (900 MHz mobile services); a 20 year agreement expiring in 2015; (b) between TOT and CP Telecom (True Corp) (fixed line services for 2.6 million lines in the metropolitan area); a 25 year agreement expiring in 2017; (c) between TOT and TT&T (fixed lined services for 1.5 million lines in the regional area); a 25 year agreement expiring in 2018; and, (d) between CAT and TAC (800, 1800 MHz mobile services); a 27 year agreement expiring in 2018.

4.116. Thailand's mobile market is comprised of five mobile network providers, namely AIS Group; DTAC Group; True Group; TOT and CAT. In this market, the private operators (AIS Group; DTAC Group; True Group) are large players, while the state-owned operators hold a very small market share (Chart 4.4).

4.117. Competition between the three key players in the mobile segment has led to retail price decreases (from average retail price of B 0.66 in Q1 2012, to B 0.44 in Q3 2014) and better service quality (through several different packages provided). Competition was also stimulated by the introduction of number portability in 2010 and 3G services in 2012.

4.118. Regulation of the telecommunications and broadcasting sectors is undertaken by the National Broadcasting and Telecommunications Commission (NBTC), operational since October 2011.

4.119. There have been no changes to the main laws governing the telecommunications sector since 2012. These are: the Telecommunications Business Act (TBA) B.E. 2544 (2001, amended in 2006 by law B.E. 2549) and the Act on Organization to Assign Radio Frequency and Regulate Broadcasting and Telecommunications Services B.E. 2553 (2010).¹¹¹

4.120. As at mid-2015 eight bills (originally prepared by the Ministry of ICT) designed to develop and transform Thailand as a digital economy were going through various stages of the legislative process.¹¹² The key proposed features of these bills are set out in Table 4.17; however as legislation has yet to be passed, these may be subject to change.

Table 4.17 Digital economy bills, 2015

Digital economy bills	Key proposed features
Ministry of Digital for Economy and Society Bill	<ul style="list-style-type: none"> – Rename Ministry of Information and Communication Technology as Ministry of Digital Economy and Society (exact name being debated) to reflect change of mission focus. – Restructure of ministry and assignation of powers and duties to agencies under the Ministry.
Digital Economy and Society Bill	<ul style="list-style-type: none"> – Set up a national digital committee for the economy and society. – Create a national digital policy/plan for economy and society (covering hard infrastructure, digital economy promotion and digital society promotion). – Establish a digital economy promotion agency to support and promote digital industries. – Set up a Digital Economy and Society Development Fund (separate from the NBTC's Broadcasting and Telecommunications Research and Development Fund for the Public Interest (BTDF)).
Electronic Transaction Bill (Amendment)	<ul style="list-style-type: none"> – Update law to reflect technological changes, including legal recognition of electronic signature and transactions.
Computer-related Crime Bill (Amendment)	<ul style="list-style-type: none"> – Update law to reflect technological changes (including related to IPR).
Cyber Security Bill	<ul style="list-style-type: none"> – Set up a national cyber security committee. – Create a national cyber security policy and strategies to quickly and efficiently respond to new cyber threats and attacks.
Personal Data Protection Bill	<ul style="list-style-type: none"> – Set up criteria, mechanisms, measures to protect personal data
Bill on Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunication Services	<ul style="list-style-type: none"> – Review law to ensure NBTC's telecommunications master plan and frequency allocation plan are in accordance with the national digital policy/plan for economy and society. – Assign duties and powers to NBTC. – Include principles of frequency allocation.
Electronic Transaction Development Agency Bill (Amendment)	<ul style="list-style-type: none"> – Assign power and duties of the Electronic Transaction Development Agency (ETDA) to drive the country's electronic commerce and electronic transactions policy/plan.

Source: Information provided by the authorities.

4.121. In 2012, the NBTC adopted a Telecommunications Master Plan to guide its work and priorities over the period 2012-16. It contains six strategies: (i) promoting free and fair

¹¹¹ These laws may be viewed in English at: <http://thailaws.com>.

¹¹² As at mid-2015 The Ministry of Digital for Economy and Society bill had gone the furthest, and was being reviewed by the National Legislative Assembly. The Digital Economy and Society bill had been revised by the Council of State and approved by the Cabinet; it was awaiting introduction to the National Legislative Assembly for consideration. The six other bills were being revised by the Council of State.

competition; (ii) awarding of the radio spectrum and granting of licences; (iii) efficiency in the use of telecommunications resources; (iv) provision of universal services; (v) consumer protection; and (vi) preparation for the entry into force of the ASEAN Economic Community (AEC) and the promotion of international cooperation. As at end-2012, various actions had been taken to implement these strategies, including, importantly, a long-awaited 3G spectrum auction.¹¹³ 15-year licences were awarded to three Thai operators (Advance Wireless Network Co., Ltd.; Real Futures Co. Ltd. And DTAC Network Co., Ltd) allowing them to provide high-speed mobile connectivity to users.¹¹⁴ As highlighted in both Thailand's 2008 and 2012 Trade Policy Reviews, delays to the 3G auction had been considered a major impediment to the telecommunication sector's growth.¹¹⁵ Spectrum auctions for mobile broadband services are scheduled to take place in November 2015 (for the 1,800 MHz spectrum) and December 2015 (for the 900 MHz spectrum).

4.122. Other actions NBTC has taken to implement the Master Plan have included: (a) efforts to ensure that FDI thresholds are not being circumvented¹¹⁶; (b) the issuance of new accounting separation requirements for dominant players to implement a higher level of scrutiny over their costs and charges; (c) regulations to ensure the efficient use of numbers and sufficient numbers for use with future technologies¹¹⁷; (d) the issuance of a five year Universal Service Obligation Plan which contains various access and quality targets¹¹⁸; (e) developing new rules for mediation/alternative dispute resolution in the telecoms sector and establishing a dispute resolution centre¹¹⁹; (f) specifying a maximum rate (B0.99 per minute) for 2G mobile operators identified as having significant market power¹²⁰; and (g) setting cost-based reference voice interconnection rates for both mobile and fixed line services.¹²¹ Additionally, in 2014, the NBTC launched a development plan to prepare itself for the launch of the AEC.

4.123. The NBTC has issued a notification regarding standards for calculation of interconnection charges, which sets out detailed methodologies and guidelines to be followed in calculating cost-based interconnection charges. The NBTC has the authority to review and approve interconnection rates.

4.124. Licensing requirements are set out in the TBA and remain unchanged over the review period. Likewise there have been no changes to FDI caps since 2012 (Table 4.18).

Table 4.18 Licensing and FDI restrictions, 2015

Licence	Eligibility	FDI restrictions
Type 1	Service providers who do not own their own network	None
Type 2	Operators, whether or not owning their own network, providing limited services with no significant impact on market competition, public interest or consumers	Less than 50%

¹¹³ As reported in Thailand's previous review, a 3G licence auction was to be held in September 2010, but the process was suspended by the Supreme Administrative Court after CAT alleged that the National Telecommunications Commission (the regulatory agency in operation prior to the NBTC) had no authority to allocate the 2.1 GHz frequency spectrum.

¹¹⁴ Licences were awarded until 6 December 2012.

¹¹⁵ WTO document WT/TPR/S/191/Rev.1, 6 February 2008.

¹¹⁶ NBTC Notification on the prescription of prohibited acts which are deemed as foreign dominance B.E. 2555 (2012).

¹¹⁷ The Notification of the National Telecommunications Commission regarding Criteria for Numbering Plan (B.E. 2557, 2014) and Notification of the National Telecommunications Commission regarding Criteria for Allocation and Administration of Telecommunications Numbers (B.E. 2557, 2014).

¹¹⁸ NBTC Notification on Plan to Provide Universal Basic Telecommunications Services and Social Service B.E. 2555-2559 (2012-2017) and the draft of Action Plan to Provide Universal Basic Telecommunications Services and Social Service for 2012-2017.

¹¹⁹ NBTC Regulation on Mediation Process between Telecommunications Operators and End Users (B.E. 2555, 2012).

¹²⁰ NBTC Notification on the Maximum Rate of Telecommunications Services for Domestic Mobile Services on Voice B.E. 2555 (2012).

¹²¹ The NBTC Notification regarding Reference Interconnection Rates (B.E. 2557, 2014) sets costs-based reference interconnection rates based on the methodologies contained in NBTC Notification regarding Standards for the Calculation of Interconnection Charges. The reference rates are to be used: (a) as interim rates in the reference interconnection offer (RIO) when the rate calculation has not been completed by the operator or the rate has not been approved by the NBTC; (b) as reference rates in the case of interconnection rate disputes; and (c) as rates in the RIO, in order for the operator to be exempt from submitting the rate calculation when filing the RIO.

Licence	Eligibility	FDI restrictions
Type 3	Operators using own networks to provide services to provide services for the general public, services having a significant impact on competition, the public interest of requiring consumer protection	Less than 50%

Source: WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

4.125. As noted in Thailand's previous review, all licensees and concessionaires are subject to general competition legislation, cross-equity holding among telecommunications businesses is restricted and cross-subsidization is prohibited, except for the provision of universal service.¹²² Dominant service providers are those with a market share greater than 25% or those that the NBTC declares dominant according to specified criteria.¹²³ Providers with more than a 40% market share are deemed to have significant market power and are subject to more rigorous controls.

4.126. Under the current universal service provision, the NBTC has issued a Universal Service Obligation Plan for 2012-16, and its implementation (expanding more broadband internet networks to rural and insufficient areas and broadband internet for social targets) requires a subsidy of B 20 billion from NBTC's Broadcasting and Telecommunications Research and Development Fund for the Public Interest (BTFP). The source of fund used for universal services is from the contributions of all types of telecommunications business licensees at the rate of 3.75% of their net annual revenues to BTFP. The NBTC will use a bidding process to find the optimal telecommunications licensees to implement USO projects nationwide.

4.7.4 Transport

4.127. In 2013 (latest available figures) Thailand's transport infrastructure consisted of 231,620 km of roads (81% of which were paved); 4,043 km of railway; 249 maritime ports (of which 122 had a capacity of over 500 tonnes); 172 river ports; and 38 airports (of which 6 were international).¹²⁴

4.128. Maritime transport remains the principal mode of transport for the import and export of goods, both in volume and value terms. Air transport is significant for high value imports and exports, while land transport is significant in terms of volume of merchandise exported and imported (Chart 4.5).

4.129. The Interim Government approved an infrastructure program that includes US\$95 billion in investments over 8 years in railways, roads, ports, airports, and special economic zones (SEZ) (section 3.3.5). In 2015, public investment will be confined to relatively small projects, with larger-scale construction to start from next year. The government plans to offer contracts for mass rapid transit rail lines in Bangkok and for double-tracking rail lines across the country.

4.130. The Ministry of Transport (MOT) remains responsible for formulating policies for the transport sector. State enterprises operating in the transport sector are: the State Railway of Thailand, the Port Authority of Thailand, the Mass Rapid Transit Authority of Thailand, the Expressway and Rapid Transit Authority of Thailand, Bangkok Mass Transit Authority, Civil Aviation Training Center, Thai Airways International Public Company Limited, the Transport Company Limited, Airports of Thailand Public Company Limited, Aeronautical Radio of Thailand Limited, Suvarnabhumi Airport Hotel Company Limited, and THAI-AMADEUS Southeast Asia Company Limited. Currently the Ministry of Transport is in the process of establishing the Department of Railway Transport to regulate and supervise the operation of rail transport, while the State Railway of Thailand would become the railway operator.

4.131. The Board of Investment offers various fiscal and non-fiscal incentives for rail, maritime and air transportation services. These comprise corporate income tax exemptions (of 8 years for rail and maritime and 5 years for air) as well as import duty exemptions on machinery and raw or essential materials used in manufacturing export products. Companies providing pipeline

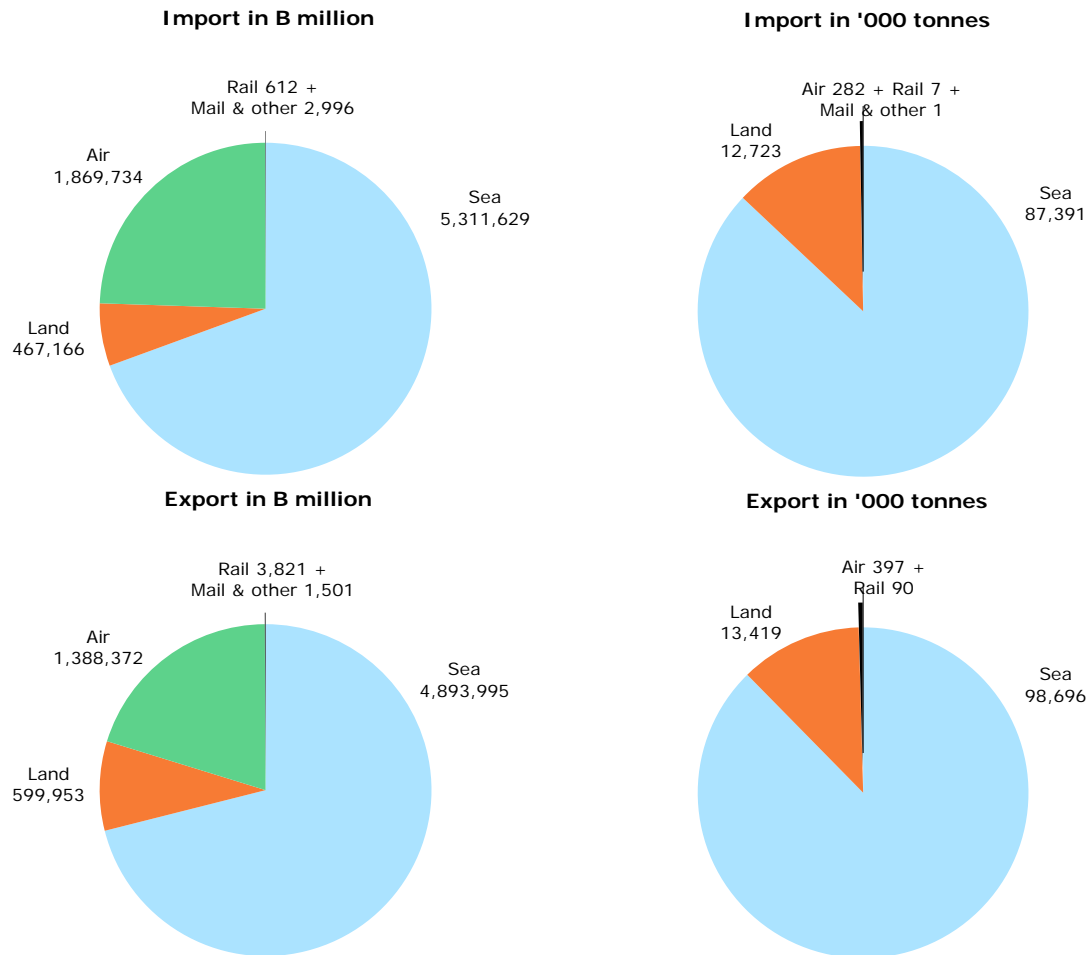
¹²² WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

¹²³ The criteria used for determining dominant service providers are: overall business size; control of necessary infrastructure; technological advantages or superiority; buyer's bargaining power; constraints on market expansion; product and service diversification; ease of access to sources of funds; economies of scope; economies of scale; ease of market entry of new entrants; competitiveness; and degree of vertical integration.

¹²⁴ Ministry of Transport (2013).

transportation (except water) are eligible for the same import duty exemptions but not for the corporate tax breaks. With respect to air transportation, planes must be no more than 14 years old from their manufacturing date to BOI submission date in order to be eligible for these incentives.

Chart 4.5 Foreign trade by transport mode, 2013



Source: Ministry of Transport (2013), *Transport Statistics 2013*.

4.7.4.1 Air transport

4.132. As noted in Thailand's previous review, the Thai aviation industry started to recover in 2010 having suffered from various challenging situations.¹²⁵ This growth continued until 2013, but for passenger movements on international flights, declined again in 2014, due to political unrest (Table 4.19). Challenges facing the sector include capacity constraints at major airports, particularly the two international airports in Bangkok¹²⁶ and the need to implement measures to address safety concerns highlighted in a recent ICAO report. The latter has led to some banning requests for future flight plans and charter flights from Thai-registered airlines by countries including Japan and the Republic of Korea (the existing routes would continue as normal). The authorities indicated that Thailand is actively working to remedy the situation.

4.133. In terms of passenger movements on scheduled flights, Thailand's domestic sub-sector is as significant as its international subsector. Thailand is a hub for the region, with around 1 million passengers transiting through its airports in 2014 (Table 4.19).

¹²⁵ These included: the global financial crisis, oil price and exchange rate fluctuations, and domestic political unrest. WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

¹²⁶ As noted by the Oxford Business Group, the notional handling at the Bangkok Suvarnabhumi International is for 45 million passengers but the actual number is 53 million. Likewise, the 10.5 million-capacity Don Mueang International airport is handling 16 million travellers per year.

Table 4.19 Air transport, 2010-14

	2010	2011	2012	2013	2014
International scheduled flights					
Aircraft movements	210,198	234,674	256,994	307,025	312,303
Passengers	34,073,154	38,004,764	43,884,584	50,551,222	48,604,383
Transit	1,534,684	1,563,107	1,331,445	1,160,805	947,165
Freight (Kg)	985,333,275	958,456,737	980,712,807	946,492,176	953,548,574
Transfer	25,230,095	21,922,811	20,575,312	25,254,712	26,850,218
Mail (Kg)	1,192,374	1,662,339	1,674,587	1,239,578	1,076,931
Domestic scheduled flights					
Aircraft movements	223,248	256,444	284,383	334,111	394,172
Passengers	26,652,736	30,716,585	35,619,093	41,909,038	49,656,558
Transit	20,736	26,152	18,096	21,391	16,243
Freight (Kg)	121,117,294	130,504,947	130,361,103	119,689,513	113,055,675
Transfer	22,032	712,492	251,407	202,473	5,280
Mail (Kg)	4,665	55	0	205,374	1,970,598

Source: Information provided by the authorities.

4.134. At present (mid-2015) there are 56 Thai airline companies providing scheduled and non-scheduled air transport services. For scheduled air transport services, 8 of them provide both domestic and international scheduled air transport services, 7 of them provide international scheduled air transport services only and 1 airline provides domestic scheduled air transport services only. The rest (40 companies) operate non-scheduled air transport services. The Government holds a 53.16% share in Thai Airways International Public Company Limited. Thai Airways International continues to benefit from regulations that require civil servants and officers from governmental agencies to use its services if Thai Airways operates on these routes, provided that the ticket price does not exceed the ticket price of other airlines by more than 25%.

4.135. The Department of Civil Aviation within the Ministry of Transport remains the aviation industry's regulator and there have been no changes to the main legal instruments governing the sector (the Air Navigation Act B.E. 2487 (1954); the Foreign Business Act B.E. 2542 (1999); and the Declaration of the Revolutionary Council No. 58 B.E. 2515 (1972)).

4.136. Restrictions on FDI remain unchanged. These restrictions are maximum foreign equity participation of 60% on domestic air transportation, including domestic airlines under the Foreign Business Act (FBA) (Section 2). The FBA's provisions are superseded by the Declaration of the Revolutionary Council No. 58 B.E. 2515 (1972) along with Regulation of the Department of Civil Aviation: Qualifications and Rules for Consideration of Application to Air Operator Licence (2 July 2008, B.E. 2551) which require Thai-registered and licenced airlines to have 51% of their shares owned by Thai nationals and the majority of their boards of directors to have Thai nationality.¹²⁷

4.137. Thailand maintains 100 bilateral air services agreements (ASAs) with other contracting parties.¹²⁸ ASEAN members have agreed to open their aviation markets for unlimited air cargo services and unlimited air passenger services to all cities with international airports within the region (Table 4.20). These agreements are a significant step towards open skies among ASEAN members under the forthcoming ASEAN Economic Community (AEC) (see section 2). Additionally, an ASEAN-China Air Transport Agreement has entered into force.

4.138. There are 38 airports and aerodromes in Thailand. Government involvement in airport operations remains significant. The Department of Civil Aviation (DCA) manages 28 public airports, mainly serving domestic routes. The Government also has a 70% equity stake in Airports of Thailand (AOT), a public company which manages the six main international airports. There are three private airports owned and operated by Bangkok Airways, including the Samui International

¹²⁷ Section 13 of the Foreign Business Act stipulates that "In the case where there exist other laws which govern shareholding, partnership or investment of foreigners, permission or prohibition of the operation of certain businesses *vis-à-vis* foreigners or which prescribe rules in connection with the operation of businesses of foreigners, such laws shall prevail and the provisions of this Act shall not apply to matters insofar as they are specifically provided by other laws." The Regulation of the Department of Civil Aviation: Qualifications and Rules for Consideration of Application to Air Operator Licence (2 July 2008, B.E. 2551) is such law. Hence, it supersedes the provision under the FBA.

¹²⁸ A full list of these ASAs may be viewed at <http://www.aviation.go.th/en/content/266/921.html>.

Airport.¹²⁹ There is also one airport owned and operated by the Royal Thai Navy (U-tapao International Airport).

Table 4.20 ASEAN air services agreements

Agreement	Entry into force	Description
ASEAN Multilateral Agreement on Air Services (MAAS)	13 October 2009	Designation of carriers based on either substantial ownership and effective control (SOEC) or principal place of business and effective control (PPOBEC). Multiple designation applies. Covers unlimited capacities and exercise of 3 rd , 4 th and 5 th freedom traffic rights for air passenger services among ASEAN capital cities.
ASEAN Multilateral Agreement on the Full Liberalization of Passenger Air services (MAFLPAS)	2 September 2011	Builds on the MAAS to allow designated carriers of ASEAN members to provide air passenger services from international airports in one territory to cities with international airports in another territory within the ASEAN region, with full 3 rd , 4 th and 5 th freedom traffic rights.
ASEAN Multilateral Agreement on the Full Liberalization of Air Freight Services (MAFLAFS)	13 October 2009	Similar to the MAAS and the MAFLPAS except that MAFLAFS covers the 3 rd , 4 th and 5 th freedom traffic rights for air freight services among ASEAN cities with international airports.
ASEAN-China Air Transport Agreement (AC-ATA)	13 September 2011	Allows designated carriers of ASEAN members to provide air services from any city with an international airport in its territory to any city with an international airport in the territory of China and vice versa with 3 rd and 4 th freedom traffic rights. Discussions are ongoing to expand the Agreement to include 5 th freedom traffic rights.

Source: WTO document WT/TPR/S/267/Rev.1, 18 October 2012.

4.139. As reported by the authorities, the Department of Civil Aviation (DCA) has plans to expand and renovate airports under its jurisdiction, for example the Mae-Sod Airport will be equipped with a new terminal building as well as other infrastructure for the budget year 2016. Similarly, the Airports of Thailand has plans to develop three of its six airports (Don Muang, Suvarnabhumi and Phuket).¹³⁰

4.140. Ground-handling services may be provided by the private sector as long as all legal and regulatory requirements are met.¹³¹ Foreign companies wanting to provide ground-handling services need to meet the additional legal requirements specified in the Foreign Business Act B.E. 2542 (see section 2) and the Private Investment in State Undertakings Act B.E. 2556 (2013).

4.141. Government is actively promoting Thailand as a centre for maintenance, repair and overhaul services (MRO). Under the BOI's seven-year Investment Promotion Policy (2015-2021) the manufacture of aircraft frames, parts and appliances has been designated as an activity of special importance by the BOI, with uncapped corporate income tax and customs duty exemptions being available to eligible companies.¹³² There are no regulations requiring national airlines to have their planes repaired and maintained in domestic facilities. As set out in the Air Navigation Act, applicants for a Repair Station Certificate (Type I (maintenance of aircraft) must have not less than 51% of total capital owned by Thai nationals and their business management power must be controlled by Thai nationals. No such foreign equity caps apply to Repair Station Type II

¹²⁹ WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

¹³⁰ Airports of Thailand (2015), pages 119-124.

¹³¹ These requirements are contained in the Air Navigation Act B.E. 2497, Chapter 6 on Ramp Services and Aircraft Technical Services; Transport Ministerial Regulation No. 22 (B.E. 2522) on Aircraft Technical Services; Ministerial Regulation No. 23 (B.E. 2522) on Criteria and Conditions Regarding Issuance, Validity, Suspension, and Withdrawal of Licences for Service Providers in Aprons or for Aircraft Technical Services; Ministerial Regulation No. 27 (B.E. 2525) on Validity Duration for Service Providers in Aprons or for Aircraft Technical Services, Supplemental to Ministerial Regulation No. 23; Civil Aviation Committee's Regulation No. 23 on Service Fees in Aprons; and Civil Aviation Committee's Regulation No. 64 on Qualifications and Criteria of Service Providers in Aprons or for Aircraft Technical Services.

¹³² Board of Investment online information. Viewed at: http://www.boi.go.th/index.php?page=pdf_page&menu_id=96. "Uncapped" means that the corporate income tax exemptions are granted without being subject to a project's capital investment, excluding the cost of land and working capital.

Certificates (maintenance of major aircraft appliances) and Type III certificates (maintenance of technical standard order (TSO) Articles and Aircraft parts).

4.7.4.2 Maritime transport

4.7.4.2.1 Shipping

4.142. In 2014 Thailand's commercial shipping fleet comprised 474 vessels (with a capacity of over 500 gross tonnes), with a total carrying capacity of just over 5.2 million deadweight tonnes (DWT). Thailand was ranked in 33rd place (up from 35th place in 2010) in the world for the size of its registered fleet (in DWT), representing some 0.3% of the world total.¹³³ According to the authorities, around 10-12% of Thailand's merchandise trade is transported on national flag vessels. The Government used to own a shipping company called TMN line, however its operations were terminated in 2011. The Government continues to maintain a 30% equity stake in Thai Maritime Navigation Company (TMN Co.) Ltd., a joint venture between TMN line and 23 other private maritime companies; it runs two ocean-going vessels.

4.143. The Marine Department, under the Ministry of Transport, is responsible for the promotion and development of maritime transport. It is also in charge of law enforcement, navigation safety, ship registration and inspection, maintenance of navigation channels, providing pilot services for seagoing vessels and minimizing the environmental impact caused by navigation and port activity. While there have been no legislative changes affecting the maritime transport sector since 2012, the Interim Government is currently reviewing three of the main maritime acts: Thai Vessels Act B.E. 2481 (as amended by the Act B.E. 2540), the Navigation in Thai Waters Act B.E. 2456 (as amended by the Act B.E. 2540), and the Merchant Marine Promotion Act B.E. 2521 (as amended in 2005).¹³⁴ A cargo reservation policy remains in place requiring that goods directly or indirectly imported into Thailand by government agencies or public enterprises must be transported by Thai-flagged vessels on designated shipping routes where such vessels are available. The following FDI restrictions continue to apply: (a) in order to be registered to provide international shipping services under the Thai flag, operators must be at least 51% Thai-owned; and (b) in order to be registered to provide domestic shipping services, a 70% Thai equity requirement is in place.¹³⁵ Moreover, minimum national crew requirements are still in place in order to provide work opportunities for Thai nationals.¹³⁶

4.144. Thai-flagged international shipping vessels may engage in domestic shipping if 70% of their shares are in Thai hands. Likewise Thai-flagged domestic shipping vessels may undertake international shipping as long as they meet the relevant safety and international standards. On a case-by-case basis and subject to the authorization of the Minister of Transport, foreign vessels may be permitted to provide specific services (i.e. the laying down of pipes) for one year if domestic vessels are not available. However, foreign vessels are not permitted to provide domestic transport services.

4.145. Thailand has 122 maritime ports (terminal operators) with a capacity of over 500 tonnes. Most of these are small and medium-sized privately-owned and operated ports. Thailand's main government-owned ports are Laem Chabang Port, Bangkok Port; Map Taput Port, Songkla Port, Ranong Port and Chiang Saen Commercial Port. Laem Chabang Port is owned by the Port Authority of Thailand (PAT), a state enterprise under the supervision of the Ministry of Transport. While PAT continues to regulate this port, it is managed by the private sector under a 30-year concession agreement. Bangkok Port, Chiang Saen Commercial Port and Ranong Port are both owned and managed by PAT. Map Taput Port, used by the petrochemical industry, is owned by the Industrial Estate Authority of Thailand and managed by the private-sector operators. Songkla Port is managed by private port operators.

4.146. As pointed out in Thailand's previous review, ships of all nationalities calling at Thailand's ports receive MFN treatment and port access on a first-come-first-served basis. A 0% VAT rate

¹³³ UNCTAD (2014).

¹³⁴ The other main law governing the maritime transport subsector is the Multimodal Transport Act B.E. 2548 (2005). All these laws were viewed at: <http://thailaws.com>.

¹³⁵ These limits are contained in the Thai Vessels Act.

¹³⁶ For Thai vessels engaged in international shipping, 50% of the crew must be Thai nationals. For vessels engaged in domestic shipping all crew must be Thai nationals.

applies to domestic and foreign shipping companies providing maritime services to and from Thailand. Generally, port fees on export cargo are collected at lower rates than on imported cargo due to the fact that export cargo generally involves less use of port facilities and services.¹³⁷

4.147. As noted in Thailand's previous review, government policy has been to promote private domestic and foreign participation in port services, either by operating the existing or new facilities or by investing in additional port facilities. As set out in the Foreign Business Act, a port operator must be either a Thai national or company with at least 51% Thai equity and must comply with the Port Authority of Thailand Act B.E. 2494 (A.D. 1951).¹³⁸

4.148. To implement the government's policy on shifting modes of transport from road to rail and waterway, and to strengthen the role of primary seaports in Thailand, PAT is working to develop the Single Rail Transfer Operator and Coastal Terminal at Laem Chabang Port and also the Coastal Terminal Berth at Bangkok Port. This is intended to decrease logistics costs for exporters, importers and logistics providers.

4.7.5 Tourism

4.149. Tourism plays an important role in Thailand's economy. Hotels and restaurants alone accounted for 3.7% of GDP and 6.7% of employment in 2014 (Table 1.2). Tourism is the country's main foreign exchange earner. International tourist arrivals totalled 24.8 million in 2014 (compared to 15.9 million in 2010, but down nearly 7% compared to 2013 as a consequence of social and political tensions). By origin, 58% of tourists were from East Asia (particularly China, accounting for 18.7% of total international tourist arrivals and Malaysia 10.7%), followed by Europe 24.8% (particularly the Russian Federation 6.5%), South Asia (5%), the Americas (4.5%), Oceania (3.8%), the Middle East (2.4%), and Africa (0.7%).¹³⁹

4.150. There have been no changes to the government and private-sector bodies responsible for tourism since Thailand's previous review.¹⁴⁰ Likewise there have been no changes to the laws governing the sector.¹⁴¹

4.151. In order to implement the Government's objectives as set out in the National Economic and Social Development Plan (NESDP) (see section 2) of increasing tourism income by at least 5% in five years, five strategies have been set out in the National Tourism Development Plan 2012-16. These are (i) to develop tourism infrastructure and facilities; (ii) to provide for the rehabilitation and sustainable development of tourism sites; (iii) to develop new tourism products and services; (iv) to improve Thailand's image as a tourist destination; and (v) to encourage participation of the public sector, civil society, and local organizations in tourism management.

4.152. Various restrictions on foreign participation in tourism services remain in place (Table 4.21).

Table 4.21 Restrictions on foreign participation in tourism services, 2015

Legislation	Restriction
Foreign Business Act	Foreign investment limit of 49% in hotels unless approval is received
Tourism Business and Tour Guides Act	In order to provide travel agency and tour operator services, companies must be licensed, incorporated under Thai Law and have no less than 51% Thai capital. Half of the board of directors must be Thai nationals

¹³⁷ WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

¹³⁸ WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

¹³⁹ Department of Tourism online information. Viewed at: <http://www.tourism.go.th/home/details/11/221/23044>.

¹⁴⁰ Government bodies are: the Committee for National Tourism Policy; the Department of Tourism within the Ministry of Tourism and Sports and the Tourism Authority of Thailand. The main industry body is the Tourism Council of Thailand. For more detail on the roles and responsibilities of each of these bodies, see the Secretariat Report for Thailand's previous review.

¹⁴¹ These laws are: the Tourism Authority of Thailand Act B. E. 2522 (1979); the Tourism Industry Council of Thailand Act B.E. 2544 the Foreign Business Act B.E. 2542 (1999); the National Tourism Policy Act B.E. 2551 (2008); the Tourism Business and Tour Guides Act B.E. 2551 (2008); the Films and Videos Act (2008); the Hotel Act B.E. 2547 (2004) and other laws and regulations regarding the operation of restaurants, hotels and other tourism-related services.

Legislation	Restriction
Tourism Business and Tour Guides Act	Provision of tourist guide services is reserved for Thai nationals

Source: WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

4.153. Thailand continues to promote itself as the medical hub of Asia, and is focusing development on three main areas: medical services, health care (i.e. spas and traditional massages) and herbal products. It considers that its competitive edge in this area is to offer high quality services at comparatively low cost. Thailand has 1,000 public hospitals and 400 private ones. In 2015, there were 2.81 million medical tourism visits (80% of which were from abroad, and 20% from the expatriate community residing in Thailand), up from 2.55 million in 2014 and 2.65 million in 2013. The most frequent treatments are: general check-ups; laser eye surgery; cosmetic surgery; and dental care. The four main sources of medical tourism arrivals are: Japan; the United States; the Middle East; and Myanmar.

4.154. With the entry into force of the AEC (section 2), a greater number of tourists is anticipated along with increased tourism connectivity in the region. Efforts are being made to develop ASEAN standards for tourism services and the ASEAN Mutual Recognition Agreement on Tourism Professionals is expected to be implemented at the end of 2015. The latter is designed to harmonize the skills and qualifications of working tourism professionals from different ASEAN countries.

4.155. Incentives offered by the BOI include corporate income tax and customs duty exemptions for various tourism promotion services under certain conditions (ferry services, tour boat services, tour boat renting, tour boat port services, amusement parks, cultural centres or arts and crafts centres, open zoos, aquariums, race tracks, and cable cars) as well as various activities to support tourism (hotels of at least 100 rooms in 20 lowest income per capita provinces or those with a minimum investment of not less than B 500 million (excluding cost of land and working capital); convention halls of 4,000 m² and over, international exhibition centres of an internal area of minimum 25,000m²; and health rehabilitation centres).¹⁴²

4.156. Over B 11 billion was allocated under the 2014 Budget towards increasing income from tourism and service income through activities to promote: the country's image; health and spa tourism; cultural and community tourism; tourism connecting ASEAN countries; the production of foreign movies in Thailand; and the organization of meetings, incentives, conferences, and exhibitions (MICE). Support is also to be targeted at the development of merchandise and services as well as improvements to infrastructure and communications networks and safety measures. Under the same budget, an additional B 4.7 billion was allocated to developing, restoring, and rehabilitating existing tourist attractions and promoting new ones.¹⁴³ The allocation to develop tourism and services under the 2013 budget was B 4.2 billion and under the 2012 budget it was B 4 billion, with an additional B 6.3 billion budgeted to increase tourism income during the year of His Majesty's 7th Cycle Birthday Anniversary and the Amazing Thailand Year campaign.

¹⁴² Announcement of the Board of Investment No. 2/2557 on Policies and Criteria for Investment Promotion.

¹⁴³ Bureau of the Budget (2014).

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5 APPENDIX TABLES

Table A1. 1 Merchandise exports, by product group, 2011-14

	2011	2012	2013	2014
Total exports (US\$ billion)	228.8	229.5	228.5	227.6
	(% of total)			
Total primary products	27.8	26.1	25.2	24.0
Agriculture	20.8	18.3	17.7	17.5
Food	13.8	13.4	12.9	13.6
0423 Rice, milled, semi-milled	2.8	1.9	1.9	2.3
0371 Fish, prepared, preserved, n.e.s.	1.3	1.5	1.5	1.3
0174 Poultry meat (excl. liver) of 001.4, prepared/preserved, n.e.s.	0.9	0.9	0.9	0.9
Agricultural raw material	7.1	4.9	4.8	3.9
2312 Natural rubber excluding latex	4.6	2.9	2.8	2.0
Mining	7.0	7.8	7.6	6.6
Ores and other minerals	0.6	0.6	0.5	0.6
Non-ferrous metals	0.8	0.7	0.8	0.7
Fuels	5.6	6.5	6.3	5.3
Manufactures	69.6	70.9	73.3	74.7
Iron and steel	0.9	1.4	1.1	0.8
Chemicals	10.0	10.1	10.7	10.9
5711 Polyethylene	1.2	1.3	1.4	1.6
5112 Cyclic hydrocarbons	0.8	0.8	1.1	0.9
Other semi-manufactures	9.1	8.9	9.3	9.4
6251 Tyres, pneumatic, new, for cars	0.8	0.8	0.8	0.8
Machinery and transport equipment	37.5	40.5	41.7	43.0
Power generating machines	0.8	0.7	0.8	0.9
Other non-electrical machinery	5.4	5.5	5.9	6.3
7415 Air conditioning machines, and parts	1.7	1.8	2.0	2.0
Agricultural machinery and tractors	0.1	0.1	0.2	0.2
Office machines & telecommunication equipment	15.2	15.8	15.4	15.7
7527 Storage units for data processing	4.6	5.7	5.2	5.2
7764 Electronic integrated circuits and micro assemblies	3.1	2.7	2.8	3.0
7599 Parts and accessories of 751.1, 751.2, 751.9 and 752	1.7	1.5	1.7	1.6
7513 Photo copying apparatus with optical system, thermo-copying	0.5	0.6	0.7	1.0
7649 Parts and accessories for apparatus of division 76	1.1	1.1	1.0	0.9
7638 Sound/video recording/reproducing apparatus	0.9	1.0	1.0	0.9
Other electrical machines	5.3	5.1	5.4	5.8
Automotive products	8.0	10.6	11.4	11.5
7821 Goods vehicles	2.3	4.6	4.6	4.5
7843 Other motor vehicle parts and accessories of 722, 781 to 783	2.0	2.6	2.8	3.0
7812 Motor vehicles for the transport of persons, n.e.s.	2.7	2.5	2.9	2.9
Other transport equipment	2.8	2.8	2.9	2.8
Textiles	1.8	1.5	1.7	1.7
Clothing	2.0	1.9	1.8	1.8
Other consumer goods	8.3	6.7	6.9	7.2
8973 Jewellery of gold, silver or platinum metals (except watches)	1.6	1.7	1.6	1.7
Other	2.6	2.9	1.5	1.2
Gold, non-monetary (excl. gold ores and concentrates)	2.6	2.9	1.5	1.2

Source: UNSD, Comtrade database (SITC Rev.3).

Table A1. 2 Merchandise imports, by product group, 2011-14

	2011	2012	2013	2014
Total imports (US\$ billion)	228.5	247.6	250.7	227.9
	(% of total)			
Total primary products	30.2	29.8	30.9	31.9
Agriculture	6.7	6.8	6.6	7.1
Food	4.7	5.1	5.1	5.5
0813 Oil-cake, oilseed residues	0.5	0.6	0.7	0.8
0342 Fish, frozen (excluding fillets and minced fish)	0.9	1.0	0.9	0.8
Agricultural raw material	1.9	1.7	1.5	1.6
Mining	23.6	23.0	24.3	24.8
Ores and other minerals	0.8	0.6	0.5	0.6
Non-ferrous metals	3.7	3.0	3.0	3.1
6821 Copper anodes; alloys; unwrought	1.0	0.8	0.8	0.8
Fuels	19.0	19.3	20.8	21.1
3330 Crude oils of petroleum and bituminous minerals	14.4	14.5	15.5	14.6
3432 Natural gas, in the gaseous state	1.3	1.4	1.5	1.6
Manufactures	62.4	65.8	63.0	65.1
Iron and steel	6.0	6.1	6.0	5.8
Chemicals	10.4	9.7	9.4	10.3
Other semi-manufactures	6.1	6.0	6.0	6.4
6996 Articles iron or steel, n.e.s.	1.0	1.1	1.0	1.1
Machinery and transport equipment	32.7	36.7	34.5	35.0
Power generating machines	1.2	1.8	1.3	1.7
Other non-electrical machinery	7.4	8.8	7.5	7.9
7284 Machinery and appliances for particular industries, n.e.s.	0.8	1.1	0.7	0.7
Agricultural machinery and tractors	0.2	0.2	0.2	0.2
Office machines & telecommunication equipment	11.7	11.6	11.1	12.4
7764 Electronic integrated circuits and micro assemblies	2.8	2.5	2.4	2.8
7643 Radio or television transmission apparatus	0.8	1.1	1.3	1.7
7768 Piezo-electric crystals, mounted, and parts, n.e.s., of 776	1.8	1.3	1.3	1.5
7599 Parts and accessories of 751.1, 751.2, 751.9 and 752	1.6	1.5	1.3	1.3
7649 Parts and accessories for apparatus of division 76	1.1	1.2	1.0	1.1
Other electrical machines	5.2	5.6	5.2	5.6
7725 Switches, relays, fuses etc. for a voltage not exceeding 1,000 V	0.8	0.8	0.8	0.8
7731 Insulated wire, cable etc.; optical fibre cables	0.6	0.6	0.6	0.7
Automotive products	4.1	5.4	5.0	3.9
7843 Other motor vehicle parts and accessories of 722, 781 to 783	2.4	3.4	3.1	2.3
Other transport equipment	3.1	3.4	4.3	3.5
7924 Aeroplanes, etc. (excl. helicopters), >15,000 kg unladen	0.4	0.8	1.5	1.2
7139 Parts, n.e.s., for piston engines of 713.2, 713.3, 713.8	0.8	0.9	0.8	0.7
Textiles	1.3	1.3	1.2	1.3
Clothing	0.3	0.3	0.3	0.4
Other consumer goods	5.7	5.8	5.6	6.0
8939 Plastic articles, n.e.s.	0.6	0.7	0.6	0.7
Other	7.4	4.5	6.1	3.0
Gold, non-monetary (excl. gold ores and concentrates)	7.2	4.3	6.0	2.9

Source: UNSD, Comtrade database (SITC Rev.3).

Table A1. 3 Merchandise exports, by destination, 2011-14

	2011	2012	2013	2014
Total exports (US\$ billion)	228.8	229.5	228.5	227.6
	(% of total)			
America	13.4	14.1	14.3	14.6
United States	9.6	9.9	10.1	10.5
Other America	3.8	4.1	4.2	4.0
Mexico	0.6	0.7	0.8	0.9
Europe	13.4	12.5	11.1	11.8
EU(28)	10.6	9.6	9.8	10.3
Netherlands	2.0	1.8	1.9	2.0
Germany	1.6	1.6	1.8	2.0
United Kingdom	1.7	1.7	1.7	1.8
EFTA	2.2	2.5	0.8	1.0
Other Europe	0.6	0.5	0.5	0.5
Commonwealth of Independent States (CIS)	0.7	0.6	0.6	0.6
Africa	3.4	3.6	3.5	3.7
South Africa	1.0	1.2	1.1	1.0
Middle East	4.2	4.5	4.5	4.6
United Arab Emirates	1.2	1.3	1.3	1.4
Saudi Arabia, Kingdom of	1.0	1.2	1.3	1.4
Asia	64.7	64.3	65.5	64.4
China	12.0	11.7	11.9	11.0
Japan	10.5	10.2	9.7	9.6
Six East Asian traders	21.3	19.4	19.9	19.5
Malaysia	5.4	5.4	5.7	5.6
Hong Kong, China	7.2	5.7	5.8	5.5
Singapore	5.0	4.7	4.9	4.6
Korea, Rep. of	2.0	2.1	2.0	2.0
Chinese Taipei	1.7	1.5	1.5	1.8
Other Asia	20.9	23.0	24.0	24.3
Indonesia	4.4	4.9	4.8	4.2
Australia	3.5	4.3	4.5	4.1
Viet Nam	3.1	2.9	3.1	3.5
Philippines	2.0	2.1	2.2	2.6
India	2.3	2.4	2.3	2.5
Cambodia	1.3	1.6	1.9	2.0
Myanmar	1.2	1.4	1.7	1.9
Lao PDR	1.2	1.6	1.6	1.8
Other	0.3	0.3	0.3	0.3
<i>Memorandum:</i>				
APEC	69.1	68.5	69.3	68.2
ASEAN	23.7	24.7	26.0	26.1

Source: UNSD, Comtrade database.

Table A1. 4 Merchandise imports, by origin, 2011-14

	2011	2012	2013	2014
Total imports (US\$ billion)	228.5	247.6	250.7	227.9
	(% of total)			
America	8.4	7.7	8.2	8.9
United States	5.9	5.3	5.9	6.4
Other America	2.5	2.5	2.3	2.4
Europe	12.0	11.3	13.1	10.7
EU(28)	7.8	8.1	9.1	8.5
Germany	2.4	2.4	2.4	2.6
United Kingdom	0.9	1.1	1.3	1.2
France	1.0	1.3	1.7	1.1
Italy	0.9	0.9	1.0	1.0
EFTA	4.1	3.1	3.8	2.0
Switzerland	3.9	3.0	3.7	1.8
Other Europe	0.1	0.1	0.1	0.1
Commonwealth of Independent States (CIS)	2.5	2.3	2.4	2.3
Russian Federation	2.0	1.6	1.4	1.6
Africa	1.1	1.7	1.7	1.9
Middle East	13.2	12.9	14.1	12.7
United Arab Emirates	6.3	6.3	6.9	5.6
Saudi Arabia, Kingdom of	3.2	3.3	3.4	3.4
Qatar	1.1	1.1	1.6	1.7
Asia	62.7	64.1	60.5	63.5
China	13.4	14.9	15.0	16.9
Japan	18.5	20.0	16.4	15.7
Six East Asian traders	18.1	17.0	16.8	17.6
Malaysia	5.4	5.3	5.3	5.6
Korea, Rep. of	4.0	3.6	3.6	3.7
Singapore	3.4	3.2	3.3	3.5
Chinese Taipei	3.3	3.3	3.0	3.3
Thailand	1.0	0.9	0.9	1.0
Other Asia	12.7	12.1	12.3	13.4
Indonesia	3.2	3.3	3.2	3.2
Australia	3.5	2.2	2.2	2.4
Viet Nam	0.9	1.2	1.3	1.7
Myanmar	1.4	1.5	1.6	1.7
India	1.3	1.3	1.4	1.3
Philippines	1.2	1.1	1.0	1.1
Other	0.0	0.0	0.0	0.0
Memorandum:				
APEC	68.0	68.0	64.6	68.2
ASEAN	17.2	17.2	17.6	19.0

Source: UNSD, Comtrade database.

Table A2. 1 ASEAN and Thailand's bilateral RTAs in force: main features, 2015

ASEAN - China Free Trade Area (ACFTA)	
Parties	ASEAN and China
Date of signature / entry into force	Goods: 29.11.2004/06.01.2005 Services: 14.01.2007/01.07.2007 Investment: 15.08.2009/15.02.2010
End of transition period for Thailand (goods liberalization)	2018. At the end of the transition period 90.06% of tariff lines will be duty free and 9.94% will remain dutiable
Coverage (selected features)	Services; investment
Thailand's merchandise trade with China (2014)	16.9% of total imports; 11.0% of total exports
WTO consideration status	Goods: Factual abstract distributed June 2008 Services: Factual presentation distributed April 2015. Date of consideration in CRTA: 22 June 2015
WTO document series	WT/COMTD/N/20, 21 December 2004; WT/COMTD/N/20/Add.1, 26 September 2005; S/C/N/463, 2 July 2008
Agreement on Comprehensive Economic Partnership Among Japan and Member States of ASEAN	
Parties	ASEAN and Japan
Date of signature / entry into force	11.04.2008/01.12.2008
End of transition period for Thailand (goods liberalization)	2018. At the end of the transition period 86.17% of tariff lines will be duty free and 13.83% will remain dutiable
Coverage (selected features)	Agreement applies to goods only. Provisions on services and investment subject to future negotiations
Thailand's merchandise trade with Japan (2014)	15.7% of total imports; 9.6% of total exports
WTO consideration status	Factual presentation not distributed
WTO document series	WT/REG277/N1, 14 December 2009; and WT/REG277/N2, 27 July 2011
ASEAN - Republic of Korea Free Trade Area (AKFTA)	
Parties	ASEAN and Republic of Korea (ROK)
Date of signature / entry into force	Accession protocol to agreements on trade in goods and services: 27.02.2009/01.10.2009 (TIG), 01.06.2009 (TIS) Agreement on investment: 02.06.2009/31.10.2009 Entry into force of AKFTA: 01.01.2010
End of transition period for Thailand (goods liberalization)	2017. At the end of the transition period 90% of tariff lines will be duty free and 10% will remain dutiable
Coverage (selected features)	Services (positive list approach to scheduling); investment
Thailand's merchandise trade with the Republic of Korea (2014)	3.7% of total imports; 2.0% of total exports
WTO consideration status	Factual presentation not distributed
WTO document series	WT/REG287/N/1, 8 July 2010; WT/COMTD/N/33, 8 July 2010; S/C/N/559, 8 July 2010; S/C/N/560, 8 July 2010; S/C/N/559/Add.1, 3 March 2011; S/C/N/560/Add.1, 3 May 2011
Agreement on Trade in Goods (under the Framework Agreement on Comprehensive Economic Cooperation between ASEAN and the Republic of India, 2003, as amended in 2009)	
Parties	ASEAN and India
Date of signature / entry into force	13.8.2009/01.01.2010
End of transition period for Thailand (goods liberalization)	2016. At the end of the transition period 79% of tariff lines will be duty free and 21% will remain dutiable
Coverage (selected features)	Agreement applies to goods only
Thailand's merchandise trade with India (2014)	1.3% of total imports; 2.5% of total exports
WTO consideration status	Factual presentation not distributed
WTO document series	WT/COMTD/N/35, 23 August 2010

Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA)	
Parties	ASEAN, Australia and New Zealand
Date of signature / entry into force	27.02.2009/12.03.2010
End of transition period for Thailand (goods liberalization)	2020. At the end of the transition period 98.8% of tariff lines will be duty free and 1.2% will remain dutiable
Coverage (selected features)	Services (positive list approach to scheduling), investment, intellectual property, electronic commerce
Thailand's merchandise trade with Australia and New Zealand (2014)	Australia: 2.4% of total imports; 4.1% of total exports New Zealand: 0.3% of total imports; 0.5% of total exports
WTO consideration status	Factual presentation distributed for goods and services. Consideration in CRTA on 22 September 2014
WTO document series	WT/REG284/N/1 and S/C/N/545, 9 April 2010

Thailand- Australia	
Parties	Thailand, Australia
Date of signature / entry into force	05.07.2004/01.01.2005
End of transition period for Thailand (goods liberalization)	2025. At the end of the transition period 100% of tariff lines will be duty free for imports from Australia
Coverage (selected features)	Services; competition; government procurement and intellectual property rights
Thailand's merchandise trade with Australia (2014)	2.4% of total imports; 4.1% of total exports
WTO consideration status	Factual presentation distributed (goods and services). Consideration in CRTA on 14 May 2007
WTO document series	WT/REG185/N/1 and S/C/N/311, 5 January 2005

Thailand-New Zealand	
Parties	Thailand, New Zealand
Date of signature / entry into force	19.04.2005/01.07.2005
End of transition period for Thailand (goods liberalization)	2025. At the end of the transition period 100% of tariff lines will be duty free for imports from New Zealand
Coverage (selected features)	Services, competition, government procurement, intellectual property rights
Thailand's merchandise trade with New Zealand (2014)	0.3% of total imports; 0.5% of total exports
WTO consideration status	Factual presentation distributed for goods with consideration in the CRTA on 14 May 2007. Factual presentation on hold for services
WTO document series	WT/REG207/N/1 and S/C/N/361, 2 December 2005

Thailand-Japan	
Parties	Thailand-Japan
Date of signature / entry into force	03.04.2007/01.11.2007
End of transition period for Thailand (goods liberalization)	2017. At the end of the transition period 97.3% of tariff lines will be duty free for imports from Japan. 2.7% of tariff lines will remain dutiable
Coverage (selected features)	Services, competition, government procurement, intellectual property rights, investment
Thailand's merchandise trade with Japan (2014)	15.7% of total imports; 9.6% of total exports
WTO consideration status	Factual presentations on goods and services distributed. Consideration in CRTA on 28 June 2011
WTO document series	WT/REG235/N/1 and S/C/N/419, 29 October 2007

Thailand-India	
Parties	Thailand-India (Early Harvest Scheme)
Date of signature / entry into force	30.08.2004/01.09.2004
End of transition period for Thailand (goods liberalization)	2006. Duty-free treatment for imports under 83 tariff lines
Coverage (selected features)	Agreement applies to goods only
Thailand's merchandise trade with India (2014)	1.3% of total imports; 2.5% of total exports

Thailand-India	
WTO consideration status	Not notified to WTO
WTO document series	Not applicable

Thailand-Peru	
Parties	Thailand-Peru (Early Harvest Scheme)
Date of entry into force	19.11.2005/31.12.2011
End of transition period for Thailand (goods liberalization)	2016. At the end of the transition period 70% of tariff lines will be duty free for imports from Peru. 30% of tariff lines will remain dutiable
Coverage (selected features)	Agreement applies to goods only
Thailand's merchandise trade with Peru (2014)	0.05% of total imports; 0.2% of total exports
WTO consideration status	Not notified to WTO
WTO document series	Not applicable

Source: WTO Secretariat.

Table A3. 1 Thailand's tariff summary, 2014

	Number of lines	Average (%)	Range (%)	Standard deviation	Duty free (%)
Total	9,558	13.4	0-1,091.9	23.7	17.6
HS 01-24	1,594	30.7	0-1,091.9	45.4	2.6
HS 25-97	7,964	10.0	0-216.3	13.7	20.6
By WTO category					
WTO agricultural products	1,298	34.7	0-1,091.9	49.6	4.2
Animals and products thereof	150	28.6	0-50	13.1	11.3
Dairy products	38	48.7	5-216	58.2	0.0
Fruit, vegetables, and plants	348	44.6	0-1,091.9	80.4	2.3
Coffee and tea	42	49.7	5-90	36.8	0.0
Cereals and preparations	185	23.8	0-60	15.4	5.9
Oils seeds, fats, oil, and their products	198	36.6	1-146	39.1	0.0
Sugars and confectionary	32	38.1	1-94	30.6	0.0
Beverages, spirits, and tobacco	106	50.8	0-84	20.1	1.9
Cotton	5	0.0	0-0	0.0	100.0
Other agricultural products, n.e.s.	194	15.1	0-218	24.6	5.7
WTO non-agricultural products	8,260	10.1	0-216.3	13.5	19.7
Fish and fishery products	377	12.0	1-86.7	11.2	0.0
Minerals and metals	1,386	6.8	0-58	7.8	28.8
Chemicals and photographic supplies	1,327	4.3	0-30	6.5	42.9
Wood, pulp, paper, and furniture	459	6.5	0-30	6.6	23.7
Textiles	802	10.2	1-216.3	13.6	0.0
Clothing	300	28.6	10-60	5.5	0.0
Leather, rubber, footwear, and travel goods	319	11.9	0-30	10.0	13.5
Non-electric machinery	1,291	4.9	0-30	5.6	19.6
Electric machinery	695	8.2	0-30	6.1	16.4
Transport equipment	551	36.5	0-80	26.3	5.1
Non-agricultural products, n.e.s.	717	11.1	0-30	9.5	15.2
Petroleum	36	5.6	0-10	5.0	13.9
By ISIC sector					
ISIC 1 - Agriculture, hunting, and fishing	625	27.9	0-1,091.9	63.2	10.1
ISIC 2 - Mining	117	1.9	0-30	4.8	46.2
ISIC 3 - Manufacturing	8,815	12.6	0-216.3	17.5	17.8
Manufacturing, excluding food processing	7,781	10.2	0-216.3	13.8	20.0
ISIC 4 - Electrical energy	1	0.0	0-0	0	100.0
By stage of processing					
First stage of processing	1,061	20.5	0-1,091.9	51.2	19.5
Semi-processed products	2,503	4.5	0-94	7.6	30.7
Fully processed products	5,994	15.9	0-216.3	18.9	11.8
By HS section					
01 Live animals and products	521	17.7	0-216	22.2	4.4
02 Vegetable products	474	40.3	0-1,091.9	70.7	3.2
03 Fats and oils	156	39.6	1-146	41.9	0.0
04 Prepared food, beverages, and tobacco	443	32.7	0-171.2	23.6	0.7
05 Mineral products	204	2.5	0-30	4.7	38.2
06 Chemicals and products thereof	1,157	3.7	0-30	5.9	48.2
07 Plastics, rubber, and articles thereof	480	7.7	0-30	6.7	12.5
08 Raw hides and skins, leather, and its products	100	15.0	0-30	12.5	7.0
09 Wood and articles of wood	157	8.7	0-30	9.6	2.5
10 Pulp of wood, paper, and paperboard	269	4.5	0-10	4.1	39.0
11 Textiles and textile articles	1,079	15.1	0-216.3	15.8	0.5
12 Footwear, headgear, etc.	74	23.6	5-30	9.5	0.0
13 Articles of stone, plaster, cement	215	11.3	0-58	10.6	15.8
14 Precious stones and metals, pearls	81	7.9	0-20	9.8	58.0
15 Base metals and articles thereof	909	6.9	0-30	6.9	26.5
16 Machinery, electrical equipment, etc.	2,067	6.2	0-30	6.4	19.3
17 Transport equipment	565	35.8	0-80	26.4	5.3
18 Precision equipment	329	5.3	0-20	4.8	21.3
19 Arms and ammunition	27	26.7	0-30	9.4	11.1
20 Miscellaneous manufactured articles	239	16.1	5-30	5.7	0.0
21 Works of art, etc.	12	18.3	0-20	5.5	8.3

Note: Calculations include AVEs for non-*ad valorem* rates, as available.

Source: WTO Secretariat calculations, based on data provided by the authorities.

Table A4. 1 Highest MFN applied rates on agricultural products, 2014

Description	HS Code(s)	Tariff rate (%)
Tamarinds, fresh	0810.90.60	1,091.9 ^a
Mangoes, fresh/dried	0804.50.20	886.7 ^a
Bananas, excluding plantains, fresh/dried	0803.90.00	468.9 ^a
Onion seeds	1209.91.10	218 ^b
Low fat milk powder/granules	0402.10.41; 0402.10.49; 0402.10.91; 0402.10.99	216 ^b
Raw silk	5002.00.00	216 ^b
Other fresh tropical fruit	0810.90.99	188.9 ^a
Dragon fruit, fresh	0810.90.92	164.9 ^a
Soya bean oil	1507.10.00; 1507.90.10; 1507.90.90	146 ^b
Persimmons, fresh	0810.70.00	144.7 ^a
Melons, excluding watermelons, fresh	0807.19.00	144.6 ^a
Palm oil and palm kernel or babassu oil	1511.10.00; 1511.90.11; 1511.90.19; 1511.90.91; 1511.90.92; 1511.90.99; 1513.21.10; 1513.21.90; 1513.29.11; 1513.29.12; 1513.29.13; 1513.29.14; 1513.29.91; 1513.29.92; 1513.29.94; 1513.29.97; 1513.29.95; 1513.29.96	143 ^b
Onions, incl. dried	0703.10.11; 0703.10.19; 0712.20.00	142 ^b
Mandarins, clementines dried/fresh	0805.20.00	126.6 ^a
Potato fresh/chilled	0701.10.00; ex0701.90.00	125 ^b
Watermelons	0807.11.00	122.7 ^a
Oil-cake soya bean	2304.00.90	119 ^b
Grapefruit, fresh/dried	0805.40.00	106.6 ^a
Oranges, fresh	0805.10.10	103.9 ^a
Lemons and limes, fresh/dried	0805.50.00	103.7 ^a
Sugar	1701.12.00; 1701.13.00; 1701.14.00; 1701.91.00; 1701.99.11; 1701.99.19; 1701.99.90	94 ^b
Coffee	0901.11.10; 0901.11.90; 0901.12.10; 0901.12.90; 0901.21.10; 0901.21.20; 0901.22.10; 0901.22.20; 0901.90.10; 0901.90.20	90 ^b
Tea	0902.10.10; 0902.10.90; 0902.20.10; 0902.20.90; 0902.30.10; 0902.30.90; 0902.40.10; 0902.40.90	90 ^b
Mixture fruit/nuts of which dates predominate, dried	0813.50.30	86.65 ^a
Flavoured UHT milk drinks; beverages containing milk	2202.90.10; ex2202.90.30	84 ^b
Soya beans	1201.10.00; 1201.90.00	80 ^b
Strawberries, preserved	0812.90.10	76.2 ^a
Maize (for feedstuff)	Ex1005.90.90	73 ^b
Tobacco and tobacco products	2401.10.10; 2401.10.20; 2401.10.40; 2401.10.50; 2401.10.90; 2401.20.10; 2401.20.20; 2401.20.30; 2401.20.40; 2401.20.50; 2401.20.90; 2401.30.10; 2401.30.90; 2402.10.00; 2402.20.10; 2402.20.20; 2402.20.90; 2402.90.10; 2402.90.20; 2403.11.00; 2403.19.11; 2403.19.19; 2403.19.20; 2403.19.90; 2403.91.10; 2403.91.90; 2403.99.10; 2403.99.30; 2403.99.40; 2403.99.50; 2403.99.90	60 or 72 ^b
Grapes, fresh	8061.00.00	60.6 ^a
Shallots	0703.10.21; 0703.10.29	60 or B 6.25/kg, whichever is the higher
Food preparation for the manufacture of alcoholic beverages	2106.90.61; 2106.90.62; 2106.90.64; 2106.90.65; 2106.90.66; 2106.90.67	60
Vinegar and substitutes for vinegar obtained from acetic acid	2209.00.00	60
Soya milk drinks	Ex2202.90.20	60

Description	HS Code(s)	Tariff rate (%)
Alcoholic beverages	2203.00.10; 2203.00.90; 2204.10.00; 2204.21.11; 2204.21.13; 2204.21.14; 2204.21.21; 2204.21.22; 2204.29.11; 2204.29.13; 2204.29.14; 2204.29.21; 2204.29.22; 2204.30.10; 2204.30.20; 2205.10.10; 2205.10.20; 2205.90.10; 2205.90.20; 2206.00.10; 2206.00.20; 2206.00.30; 2206.00.40; 2206.00.91; 2206.00.99; 2208.20.50; 2208.20.90; 2208.30.00; 2208.40.00; 2208.50.00; 2208.60.00; 2208.70.00; 2208.90.10; 2208.90.20; 2208.90.30; 2208.90.40; 2208.90.50; 2208.90.60; 2208.90.70; 2208.90.80; 2208.90.90	54 or 60
Garlic	0703.20.90; 0703.20.90; 0712.90.10	57 ^b
Cut flowers and flower buds	0603.11.00; 0603.12.00; 0603.14.00; 0603.15.00; 0603.19.00; 0603.90.00	54
Edible coconuts	0801.11.00; 0801.12.00; 0801.19.00	54 ^b
Longans, dried	0813.40.10	53 ^b
Rice	1006.10.10; 1006.10.90; 1006.20.10; 1006.20.90; 1006.30.30; 1006.30.40; 1006.30.91; 1006.30.99; 1006.40.10; 1006.40.90	52 ^b
Coconut oil	1513.11.00; 1513.19.10; 1513.19.90	52 ^b
Plums	0809.40.10	51.4 ^a
Pepper	0904.11.10; 0904.11.20; 0904.11.90; 0904.12.10; 0904.12.20; 0904.12.90	51 ^b
Preparations of vegetables, fruits, and nuts	2001.10.00; 2002.10.10; 2002.90.10; 2002.90.90; 2004.10.00; 2005.51.00; 2005.60.00; 2006.00.00; 2008.30.10; 2008.40.10; 2008.97.10; 2008.99.10	Ranges from 52.1 ^a -171.2 ^a

a Indicates *ad valorem* equivalent.

b Indicates out-of-quota rate where tariff quota exists.

Note: WTO definition of agriculture used.

Source: WTO Secretariat.

Table A4. 2 GDP originating from manufacturing at market prices, 2011-13

(B million)

	2011	2012	2013
Food products and beverages	751,878	756,174	776,948
Tobacco products	60,641	59,786	61,587
Textiles	123,769	119,318	120,047
Wearing apparel	86,237	79,448	76,576
Leather products and footwear	39,697	33,001	39,720
Wood and wood products	35,581	37,152	38,685
Paper and paper products	51,589	52,857	51,272
Printing and publishing	25,079	26,663	27,216
Refined petroleum products	187,741	204,275	238,212
Chemicals and chemical products	276,316	292,521	306,423
Rubber and plastic products	238,101	249,869	251,436
Other non-metallic mineral products	132,648	142,765	152,309
Basic metals	63,439	63,706	64,456
Fabricated metal products	96,596	102,063	101,366
Machinery and equipment	183,337	193,063	207,844
Office, accounting, and computing machinery	236,557	207,473	198,660
Electrical machinery and apparatus	94,941	103,385	106,487
Radio, television, and communication equipment and apparatus	105,054	113,560	120,432
Medical, precision and optical instruments, watches and clocks	42,257	40,894	43,628
Motor vehicles	201,936	322,987	326,045
Other transport equipment	88,695	95,724	88,684
Furniture, manufacturing n.e.s.	169,949	179,319	177,390
Recycling	2,294	2,559	3,002
Total value added	3,294,332	3,478,562	3,578,425
% in GDP	29.2%	28.2%	27.7%

Source: Information provided by the authorities.