

WORLD TRADE ORGANIZATION

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**Committee on Subsidies
and Countervailing Measures**

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SUBSIDIES

Requests Pursuant to Article 27.4 of the Agreement on Subsidies and Countervailing Measures

Replies by THAILAND to Questions Posed by Various Delegations

The following communication, dated 12 December 2002, has been received from the Permanent Mission of Thailand.

Pursuant to our letter No. 52200/902 dated 4 December 2002, I would like to enclose herewith additional information requested by interested parties during the bilateral and plurilateral meetings. The information reflects the efforts of the IEAT to reduce the time-frame for its legislation amendment from 10 to 3 years. It also reflects the BOIs efforts to reduce the number of projects with export subsidy requirement from 1,056 to 532 projects as well as the time-frame of its phase out period.

EXTENSION OF THE TRANSITION PERIOD FOR THE ELIMINATION OF EXPORT SUBSIDIES

With respect to the request of Thailand for extension of the transition period for the elimination of export subsidies as contained in G/SCM/N/74/THA, Thailand would like to take this opportunity to respond to some concerns and questions arising in the course of informal dialogue and/or plurilateral consultations which took place from October 2002 to date, as follows:

1. The request by Thailand covers only programmes granted by the two government agencies, namely the Board of Investment (BOI) and the Industrial Estate Authority of Thailand (IEAT).
2. Under the existing export subsidy programmes, no agricultural products as defined by the WTO receive export subsidies. Export subsidies have been granted to producers of rubber and wood products only.
3. No export subsidy is granted to operators of fisheries and steel products under such programmes.

Details of the two subsidy programmes are hereby provided.

I. INDUSTRIAL ESTATE AUTHORITY OF THAILAND (IEAT)

1. Nature and operation of the programme

The objectives of this programme are to facilitate the establishment of industrial operators in designated zones, and promote rural development. The IEAT's measures are considered "export subsidies" because they are provided to exporters located in the Export Processing Zone. Nature and operation of the programme are as follows:

Form of subsidy	Exemptions of import duties and taxes on machinery, equipment, tools and components essential for the production of goods, and on materials used for construction of factories or buildings
Scope	11 Zones
Product/sector coverage	Wood and furniture, paper and printing, fertilizer, dyestuffs chemical, medicine and cosmetics, plastic and PVC products, glass and ceramics, metal products, machinery tools and equipments, automotive and parts, electrical appliance, electronic and scientific equipment, gem, musical and sports equipment, light industry ¹ , other operations related (<u>see Annex 1</u>)
Intensity of benefits	-
Estimated annual value of exports²	4,630 million USD or 6.8% of Thai total export value in 2000

The amount of export subsidies under the IEAT's programme cannot be provided since the Customs Department collects data on import value in aggregated amount which combines both import value of machinery and raw materials according to each EPZ.

¹ Light industry includes suitcases, handbags, textiles, yarns and fur, footwear, toys, stationary, kitchenware and decorative items.

² Data is provided by the Customs Department of Thailand

2. Phase-out plan

Thailand's intent to abolish its export subsidy under the IEAT programme has been demonstrated through its effort to amend the IEAT Act during the past 7 years. The IEAT has indeed begun the law amendment process since 1996 by establishing the Working Group on the amendment of the IEAT Act. In 1997 during the Asian financial crisis, one of the proposed amendments went through the cabinet and House of Representatives; however, failed in the Senate. During 1997-1999, the amendment process had been repeatedly interrupted by a number of cabinet reshuffles and changes of political power as a result of the poor economic performance and high unemployment during the crisis.

Pending the law amendment effort, the IEAT has exercised its administrative power to decrease the percentage of exports requirement in order to reduce the programme's specificity to exporters. This action has resulted in exporters not being required to export all of their products, thereby domestic sales are allowed under the current regime (see [Annex 2](#)).

Thailand has a firm intention to complete the law amendment process within 2005, provided that there is no major political interference and changes in the executive branch during the process. Detailed phase-out plan is provided in [Annex 3](#).

3. Necessity of maintaining the subsidies

Notwithstanding that the programme has greatly helped to correct the persisting problem of income inequality in the country, where 28.2 per cent of the total population still live on less than \$2 a day, created 370,000 jobs for local people around the country, and provided a place for skill enhancement and development, necessary to sustain employment, promote better career opportunities, and raise the standards of living, the only reason Thailand has requested for the extension of transition period is to complete the amendment of the IEAT Act. We had faced severe economic hardship during the financial crisis that prevented us from successfully amending the law to meet the deadline in 2002. Yet, when the economy started to recover and the political environment become stable, we have immediately started the process again. It is also important to note that the extended transition period is crucial to the Thai economic recovery. Disruptions caused by the termination of this programme before the law is completely amended would only hamper our effort to amend the law and sustain our economy through this time of difficulties.

4. Standstill

The IEAT has no intention to make any modification during the period of extension so as to make them more favourable than they are at present. In fact, the IEAT has not made any modification since 1992 in relation to benefit or sector/product coverage. Indeed, the IEAT has been reducing the percentage of export requirement from 100 per cent in 1979 to 40 per cent in 2002. Furthermore, it will continue to reduce the percentage of export requirement to 20 per cent, starting from January 2003 (see [Annex 2](#)).

5. Annual review

In order to verify that the transparency and standstill requirements are being fulfilled, the IEAT will provide annual notifications indicating the progress and status of the law amendment, modifications made to the programme, and work plan for the next year, starting in 2003 until its law amendment process has been completed. The IEAT will also provide all available additional details and clarification in the annual notifications upon member's request.

II. THAILAND'S BOARD OF INVESTMENT (BOI)

1. Nature and operation of the programme

The objectives of the programme are to attract investment and to solve the problem of development disparities between the urban and rural areas, which constitutes serious social and development problems in Thailand. Some of the BOI's measures are considered "export subsidies" because they are tied with a condition that operators must export. Nature and operation of the programme are as follows:

Form of subsidy	Exemption of corporate income tax
Scope	532 projects ³ (expire during 2003-2011)
Product/sector coverage	Rubber and wood products, mining, ceramics and basic metals, light industry ⁴ , metal products, machinery and automotive and parts, electronic and electrical appliances, chemical, paper and plastic products, service and public utilities (see Annex 4)
Intensity of benefits	- Based on location of the investment (eg. highly developed regions are granted least benefits). Benefits will be phased out within certain time limits (maximum 8 years) - Benefits and the number of the projects will decrease over the period of 2003-2011 (Approximately 64 per cent of the projects will graduate within 3 years)
Estimated annual value of exports⁵	1,200 million USD or 1.77% of Thai total export value in 2000
Estimated amount of subsidies⁶	US\$10.8 million or 0.9% of the annual export value in 2000 (US\$1,200 million)

In respect of estimated amount of subsidies, the actual amount of subsidies cannot be provided since there is no data collection on exemption of corporate income tax. In addition, there is no budget earmarked for the export subsidies.

2. Phase-out plan

The BOI has started phasing out its export subsidies by introducing a series of removals of export requirements linked to granted investment incentives since 1992. The process was then discontinued during 1997-2000 when the incentives and requirements were introduced again to off-set the severe capital out-flows and prevent the collapse of the entire economy as the country faced its worst economic crisis in history. In 2000, after the Thai economy started to recover from the deep recession the BOI continued its effort by introducing a complete abolishment of its export requirement scheme, leaving no export subsidies being granted to new operators applying for the BOI's investment incentives after August 2000.

³ Previously, Thailand indicated that there are 1,056 projects benefiting from the programme. The most recent study by the BOI found that out of 1,056 projects, 524 projects have already expired during 1988-2002. Beginning 1 January 2003, there will be 532 projects with export subsidies left.

⁴ Light industry includes upholstery, gems and jewellery, medical equipment, sports equipment, footwear, luggage, handbags, toys, textiles and garments, furniture, souvenirs, and decorative items.

⁵ Calculation is based on projected income notified by the applicants to the Board of Investment.

⁶ Assuming that all operators gained profits which in fact they might not, the calculation is based on an average profit margin of 3 per cent (actual profit margins are varied in the range of 2-3 per cent as nearly all operators are sub-contractors or operating on fee or on a contractual basis) and the rate of 30 per cent corporate income tax.

Thailand expects that all remaining export subsidies under this programme will be completely eliminated by the end of 2011. To expedite the phase-out process, the BOI has a plan to eliminate the export requirement linked to the joint venture criteria⁷ that will gradually decrease the number by approximately 40 per cent of the remaining 532 projects (see [Annex 5](#)). The phase-out plan of the projects left after the removal of the joint-venture criteria requirement will have a similar phase-out pattern as of those 532 projects. Obviously, these remaining projects will have insignificant adverse effect on international trade.

3. Necessity of maintaining the subsidies

Thailand has requested for an extension of transition period for elimination of those export subsidies granted to operators who submitted their applications before August 2000 only. The extension is deemed crucial for Thailand to prevent the divestment of confidence in government development plans as a result of benefits being terminated prior to the agreed timeframe and to provide investors the needed time for adjustments, especially in the current unstable economic environment. Failure to obtain an extended transition period would bring about economic difficulties as a result of investors' loss of confidence and higher unemployment.

4. Standstill

The BOI has no intention to make any modification during the period of extension so as to make them more favourable than they are at present in terms of benefits and sector/product coverage. In addition, it guarantees that no extension of grace period will be given to any operator during the extension period. Therefore, current beneficiaries will gradually graduate from the programme during 2003-2011.

5. Annual review

In order to verify that the transparency and standstill requirements are being fulfilled, the BOI will provide annual notifications indicating the progress of phasing-out the remaining export subsidies, modifications made to the programme, current status and work plan for the next year, starting in 2003 until its export subsidies have been completely eliminated. The BOI will also provide all available additional details and clarification in the annual notifications upon member's request.

III. CONCLUSION

It is very important to note that the Thai Government is under the process of tariff-restructuring. Indeed, most, if not all, import duties on machinery will be reduced to zero per cent in 2003 (Detailed information will be submitted at the later stage). Consequently, benefits currently granted by the BOI and IEAT in forms of exemption or reduction of import duties on machinery to operators under the programmes do not make a significant difference from other operators not in the programmes.

Thailand would like to emphasize again that the request for extension of the transition period for elimination of export subsidies provided by the BOI and IEAT is purely of technical, financial, economic and development purposes, without any intent to create trade distortion. The implementation of our commitments in the past via the subsidy notifications Thailand has regularly

⁷ Under the joint venture criteria, a foreign investor must export at least 80 per cent of the total sales in order to hold all shares of the corporate. Other projects not classified under the joint venture criteria will receive tax benefits only when the export requirement is met.

submitted to the SCM Committee and the progressive elimination of some major subsidy measures through successive effort in amending relevant laws can illustrate our strong intention to carry out our commitments.

Lastly, we hope that our true intention and Thailand's good-faith compliance shall draw sympathetic and positive consideration from all Members concerned so as to grant Thailand the extension under Article 27.4 of the SCM Agreement.

ANNEX 1

BREAKDOWN BY PRODUCT SECTOR IN THE EXPORT PROCESSING ZONE

Industrial Product Sector	Number of Projects
Wood and Furniture	4
Paper and Printing	2
Fertilizer, Dyestuffs Chemical	1
Medicine and Cosmetics	32
Plastic Products, PVC Products	4
Glass and Ceramics	3
Metal Products, Machinery Tools and Equipment, and Automotive Parts	55
Electrical Appliances, Electronic and Science Equipment	79
Gems	9
Musical and Sports Equipment	17
Light Industry	45
Other Operations Related	18
TOTAL	269

Source: Industrial Estate Authority of Thailand

ANNEX 2

COMMITMENT TO STANDSTILL OF INDUSTRIAL ESTATE AUTHORITY OF THAILAND (IEAT)

In principle, the programme for which an extension is granted shall not be modified during the period of extension referred to standstill requirements so as to make them more favourable than that specified in IEAT's first notification. The continuation of an expiring programme without modification shall not be deemed to violate standstill.

In order to guarantee its commitment to the afore-mentioned principle, IEAT will not diversify any schemes of tax preferences under IEAT's Act of 1979 and these benefits will be eliminated immediately after the law amendment process is complete which is expected to be within a 3 year period. Meanwhile, IEAT has decreased the proportion of export requirement as of the following:

During 1979-1992:	100% export requirement
During 1992-1995:	80% (at least) export requirement 20% Local market allowed
During 1995-2002:	40% (at least) export requirement 60% Local market allowed
During 2003-2005:	20% (at least) export requirement 80% Local market allowed
After the amendment:	No export requirement

ANNEX 3

WORK PLAN OF THE IEAT ACT AMENDMENT

No.	Action Processes	2002				2003				2004				2005			
		1/4	2/4	3/4	4/4	1/4	2/4	3/4	4/4	1/4	2/4	3/4	4/4	1/4	2/4	3/4	4/4
	PHASE 1																
1	Working Group (WG) studies the overall context for amendment			—													
2	WG proposes conclusive bill to IEAT governor for a review				—												
3	IEAT proposes the revised bill to the Board's Sub-Committee and then the Board of IEAT					—											
4	The approved bill proposed to Ministry of Industry (MOI) for final review						—										
5	Ministry of Industry WG reviews the bill							—									
6	MOI proposes the approved bill to the Cabinet for a review								—								
7	The Cabinet considers and proposes the bill to the Office of the Council of State (OCS) for verification									—	—						
8	OCS verifies the bill and returns it to the Cabinet											—	—				
9	The Cabinet reviews the bill and sends it to the House of Representatives (HoR)													—			
10	HoR considers the bill and sends the approved bill to the senate for consideration and approval														—	—	
11	Issue new rules, regulations, procedures and enforce new IEAT Act																—

ANNEX 4

BREAKDOWN BY PRODUCT SECTOR UNDER THE BOI'S SCHEME

Product Sector	No. of Projects
Rubber and Wood Products	37
Mining, Ceramics and Basic Metals	7
Light Industry	95
- Textiles	23
- Garments	13
- Footwear	2
- Toys	4
- Others	53
Metal Products, Machinery and Automobiles and Parts	78
Electronic and Electrical Appliances	252
Chemical, Paper and Plastic	62
Service and Public Utilities	1
Total	532

Source: Board of Investment of Thailand

ANNEX 5

BOI PHASE OUT PLAN

Expiry year	Number of projects to expire	Percentage of projects to expire (Total: 532 projects)	Accumulative percentage (Total: 532 projects)
2003	127	23.87%	23.87%
2004	120	22.56%	46.43%
2005	94	17.67%	64.10%
2006	70	13.16%	77.26%
2007	55	10.34%	87.60%
2008	34	6.39%	93.99%
2009	14	2.63%	96.62%
2010	15	2.82%	99.44%
2011	3	0.56%	100.00%
Total	532	100.00%	-

Important note: Only 532 projects will expire after 31 December 2002. Of these 532 projects, more than 60 per cent will expire in the next 3 years (by the end of 2005). No export subsidies will be granted after 2011.