



Trade Policy Review Body

TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

THAILAND

This report, prepared for the eighth 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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SUMMARY

1. Since its previous Trade Policy Review in 2016, Thailand has maintained macro-financial stability, supported by prudent fiscal and monetary policies. These policies have resulted in subdued inflation, relatively low levels of public debt, a sizable current account surplus, substantial foreign exchange reserves, and a sound financial system. Between 2015 and 2019, the economy grew at an annual average rate of 3.4% in real terms, driven mainly by private consumption and, in some years, by net exports, whereas the contribution of gross investment remained modest. On the supply side, the services sector (including construction) remained the largest contributor to GDP, with its share rising to 61% in 2019 (from 58% in 2015), while the shares of manufacturing and agriculture declined. Nominal GDP per capita reached almost USD 8,000 in 2019, placing Thailand in the upper-middle-income group of countries.

2. After a period of solid growth, in 2019 the Thai economy entered a downturn, caused mainly by the global economic slowdown and international trade tensions, which resulted in a contraction in exports, private investment and consumption. The Government adopted accommodative fiscal and monetary policies to support economic growth from the second half of 2019.

3. During 2020, the difficulties facing the Thai economy have been exacerbated by the adverse impact of the COVID-19 pandemic. The contraction of global trade has severely affected Thai merchandise exports and disrupted global supply chains, including in the automobile sector, which is one of Thailand's main industries. The tourism sector, a major contributor to GDP, has also suffered a deep contraction due to international travel bans and Thailand's own inbound restrictions, resulting in a virtual halt of foreign tourist arrivals, and a severe impact on businesses and jobs in tourism-related activities. Private investment and consumption have further contracted, due to weak demand, economic uncertainty, and weakening employment and income conditions. To mitigate the economic effects of COVID-19, the central bank responded with monetary policy actions, such as reducing the policy interest rate and addressing liquidity strains. In addition, the Government launched a three-phase COVID-19 Relief Package, worth about 14% of GDP, primarily targeted at the most vulnerable households and businesses, and consisting mainly of cash transfers, soft loans and tax relief measures. In June 2020, the authorities projected that the economy would contract by 8.1% in 2020, with the contraction affecting almost all GDP components. It has also been estimated that some 8.4 million jobs are at risk in the manufacturing and services industries.

4. Throughout the review period, Thailand posted a surplus in the current account, reflecting a persistent savings-investment gap, and leading to a substantial accumulation of foreign exchange reserves (USD 224.3 billion at end-2019). As a flip-side effect of this, the Thai baht (THB) appreciated during the review period, putting pressure on competitiveness. However, amid heightened volatility in global financial markets due to the COVID-19 crisis, the baht has depreciated slightly in 2020. The adoption of accommodative fiscal policies to address the economic downturn has been possible thanks to the Government's healthy fiscal position. In 2018, the Fiscal Responsibility Act (FRA) was enacted to further strengthen fiscal discipline, medium-term planning, and fiscal transparency. The FRA introduced new targets relating to debt level and budget allocation, including for capital investment. Some of these targets have been revised to address the COVID-19 contingency.

5. Thailand's two-way trade in goods and services represented 110% of GDP in 2019, reflecting the country's outward-orientation and integration into global value chains. Thailand's international trade flows show the growing importance of China and ASEAN as its main regional markets and suppliers, although the United States, the European Union and Japan are still among its top trading partners. Thai merchandise exports continue to be dominated by manufactured products (73% of total exports), with computer parts and automotive products being the leading export items. Imports are also concentrated in manufactured goods, followed by fuels and other mining products. Foreign direct investment (FDI) trends also show Thailand's deep integration with ASEAN countries and other economies in the region, while the significant increase in investment outflows indicates that Thailand has become a net capital exporter.

6. In addition to the immediate threats to its economic outlook, looking forward, Thailand faces some important challenges. Domestic structural constraints, notably low levels of public and private investment, added to the effect of natural disasters and socio-political tensions, have weighed on Thailand's recent economic performance. Persistent inequality also remains a challenge, as income and regional disparities have increased in recent years. Thailand will also need to complete fiscal

reform to face the increasing spending requirements associated with a rapidly aging population, and deal with structural problems in its labour market, including the existence of a large informal sector. Another challenge is to achieve higher and sustained increases in total factor productivity, a key indicator of international competitiveness. Thailand's prospects of sustained economic growth could be further improved by increasing public and private investment, implementing policies to enhance innovation, productivity and competitiveness, and pursuing the liberalization of trade and investment, particularly in the services sector.

7. Since Thailand's last Review, a new Constitution was promulgated in 2017, and general elections were held in 2019. The new Government issued the National Strategy (2018-2037), underpinned by its development policy, Thailand 4.0. The latter aims at transforming Thailand into a value-added, innovative, and knowledge-based economy through, *inter alia*, promoting innovation and the development of new technology-based industries, and enhancing Thailand's position as a regional hub by upgrading its physical infrastructure.

8. Thailand remains strongly committed to the multilateral trading system and is actively engaged in WTO activities. At the same time, it has continued to pursue its economic integration agenda within the ASEAN (where progress has been made towards the consolidation of the ASEAN Economic Community), and with other economic partners through the conclusion of RTAs. Currently, Thailand has 13 RTAs, 2 of which came into force during the period under review: the Thailand-Chile Free Trade Agreement (2015) and the ASEAN-Hong Kong, China Free Trade Agreement (2019). Overall, Thailand has maintained a good record of notifications to the WTO; however, notifications on agricultural domestic support for the past few years remain outstanding. During the period under review, Thailand was involved in two new dispute settlement cases in the WTO, one as a complainant and the other as a respondent.

9. There were no major changes to Thailand's foreign investment regime during the review period. While some steps were taken to liberalize FDI in infrastructure development and in certain services industries, restrictions on foreign participation remain in several sectors, such as media, rice farming, fisheries, mining, transportation, financial services, telecommunications, transport, and tourism.

10. Since its last Review, Thailand has improved its customs regime and adopted a new Customs Act (2017), which helped simplify customs procedures and improved transparency. In 2015, Thailand ratified the WTO Trade Facilitation Agreement and has now implemented 97.1% of its commitments. Under the e-Customs system, customs registration, declaration and document submission are conducted electronically, and e-declarations now represent 100% of import declarations.

11. Thailand's average MFN tariff rose from 13.4% in 2014 to 14.5% in 2020, mainly due to nomenclature changes. Its tariff structure remains relatively complex: non-*ad valorem* duties account for 8% of tariff lines, and tariff rates range from zero to 226% when *ad valorem* equivalents are excluded, and 557.4% when they are included. Non-agricultural products face considerably lower tariff rates than agricultural products. In the WTO, Thailand bound 76.3% of its tariff lines at the HS eight-digit level; the gap between bound and applied rates is significant. Tariff quotas and import surcharges remain in place. Import tariffs account for about 4% of total tax revenue.

12. Import prohibitions and licensing requirements apply for reasons of economic stability, public health, national security, public morals and national interest. Legislation on anti-dumping was amended in 2019 to clarify certain provisions, including on anti-circumvention. Thailand has never initiated any countervailing investigation, although it has had recourse to other trade remedies. During the review period, it initiated 23 anti-dumping investigations, and imposed one safeguard measure and extended two others.

13. Export duties are levied on a few goods; although in most cases they are not applied in practice, the persistence of relatively high statutory export taxes remains an element of uncertainty for traders. Some products are prohibited from exportation and, during the COVID-19 pandemic, export bans on bird eggs and surgical masks were adopted, with the ban on the latter still in place. Thailand continues to operate several schemes to facilitate exports, such as bonded warehouses, duty drawback, tax and duty compensation, customs free zones, and incentives under the Industrial Estate Authority of Thailand. The Department of International Trade Promotion offers a wide range of services to Thai entrepreneurs, particularly SMEs, to promote their exports of goods and services.

The state-owned Export-Import Bank of Thailand provides export credit and export-credit insurance at competitive market rates to enhance the participation of Thai businesses in international markets.

14. Thailand maintains a myriad of tax and non-tax investment incentives schemes, with a rather complex structure. These include the incentives provided by the Board of Investment, and those offered to special economic zones, SMEs, and certain sectors such as farming, fishing, and renewable energy. Among the main support measures introduced during the review period are: incentive packages for promoted activities under the Eastern Economic Corridor (EEC) Act (May 2018); a tax incentive scheme operated by the Revenue Department to promote Thailand as an international business centre (October 2018); and the "Thailand plus" package to attract foreign businesses to relocate to Thailand and to expedite large-scale investment (September 2019). As there is no specific budget earmarked for investment promotion incentives, no information on revenue forgone due to such schemes is available.

15. The Industrial Products Standards Act B.E.2511 (1968) was amended in 2019; as a result, mandatory standards are now enforced by ministerial regulations instead of royal decrees, and penalties were increased for manufacturing, importing, and selling products under technical regulations without the relevant certificates. The procedure to develop standards and technical regulations remains unchanged. Since 2015, Thailand has developed 743 new standards, of which 32 are mandatory. The share of national standards that are identical or similar to international standards is 37.4%. At the WTO TBT Committee, specific trade concerns have been raised regarding Thailand's measures on certification and labelling requirements on spirits, alcoholic beverages, and infant food. There has been no major change to Thailand's SPS regime since 2015. Members have raised concerns in the SPS Committee regarding measures maintained by Thailand on certain meat, animals and animal products, some fruits, and food containing pesticide residues.

16. Thailand notified to the WTO its three state-trading enterprises for the period 2014-16, concerning agricultural products, pure alcohol, and cigarettes. State-owned enterprises (SOEs) continue to have a significant presence in many sectors of the economy (e.g. financial services, energy, telecommunications, transport, industry, commerce, agriculture, natural resources, and public utilities), and some are among the top receivers of public funds. In 2019, the State-Owned Enterprise Development Act and the Public Private Partnership Act came into force with a view to reforming and improving the performance of SOEs.

17. The Public Procurement and Supplies Administration Act was adopted in 2017, aimed at preventing corruption and anti-competitive behavior. The Act brought SOEs under its coverage, and requires that due consideration be given to the performance aspect in addition to the price of a tender; it also aims to enhance transparency via the use of e-procurement. The price preference programme for domestic suppliers was eliminated; however, preferences are still given to certain domestic suppliers via the use of the specific procurement method. Thailand has not undertaken market access commitments on government procurement in its RTAs. It is an observer to the WTO Committee on Government Procurement but has no intention to join the Plurilateral Agreement on Government Procurement in the near future.

18. Thailand adopted a new Trade Competition Act in 2017. The Act covers, for the first time, SOEs, public organizations and other state agencies; however, central, provincial and local governments and sectors subject to specific laws (e.g. telecommunications and energy) remain excluded. The competition authority's independence was strengthened and its powers increased, including the power to issue administrative penalties for violations. However, the legal framework for price regulation remains unchanged, and many goods and services are subject to price monitoring or control (e.g. food, farm inputs, medical supplies, and delivery services for online shopping).

19. As a net intellectual property importing country with an expanding deficit in IP licensing fees, Thailand has implemented reforms to its IP system, aimed at boosting performance in the areas of science, technology and innovation. During the review period, the Trademark Act was amended to provide for the registration of sound marks, and the Copyright Act and the Computer Crime Act were amended to better address online IP infringement. Considerable efforts have also been made towards streamlining trademark and patent examination processes. During the review period, Thailand joined the Madrid Protocol and the Marrakesh Treaty, and began the implementation of the ASEAN IPR Action Plan 2016-25. Despite these efforts, there remain concerns regarding certain enforcement issues, such as the use of unlicensed software, and cable and satellite signal theft.

20. Thailand is a net exporter of agricultural commodities, and a major global producer of several crops. Agriculture receives more trade protection than the rest of the economy: the average tariffs on agricultural products (32.7%) is much higher than on non-agricultural products (11.8%); tariff quotas remain in place for 128 tariff lines (although the fill rates are very low for a number of them); and some products are subject to import surcharges, import and export licensing, and export taxes. Domestically, the Government applies price monitoring, and provides investment incentives and subsidies; Thailand's latest notification to the WTO on domestic support covered 2014-16. Foreigners are not permitted to buy land for agriculture, but they may lease it; they are prohibited from engaging in certain activities, such as rice farming, plantation or crop growing, and livestock farming. They must obtain approval to engage in sugar production, rice milling and flour production from rice and other crops. Thailand is also a net fish exporter, and has adopted measures to tackle illegal, unreported, and unregulated (IUU) fishing. The Fisheries Act 2015 was amended in 2017 to allow for stricter penalties for illegal fishing. Support has been provided for fishermen and fishing vessel owners affected by the measures to combat IUU fishing. Foreigners are prohibited from engaging in fisheries of aquatic animals in Thai waters and specific economic zones, but they may work as crew of a fishing vessel provided they are registered in Thailand as foreign workers.

21. Thailand imports energy products to meet its consumption needs. The Petroleum Act was amended in 2017, adding two concession regimes: production-sharing contracts and service contracts. The Oil Fuel Fund Act, which came into force in 2019, aims to stabilize fuel prices in the event of a fuel crisis. The Fund is financed from levies on the consumption of petroleum products except jet fuel. The prices of energy products remain under monitoring and/or control. Thailand notified to the WTO its support measures to the energy sector, including incentives for renewable energy. The manufacturing sector has been facing challenges, including currency appreciation and the global economic slowdown. In line with Thailand 4.0, which promotes growth through innovation, several incentives schemes are provided to facilitate industrial restructuring.

22. The financial sector remained sound and stable during the review period, despite challenging external and internal conditions. The authorities continued to improve the regulatory and supervisory frameworks to enhance financial stability. Measures were also taken to modernize the sector (such as the adoption of regulations to enable the use of digital technologies and support a more inclusive FinTech system) and to allow greater foreign participation in financial institutions.

23. The telecommunications infrastructure was significantly enhanced during the review period. A national broadband network now covers all villages across the country, providing "open access" to any duly licensed operators. The regulatory regime was modernized since the last concession agreements expired in 2018. The licensing procedure for telecommunication service providers was streamlined: Internet services are no longer regulated with separate licences. Foreign equity in telecom operators is capped at 49% of total capital. There is no requirement for data localization.

24. The regulatory regime for air transport was also modernized since the last Review. Most of Thailand's air services agreements cover up to the fourth freedom of traffic rights, with varying restrictions on destination, designation and capacity. During the review period, low-cost carriers in Thailand grew rapidly, in terms of both fleet size and transport capacity. Facing the COVID-19 pandemic, air passenger numbers dropped by almost 100% on a year-on-year basis. Road transport, especially of freight, is competitive among private operators. Rail transport plays a relatively small role compared with other modes of transport, but Thailand has now begun the construction of its high-speed rail projects. Restrictions on foreign capital participation remain in place for all modes of transport; Thai citizens or enterprises must hold at least 51% of total equity and have a controlling power over management.

25. Tourism plays an important role in the economy. Hotels and restaurants alone accounted for 5.9% of GDP and 7.6% of employment in 2019. Tourism is also the country's main foreign exchange earner; in 2019, travel services generated USD 60.5 billion, or 73.8% of total services exports. Like air transport, the tourism sector has been adversely impacted by the COVID-19 travel restrictions. The Government has provided various assistance measures, including loans to support MSMEs' liquidity and grants to boost domestic tourism demand. The regulatory regime for the sector was updated with the aim of ensuring service quality and enhancing competitiveness. A 49% cap on foreign ownership remains in place for hotels, travel agencies and travel operators. There is no foreign capital restriction on restaurants and catering services, nor a specific regulatory regime for the operation of virtual travel agencies.

1 ECONOMIC ENVIRONMENT

1.1 Main Features of the Economy

1.1. Thailand is an upper-middle-income country, with a diversified economy in which the services and industrial sectors are the main contributors to GDP and exports. At the same time, the country remains an important producer and exporter of some agricultural products, such as rice and rubber. Thailand is the seventh-largest economy in Asia, and the second largest in the Association of Southeast Asian Nations (ASEAN).¹

1.2. Between 2015 and 2019, the Thai economy grew at an annual average rate of 3.4% in real terms, driven mainly by private consumption throughout the period, and by net exports in some of the years covered by the Review, while the contribution of gross investment remained modest. During the same period, the economy was characterized by subdued inflation, relatively low levels of public debt, a sizable current account surplus, large international reserves, and appreciation of the Thai baht (THB) (Table 1.1). In addition, the financial system remained sound (Section 4.5.1).

Table 1.1 Selected macroeconomic indicators, 2015-19

	2015	2016	2017	2018	2019
Real GDP (THB billion, 2002 prices)	9,521.4	9,847.9	10,248.4	10,673.7	10,926.9
Real GDP (USD billion, 2002 prices)	278.0	279.0	302.0	330.4	351.9
Current GDP (THB billion)	13,743.5	14,592.6	15,486.6	16,365.6	16,879.0
Current GDP (USD billion)	401.2	413.4	456.3	506.5	543.7
GDP per capita (USD)	5,839.2	5,994.0	6,593.2	7,467.1	7,996.2
National accounts					
Real GDP (at 2002 prices) (% change)	3.1	3.4	4.1	4.2	2.4
Consumption (% change)	2.6	2.7	2.4	4.1	3.8
Private consumption	2.6	2.9	3.1	4.6	4.5
Government consumption	2.5	2.2	0.1	2.6	1.4
Gross fixed capital formation (% change)	4.4	2.9	1.8	3.8	2.2
Private	-2.1	0.6	2.9	4.1	2.8
Public	28.4	9.6	-1.4	2.9	0.2
Exports of goods and services (% change)	1.3	2.7	5.2	3.3	-2.6
Imports of goods and services (% change)	0.0	-1.0	6.2	8.3	-4.4
XGS/GDP (%) (at current market prices)	67.6	67.1	66.7	64.9	59.7
MGS/GDP (%) (at current market prices)	57.2	53.5	54.2	56.0	50.6
Unemployment rate (%)	0.9	1.0	1.2	1.1	1.0
Contribution of total factor productivity (TFP) to GDP growth (2002=1.0)	2.11	1.98	2.78	1.76	..
Prices and interest rates					
Headline inflation (% change, period average)	-0.9	0.2	0.7	1.1	0.7
Core inflation ^a (% change, period average)	1.1	0.7	0.6	0.7	0.5
Deposit rate	1.43	1.30	1.29	1.29	1.42
Lending rate	4.73	4.47	4.42	4.15	4.08
Exchange rate					
THB/USD (annual average)	34.25	35.30	33.94	32.31	31.05
Nominal effective exchange rate (annual average, % change)	4.1	-2.2	4.2	4.5	6.6
Real effective exchange rate (annual average, % change)	0.7	-3.6	3.0	3.4	5.3
Fiscal account^b (% GDP)					
General government balance	0.2	0.4	-0.4	0.1	0.4
Revenue	22.2	21.4	20.8	21.2	20.9
Tax revenue	17.6	16.8	16.3	16.5	16.1
Expenditure	22.0	21.0	21.2	21.1	20.5
Government debt	30.6	31.2	32.5	33.7	33.7
Domestic	30.0	30.5	31.9	33.2	33.2
External	0.6	0.7	0.6	0.5	0.5
Public sector balance ^c	-0.6	0.0	-1.9	0.1	0.5
Total public debt ^d	42.6	41.7	41.8	42.0	41.1
Domestic	39.9	39.3	39.8	40.3	39.8
External	2.7	2.4	2.0	1.6	1.3

¹ World Bank indicators, data for 2018. Viewed at: <https://databank.worldbank.org/data/download/GDP.pdf>.

	2015	2016	2017	2018	2019
Savings and investment (% of GDP)					
Gross national savings	29.3	31.5	32.5	31.4	31.0
Gross domestic investment	22.4	20.9	22.8	25.0	24.9
Savings-investment gap	6.9	10.5	9.7	6.4	6.1
External sector (% of GDP, unless otherwise indicated)					
Current account	6.9	10.5	9.6	5.6	7.0
Net merchandise trade	6.5	8.7	7.1	4.4	4.9
Exports	53.2	51.6	51.2	49.6	44.7
Imports	46.7	43.0	44.1	45.2	39.8
Services balance	3.9	4.9	5.3	4.4	4.3
Capital account	0.0	0.0	0.0	-0.1	0.0
Financial account	-4.2	-5.0	-2.7	-3.0	-2.4
Direct investment	1.0	-2.6	-2.3	-1.6	-1.4
Balance of payments	1.5	3.1	5.7	1.4	2.5
Terms of trade (2012=100)	109.9	112.5	110.5	108.2	108.3
Merchandise goods exports (% change) ^e	-5.9	0.1	9.5	7.5	-3.2
Merchandise goods imports (% change) ^e	-10.6	-5.1	13.2	13.7	-5.4
Service exports (% change) ^e	11.8	9.8	11.3	9.2	5.9
Service imports (% change) ^e	-6.0	2.3	7.3	17.7	7.0
International reserves (USD billion, end period)	156.5	171.9	202.6	205.6	224.3
External debt (USD billion)	131.1	132.2	155.2	162.4	172.1
% of GDP	32.7	32.0	34.0	32.1	31.7
Debt service ratio	6.4	6.0	5.8	6.2	6.8

.. Not available.

a Excluding raw food and energy items.

b Fiscal year runs from 1 October to 30 September. GDP for that period is used for the calculations.

c Includes General Government and state-owned enterprises (SOEs). Figures taken from IMF, Article IV Country Report No. 19/309. FY2018 and FY2019 are preliminary figures.

d Includes government debt, SOEs debt, Special Financial Institutions (government guaranteed) debt, and government agencies debt.

e Growth rates on merchandise goods and services trade are based on US dollars.

Note: For 2019, most figures are preliminary.

Source: Office of the National Economic and Social Development Council (NESDC). Viewed at: http://www.nesdc.go.th/nesdb_en/; Fiscal Policy Office, Ministry of Finance, *Statement of Government Operations – General Government*. Viewed at: [http://www.fpo.go.th/gfs/Annual-Data/General-Government-\(Since-1999-2014\)-\(1\).aspx](http://www.fpo.go.th/gfs/Annual-Data/General-Government-(Since-1999-2014)-(1).aspx); Bank of Thailand. Viewed at: <https://www.bot.or.th/English/Pages/default.aspx>; Public Debt Management Office. Viewed at: <https://www.pdmo.go.th/en>; IMF, *IMF Data*. Viewed at: <https://www.imf.org/en/data>; and data provided by the authorities.

1.3. Underpinned by its ample fiscal and monetary buffers, Thailand maintained macro-financial stability throughout the review period. However, domestic structural constraints (in particular, low levels of public and private investment), added to the effect of natural disasters and socio-political tensions, have weighed on Thailand's economic performance in recent years, which has lagged behind other countries in the region. Persistent inequality also remains a challenge; although nominal GDP per capita has reached almost USD 8,000 (2019), income and regional disparities have increased.

1.4. Thailand's two-way trade in goods and services represented 110% of GDP in 2019 (124.8% in 2015). In 2019, it was the world's 19th largest exporter and the 17th largest importer of goods, and it ranked 12th and 16th among the world's top exporters and importers of commercial services, respectively.² Thailand's international trade flows reflect the growing importance of Asia (in particular of China and ASEAN) as its main regional market and supplier, although the United States, the European Union and Japan continue to be among its top trading partners. Foreign direct investment (FDI) trends also show Thailand's deep integration with ASEAN countries and other economies in the region, and the significant increase in investment outflows indicates that it has become a net capital exporter.

1.5. Given its reliance on trade and its integration into global value chains (notably in the automotive sector), in 2019, Thailand was affected by the global economic downturn and trade

² Rankings exclude intra-EU trade. *WTO Trade Statistical Review 2020*. Viewed at: https://www.wto.org/english/res_e/statis_e/wts2020_e/wts2020_e.pdf.

tensions, which caused its exports to decline, dragging down overall economic growth. In response, in the second half of 2019, the Government implemented fiscal stimulus measures and monetary easing to spur consumption and investment, and renewed its commitment to increase public spending in major infrastructure projects in a bid to stimulate growth. However, the problems facing the Thai economy have been exacerbated by the severe effects of the COVID-19 pandemic, prompting the authorities to adopt extraordinary measures to cope with economic fallout (Section 1.2.1).

1.6. In addition to the immediate threats to the country's economic outlook, looking forward, Thailand will need to address structural challenges, including a persistently low investment-to-GDP rate (which stayed below 25% for most of the review period), sluggish productivity growth, the need to complete fiscal reform to face the increasing spending requirements associated with a rapidly aging population and social disparities, and the need to deal with structural problems in the labour market, including the existence of a large informal sector. The prospects of sustained economic growth could further be improved by upgrading the overall business climate to boost private investment, and implementing policies to enhance innovation, productivity and competitiveness, and pursuing the liberalization of trade and investment, particularly in the services sector.

1.2 Recent Economic Developments

1.2.1 The COVID-19 pandemic

1.7. The COVID-19 outbreak, which hit Thailand in early 2020, has had an adverse impact on the economy due to a sharp decrease in external and domestic demand. The contraction of global trade has severely affected Thai merchandise exports and disrupted global supply chains, including the automobile sector, which is one of Thailand's main industries. In May 2020, the value of merchandise exports contracted by 23.6% from the same period in 2019 (29% if gold exports are excluded).³ The tourism sector, a major contributor to GDP, has also suffered a deep contraction due to both international travel bans and Thailand's inbound travel restrictions, resulting in a virtual halt of foreign tourists arrivals, and a severe impact on businesses and labour in the tourism-related sectors. Private investment and consumption have also contracted, the former due to businesses' delayed investment plans in the face of weak demand and economic uncertainty, and the latter due to weakening employment, income and consumer confidence, although the recent relaxation of lockdown restrictions and the Government's relief measures have helped reduce somewhat the contraction of private consumption.⁴ Regarding financial stability, the Bank of Thailand, the country's central bank, has indicated that, while the financial system remains sound and has adequate buffers, vulnerabilities have increased, notably with respect to the debt servicing capability of households and SMEs.⁵ As regards the external sector, the surplus in the current account has narrowed and capital outflows have increased, although the level of foreign reserves remains adequate.⁶

1.8. In response to the pandemic, the Government has implemented a comprehensive package of monetary and fiscal measures. Between February and May 2020, the Bank of Thailand reduced the policy interest rate from 1.25% to 0.5% (Section 1.2.4) and adopted measures to address liquidity strains and accelerate debt restructuring for borrowers, especially households and SMEs. In addition, the Cabinet approved and is implementing a three-phase COVID-19 Relief Package worth THB 2.25 trillion (approximately USD 71.6 billion) or about 14% of GDP. The relief measures primarily target the most vulnerable households and businesses (in particular, informal workers and SMEs) and consist mainly of cash transfers, provision of soft loans, and tax relief measures (Table 1.2). Increased spending on local infrastructure projects is also contemplated. At the

³ Bank of Thailand, *BOT Press Release No. 36/2020*, 30 June 2020. Viewed at: <https://www.bot.or.th/English/PressandSpeeches/Press/2020/Pages/n3663.aspx>.

⁴ Bank of Thailand, *BOT Press Release No. 36/2020*, 30 June 2020. Viewed at: <https://www.bot.or.th/English/PressandSpeeches/Press/2020/Pages/n3663.aspx>.

⁵ Bank of Thailand, *BOT Press Release No. 16/2020*, 25 March 2020. Viewed at: <https://www.bot.or.th/English/PressandSpeeches/Press/2020/Pages/n1663.aspx>; and *BOT Press Release No. 40/2020*, 10 July 2020. Viewed at: <https://www.bot.or.th/Thai/PressandSpeeches/Press/News2563/n4063e.pdf>.

⁶ World Bank Group, *Thailand Economic Monitor, Thailand in the Time of COVID-19*, June 2020. Viewed at: <https://www.worldbank.org/en/country/thailand/publication/thailand-economic-monitor-june-2020-thailand-in-the-time-of-covid-19>.

beginning of June 2020, the Finance Minister announced plans to introduce new stimulus measures from the third quarter onward to spur domestic consumption and tourism.⁷

Table 1.2 Selected relief measures to cope with the effects of COVID-19

Tax measures	Non-tax measures
Phase 1 (Total value THB 200 billion)	
Speedier VAT refund to exporters	Provision of hazard pay for medical staff
Reduction of withholding tax rate	Reduction of contributions to the social security fund by employers and employees
Higher tax deduction of wage expenses for companies that did not lay off workers	Relief from payment of utility bills and refund of electricity bills
	Preferential loans by the Government Savings Bank (GSB)
	Preferential loans to promote employment by the Social Security Office
	Postponement of principal payments, reduction of interest and deferral of interest payments for debtors affected by COVID-19
Phase 2 (Total value THB 117 billion)	
Deferral of personal and corporate income tax payments	Provision of THB 5,000 per person per month for 3 months for labourers, temporary and freelance workers not covered by the social security system and affected by mandatory business closures during the pandemic
Deferral of revenue tax payment (VAT, special business tax, etc.) for affected entrepreneurs	Higher deduction of health insurance premium
Income tax exemption on hazard pay for medical staff	Provision of skills training programmes
Deferral of excise tax payment for service businesses and for entrepreneurs in the oil and oil products industries	Emergency loans without collateral from the GSB and the Bank of Agriculture and Agricultural Cooperatives; and special loans with collateral from the GSB
Import duty exemption on products for the prevention and treatment of COVID-19	Preferential loans to SMEs provided by the Small and Medium Enterprise Development Bank
	Special loans to the Office of the Government Pawnshop by the GSB
Phase 3 (Total value THB 1.9 trillion)	
	Emergency Decree of the Ministry of Finance to borrow in order to fund: - public health response; - relief cash transfers; and - economic and social rehabilitation plan in the wake of the pandemic
	Emergency Decree of the Bank of Thailand to provide soft loans to SMEs through Specialized Financial Institutions and commercial banks
	Emergency Decree of the Bank of Thailand to maintain financial stability with the creation of the Corporate Bond Liquidity Stabilization Fund

Source: Information provided by the authorities.

1.9. Thailand's public health policy intervention has been quite effective in containing the spread of the COVID-19 infection fast and with relatively small numbers of confirmed cases and deaths by regional and international standards.⁸ Nonetheless, the economic and social costs of the pandemic, resulting from the containment measures applied by many countries and Thailand, have been significant. In the first quarter of 2020, the Thai economy contracted by 1.8% year-on-year, while more than 170,000 workers in the formal sector applied for unemployment benefits. Job losses are expected to increase in the second and third quarters of 2020, with an estimated 8.4 million jobs at risk in the manufacturing and services industries as a result of the COVID-19 outbreak; added to another 6 million farm jobs affected by widespread drought.⁹

⁷ Reuters, *Thailand plans extra stimulus measures to support virus-hit economy*, 8 June 2020. Viewed at: <https://www.reuters.com/article/us-health-coronavirus-thailand-economy/thailand-plans-extra-stimulus-measures-to-support-virus-hit-economy-idUSKBN23F1V5>.

⁸ World Bank Group, *Thailand Economic Monitor, Thailand in the Time of COVID-19*, June 2020.

⁹ NESDC, *Thailand's Social Situation and Outlook of Q1/2020*. (Thai and English). Viewed at: http://social.nesdc.go.th/social/Portals/0/Documents/Social%20Press_Q1-2563%20Thai-Eng_2326.pdf.

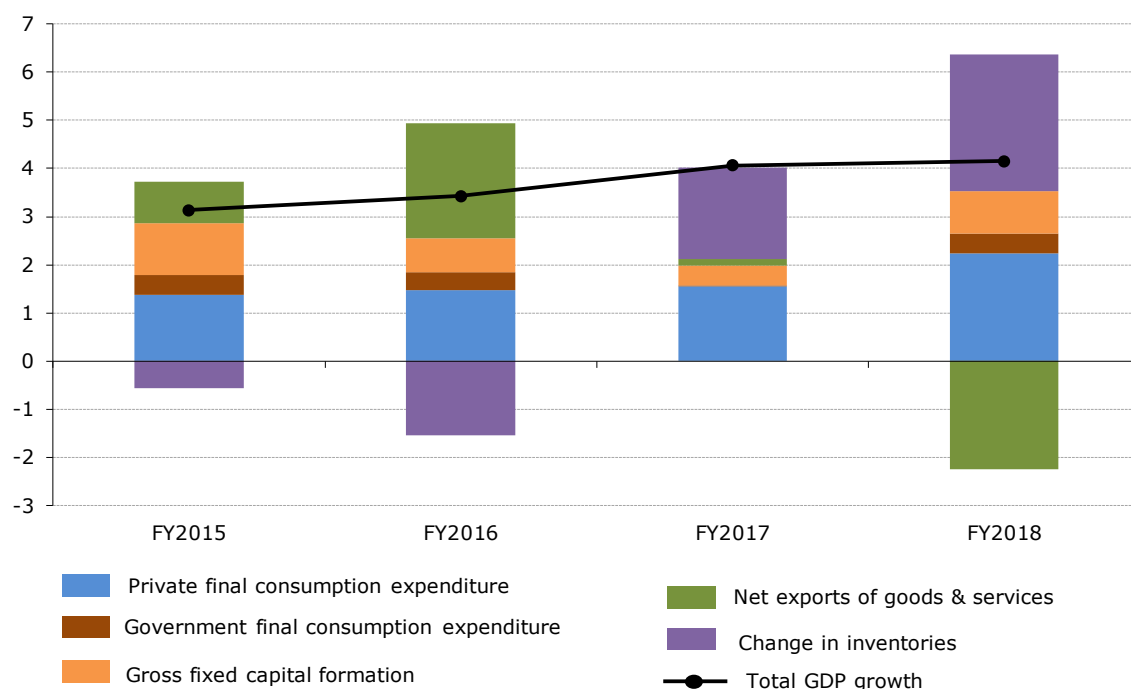
1.10. According to the latest estimates (June 2020), the Thai economy is projected to contract by 8.1% this year, with the contraction affecting almost all growth components, except public expenditure. Economic growth is expected to pick up from the third quarter onwards and achieve 5% in 2021. This projection is based on the assumptions that there will not be a severe second wave of COVID-19 outbreak in Thailand and that there will be widespread access to a vaccine as from the second quarter of 2021.¹⁰

1.2.2 Growth, income and employment

1.11. Between 2015 and 2019, Thailand's economy expanded at an average rate of 3.4% a year. From the expenditure side, private consumption was a relatively steady contributor to GDP growth throughout the period, while the contribution of investment was generally modest, and that of government consumption still more limited (Chart 1.1). The performance of net exports fluctuated, making a positive contribution to GDP growth in the first three years (2015-17) but turning negative in 2018 due to a faster increase in imports than exports. In 2019, both exports and imports declined due to the economic slowdown. During the review period, the economy was also characterized by strong fluctuations in inventories. A period of contracting inventories (starting in 2014 and continuing through 2016) anticipated the acceleration of growth in 2017 and 2018; during these two years, on the other hand, there was a strong accumulation of inventories, which was a prelude to the deceleration of growth posted in 2019. Overall, during the review period, Thailand's growth rates remained below their pre-global financial crisis levels and continued to trail those of other countries in the region.

Chart 1.1 Contribution to percent change in real GDP, FY2015-18

(Percentage points)



Note: FY2018 is the latest available official data.

Source: NESDC, *National Account*. Viewed at: http://www.nesdc.go.th/nesda_en/main.php?filename=national_account.

1.12. In 2019, the Thai economy entered a downturn, with real GDP growing by 2.4%, the weakest pace in the past five years (Table 1.1). This reflected both the prevailing global slowdown and international trade tensions, which affected Thai merchandise exports, especially electronic products.

¹⁰ Bank of Thailand, *BOT Press Release No. 39/2020, Monetary Policy Report, June 2020*, 8 July 2020. Viewed at: https://www.bot.or.th/English/MonetaryPolicy/MonetPolicyComittee/MPR/Monetary%20Policy%20Report/PressMPR_June2020.pdf.

A 2.6% contraction in exports, in turn, weighed on private consumption (already affected by high household debt), while private investment growth remained subdued.¹¹ Weak domestic demand contributed to subdued inflation, and led to a significant contraction in imports (-4.4%) and a further increase in the country's large current account surplus. This resulted in a massive accumulation of foreign exchange reserves and stronger appreciation pressures on the baht, raising concerns about Thailand's international competitiveness.¹² In response to the economic slowdown, the Government adopted accommodative fiscal and monetary policies to support economic growth by boosting consumer spending and investment (these measures preceded those taken in response to the COVID-19 pandemic). Several fiscal stimulus measures were implemented in the second half of 2019, mainly addressing vulnerable population groups and SMEs, although enhanced FDI incentives were also adopted. On the monetary policy side, the Bank of Thailand cut its key policy rate on two occasions in 2019 (August and November) in order to boost the economy; the cuts were also expected to help mitigate foreign exchange appreciation pressures and discourage short-term speculative capital inflows. Three additional cuts were implemented during February-May 2020 as a response to the economic fallout caused by the COVID-19 outbreak (Section 1.2.4).

1.13. On the supply side, services (including construction) remain the main contributor to Thailand's economic activity, with their combined share in GDP steadily increasing throughout the review period to 61.1% in 2019 (Table 1.3). In terms of their contribution to GDP, the main services subsectors are wholesale and retail trade, financial and insurance activities, transport and storage, and accommodation and food services, with the latter two reflecting the importance of the tourism industry. On the other hand, there has been a decline in the shares of manufacturing (affected by weak global demand), agriculture (hit by severe droughts and low prices) and mining.

Table 1.3 Basic economic indicators, 2015-19

	2015	2016	2017	2018 ^a	2019 ^a
GDP by economic activity at constant 2002 prices (% change)					
Agriculture, forestry and fisheries	-6.5	-1.2	4.7	5.5	0.1
Fishing	-10.6	0.7	-2.4	5.3	..
Mining and quarrying	2.4	0.8	-6.0	-3.0	1.7
Manufacturing	1.5	2.3	2.8	3.2	-0.7
Electricity, gas and steam and air-conditioning supply	4.9	2.9	1.8	2.2	4.9
Water supply; sewerage, waste management	9.0	7.5	5.9	5.7	1.9
Construction	17.1	8.0	-3.0	2.4	2.0
Services	5.1	4.7	5.5	4.9	4.1
Wholesale and retail trade, repair of vehicles and household goods	5.6	6.2	6.4	6.6	5.7
Transport and storage	4.0	5.3	7.8	4.4	3.4
Accommodation and food service activities	15.0	9.3	10.8	7.6	5.5
Information and communication	10.1	2.4	4.1	7.6	8.8
Financial and insurance activities	8.4	7.0	6.4	3.4	2.7
Real estate activities	1.5	7.0	6.5	5.7	3.4
Professional, scientific and technical activities	-1.5	-2.2	6.1	3.3	1.6
Administrative and support activities	3.6	1.5	2.5	3.4	1.8
Public administration and support services activities	1.1	0.4	0.8	1.5	1.0
Education	0.2	-0.2	0.4	1.3	2.1
Health and social work	3.2	3.0	2.8	5.1	4.6
Arts, entertainment and recreation	9.2	21.3	12.1	12.2	11.4
Other services	3.1	3.9	4.8	4.3	2.7
Private households with employed persons	3.7	-0.1	-2.0	-3.2	0.9
Share of main sectors in current GDP (%)					
Agriculture, forestry and fisheries	8.9	8.5	8.4	8.1	8.0
Fishing	0.7	0.8	0.7	0.7	..
Mining and quarrying	3.1	2.7	2.5	2.5	2.5
Manufacturing	27.4	27.1	27.0	26.7	25.3
Electricity, gas and steam and air-conditioning supply	2.5	2.6	2.6	2.6	2.7
Water supply; sewerage, waste management	0.4	0.4	0.4	0.4	0.4
Construction	2.8	2.7	2.5	2.5	2.5
Services	54.9	55.9	56.5	57.1	58.6
Wholesale and retail trade, repair of vehicles and household goods	14.3	15.0	15.4	15.9	16.5
Transport and storage	5.7	5.9	5.9	5.8	6.0
Accommodation and food service activities	4.4	4.8	5.3	5.6	5.9

¹¹ World Bank Group, *Thailand Economic Monitor. Productivity for Prosperity*, January 2020. Viewed at: <http://documents.worldbank.org/curated/en/394501579357102381/Thailand-Economic-Monitor-Productivity-for-Prosperity>.

¹² IMF (2019), *Thailand: 2019 Article IV Consultation*. IMF Country Report No. 19/309, October. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/10/07/Thailand-2019-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-48724>.

	2015	2016	2017	2018 ^a	2019 ^a
Information and communication	2.4	2.3	2.3	2.4	2.5
Financial and insurance activities	7.6	7.7	7.6	7.5	7.6
Real estate activities	2.4	2.4	2.4	2.5	2.5
Professional, scientific and technical activities	1.9	1.7	1.8	1.7	1.7
Administrative and support activities	1.7	1.7	1.6	1.6	1.6
Public administration and support services activities	6.1	6.0	5.9	5.8	5.9
Education	4.3	4.2	4.1	4.0	4.0
Health and social work	2.1	2.1	2.1	2.1	2.2
Arts, entertainment and recreation	0.5	0.6	0.6	0.6	0.7
Other services	1.4	1.3	1.3	1.3	1.3
Private households with employed persons	0.2	0.2	0.2	0.2	0.2
Share of sector in total employment (%)					
Agriculture, forestry and fisheries	32.3	31.2	31.5	32.1	31.4
Mining and quarrying	0.2	0.2	0.2	0.2	0.2
Manufacturing	17.0	16.7	16.3	16.5	16.3
Electricity, gas, steam supply	0.3	0.3	0.3	0.3	0.3
Water supply	0.2	0.3	0.3	0.2	0.3
Construction	6.0	6.2	5.8	5.6	5.8
Services	43.9	45.0	45.5	44.9	45.7
Wholesale and retail trade	16.2	16.8	16.9	16.6	16.6
Transportation, storage	3.2	3.2	3.3	3.3	3.5
Accommodation and food service	7.0	7.2	7.4	7.5	7.6
Information and communication	0.6	0.6	0.6	0.5	0.5
Financial and insurance activities	1.4	1.4	1.4	1.3	1.4
Real estate activities	0.5	0.5	0.5	0.5	0.5
Professional, scientific and technical	1.0	0.9	1.0	1.0	1.0
Administrative and support services	1.4	1.5	1.6	1.5	1.6
Public administration and defence	4.2	4.2	4.2	4.3	4.3
Education	3.1	3.1	3.2	3.1	3.1
Human health and social work	1.8	1.9	1.9	1.7	1.7
Arts, entertainment	0.7	0.7	0.6	0.7	0.7
Other service activities	2.0	2.2	2.3	2.3	2.5
Activities of households as employers	0.6	0.6	0.6	0.6	0.6
Other	0.2	0.2	0.2	0.2	0.2

.. Not available.

a Provisional.

Source: NESDC. Viewed at: http://www.nesdc.go.th/nesdb_en/ewt_news.php?nid=4417; and data provided by the authorities.

1.14. In 2019, services (including construction) accounted for over 50% of total employment, while the share of manufacturing decreased to 16.3% (Table 1.3). Agriculture contributed nearly a third to total employment; this is a significantly higher share than in Thailand's peers with similar levels of GDP per capita, and has been identified as an indication that the reallocation of resources from agriculture to higher value-added sectors has stalled since the Asian financial crisis.¹³ The contribution of total factor productivity (TFP) to GDP growth did not show a consistent trend between 2015 and 2018 (latest year available) (Table 1.1), and achieving higher and more stable TFP growth, to a large extent a measure of the impact of innovation and technology on growth, remains a challenge. In this respect, increasing investment in physical capital and implementing policies to enhance innovation would help improve TFP growth.

1.15. Over the review period, the official unemployment rate remained stable at around 1.0%, one of the lowest in the world (Table 1.1). This surprisingly low rate masks some structural problems in the labour market, including the existence of a large informal sector, underemployment and skills/jobs mismatches.¹⁴ According to a 2018 Survey by the National Statistics Office, the proportion of informal employment (i.e. employed persons who are not protected and not eligible for social security provision) has declined since 2014, but remains high, at 55.3% of total employment.¹⁵ The

¹³ World Bank Group, *Thailand Economic Monitor. Productivity for Prosperity*, January 2020. Viewed at: <http://documents.worldbank.org/curated/en/394501579357102381/Thailand-Economic-Monitor-Productivity-for-Prosperity>.

¹⁴ Bank of Thailand (2019), *Implications of low unemployment rate in Thailand*, Monetary Policy Report, March. Viewed at: https://www.bot.or.th/English/MonetaryPolicy/MonetPolicyCommittee/MPR/BOX_MRP/BOXMPR_EN_March2019_01.pdf.

¹⁵ Bank of Thailand, Anotai, B. and Pornsawan, R. (2019), *A Better Understanding of Thailand's Informal Sector*, FAQ Issue 156, July. Viewed at: https://www.bot.or.th/Thai/MonetaryPolicy/ArticleAndResearch/FAQ/FAQ_156.pdf.

informal sector continues to account for a large share of enterprises in all economic sectors, and is not comprehensively covered by the tax system.

1.16. Robust economic growth over most of the past 40 years (except during the 1997 Asian financial crisis and the 2008-09 global financial crisis) has enabled Thailand to reach upper-middle-income country status and substantially reduce poverty levels. However, slower growth during the period under review has stalled progress in poverty reduction. The official poverty headcount ratio increased from 7.1% in 2015 to an estimated 9.9% in 2018.¹⁶ A decline in net farm income due to a fall in agricultural prices is deemed to have been one of the main factors contributing to the recent increase in poverty.¹⁷ Moreover, income and regional disparities have also increased recently. Thailand's GINI index rose from 36 in 2015 to 36.5 in 2017 (latest year available)¹⁸, indicating growing income inequality; and, while the increase in poverty was experienced across all regions, the most affected were the Northeast and the South regions.

1.2.3 Fiscal policy and debt

1.17. Under the Fiscal Sustainability Framework established by the Cabinet, the Government has maintained a healthy fiscal position for over a decade. In 2018, the Fiscal Responsibility Act (FRA) was enacted to further strengthen fiscal discipline and medium-term planning, and promote fiscal transparency. The FRA introduced new targets relating to debt level and budget allocation, including for capital investment (Table 1.4). It also mandates the Government to prepare a Medium-term Fiscal Framework to serve as a master plan for fiscal and budget planning, annual budget formulation, and public debt management. Pursuant to the FRA, borrowings, apart from those under the Public Debt Administration Act, may only be made through a specifically enacted law and only in the case of urgent need. In addition, a new Budget Procedures Law was enacted in 2018 with the aim of enhancing overall budget management to make it more result-oriented, efficient and effective. Under this new Law, the emphasis is placed on outcomes derived from budget spending; it allows for the consideration of other sources of funds, and requires ministers and heads of government agencies to monitor spending and improve spending accountability.

Table 1.4 Key fiscal rules under the Fiscal Responsibility Act

	Maximum allowable ratio (%)
	Public debt rules
Public debt to GDP	60
Government debt service to estimated revenue	35
Public debt in foreign currency to total public debt	10
Public debt service in foreign currency to exports income	5
	Annual budget allocation rules
Budget for capital investment	Greater than 20% of the annual budget and no less than the FY budget deficit
Central Fund for Emergency Uses and Needs as % of annual budget ^a	2.0-3.5
Budget for principal repayment as % of annual budget ^a	2.5-3.5
Multi-year Commitment Budget	10

a Due to the COVID-19 pandemic, these targets were temporarily modified as follows: Central Budget for Emergency Uses and Needs (2.0%–7.5%), and Budget for principal repayment (1.5%–3.5%).

Source: Fiscal Policy Office, Ministry of Finance.

1.18. The Government's fiscal balance posted a modest surplus during most of the period under review, except in 2017 (Table 1.1). In 2017, the fiscal deficit (-0.4% of GDP) was mainly the result of a decline in revenue, owing to a reduction in income tax and the effect of lower oil prices on oil tax revenue. In 2019, revenue collection as a share of GDP declined to 20.9%, driven by a fall in revenues from income and VAT, partly reflecting the economic downturn; while the share of expenditure declined to 20.5% of GDP, resulting in a modest fiscal surplus (0.4% of GDP). Tax

¹⁶ World Bank information, *Poverty headcount ratio at USD 5.50 a day* (2011 PPP) (% of population). Viewed at: <https://data.worldbank.org/indicator/SI.POV.UMIC?locations=TH>.

¹⁷ World Bank Group, *Thailand Economic Monitor. Productivity for Prosperity*, January 2020. Viewed at: <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/394501579357102381/thailand-economic-monitor-productivity-for-prosperity>.

¹⁸ World Bank, *GINI Index (World Bank estimate)-Thailand*. Viewed at: <https://data.worldbank.org/indicator/SI.POV.GINI?locations=TH>.

revenue collection showed a downward trend over the review period, standing at 16.1% of GDP in 2019. The share of customs duties in tax revenue also declined, accounting for 2.8% of total tax collection in 2019. On the expenditure side, delays in the budget approval process in recent times prevented the full execution of capital budgets.¹⁹

1.19. The Government's debt slightly increased over the last five fiscal years, representing 33.7% of GDP at the end of FY2019 (Table 1.1). Total public debt remained stable during the period under review and stood at 41.1% of GDP in 2019, well below the statutory cap of 60% of GDP under the FRA, and comparatively low by regional and international standards. Public debt is distributed as follows: Government (82.1%), SOEs (12.9%), Specialized Financial Institutions (government-guaranteed) (4.9%), and government agencies (0.1%). Most of Thailand's public debt (96.8%) is domestic, denominated in local currency, and contracted in the long term. Due to the adoption of the COVID-19 Relief Package, the authorities expect the public debt-to-GDP ratio to increase in FY2020 and FY2021, while still keeping below the statutory limit of 60%.

1.20. Thailand's fiscal policy stance was moderately expansionary over most of the review period, consisting mainly of short-term fiscal stimulus measures to help economic growth. Support was principally targeted at vulnerable sectors of the population, and included measures such as subsidized loans, credit guarantees, cash support, and tax incentives. In 2019, as the Thai economy slowed down, the Government adopted countercyclical fiscal measures to boost domestic demand. A stimulus package of THB 316 billion (USD 10.3 billion) was announced in August 2019 to support low-income earners, the elderly, drought-affected farmers and SMEs, in the form of cash transfers and debt relief and lower interest rates on loans contracted with state-owned banks. In order to bolster the struggling tourism sector (affected by a strong baht), the package also included cash allowances and rebates for domestic tourists and visa waivers for tourists from some countries. In November 2019, the Government introduced a second stimulus package worth THB 100 billion. The new package allocated THB 200,000 to support local businesses across the country through community funds; it also provided for THB 50 billion in low-interest loans for agricultural cooperatives and farmers as well as handouts of up to THB 10,000 to small-scale rice farmers; plus a cash-back scheme for home purchases by low-income households (earning less than THB 1.2 million annually).²⁰ New tax incentives and other benefits designed to attract FDI (mainly production relocations from China) have also implemented during the review period (Section 3.3.1).

1.21. In the first months of 2020, the outbreak of the COVID-19 pandemic prompted the Government to adopt relief measures in an effort to mitigate the economic impact of the outbreak. On 10 March 2020, the Cabinet approved Phase 1 of the COVID-19 Relief Package (worth THB 200 billion), followed by Phase 2 (worth THB 117 billion) on 24 March 2020, and Phase 3, which was approved on 7 April 2020 for an amount of THB 1.9 trillion. The relief measures take different forms, including cash transfers, soft loans, tax deductions, exemptions and deferrals, for individuals and businesses (Section 1.2.1). To support economic growth and reinforce the impact of the stimulus measures, the Bank of Thailand cut the key policy rate from 1.25% to 0.5% between February and May 2020 (Section 1.2.4).

1.22. In order to stimulate private investment and demand, the Government has also committed to the completion of several public infrastructure mega-projects, including the Eastern Economic Corridor (EEC), which were postponed due to delays in the disbursement of the capital budget. Increasing investment in infrastructure is crucial to boost growth and enhance Thailand's competitiveness. The approval of the budget for the current fiscal year in January 2020, which set a 6.7% increase in overall spending to THB 3.2 trillion, was expected to help speed up the implementation of these projects.²¹ However, given the urgent need to stem the spread of COVID-19 and mitigate its economic effects, spending priorities may need to be revised.

¹⁹ In 2019, the capital budget disbursement rate was 70%. World Bank Group, *Thailand Economic Monitor. Productivity for Prosperity*, January 2020. Viewed at: <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/394501579357102381/thailand-economic-monitor-productivity-for-prosperity>.

²⁰ The Nation Thailand, *Finance Ministry to submit latest economic stimulus package to Cabinet*, 26 November 2019. Viewed at: <https://www.nationthailand.com/business/30378742>.

²¹ The budget also sets a deficit of THB 469 million, up 4.2% from the previous fiscal year.

1.2.3.1 Tax reforms

1.23. In the medium- to long-term, the Government will face increasing expenditure pressures to address the needs of a rapidly aging population. This will require additional revenue, and thus a thorough tax reform, which could include broadening the tax base, reviewing tax rates, reducing tax exemptions and deductions, and enhancing tax collection, along with additional efforts to reduce the large informal sector. Rationalizing the numerous investment incentives (Section 3.3.1) based on cost-benefit analysis could also help increase spending efficiency.

1.24. During the period under review, Thailand adopted some tax reforms aimed at increasing the tax base and making taxation more progressive and efficient. For example, in February 2016, the country's first inheritance tax was introduced. The new tax is imposed on inheritors of assets worth over THB 100 million; the tax rate is 5% for lineal descendants and 10% for other heirs.²² Also, a new land and building tax was instituted in March 2019 and became effective on 1 January 2020.²³ All individuals or "juristic" (i.e. legal) persons owning land or buildings (including condominiums) are subject to this tax. During the first two years, the land and building tax are levied at progressive rates, ranging from 0.01% to 0.7% depending on the value of the asset and its proposed use; for subsequent years, the rates range between 0.15% and 3.0%. Land and buildings worth up to THB 50 million for either agricultural or residential use are exempted from the tax. According to observers, these measures would appear to be steps in the right direction, but there could still be room for further reform.²⁴ Also, measures in the opposite direction have been adopted; for instance, there have been cuts in personal income tax (PIT) and increases in deductible expenses and tax allowances over the last few years in order to support economic growth.²⁵

1.25. The Ministry of Finance is currently drafting a tax reform plan that will include changes to tax policy and tax administration. The main objectives of the tax reform plan are: (i) to make the tax system fair and transparent; i.e. with a tax structure that reduces income inequality, with clear rules and regulations to minimize authorities' discretion and to fight against corruption; (ii) to make the tax system easy and efficient by using advanced technologies (e.g. National e-Payment, e-Tax Invoice, e-Receipt, e-Withholding Tax, and income tax returns via PromptPay); and (iii) to make the tax system competitive and sustainable with competitive tax rates to attract investors while still generating sustainable revenues for the future.

1.26. The pension system is another area that has been identified as requiring reform in order to ensure fiscal sustainability and to prepare for expenditure pressures related to population aging.²⁶ The pension system is fragmented (with public, private and informal regimes), with low replacement rates (particularly for private-sector workers) and low coverage (less than 40% of the working-age population is covered by a formal pension). Adding to these challenges, a low retirement age (55) and a shrinking labour force raise questions regarding the sustainability of the system that need to be addressed.²⁷ The authorities are currently considering amendments to the laws and regulations of the Government Pension Fund (GPF) for government officers in order to improve its operational efficiency and sustainability in the long term. The proposed modifications include a higher maximum contribution rate; increasing the variety of investment choices available to members; and enabling the GPF to invest the reserve fund in a wider range of assets, among others.

²² Inheritance Tax Act and Gift Tax Regulations, 5 August 2015.

²³ Land and Building Act B.E. 2562.

²⁴ OECD (2018), *Multidimensional Review of Thailand*, Volume 1. Initial Assessment. Chapter 3. Viewed at: <https://www.oecd.org/dev/multi-dimensional-review-of-thailand-volume-1-9789264293311-en.htm>.

²⁵ Revenue Code Amendment Act (No. 44) B.E. 2560, 27 January 2017. The updated PIT rates ease the tax burden for a relatively small portion of the population, while the new deductions and allowances affect a much broader swathe of people. Overall, however, the changes are relatively modest.

²⁶ OECD (2018), *Multidimensional Review of Thailand*, Volume 1. Initial Assessment. Chapter 3. Viewed at: <https://www.oecd.org/dev/multi-dimensional-review-of-thailand-volume-1-9789264293311-en.htm>; and IMF (2019), *Thailand 2019 Article IV Consultation*. IMF Country Report No. 19/309, October. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/10/07/Thailand-2019-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-48724>.

²⁷ IMF (2019), *Thailand 2019 Article IV Consultation*. IMF Country Report No. 19/309, October.

1.2.4 Monetary and exchange rate policies

1.27. The Bank of Thailand (BOT) is responsible for the formulation and implementation of monetary and exchange rate policies.²⁸ According to the Bank of Thailand Act, B.E. 2551 (2008), the BOT's main objectives are to maintain price stability as well as the stability of the financial and payments systems. In setting monetary policy, the BOT operates through the Monetary Policy Committee. By the end of each year, the Committee, in agreement with the Minister of Finance, determines the monetary policy targets for the following year; the Minister of Finance then proposes the agreed targets to the Cabinet for approval.²⁹ In 2015, a monetary policy target using headline inflation instead of core inflation (excluding fresh food and energy prices) was approved, and the annual average target was set at $2.5 \pm 1.5\%$. This target remained unchanged until 2020 when it was replaced by a headline inflation range target of 1%-3%, deemed more appropriate to account for Thailand's low inflation outlook.³⁰

1.28. In several instances during the review period, the BOT adopted an accommodative, albeit cautious, monetary policy stance in order to maintain price stability and ensure favourable financial conditions for economic growth. In 2015, it reduced the policy interest rate twice (in March and April) to 1.50%. The rate was kept unchanged throughout 2016, 2017 and most of 2018. In December 2018, assessing that the economy would continue to grow in line with its potential and that the headline inflation would move toward its target, the BOT raised the policy rate to 1.75%. This move was largely to pre-empt the potential build-up of financial vulnerabilities from investors' "search-for-yield" behaviour and under-pricing of risk over a long period of low interest rates.³¹

1.29. As the Thai economy slowed down in 2019, the BOT cut the policy interest rate twice (in August and November) by 0.25 percentage points each time, in order to support both growth and the increase of headline inflation towards the target. A third cut was implemented in February 2020, taking the policy interest rate to 1.0%, as the COVID-19 outbreak, the months-long delay in the approval of the 2020 budget bill and a severe drought put further pressures on the flagging economy, while financial stability became more vulnerable given the impact of the economy's slowdown on the capability of households and SMEs to service their debt.³²

1.30. In March and May 2020, the BOT made two further cuts to the policy interest rate, setting it at a record low of 0.50%, in an effort to reduce the interest burden on borrowers affected by the COVID-19 outbreak, alleviate liquidity problems, and safeguard financial stability.³³ In addition, in mid-March 2020, the BOT purchased government bonds amounting to more than THB 100 billion to shore up liquidity in the financial markets.³⁴ Given the persistently high volatility in the bonds market, on 22 March 2020, the BOT, the Ministry of Finance, and the Securities and Exchange Commission jointly decided to implement additional measures to restore financial market stability. Firstly, the BOT set up a facility to provide liquidity for mutual funds through commercial banks. Secondly, it was agreed to set up a Corporate Bond Stabilization Fund to invest in high-quality, newly issued bonds by corporations that were not able to fully rollover maturing corporate bonds.

²⁸ Section 28/16 of the BOT Act provides that, for the performance of duties, the Governor shall be independent in the management and administration of the BOT's affairs.

²⁹ Section 28/8 of the BOT Act.

³⁰ Bank of Thailand, *Policy Target Setting*. Viewed at: <https://www.bot.or.th/English/MonetaryPolicy/MonetPolicyKnowledge/Pages/Target.aspx>.

³¹ BIS, Dr. Veerathai Santiprabhob, Governor of the Bank of Thailand, *The Thai Economy: The Current State and the Way Forward*, Speech at Japanese Chamber of Commerce, 27 March 2019. Viewed at: <https://www.bis.org/review/r190328d.htm>.

³² Bank of Thailand, *BOT Press Release No. 5/2020*, 5 February 2020. Viewed at: https://www.bot.or.th/Thai/MonetaryPolicy/Documents/PressMPC_12020_375EOC6A.pdf.

³³ Bank of Thailand, *BOT Press Release No. 14/2020*, 20 March 2020. Viewed at: <https://www.bot.or.th/English/PressandSpeeches/Press/2020/Pages/n1463.aspx>; and *BOT Press Release No. 27/2020*, 20 May 2020. Viewed at: <https://www.bot.or.th/English/PressandSpeeches/Press/2020/Pages/n2763.aspx>.

³⁴ Bank of Thailand, BOT, Ministry of Finance, and Securities and Exchange Commission, *Joint Statement on the Measures to Stabilize the Financial Markets*, 22 March 2020. Viewed at: https://www.bot.or.th/English/AboutBOT/Activities/Pages/Joint_22032020.aspx.

Thirdly, the BOT was to continue to purchase government bonds to provide liquidity to the government bond market and ensure it functioned normally.³⁵

1.31. Inflation remained subdued throughout the review period (at less than 1.0%, except in 2018) and well below its monetary policy target, on account of both demand- and supply-side factors (Table 1.1). The appreciation of the baht since 2016 and price controls also contributed to the long-lasting low inflation. In addition, according to the BOT, structural changes such as the expansion of e-commerce, rising price competition, and technological developments which reduce production costs, caused inflation to rise at a slower pace than in the past.³⁶ In 2019, the average headline inflation dropped to 0.7%, driven by falling global energy prices and low domestic demand, while core inflation averaged 0.5%, the lowest level during the review period. In March 2020, amid the COVID-19 outbreak, the BOT's Monetary Policy Committee announced that the annual average of headline inflation was projected to be negative in 2020, reflecting the decline in energy prices and the contraction of the economy.³⁷ In July 2020, the Committee expected headline inflation to be -1.7% and core inflation 0.0% in 2020.³⁸

1.32. Thailand maintains a managed float exchange rate regime. The value of the baht is essentially determined by supply and demand in the foreign exchange market. The BOT closely monitors movements in the baht's value, and its interventions are limited to cases of excess volatility (particularly resulting from speculative capital flows) that substantially deviate from Thai economic fundamentals. Information about foreign exchange interventions remains confidential, as the authorities consider that disclosure would compromise their market operations.

1.33. Thailand still applies limited foreign exchange controls for the purpose of ensuring financial and economic stability.³⁹ Currently, proceeds from exports and other income must be repatriated if they exceed USD 1 million. During the period under review, the BOT continued to relax foreign exchange regulations in order to facilitate international trade and investment transactions (paragraph 1.35).

1.34. Thailand's large current account surplus and sizable portfolio investment inflows exerted appreciation pressures on the baht during most of the review period, with the sharpest increase in the value of the baht taking place in 2019. This trend was suddenly reversed due to the COVID-19 outbreak, which led to currency depreciation, as in many of the world's emerging economies.

1.35. In 2019, the average exchange rate rose to THB 31.05/USD (compared to THB 34.25/USD in 2015) (Table 1.1), with the average nominal effective exchange rate (NEER) appreciating by 6.6% and the average real effective exchange rate (REER) by 5.3% from 2018 (Chart 1.2). According to the BOT, the fast appreciation of the baht throughout 2019 did not reflect Thai economic fundamentals, but was the result of accommodative monetary policies implemented by advanced economies and the perceived safe-haven status of baht-denominated assets, which led to an increase in short-term foreign portfolio investment into Thailand. In order to avoid potential macroeconomic stability risks due to the baht's rapid appreciation relative to its regional peers, in July 2019, the BOT adopted measures to mitigate the impact of short-term speculative investment flows and to enhance surveillance of non-residents' investment behaviour. One of these measures was to reduce the limit on the aggregated daily balance of non-resident baht accounts (NRBA) and non-resident baht accounts for securities (NRBS) from THB 300 million to THB 200 million per non-resident.⁴⁰ Another measure was the application of stricter reporting requirements for

³⁵ Bank of Thailand, BOT, Ministry of Finance, and Securities and Exchange Commission, *Joint Statement on the Measures to Stabilize the Financial Markets*, 22 March 2020. Viewed at: https://www.bot.or.th/English/AboutBOT/Activities/Pages/Joint_22032020.aspx.

³⁶ Reuters, *Thailand's new inflation target no changes in monetary policy* – Deputy Governor, 24 December 2019. Viewed at: <https://twitter.com/Reuters/status/1209428944635736064>.

³⁷ Bank of Thailand, BOT Press Release No. 16/2020, 25 March 2020. Viewed at: <https://www.bot.or.th/English/PressandSpeeches/Press/2020/Pages/n1663.aspx>.

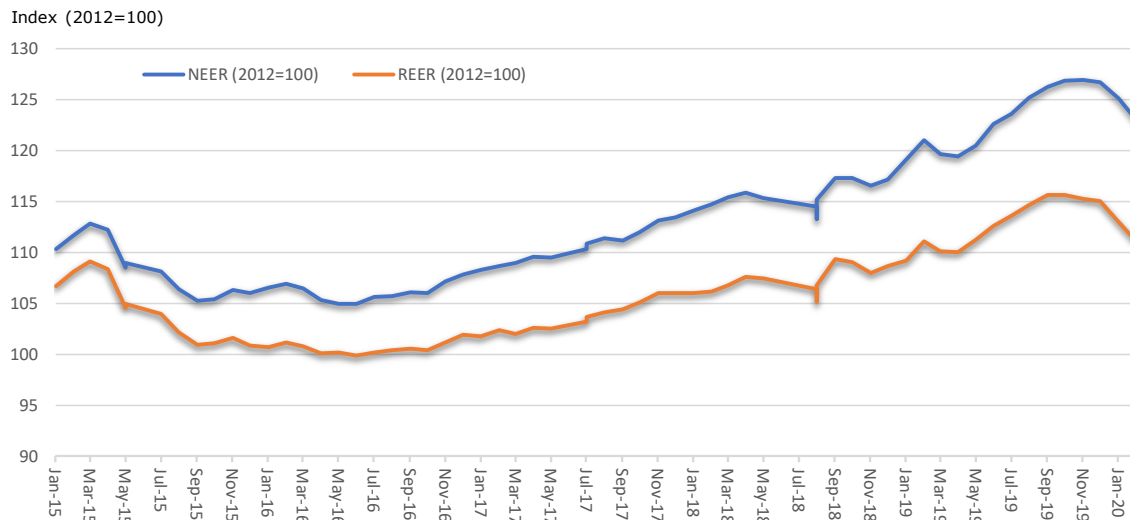
³⁸ Bank of Thailand, BOT Press Release No. 39/2020, 8 July 2020. Viewed at: https://www.bot.or.th/English/MonetaryPolicy/MonetPolicyCommittee/MPR/Monetary%20Policy%20Report/PressMPR_June2020.pdf.

³⁹ The legal basis for foreign exchange control is the Exchange Control Act B.E. 2485 and Ministerial Regulation No. 13 B.E. 2497. Since 1997, when the managed float exchange rate regime was adopted, foreign exchange regulations have been gradually relaxed.

⁴⁰ NRBA and NRBS are accounts opened by non-residents in a financial institution in Thailand. NRBS accounts may be debited or credited for the purpose of investment in securities and other financial instruments.

non-residents' holdings of debt securities, including the obligation to report the names of end-beneficiaries.⁴¹

Chart 1.2 Nominal and real effective exchange rates, 2015-January 2020



Source: Bank of Thailand. Viewed at: <https://www.bot.or.th>.

1.36. In order to stem the rise of the baht over the past few years, the BOT has also put in place measures to make it easier for Thai businesses and residents to invest abroad. Capital outflow regulations have been liberalized, including the relaxation of restrictions on outward transfers and on portfolio investment abroad by institutional and retail investors.⁴² In addition, as part of a reform of foreign exchange regulations that started in 2017, the BOT has removed obsolete regulations and given Thai firms more flexibility to use foreign exchange risk management tools.⁴³ In 2019, the reform process focused on measures such as the relaxation of repatriation requirements by exporters; simplifying rules on outflows and foreign currency deposits; and permitting retail investors, regardless of their asset amounts, to invest in securities abroad up to certain limits, without going through local intermediaries. In February 2020, the BOT eased foreign exchange rules to lessen pressure on the baht by raising the threshold for export (and other income) proceeds that do not need to be repatriated from USD 200,000 to USD 1 million, effective from 2 March 2020. Exporters with proceeds equal to or above the new threshold may use them to settle or offset foreign currency expenses abroad, without having to repatriate them.⁴⁴

1.37. During the first two months of 2020, largely as a result of the COVID-19 outbreak, the baht depreciated by about 5% against the US dollar, following a similar trend to other emerging economy currencies around the world, affected by heightened volatility in international financial markets. The baht also depreciated against regional currencies, as reflected in the decline in the NEER and the REER since the beginning of 2020. This was mainly due to investors' concerns about the outlook of the Thai economy, which was affected by both external and domestic factors, especially by the rapid spread of the COVID-19 pandemic worldwide.

⁴¹ Bank of Thailand, *BOT Press Release No. 38/2019*, 12 July 2019. Viewed at: <https://www.bot.or.th/Thai/PressandSpeeches/Press/News2562/n3862e.pdf>.

⁴² Bank of Thailand, *BOT Press Release No. 66/2019*, 6 November 2019. Viewed at: <https://www.bot.or.th/English/PressandSpeeches/Press/2019/Pages/n6662.aspx>; and Notice of the Competent Officer, Rules and Practices Regarding Investment in Overseas Securities and Derivatives. Viewed at: https://www.bot.or.th/Thai/FinancialMarkets/ForeignExchangeRegulations/DocLib/E_BOTPortfolio.pdf.

⁴³ Bank of Thailand, *BOT Press Release No. 27/2017*, 5 June 2017. Viewed at: https://www.bot.or.th/Thai/FinancialMarkets/ForeignExchangeRegulations/Documents/BOT%20Press%20Release_Foreign%20Exchange%20Regulation%20Reform.pdf.

⁴⁴ Bank of Thailand, *BOT Press Release No. 11/2020*, 28 February 2020. Viewed at: <https://www.bot.or.th/Thai/PressandSpeeches/Press/News2563/n1163e.pdf>.

1.2.5 Balance of payments

1.38. Thailand posted a surplus in the current account of the balance of payments throughout the review period (Table 1.5), reflecting a persistent savings-investment gap. However, in the last two years, the size of the surplus has narrowed, in part due to the impact of global trade tensions on Thai exports, and stood at 6.9% of GDP in 2019.

Table 1.5 Balance of payments, 2015-19

(USD million)

	2015	2016	2017	2018 ^a	2019 ^a
Current account	27,752.9	43,438.0	43,951.9	28,456.7	37,911.3
Goods and services balance	41,680.3	56,051.0	56,877.0	44,922.2	49,875.7
Goods balance	26,116.5	35,776.1	32,581.2	22,387.7	26,630.1
Exports	213,364.0	213,487.5	233,688.0	251,108.1	242,981.0
Imports	187,247.5	177,711.4	201,106.8	228,720.5	216,350.9
Service balance	15,563.8	20,275.0	24,295.8	22,534.5	23,245.6
Receipts	58,082.2	63,786.4	70,964.1	77,473.6	82,010.4
Payments	42,518.3	43,511.5	46,668.3	54,939.1	58,764.8
Income balance	-20,622.2	-19,427.5	-20,461.8	-24,477.0	-19,247.4
Credit	4,895.9	6,463.3	8,529.4	8,672.5	12,323.5
Compensation of employees	2,029.6	2,230.2	2,060.6	2,115.0	2,177.6
Investment income	2,769.7	4,080.8	6,322.7	6,392.3	10,003.2
Debit	25,518.1	25,890.8	28,991.2	33,149.5	31,570.9
Compensation of employees	1,433.9	1,606.9	1,789.8	2,008.7	2,161.5
Income on equity	22,093.8	22,206.2	24,921.4	28,904.0	26,894.1
Income on debt	1,990.4	2,077.7	2,279.9	2,236.8	2,515.3
Current transfers	6,694.8	6,814.5	7,536.6	8,011.5	7,283.0
Credit	10,474.8	10,585.3	11,161.1	11,795.7	11,299.2
Debit	3,780.05	3,770.83	3,624.47	3,784.18	4,016.2
Capital account	0.1	12.7	-140.9	-610.5	4.0
Financial account	-16,799.2	-20,839.7	-12,497.7	-14,948.4	-12,925.2
Direct investment	3,936.5	-10,551.6	-10,301.5	-8,043.4	-7,701.2
Direct investment in Thailand	8,927.6	2,810.2	8,229.2	13,205.1	6,315.8
Thailand's direct investment abroad	-4,991.1	-13,361.8	-18,530.6	-21,248.5	-14,017.0
Portfolio investment	-16,508.1	-2,797.6	-2,149.9	-5,863.8	-8,712.0
Assets	-3,817.2	-4,279.0	-11,550.5	-1,952.3	-7,752.6
Equity securities	-3,397.9	-1,816.9	-7,668.2	-2,476.8	-1,794.0
Debt securities	-419.3	-2,462.1	-3,882.3	524.5	-5,958.5
Liabilities	-12,690.9	1,481.4	9,400.7	-3,911.5	-959.4
Equity securities	-8,969.4	-786.1	598.4	-7,101.4	42.1
Debt securities	-3,721.5	2,267.5	8,802.3	3,189.9	-1,001.6
Financial derivatives	903.3	303.3	118.3	133.7	2,060.9
Assets	7,040.6	5,548.4	4,418.1	4,711.4	6,316.5
Liabilities	-6,137.3	-5,245.1	-4,299.8	-4,577.7	-4,255.6
Other investment	-5,130.9	-7,793.9	-164.7	-1,174.9	1,427.1
Assets	-3,445.3	-7,234.0	-9,700.4	-4,134.7	-1,096.1
Trade credits	-1,403.5	797.0	-6,466.6	2,540.8	-832.4
Loans	-3,062.9	1,340.3	-827.1	-1,175.9	828.0
Currency and deposits	1,006.9	-9,602.0	-891.1	-6,722.2	-434.6
Other assets	14.2	230.7	-1,515.6	1,222.6	-657.1
Liabilities	-1,685.7	-559.9	9,535.7	2,959.8	2,523.2
Trade credits	-155.4	-945.8	3,783.3	76.7	-1,842.0
Loans	-2,148.1	78.3	5,239.6	2,342.0	2,688.3
Currency and deposits	-37.0	549.4	-54.8	367.5	945.4
Other liabilities	654.8	-241.7	567.7	173.6	731.5
Net errors and omissions	-5,094.8	-9,766.5	-5,356.5	-5,631.4	-11,407.2
Balance of payments	5,858.9	12,844.5	25,956.7	7,266.4	13,583.0

a Provisional.

Source: Bank of Thailand, *Balance of Payments*. Viewed at:

<https://www.bot.or.th/English/Statistics/EconomicAndFinancial/Pages/StatBalanceofPayments.aspx>.

1.39. The goods balance showed a surplus over the entire review period. In 2019, the surplus widened in absolute terms, due to a larger contraction of merchandise imports relative to exports. Indeed, the fall in exports had a severe impact on imports of intermediate goods, dragging down total imports. The services balance posted a positive result throughout the period under review, mainly due to the strong performance of the travel subsector. On the other hand, the income balance

recorded a deficit during the same period, mostly on account of the repatriation of profits and benefits from foreign-invested companies in Thailand. The financial account showed more fluctuations, although it remained in deficit throughout the reporting period, mainly due to net capital outflows from Thai FDI and portfolio investment abroad. This may be associated with the recent relaxation of regulations on capital outflows. The overall balance of payments was positive during the period under review, and represented 2.5% of GDP in 2019.

1.40. Given its strong current account surplus, Thailand accumulated substantial foreign exchange reserves over the last five years, which reached USD 224.3 billion at end-2019, equivalent to more than 12 months of imports (Table 1.1). As noted above, said strong external position was in part responsible for the appreciation of the baht until the beginning of 2020. Thailand's external debt increased moderately during the period under review in absolute terms but remained at around 30% of GDP. In 2019, the external debt-GDP ratio was 31.7%, and the debt-service ratio was 6.8%. This reflects Thailand's lower dependency on external financing compared to other emerging market economies. Amid the global economic fallout caused by the COVID-19 pandemic, Thailand's surplus in the current account has continued to narrow and capital outflows have increased; however, the level of foreign reserves remains adequate.

1.3 Developments in Trade and Investment

1.3.1 Trends and patterns in merchandise and services trade

1.3.1.1 Merchandise trade

1.41. Thailand remains a predominantly outward-oriented economy, as indicated by the high ratio of its trade (exports and imports) of goods and services to GDP. However, this ratio decreased over the last decade, from a peak of 150% in 2008 to 110% in 2019. The authorities explained that this was the result of Thailand's policy to maintain potential economic growth while expanding the domestic economy and reducing its high dependency on international trade. In 2019, Thailand's share in global merchandise exports was 1.6%, and its share in world merchandise imports stood at 1.5%.⁴⁵

1.42. Thailand's merchandise export structure continues to be dominated by manufactured products, which contribute 73.3% to total exports (2019), although their share decreased slightly during the review period; the share of agricultural goods (17.5%) rose slightly, and that of mining (5.1%) remained stable (Chart 1.3 and Table A1.1). Office machines and telecommunication equipment (mainly computer parts) remain the leading export items, accounting for 15.1% of total merchandise exports in 2019, followed by automotive products (of which Thailand is among the world's top ten exporters⁴⁶), chemicals, other semi-manufactures, consumer goods, and other electrical machines. Other important export products are food (rice, sugar, and meat/seafood preparations), fuels, rubber (tyres), gems and precious metals.

1.43. Manufactures accounted for 68.4% of the value of Thailand's merchandise imports in 2019 (Chart 1.3 and Table A1.2). Office machines (electronic integrated circuits), telecommunication equipment (radio-telephony transmission tools) and other electrical machines made up the largest share (19.2% of total imports), followed by chemicals, consumer goods, non-electrical machinery, transport equipment, and other semi-manufactures. The share of mining, consisting mostly of crude oil and petroleum products, increased during the review period and accounted for 19.4% of the total import bill in 2019; while the share of agricultural imports fluctuated around 8% during the same period, and was 7.9% in 2019.

1.44. During the period under review, Thailand conducted most of its two-way merchandise trade with countries in Asia, reflecting the country's active participation in regional value chains and its integration within ASEAN (Chart 1.4). In 2019, 64% of exports were shipped to Asian markets (Table A1.3). ASEAN members, as a group, remain Thailand's largest export market, accounting for 25.5% of total exports. Exports to the CLMV countries⁴⁷ have continued to grow collectively, driven

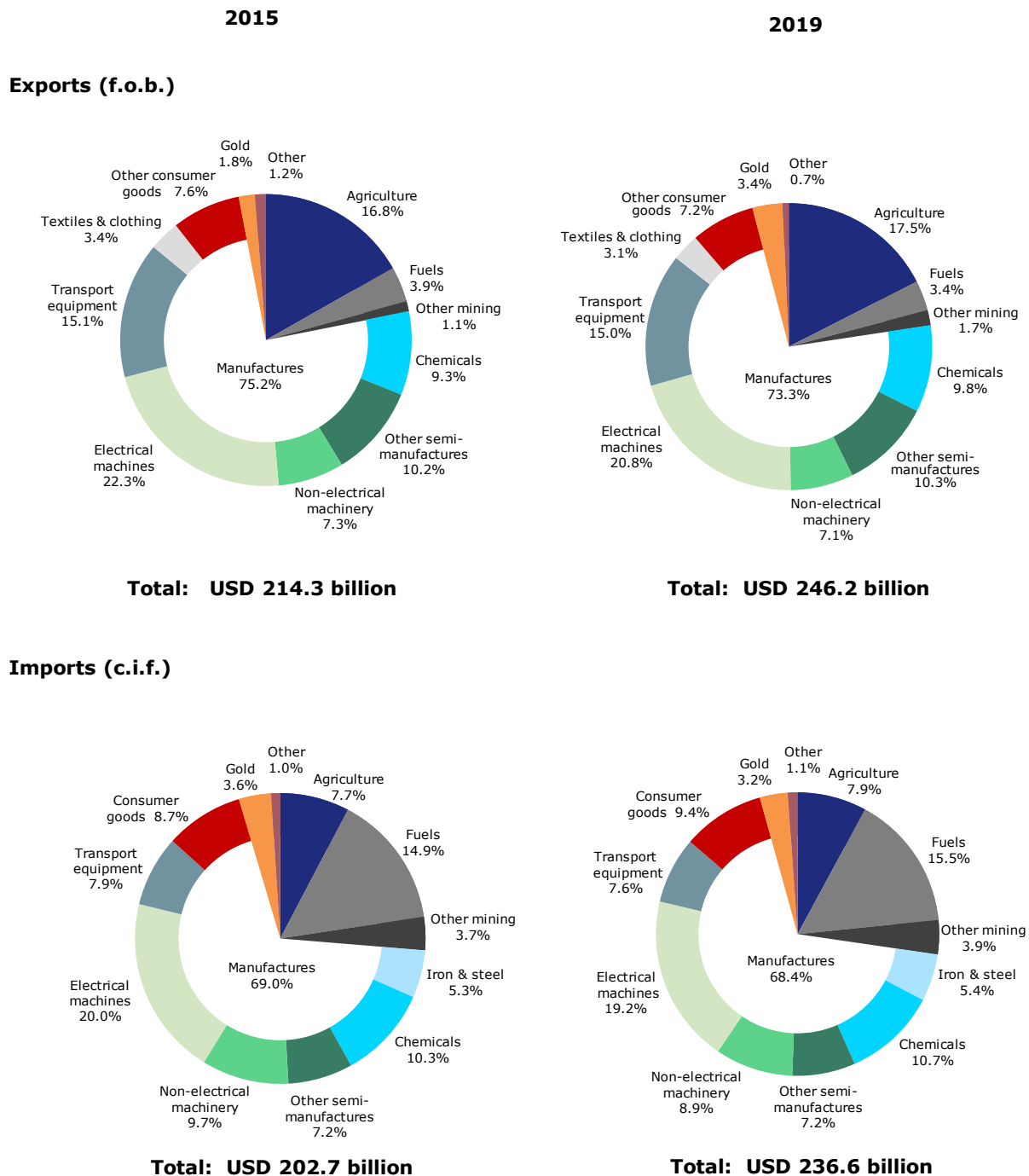
⁴⁵ Excluding intra-EU trade. WTO, *World Trade Statistical Review 2020*. Viewed at: https://www.wto.org/english/res_e/statis_e/wts2020_e/wts2020_e.pdf.

⁴⁶ WTO, *World Trade Statistical Review 2019*. Viewed at: https://www.wto.org/english/res_e/statis_e/wts2019_e/wts2019_e.pdf.

⁴⁷ Cambodia, Lao PDR, Myanmar and Viet Nam.

by increases in shipments to Viet Nam and Cambodia. The United States maintained its position as Thailand's largest individual market, receiving 12.7% of total exports in 2019, followed closely by China (11.8%), Japan (10.0%) and the European Union (9.6%).

Chart 1.3 Product composition of merchandise trade (SITC Rev.3), 2015 and 2019

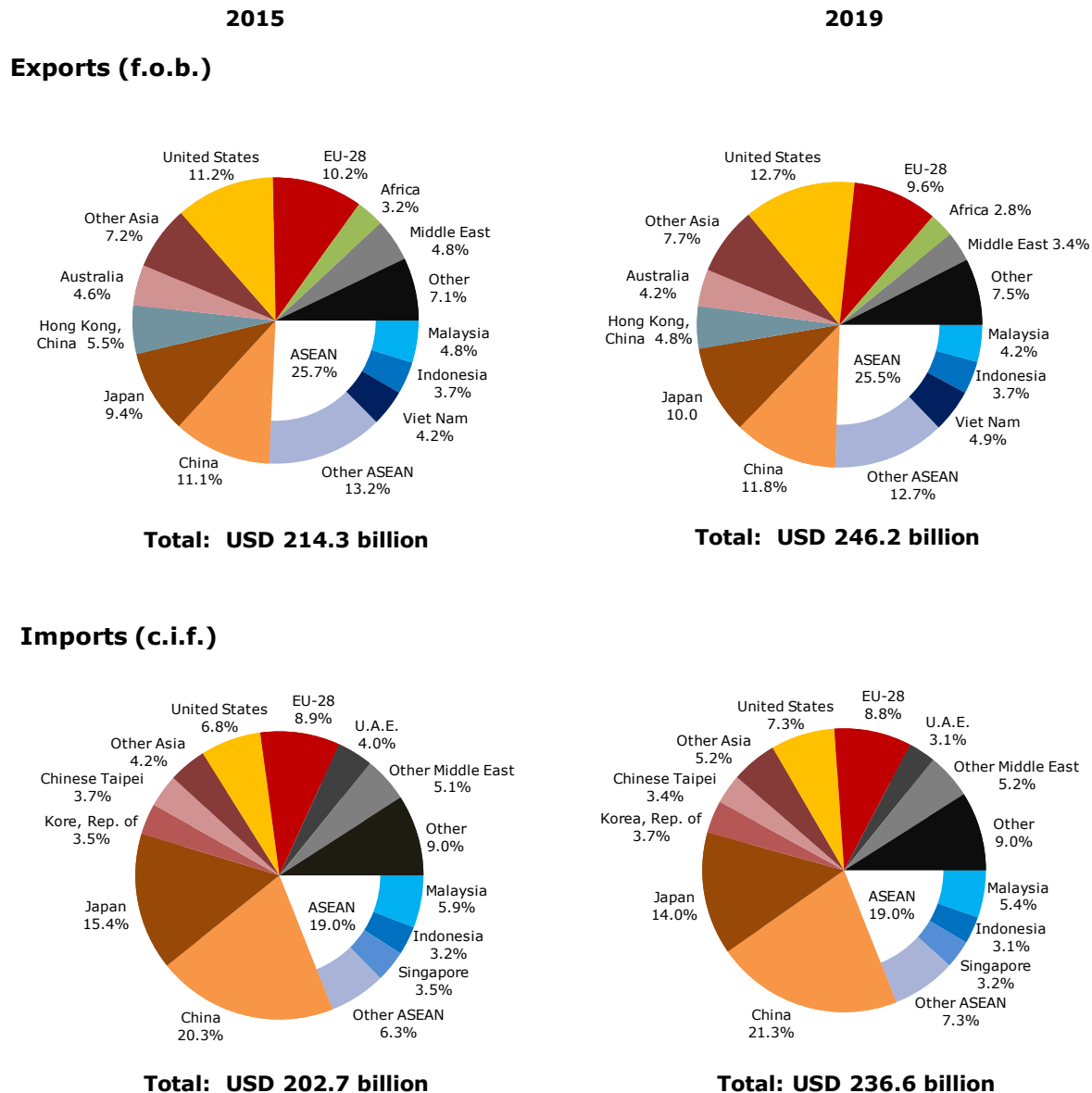


Source: Based on data from the Ministry of Commerce and the Customs Department.

1.45. On the import side, China remains by far Thailand's largest supplier (21.3% of total imports in 2019), having taken over that position from Japan (which now accounts for 14.0%) in 2014 (Table A1.4). Collectively, ASEAN is the second largest source of imports, accounting for 19% of the total in 2019. Imports from Middle East countries (mainly crude oil) made up 8.3% of the import bill the same year. Other important suppliers are the European Union and the United States; the share

of imports from the European Union in 2019 (8.8%) was practically the same as in 2015, while the share of imports from the United States showed a modest increase over the same period.

Chart 1.4 Direction of merchandise trade, 2015 and 2019



Source: Based on data from the Ministry of Commerce and the Customs Department.

1.3.1.2 Services trade

1.46. Thailand posted a surplus in the trade in services balance throughout the review period (Table 1.6), reflecting mainly the strong performance of tourism-related services but also the country's over-reliance on the tourism industry. In 2019, travel and passenger transportation accounted for 79.4% of total services exports. The second-largest contributor, with 14.2% of export receipts, was the item "Other business services"⁴⁸. Regarding imports, transportation services (mostly freight) had the highest share (32.2%), followed by "Other business services" and travel (mainly personal travel). The share of services in Thailand's external trade increased over the last ten years: in 2019, services accounted for 25.2% of the country's total exports (goods and services)

⁴⁸ Definition based on IMF Balance of Payments and International Investment Position Manual (Sixth Edition BPM6).

and 21.3% of its total imports, compared to 14.9% and 13.3%, respectively, in 2010. However, Thailand's heavy reliance on tourism exports makes it vulnerable to external shocks, such as the recent COVID-19 pandemic and its adverse impact on inbound tourism.

Table 1.6 Trade in services, 2015-19

	2015	2016	2017	2018 ^a	2019 ^a
Trade in services balance (USD million)	15,563.8	20,275.0	24,295.8	22,534.5	23,245.6
Total credit (USD million)	58,082.2	63,786.4	70,964.1	77,473.6	82,010.3
	(% of total credit)				
Transportation	9.9	9.0	9.7	9.9	8.8
Freight	2.9	2.5	2.4	2.6	2.3
Passenger	6.2	5.8	6.6	6.5	5.6
Other	0.7	0.7	0.7	0.9	0.9
Travel	71.0	70.2	73.8	72.8	73.8
Business	6.2	5.8	3.0	3.2	3.0
Personal	64.8	64.4	70.8	69.5	70.8
Construction	0.9	0.7	0.5	0.4	0.3
Insurance and pension services	0.1	0.1	0.1	0.2	0.2
Financial services	1.0	1.1	1.1	1.0	0.9
Charges for the use of intellectual property, n.i.e.	0.1	0.1	0.1	0.2	0.2
Telecommunications, computer, and information services	0.9	0.8	0.6	0.8	0.9
Other business services	15.4	17.4	13.5	14.3	14.2
Personal, cultural, and recreational services	0.1	0.1	0.1	0.1	0.2
Government goods and services, n.i.e.	0.6	0.5	0.4	0.4	0.5
Total debit (USD million)	42,518.3	43,511.5	46,668.3	54,939.1	58,764.8
	(% of total debit)				
Transportation	36.8	34.6	36.1	34.5	32.2
Freight	30.8	28.0	29.9	28.6	25.9
Passenger	4.3	5.0	4.7	4.2	4.4
Other	1.7	1.5	1.5	1.6	1.8
Travel	18.2	20.9	22.5	22.0	24.2
Business	1.7	2.0	2.2	2.1	2.2
Personal	16.5	18.9	20.3	19.9	22.1
Construction	2.0	1.2	0.6	0.5	0.7
Insurance and pension services	3.7	3.3	3.9	4.2	3.9
Financial services	1.6	1.5	2.1	1.9	2.2
Charges for the use of intellectual property, n.i.e.	9.7	9.1	9.2	9.6	9.0
Telecommunications, computer, and information services	1.4	1.3	1.2	1.2	1.6
Other business services	25.8	27.3	23.8	25.6	25.6
Personal, cultural, and recreational services	0.1	0.1	0.1	0.1	0.1
Government goods and services, n.i.e.	0.7	0.7	0.6	0.5	0.5

a Provisional.

Source: Bank of Thailand, *Balance of Payments*. Viewed at: <https://www.bot.or.th/English/Statistics/EconomicAndFinancial/Pages/StatBalanceofPayments.aspx>.

1.3.2 Trends and patterns in Foreign direct investment (FDI)

1.47. FDI inflows into Thailand were volatile during the period under review. After a sharp decrease in 2016, consistent with a general drop of FDI to emerging markets in Asia, FDI inflows rebounded in the following years, reaching a peak of USD 13.2 billion in 2018 (driven mainly by investments in real estate and the financial sector), only to fall again significantly in 2019 (Table 1.7). During most of the review period, Japan was the main source of FDI. However, in 2019, Singapore became the top origin of inbound FDI flows (84.7% of the total), reflecting its position as a regional financial hub, and pushing ASEAN's share to 86.7%.⁴⁹ Other important sources of FDI in 2019 were China (17.1%), Hong Kong, China (11.1%) and the United States (9.7%), while investment inflows from the European Union contracted.

1.48. Manufacturing operations (especially export-oriented industries such as computers, electronics and electrical equipment) are still the largest recipient of FDI, with 76.1% of total inflows in 2019 (Table 1.7). Other important recipients of FDI were real estate activities and wholesale and retail trade, whereas financial and insurance activities saw a significant drop in 2019.

⁴⁹ The increase in Singapore's share was partly due to two large investment deals by multinational enterprises in the insurance and electronics sector in Thailand, made through Singapore.

Table 1.7 Inflows of FDI, 2015-19

	2015	2016	2017	2018 ^a	2019 ^a
Total inflows (USD million)	8,927.6	2,810.2	8,229.2	13,205.1	6,315.8
(a) Inflows by origin					
ASEAN	433.6	2,003.4	1,814.0	1,671.2	5,476.6
Brunei Darussalam	2.3	2.6	1.5	2.5	1.6
Cambodia	4.3	3.3	13.8	-3.8	11.4
Indonesia	-44.1	23.5	22.5	-31.6	-11.5
Lao PDR	1.2	17.0	5.1	4.7	5.2
Malaysia	-4.9	6.6	57.2	17.6	111.4
Myanmar	0.6	1.1	-0.2	1.4	0.8
Philippines	6.8	21.6	-13.1	-16.7	4.4
Singapore	467.0	1,928.5	1,726.7	1,695.6	5,350.1
Viet Nam	0.6	-0.8	0.6	1.5	3.2
EU-28	1,065.1	-4,378.9	710.6	1,539.4	-3,240.1
Austria	32.0	15.6	-124.3	9.1	-78.5
Belgium	577.6	-289.4	-99.8	-68.7	4.7
Cyprus	1.8	1.2	-0.3	2.4	0.6
Denmark	-359.3	-3.9	-314.6	332.6	-53.9
Finland	4.6	10.5	10.7	25.5	38.9
France	265.3	-1,901.0	-44.2	90.2	79.5
Germany	130.9	114.5	400.3	235.3	261.7
Ireland	28.7	0.1	14.0	97.4	26.9
Italy	9.3	8.4	17.2	2.4	-0.4
Luxembourg	70.7	54.9	47.1	39.9	0.9
Netherlands	250.8	-2,227.4	467.6	475.7	-3,469.0
Spain	-3.6	1.4	2.6	11.8	14.2
Sweden	-40.5	-0.1	70.5	138.9	-47.0
United Kingdom	87.7	-177.9	253.2	137.9	-20.0
Other EU	9.2	14.3	10.6	8.9	1.3
Middle East	36.1	-10.7	57.8	52.3	14.9
United Arab Emirates	-4.1	18.1	14.6	29.6	-1.6
Australia	661.9	42.1	80.7	48.0	77.2
Bahamas	30.5	45.9	35.8	11.5	-2.5
Bermuda	-33.1	3.9	62.6	26.6	1.8
British Virgin Islands	1,132.1	2.4	-169.4	-178.9	85.4
Cayman Islands	68.6	-1,027.4	88.1	70.9	253.8
China	238.1	1,071.9	72.9	662.4	1,082.2
Hong Kong, China	461.8	1,148.4	971.1	2,189.2	705.7
India	-3.9	31.9	39.5	22.4	-5.5
Japan	3,006.3	2,986.8	3,131.6	5,250.9	2,546.0
Liechtenstein	2.6	3.3	5.4	18.3	10.4
Mauritius	79.1	-36.8	295.8	450.7	-1,822.1
New Zealand	1.2	1.6	2.6	6.5	3.6
Panama	37.0	-25.6	2.3	-6.4	11.1
Russia	-7.8	37.4	40.9	45.2	26.2
Samoa	12.6	30.3	13.5	27.2	-10.4
Korea, Rep. of	142.6	27.2	168.4	223.7	262.8
Switzerland	271.0	107.0	329.4	-176.2	17.8
Chinese Taipei	117.4	195.2	723.3	120.6	280.8
United States	1,083.1	438.6	-120.5	810.1	611.8
Others	91.8	112.5	-127.2	319.4	-71.5
(b) Inflows by sector					
Agriculture, forestry, and fishing	5.3	6.7	2.7	16.0	3.8
Mining and quarrying	490.4	-29.1	101.3	-302.3	262.6
Manufacturing	3,180.5	1,155.8	1,132.5	4,828.0	4,804.1
Food products	188.3	694.7	282.5	37.8	366.5
Beverages	-89.4	10.0	56.6	522.0	2.3
Paper and paper products	47.4	107.9	-393.2	54.8	114.1
Coke and refined petroleum products	-321.4	101.9	14.7	-124.4	155.4
Chemicals and chemical products	1,108.2	-235.6	-171.4	653.1	757.5
Pharmaceuticals	4.5	-46.8	-17.8	67.3	75.0
Rubber and plastic products	815.4	288.2	89.9	-52.8	256.3
Computer, electronic and optical products	1,334.0	-374.8	790.1	850.2	920.5
Electrical equipment	323.1	-625.5	-105.5	205.5	1,194.9
Machinery and equipment	752.7	465.0	52.7	414.5	337.4
Motor vehicles, trailers	-780.6	237.4	181.1	985.1	282.3
Furniture	-42.1	0.3	0.2	7.2	32.5
Electricity, gas, steam and air-conditioning supply	96.0	-115.5	625.4	-71.4	-609.2

	2015	2016	2017	2018 ^a	2019 ^a
Construction	-336.2	-320.0	-34.5	246.8	294.3
Wholesale and retail trade; repair of motor vehicles and motorcycles	1,524.8	-1,107.6	994.3	1,793.2	1,041.3
Transportation and storage	64.7	-134.6	-116.5	-24.1	-136.3
Accommodation and food service activities	127.6	629.9	-318.1	109.0	-561.8
Financial and insurance activities	2,986.5	1,058.2	3,374.5	4,181.5	-1,231.9
Real estate activities	1,289.8	1,427.7	1,798.5	2,256.6	2,383.2
Others	-501.7	238.8	669.0	171.7	65.8

a Provisional.

Source: Bank of Thailand, *International Investment Position* [Tables 057 + 059]. Viewed at: <https://www.bot.or.th/English/Statistics/EconomicAndFinancial/Pages/StatInternationalInvestmentPosition.aspx>.

1.49. FDI outflows soared during the review period, exceeding by far FDI inflows. In 2018, outflows reached a record high of USD 21.2 billion, but fell to USD 14.0 billion in 2019, due to divestment from some business closures and the repayment of loan and trade credits to Thai investors (Table 1.8). The sustained increase until 2018 reflects the authorities' gradual liberalization of outward investment and Thailand's deeper regional integration. However, it is also an indication that Thailand has been losing competitiveness due to sluggish productivity growth and relatively higher labour costs in the region, prompting Thai firms to invest abroad.⁵⁰ Domestic political instability may also have had a dampening effect on investors' confidence.

Table 1.8 Outflows of FDI, 2015-19

	2015	2016	2017	2018 ^a	2019 ^a
Total outflows (USD million)	4,991.1	13,361.8	18,530.6	21,248.5	14,017.0
(a) Outflows by destination					
ASEAN	629.6	4,755.1	6,023.2	6,976.5	4,816.1
Brunei Darussalam	3.7	0.0	0.0	18.0	0.7
Cambodia	32.1	352.5	88.9	236.5	80.8
Indonesia	288.6	434.4	349.9	208.2	-74.4
Lao PDR	450.8	429.2	495.4	380.9	344.3
Malaysia	1.8	152.1	327.7	376.8	390.8
Myanmar	745.2	471.7	474.6	346.1	420.8
Philippines	21.4	132.4	9.3	223.6	62.3
Singapore	-1,181.2	1,576.0	2,917.6	4,058.6	2,456.2
Viet Nam	267.3	1,206.8	1,359.9	1,127.8	1,134.7
EU-28	1,364.8	1,491.5	5,414.9	4,718.0	3,070.0
Austria	-0.1	19.7	321.5	11.4	29.6
Belgium	52.6	34.9	20.4	-74.5	37.9
Denmark	-34.0	-2.4	13.4	30.5	-16.0
France	-140.8	127.9	36.0	21.8	-43.9
Germany	574.9	-239.1	189.1	451.4	502.5
Ireland	18.9	12.5	178.1	-0.4	0.4
Lithuania	-29.4	-37.0	1.9	9.0	-15.9
Netherlands	1,848.2	415.8	2,409.8	2,491.4	893.4
United Kingdom	-886.2	350.6	2,184.8	1,664.4	1,430.8
Other EU	-39.3	808.6	59.9	112.9	251.4
Australia	-29.4	-125.2	411.5	-337.0	130.8
Bangladesh	31.3	48.5	22.9	-1.7	14.8
British Virgin Islands	451.9	573.6	151.1	318.8	-524.5
Canada	412.4	635.0	34.3	34.9	74.4
Cayman Islands	1,095.9	-351.4	725.3	-179.7	99.8
China	-264.6	212.6	280.0	249.3	200.1
Egypt	-6.2	-112.8	0.3	0.4	0.4
Hong Kong, China	2,042.5	1,474.7	3,680.7	2,628.4	4,646.4
India	-11.3	124.9	105.5	262.8	328.0
Japan	59.6	770.8	-204.1	1,741.4	1,389.7
Mauritius	386.4	558.4	-377.4	3,222.0	-2,041.8
Korea, Rep. of	-95.6	8.4	8.7	30.5	20.9
Switzerland	-35.0	70.2	32.2	22.4	114.7
Chinese Taipei	-61.3	27.0	12.8	67.2	139.5

⁵⁰ IMF (2019), *Thailand: 2019 Article IV Consultation*. IMF Country Report No. 19/309, October. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/10/07/Thailand-2019-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-48724>.

	2015	2016	2017	2018 ^a	2019 ^a
United Arab Emirates	-56.1	-0.9	282.1	0.2	74.3
United States	-320.1	2,570.1	1,687.3	431.3	722.1
Others	-603.8	631.4	239.4	1,062.9	741.1
(b) Outflows by sector					
Agriculture, forestry, and fishing	1.0	0.0	125.1	52.5	14.1
Mining and quarrying	2,752.3	895.4	1,301.7	952.7	1,375.1
Manufacturing	2,362.2	4,730.6	7,633.0	9,323.7	4,133.1
Food products	679.9	2,332.7	937.9	2,269.2	121.6
Beverages	1,113.6	823.2	3,216.8	1,831.4	49.0
Textiles	72.6	-60.3	89.6	-2.0	4.9
Chemicals and chemical products	744.5	-80.4	306.1	554.9	471.2
Computer, electronic and optical products	25.3	33.8	72.1	769.5	326.8
Electrical equipment	88.5	123.5	268.2	534.8	615.2
Machinery and equipment, n.e.s.	254.3	-92.2	90.8	681.1	183.5
Electricity, gas, steam and air-conditioning supply	296.1	586.2	785.9	243.7	245.0
Construction	183.9	-30.7	100.3	20.6	-8.0
Wholesale and retail trade; repair of motor vehicles and motorcycles	2,091.0	1,965.2	2,492.6	1,970.5	2,188.1
Transportation and storage	53.7	6.6	200.4	215.7	139.4
Accommodation and food service activities	120.0	232.6	855.1	2,978.7	-592.1
Financial and insurance activities	1,176.8	2,003.8	335.6	1,288.8	-347.9
Real estate activities	237.8	655.3	875.4	359.3	576.4
Others (financial transactions)	-4,283.8	2,316.7	3,825.8	3,842.4	6,293.8

a Provisional.

Source: Bank of Thailand, *International Investment Position* [Tables 057 + 059] Viewed at: <https://www.bot.or.th/English/Statistics/EconomicAndFinancial/Pages/StatInternationalInvestmentPosition.aspx>.

1.50. During the review period, investment outflows to ASEAN rose steadily, to reach USD 6,9 billion in 2018 (a ten-fold increase from 2015) but declined in 2019. Collectively, ASEAN countries received 34.3% of Thailand's FDI outflows in 2019, with the CLMV countries as a group receiving almost 17.0% of the total. The main individual destination of outward investment was Hong Kong, China (33.1% of total FDI outflows); followed by Singapore (17.5%), the United Kingdom (10.2%) and Japan (9.9%). Thai FDI flows to the United States declined during 2016-18 but increased in 2019, whereas the value of direct investments in China remained relatively stable. In 2019, almost a third of Thai direct investment abroad was concentrated in the manufacturing sector, with electronic products, chemicals and computers being among the main target industries. Other important sectors were wholesale and retail trade; mining; and real estate.

2 TRADE AND INVESTMENT REGIMES

2.1 General Framework

2.1. Thailand is a constitutional monarchy and a unitary state. The head of state is a hereditary monarch¹, and the Government is headed by a Prime Minister. Since the military coup in May 2014, new political developments have taken place in the country. A new constitution was drafted in 2015, which was approved through a national referendum in August 2016, and promulgated by the King in April 2017.² General elections were held in March 2019 to select the members of a new House of Representatives. In June 2019, General Prayut Chan-o-cha was elected as Prime Minister.³

2.2. The executive branch of government comprises the Prime Minister and the ministers and deputy ministers of the various government agencies, who collectively form the Council of Ministers (the Prime Minister plus 35 ministers) and are responsible for the administration of state affairs and the establishment of government policies. The Prime Minister is appointed by the King upon approval and recommendation by the House of Representatives. Under the 2017 Constitution, the Prime Minister need not be an elected member of the House of Representatives. His term in office may not exceed eight years in total (including non-consecutive terms).

2.3. The legislative power is exercised by the National Assembly, consisting of the House of Representatives (lower house) and the Senate (upper house). Pursuant to the 2017 Constitution, the House of Representatives has 500 members, who serve four-year terms, 350 of whom are elected directly on a constituency basis; the remaining 150 are selected from party lists based on the percentage of votes that each of the major parties received in the elections. The Senate consists of 250 members during the current initial period (2019-23); thereafter, there will be 200 senators serving five-year terms "...installed from a selection by and among persons having the knowledge, expertise, experience, profession, or characteristics or common interests or working or having worked in varied areas of the society".⁴

2.4. Thailand's legal system is based primarily on civil law, although it also has certain elements of common law. Under the 2017 Constitution, a bill (other than an organic act bill⁵) may be introduced to the House of Representatives by: the Council of Ministers; members of the House of Representatives (at least 20); or petition (not less than 10,000 signatures).⁶ Money bills (including those related to taxes and duties and the use of state funds) may be introduced only with the endorsement of the Prime Minister, except in the case of bills introduced by the Council of Ministers.⁷ When the House of Representatives has considered a bill and resolved to approve it, the bill is submitted to the Senate. If the Senate gives its approval, the bill is passed. In the case of rejection, the bill is returned to the House of Representatives for reconsideration. If disagreement between the two houses persists, a joint committee is formed. The committee prepares a report and the bill is resubmitted. It passes if both houses give their approval. Once the bill has been approved, the Prime Minister must present it to the King for signature, and it becomes effective upon publication in the Government Gazette.⁸

¹ HM King Maha Vajiralongkorn Bodindradebayavarangkun was formally crowned on 4 May 2019.

² Constitution of the Kingdom of Thailand of 6 April B.E. 2560 (2017), hereafter "2017 Constitution".

³ General Prayut Chan-o-cha, the former coup leader, resigned as head of the military government on 15 July 2019. In August 2014, he had been appointed Prime Minister under the Interim Constitution adopted by the military government.

⁴ Section 107 of the 2017 Constitution and Section 11 of the Organic Act on Installation of Senators B.E 2561 (2018).

⁵ Organic acts refer to: Election of Members of the House of Representative; Installation of Senators; Election Commission; Political Parties; Ombudsmen; Prevention and Suppression of Corruption; State Audit; Procedures of the Constitutional Court; Criminal Procedure for Persons Holding Political Positions; and Human Rights Commission.

⁶ This refers only to bills under Chapter III Rights and Liberties of the Thai People or Chapter V Duties of the State.

⁷ Section 134 of the 2017 Constitution provides that money bills are those with provisions dealing with: (1) the imposition, repeal, reduction, alteration, modification, remission, or regulation of taxes and duties; (2) the allocation, receipt, custody or payment of state funds, or transfer of expenditure estimates of the State; (3) the raising of loans, guarantees, redemption of loans, or any act binding state properties; or (4) currency.

⁸ Section 81 of the 2017 Constitution.

2.5. The Constitution is the supreme law of the country. Other legislative sources are: acts (laws) passed by the National Assembly; royal decrees (promulgated by the executive branch to set forth regulations under a specific Act); emergency decrees (enacted by the executive branch in an emergency, but subject to subsequent confirmation by the National Assembly); orders issued by administrative agencies (consisting of rules and regulations to carry out their government functions); and cabinet resolutions (with no binding effect but influencing the enforcement or interpretation of rules and regulations by government agencies). International treaties and conventions entered into by Thailand are incorporated into domestic law after being approved by the National Assembly and signed by the King.

2.6. Under the 2017 Constitution, the judicial system consists of four types of courts: Courts of Justice; Administrative Courts; the Constitutional Court; and Military Courts. There are three levels of Courts of Justice: Courts of First Instance; Courts of Appeal; and the Supreme Court of Justice, which includes a Criminal Division for Persons Holding Political Positions, as mandated by the Constitution. The Courts of First Instance include specialized courts such as the Tax Court, the Intellectual Property and International Trade Court, and the Bankruptcy Court. The Administrative Courts adjudicate cases between private individuals and government entities/officials; however, they do not have jurisdiction over the direct exercise by a constitutional organ of powers granted to it under the Constitution. The Constitutional Court has jurisdiction to determine whether the provisions of any law or regulation are contrary to, or inconsistent with, the Constitution, and its decisions are not subject to review by any court, including the Supreme Court. Military Courts have the power to adjudicate on criminal cases against persons subject to their jurisdiction. Judicial decisions do not develop a body of law but interpretations by the Supreme Court become precedents, which lower courts, although not bound to, normally adhere to in subsequent cases.

2.7. In 2017, the Government issued its 20-Year National Strategy (2018-37), developed by the Office of the National and Economic Development Council (NESDC). The National Strategy's main goal is for Thailand to attain developed country status and to transit to a digital economy, based on the principle of self-sufficiency. It sets out six key strategies: maintaining national security; enhancing national competitiveness; developing human capital; improving social cohesion and social equality; promoting eco-friendly growth and development; and improving public-sector efficiency. The Twelfth National Economic and Social Development Plan (NESDP) 2017-21 is the main tool for the implementation of the first five years of the National Strategy. It establishes in more detail the economic, social and environmental targets to be achieved during this period, and provides a framework for government agencies to use as a guideline in formulating their own sectoral plans. In addition to the six key strategies mentioned above, the NESDP 2017-21 sets out four complementary strategies: advancing infrastructure and logistics; developing science, technology, research and innovation; developing regional, urban and economic zones; and strengthening international cooperation for development.⁹ The authorities have indicated that, in the areas of competitiveness and trade and investment under the NESDP, especial emphasis has been placed on encouraging public-private partnerships in mega-projects (e.g. infrastructure development and logistic systems), and on strengthening investor confidence and supporting entrepreneurs to expand production capacity, especially through incentives under the Thailand Plus Package (Section 3.3.1).

2.8. Thailand 4.0 is the Government's key development policy underpinning the National Strategy. Its aim is to transform Thailand into a value-added, innovative and knowledge-based economy. Thailand 4.0 is based on the following core elements: advancing technology and innovation to increase productivity of already high-performing industries; developing new technology-based industries with great growth potential; enhancing Thailand's position as a regional hub by upgrading its physical infrastructure (ports, road and rail links, and airports); and promoting the digital competitiveness of Thai SMEs. Ten industries have been targeted under Thailand 4.0: the first five (called S-curves) are existing industries: next-generation automotive; smart electronics; medical and wellness tourism; agriculture and biotechnology; and "food for the future". The other five (new S-Curve) industries are: robotics; aviation and logistics; biofuels and biochemicals; digital; and medical hub. In order to attract investment to these targeted industries, the Government implements various incentives measures (Section 3.3.1).

2.9. Moreover, with the aim of taking advantage of Thailand's strategic location at the heart of Southeast Asia, the Government has established the Eastern Economic Corridor (EEC) project, which

⁹ Office of the NESDB. *The Twelfth National Economic and Social Development Plan (2017-2021)*. Viewed at: https://www.nesdc.go.th/nesdb_en/ewt_dl_link.php?nid=4345.

is a 13,000 km² special economic zone covering three eastern provinces. With improved infrastructure and logistics facilities currently under construction, the EEC is aimed at enhancing regional connectivity and serving as a hub for targeted industries (Section 3.3.1). As part of the initiatives to promote the digitalization of SMEs, the New Economy Academy has been established as a digitally driven knowledge centre offering training and development programmes to SMEs; in addition, a new website (Thaitrade.com) provides an e-marketplace linking Thai enterprises, particularly SMEs, with international clients.

2.2 Trade Policy Formulation and Objectives

2.10. The institutional framework for the formulation of trade policy has not changed since Thailand's last Review. The Ministry of Commerce (MoC) continues to be the main government agency responsible for formulating and implementing trade policy. Other agencies involved in the implementation of specific aspects of trade policy generally include the Ministries of: Finance; Agriculture and Cooperatives; Industry; Energy; Public Health; Digital Economy and Society; and Transport; the Bank of Thailand; and the Office of the NESDC.

2.11. Within the MoC, the Foreign Trade Cluster continues to operate. It is formed by the three main departments responsible for international trade: the Department of Trade Negotiations is responsible for conducting bilateral, regional and multilateral trade negotiations; the Department of Foreign Trade oversees compliance with international trade agreements, issues import and export certificates, and administers trade contingency measures; and the Department of International Trade Promotion is charged with expanding foreign markets for Thai products and services, increasing the value-added of exports of goods and services and enhancing the competitiveness of Thai entrepreneurs in overseas markets through capacity building.

2.12. Thailand's trade policy is formulated within the broader framework of the 20-Year National Strategy (2018-2037) and the NESDP 2017-2021. In this context, the MoC has issued its own action plan for 2020-2022. In addition to the objectives and strategies that have guided trade policy since the last Review, the current version of the MoC Action Plan includes the objective of "Enhancing Capacity Building and International Development Cooperation", aimed at increasing Thailand's capabilities and competitiveness in order to expand its presence in foreign markets, and at enhancing its economic partnerships with key trading partners (Table 2.1).¹⁰ To this particular end, the Action Plan sets out three implementation guidelines: (i) expansion of Thailand's foreign markets by encouraging Thai enterprises to increase their business in foreign countries through activities such as trade fairs and marketing events to promote Thai products and services, brand awareness programmes (e.g. Thai Halal products), and improving Thailand's international trade services; (ii) promotion of border and cross-border trade through marketing activities that encourage trade and investment in Thailand's border provinces and special economic zones; and (iii) enhancement of international trade and economic cooperation through FTA negotiations, and promotion of technical cooperation with neighbouring countries (i.e. Cambodia, Lao PDR, Myanmar and Viet Nam), among other actions. The Action Plan also includes a strategy for increasing private sector competitiveness through innovation, technologies and creativity, and for integrating micro, small and medium-sized enterprises (MSMEs) into global value chains.

2.13. The Joint Public and Private Sector Consultative Committee is the main channel for consultations on trade policy issues between the Government and the private sector. Regular public hearings are another channel enabling private-sector participation in trade policy formulation. Holding a public hearing is mandatory for government agencies before they can submit any law to the Cabinet for consideration. In addition to presential public hearings, the MoC must maintain an online public-hearing platform.

2.14. During the period under review, Thailand passed new or amended legislation in several trade-related areas, including: customs; competition policy; government procurement; intellectual property rights (copyright and patents); SOEs; fisheries; oil fuel; financial services; cybersecurity; personal information protection; electronic transactions; telecommunications; air transport; and trade/business registration.

¹⁰ The MoC Action Plan is only available in Thai. A summary of its key points in English was made available to the Secretariat.

Table 2.1 Ministry of Commerce Action Plan, main objectives

Objective	Strategies
Empower the competitiveness of MSMEs and community enterprises	– Upgrade and enhance the productivity of MSMEs to move up the value chain and integrate them into global value chains; – Encourage a new generation of entrepreneurs; – Promote access to financial and technical support; and – Facilitate the development of business networks
Strengthen the local economy	– Stabilize the price of agricultural commodities using appropriate measures; and – Address cost-of-living issues and ensure consumer protection
Exert leverage on comparative advantages for high value-added products and services	– 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; and – Promote One <i>Tambon</i> (meaning sub-district) One Product (OTOP) products in international markets
Create a conducive and fair business environment for trade	– Reform rules and regulations to ensure a free and fair environment for trade
Maintain and expand market and trade channels	– Expand domestic and international markets; – Promote the use of electronic commerce and mobile commerce; – Cultivate national image through Branding Thailand; – Develop the service sector and service trade; and – Promote food industry and halal products
Build capacity and promote international development cooperation	– Expand markets for Thai products and services as well as business operations in foreign countries; – Promote trade and investment under cooperation frameworks in Thailand's borders and neighbouring countries' border areas; and – Engage in negotiations on trade and development cooperation and strengthen Thailand's role in ASEAN
Strengthen organizational capacity and good governance	– Promote and strengthen measures to prevent and combat corruption; – Promote and enforce ethical conduct in public service; and – Develop public-sector personnel that are qualified, highly responsible and result-orientated

Source: Information provided by the authorities.

2.3 Trade Agreements and Arrangements

2.3.1 WTO

2.15. Thailand is a founding Member of the WTO, and participated in the post-Uruguay Round negotiations on telecommunications and financial services. It became an Observer to the WTO Committee on Government Procurement in June 2015. In 2016, it accepted the Protocol Amending the TRIPS Agreement, and notified to the WTO its Least-Developed Country Services Waiver, granting preferential treatment to services and services suppliers of LDCs. As a party to the WTO's 1996 Information Technology Agreement (ITA), Thailand participated in the negotiations to expand the ITA's product coverage, finalized in mid-2015¹¹, and implemented the tariffs commitments under the ITA expansion on 1 July 2016. Thailand ratified the Protocol concerning the Trade Facilitation Agreement (TFA) on 5 October 2015, and notified most of its commitments (over 90%) in Category A (i.e. implemented upon entry into force of the TFA) and the remaining commitments in Category B (i.e. to be fully implemented by 2024).¹² The TFA entered into force on 22 February 2017.

2.16. The trade policies and practices of Thailand have been reviewed at the WTO seven times; the last review took place on 24 and 26 November 2015. Thailand grants at least most-favoured-nation (MFN) tariff treatment to all its trading partners.

2.17. Thailand is actively engaged in the WTO's negotiations and regular work. Acknowledging the multilateral trading system's contribution to enhanced stability, predictability, and transparency in world trade over the past decades, Thailand remains committed to the WTO and believes it is the platform to effectively subdue trade protectionism and promote broad-based, inclusive development and growth through trade. Thailand's priorities in the WTO agenda include: agriculture, where it

¹¹ WTO documents WT/L/956, 28 July 2015; and WT/MIN(15)/26, 16 December 2015.

¹² WTO documents WT/PCTF/N/THA/1, 25 July 2014; WT/PCTF/N/THA/1/Add.1, 19 September 2016; G/TFA/N/THA/1, 24 May 2017; and G/TFA/N/THA/1/Add.1, 27 February 2018.

strives to secure the concept of an overall Trade Distorting Support Limit as the first and most important step towards agricultural reform; tangible outcomes in market access in both agriculture and NAMA; and, in services, progress towards developing domestic regulation disciplines. In fisheries subsidies, Thailand looks forward to a substantive outcome, that will take into account appropriate and effective special and differential treatment. It is also constructively engaged in discussions on new issues including e-commerce and MSMEs.¹³

2.18. With respect to its transparency obligations, Thailand has maintained a good record of notifications to the WTO. However, notifications on agricultural domestic support for recent years remain outstanding (Table 2.2).

Table 2.2 Selected notifications to the WTO, 2015-2020 (26 July)

Agreement/Article	Requirement	Symbol and date of latest notification
Agreement on Agriculture		
Articles 10 and 18.2	Export subsidies (ES:1)	G/AG/N/THA/95, 06/06/2019
Articles 10 and 18.2	Export subsidies (ES:2)	G/AG/N/THA/100, 07/06/2019
Article 12.1(b)	Export prohibitions (ER:1)	G/AG/N/THA/107, 30/03/2020
Article 18.2	Domestic support (DS:1)	G/AG/N/THA/85, 06/10/2017
Article 18.2	Market access, administration of tariff and other quota commitments (MA:1)	G/AG/N/THA/103, 26/06/2019
Article 18.2	Market access, volume of imports under tariff and other quotas (MA:2)	G/AG/N/THA/106, 27/08/2019
Articles 5.7 and 18.2	Market access, special safeguard (MA:5)	G/AG/N/THA/90, 06/06/2019
General Agreement on Trade in Services		
Article III:3	Laws/regulations	S/C/N/971 to S/C/N/979, 01/11/2019
Articles III:4 and/or IV:2	Contact/enquiry points	S/ENQ/78/Rev.20, 25/03/2020
Article V:7(a)	Economic integration agreements	S/C/N/895, 12/09/2017
Article VII:4	Regulation	S/C/N/980, 01/11/2019
Decisions on Preferential Treatment to Services and Service Suppliers of Least-Developed Countries		
WT/L/847	Services LDC waiver	S/C/N/860, 19/02/2016
GATT 1994		
Article XVII:4(a)	State trading activities	G/STR/N/16/THA, 17/04/2020
Article XXIV:7(a)	Agreement establishing a free trade area	WT/REG387/N/1, 12/09/2017 WT/REG277/N/3, 24/08/2018
Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries		
Paragraph 4(a)	Notification of RTA under Enabling Clause	WT/COMTD/RTA9/N/1, 12/09/2019 WT/COMTD/RTA13/N/1, 14/01/20
Agreement on Import Licensing		
Articles 1.4(a) and/or 8.2(b)	Publications and/or legal texts	G/LIC/N/1/THA/2, 24/10/2016
Articles 5.1 to 5.4	New licensing regulations/procedures	G/LIC/N/2/THA/5, 04/06/2020
Agreement on Trade Facilitation (WT/L/931)		
Articles 1.4, 10.4.3, 10.6.2, and 12.2.2	Contact and information points	G/TFA/N/THA/3, 26/02/2020
Article 15, Section II	Category A commitments	WT/PCTF/N/THA/1/Add.1, 19/09/2016
Article 16	Category B commitments	G/TFA/N/THA/1/Add.1, 22/02/2018
Decision on Notification Procedures for Quantitative Restrictions		
G/L/59/Rev.1 - biennial	Quantitative restrictions	G/MA/QR/N/THA/2/Add.1, 29/03/2019
Agreement on Rules of Origin		
Article 5:4 of Annex II – <i>ad hoc</i>	Preferential rules of origin	G/RO/N/167, 24/05/2018
Article 5:4 of Annex II – first time	Preferential rules of origin for least developed countries	G/RO/LDC/N/THA/1, 07/08/2017
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/342/THA, 22/07/2020
Agreement on Subsidies and Countervailing Measures		
Article 25.1 and GATT Article XVI:1	Subsidies (new and full notification)	G/SCM/N/343/THA, 04/07/2019
Article 25.11 – semi-annual	Countervailing duty actions	G/SCM/N/356, 13/12/2019
Agreement on Safeguards		
Article 7.2	Extension of safeguard measures	G/SG/N/6/THA/4/Suppl.4; G/SG/N/14/THA/3/Suppl.3, 16/06/2020

¹³ Statement by H.E. Ms. Sunanta Kangvalkulkij, Ambassador Permanent Representative of Thailand to the WTO and WIPO, Ministerial Conference, Buenos Aires, 10-13 December 2017, WTO document WT/MIN(17)/ST/100, 4 January 2018.

Agreement/Article	Requirement	Symbol and date of latest notification
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/Suppl.3/Corr.1; G/SG/N/10/THA/3/Suppl.3/Corr.1; G/SG/N/11/THA/6/Corr.1, 28/06/2018
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/5/Corr.1, 11/04/2016
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/Suppl.3/Corr.1; G/SG/N/10/THA/3/Suppl.3/Corr.1; G/SG/N/11/THA/6/Corr.1, 28/06/2018
Article 12.1(c)	Safeguard measures (taking a decision to apply or extend a safeguard measure)	G/SG/N/8/THA/3/Suppl.3/Corr.1; G/SG/N/10/THA/3/Suppl.3/Corr.1; G/SG/N/11/THA/6/Corr.1, 28/06/2018
Agreement on Sanitary and Phytosanitary Measures		
Article 7, Annex B	Sanitary/phytosanitary emergency measures	G/SPS/N/THA/325, 10/07/2025
Agreement on Technical Barriers to Trade		
Article 2.9	Technical regulations	G/TBT/N/THA/576, 14/05/2020
Article 2.10	Information about standards and conformity assessment procedures	G/TBT/N/THA/571, 05/0/2020
Articles 2.9 and 5.6	Technical regulations and conformity assessment procedures	G/TBT/N/THA/514, 26/06/2018
Article 5.6	Conformity assessment procedures	G/TBT/N/THA/384/Rev.4, 17/07/2017
Article 5.7	Conformity assessment procedures (urgent)	G/TBT/N/THA/574, 04/05/20
Agreement on Trade-Related Aspects of Intellectual Property Rights		
Article 63.2	Checklist of issues on enforcement (IP/C/5)	IP/N/6/THA/1, 14/01/2015
	Legislation	IP/N/1/THA/3/Rev.1; IP/N/1/THA/3/U/2/Rev.1, 27/05/2020 IP/N/1/THA/5; IP/N/1/THA/T/2, 27/05/2020

Source: WTO Secretariat.

2.19. Thailand has been an active user of the WTO's dispute settlement mechanism. Overall, the country has been involved directly in 18 cases: 14 as a complainant and 4 as a respondent. It has also participated as a third party in 93 cases.¹⁴ During the period under review, Thailand was involved in two new dispute settlement cases: one as a complainant¹⁵, and the other as a respondent.¹⁶ In addition, it kept engaged in the new developments of a previous dispute brought by the Philippines against certain Thai customs and fiscal measures on cigarettes.¹⁷ In this case, in September 2019, Thailand appealed the second compliance panel report (Article 21.5 of the DSU)¹⁸, which was circulated on 12 July 2019.¹⁹

2.3.2 Regional and preferential agreements

2.3.2.1 Overview

2.20. Participation in regional trade agreements (RTAs) is another key component of Thailand's trade policy strategy. Over the period under review, two RTAs involving Thailand came into force: the Thailand-Chile Free Trade Agreement (on 5 November 2015) and the ASEAN-Hong Kong, China Free Trade Agreement (11 June 2019).

2.21. As a member of the Association of South East Asian Nations (ASEAN)²⁰, Thailand is a party to the ASEAN Economic Community (see below), and a signatory to ASEAN's RTAs with third countries (Australia and New Zealand; China; India; Japan; Republic of Korea; and Hong Kong, China).

¹⁴ Details of each of the dispute cases involving Thailand can be viewed at: https://www.wto.org/english/tratop_e/dispu_e/dispu_by_country_e.htm.

¹⁵ DS573, *Turkey-Additional duties on imports of air conditioning machines from Thailand*.

¹⁶ DS507, *Thailand-Subsidies concerning Sugar*, brought by Brazil.

¹⁷ DS371, *Thailand-Customs and Fiscal Measures on Cigarettes from the Philippines*.

¹⁸ WTO document WT/DS371/30, 11 September 2019.

¹⁹ WTO documents WT/DS371/RW2 and WT/DS371/RW2/Add.1, 12 July 2019.

²⁰ ASEAN comprises ten member States: Brunei Darussalam; Cambodia; Indonesia; Lao PDR; Malaysia; Myanmar; the Philippines; Singapore; Thailand; and Viet Nam.

Bilaterally, Thailand has trade agreements in force with Australia, Chile, Japan, India, New Zealand, and Peru. In total, Thailand currently has 13 RTAs in force (Table 2.3).²¹

Table 2.3 ASEAN and Thailand's RTAs in force, June 2020

RTA name	Date of entry into force	Coverage	GATT/WTO notification	
			Year	WTO provision
ASEAN member States - collectively				
ASEAN Free Trade Area (AFTA)	01-Jan-93	Goods	1993	Enabling Clause
ASEAN-Australia-New Zealand	01-Jan-10	Goods & Services	2010	GATT Art. XXIV & GATS Art. V
ASEAN-Republic of Korea	01-Jan-10	Goods & Services	2010	Enabling Clause, GATT Art. XXIV & GATS Art. V
	14-Oct-10			
ASEAN-Japan	01-Dec-08	Goods	2009	GATT Art. XXIV
ASEAN-China	01-Jan-05	Goods	2005	Enabling Clause
	01-Jul-07	Services	2008	GATS Art. V
ASEAN-India	01-Jan-10	Goods	2010	Enabling Clause
	01-Jul-15	Services	2015	GATS Art. V
ASEAN-Hong Kong, China	11-Jun-19	Goods & Services	Not notified	
Thailand				
Chile-Thailand	05-Nov-15	Goods & Services	2017	GATT Art. XXIV & GATS Art. V
Japan-Thailand	01-Nov-07	Goods & Services	2007	GATT Art. XXIV & GATS Art. V
New Zealand-Thailand	01-Jul-05	Goods & Services	2005	GATT Art. XXIV & GATS Art. V
Australia-Thailand	01-Jan-05	Goods & Services	2004	GATT Art. XXIV & GATS Art. V
India-Thailand	01-Sep-04	Goods	2017	Enabling Clause
Peru-Thailand	31-Dec-11	Goods	Not notified	

Source: WTO, *Regional Trade Agreements Database*. Viewed at: <http://rtais.wto.org>.

2.22. Thailand's preferential tariff utilization rates for exports under its RTAs are generally high and grew during the review period. In 2019, utilization rates higher than 90% were achieved under the RTAs with Chile, Australia, Japan, Peru and China (Table A2.1).

2.23. Negotiations on RTAs between Thailand and the European Union, and between Thailand and the European Free Trade Area (EFTA), respectively, have been put on hold since 2014. However, the current Government, elected in June 2019, has launched an internal procedure on the possibility of resuming negotiations with the European Union and EFTA in the near future. As regards the Thailand-Peru Closer Economic Partnership agreement, while the Early Harvest Scheme was implemented in 2011, negotiations regarding the remaining trade liberalization in goods and services are still ongoing. Thailand continues to be engaged in negotiations under the Bay of Bengal Initiative for Multisectoral Technical and Economic Cooperation (BIMSTEC).²² Thailand has also actively participated in the negotiations for the Regional Comprehensive Economic Partnership (RCEP), a mega trade deal among Asia-Pacific nations. At their third summit held in Bangkok in November 2019, the RCEP leaders announced that 15 of the 16 participating countries had concluded the negotiations of the agreement and would be ready to sign it in 2020.²³ On a bilateral level, Thailand continues trade negotiations with Pakistan, Sri Lanka and Turkey.

2.24. Thailand grants preferential tariff treatment to a limited number of imports from other developing countries under the Global System of Trade Preferences (GSTP).

2.3.2.2 ASEAN

2.25. Thailand is a founding member of ASEAN. The regional bloc is Thailand's major trading partner, accounting for 19% of its merchandise imports and 25.5% of its exports in 2019. Since 2015, Thailand belongs to the ASEAN Economic Community (AEC), the economic pillar of ASEAN. The AEC aims to transform ASEAN into a single market and production base with the free flow of goods, services, investment, skilled labour, and capital. Currently, ASEAN is implementing the AEC Blueprint 2025, adopted in November 2015, which sets out measures to attain the following strategic objectives: achieving an AEC that is highly integrated and cohesive; competitive, innovative and dynamic; with enhanced connectivity and sectoral cooperation; and a more resilient, inclusive, and

²¹ A partial scope trade agreement between Lao PDR and Thailand (1991) was notified to the WTO and is still in force. However, it appears that Lao PDR has not utilized the preferential tariff treatment under this agreement in the last five years, as it enjoys more benefits under the AFTA.

²² BIMSTEC includes Bangladesh, Bhutan, India, Myanmar, Nepal, Sri Lanka and Thailand.

²³ RCEP participants are the ten ASEAN members plus China, India, Japan, the Republic of Korea, Australia and New Zealand. India did not agree to sign the pact in November 2019.

people-oriented community, integrated into the global economy. In addition, the Blueprint incorporates new focus areas such as integration into global value chains, good regulatory practices, and sustainable development. Thailand chaired the ASEAN bloc in 2019.

2.26. Over the review period, ASEAN member States continued to advance towards deeper economic integration. In the area of trade in goods, as a result of further trade liberalization under the ASEAN Trade in Goods Agreement (ATIGA), 98.6% of import tariffs on intra-ASEAN trade had been eliminated by 2019.²⁴ The ATIGA Information Technology Agreement was concluded in 2019 and its implementation was expected in 2020. As regards non-tariff barriers, however, no progress appears to have been made towards elimination.²⁵ In the area of trade facilitation, recent developments include the adoption of the ASEAN Trade Facilitation Framework in 2016; the launch of the ASEAN Single Window among Indonesia, Malaysia, Singapore, Thailand and Vietnam in January 2018, and Brunei Darussalam in April 2019; the finalization of the First Protocol to Amend the ATIGA to allow for the operation of the ASEAN-Wide Self Certification Scheme with a target date of March 2020; and preparatory work for the implementation of the ASEAN Customs Transit System Pilot Project along two corridors including seven member States (Malaysia, Singapore, Thailand, Cambodia, Lao PDR, Viet Nam and Myanmar), scheduled for 2020. Progress was also made in the harmonization of technical regulations and the conclusion of ASEAN mutual recognition agreements in several sectors.

2.27. Regarding trade in services, 12 main service sectors comprising 128 subsectors have been liberalized. The Protocol to Implement the 10th Package of Commitments under the ASEAN Framework Agreement on Services (AFAS) was signed in 2018. Moreover, the ASEAN Trade in Services Agreement (ATISA), under negotiation since 2013, was concluded in April 2019, and is currently in the process of signing and ratification. ATISA consolidates the achievements under the AFAS, provides for a transition to an eventual negative list approach in scheduling liberalization commitments, and will eventually supersede the AFAS.²⁶ A work plan for the submission of schedules of non-conforming measures is in progress. On financial integration, the Protocol to Implement the 8th Package of Commitments on Financial Services under the AFAS was signed in April 2019 and entered into force in October 2019, and members have started negotiations on the 9th package. Likewise, efforts to facilitate mobility of services professionals have continued through the implementation of the ASEAN Agreement on Movement of Natural Persons, the ASEAN Mutual Recognition Arrangement on Services, and the ASEAN Qualifications Reference Framework.

2.28. In the area of investment, the ASEAN Comprehensive Investment Agreement (ACIA), in force since 2012, sets out provisions on investment liberalization, protection, promotion, and facilitation, with the aim of creating an open investment environment in the ASEAN region. Under the ACIA, ASEAN-based investors enjoy non-discriminatory treatment, with a single negative list of reservations, and provisions on further progressive liberalization. The Fourth Protocol to Amend the ACIA was signed in April 2019; the text of the Protocol is not publicly available yet. Reportedly, it incorporates into the ACIA some provisions prohibiting performance requirements that go beyond commitments in the WTO Agreement on Trade-related Investment Measures.

2.29. The ASEAN Agreement on Electronic Commerce, signed in 2019 and currently under the ratification process, aims to facilitate cross-border e-commerce transactions, contribute to creating an environment of trust in the use of e-commerce, and intensify e-commerce to drive inclusive growth. The Agreement covers provisions on paperless trading, electronic authentication and electronic signatures, online consumer protection, cross-border transfer of information by electronic means, online personal information protection, and the location of computing facilities, among others. Also, the ASEAN Digital Integration Framework was developed in 2018, followed by the ASEAN Digital Integration Framework Action Plan 2019-2025, which focuses on facilitating seamless trade, protecting data while supporting innovation, enabling seamless digital payments, broadening the digital talent base, and fostering entrepreneurship.

²⁴ By 2019, the ASEAN-6 (i.e. Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore and Thailand) had eliminated import duties on 99.3% of their tariff lines, and the CLMV group (i.e. Cambodia, Lao PDR, Myanmar and Viet Nam) had eliminated import duties on 97.7% of their tariff lines. Import tariffs on sensitive goods (coffee, potatoes, coconuts, and cut flowers) have been reduced to 5%.

²⁵ ASEAN Prosperity Initiative, *ASEAN Integration Report 2019*, API report No. 03, September 2019. Viewed at: <https://asia.fnst.org/sites/default/files/uploads/2019/10/07/aseanintegration2019v4.pdf>.

²⁶ ASEAN, *ASEAN Economic Integration Brief*, No. 05, June 2019. Viewed at: https://asean.org/storage/2019/06/AEIB_5th_Issue_Released.pdf.

2.30. In addition, ASEAN has adopted common strategies, guidelines and actions in a number of trade-related areas, including intellectual property, competition policy, consumer protection, good regulatory practices, MSMEs, transport and connectivity, tourism, and external economic relations.²⁷

2.31. ASEAN maintains a network of regional trade agreements (RTAs) with major economic partners, and is engaged in several negotiating initiatives to conclude new agreements or amend existing ones. Since November 2012, ASEAN and its RTA partners (China, India, Japan, the Republic of Korea, Australia and New Zealand) have been involved in the negotiations for the Regional Comprehensive Economic Partnership (RCEP). Concluding these negotiations has been one of Thailand's top priorities, in particular as it chaired ASEAN in 2019. At the third RCEP Summit held in Bangkok in November 2019, the participating countries (except India) agreed to sign the RCEP agreement in 2020. At the time of writing, RCEP negotiators were in the process of finalizing some remaining issues and the legal review in preparation for the signature of the agreement.

2.32. The Protocol Upgrading the ASEAN-China free trade agreement (ACFTA) entered into force in July 2016, and its implementation started in August 2019. It simplifies customs procedures and rules of origin; improves services commitments in specific sectors; and strengthens investment provisions. The ASEAN-Hong Kong, China Free Trade Agreement and the ASEAN-Hong Kong, China Investment Agreement were concluded in September 2017, and came into force on 11 June and 17 June 2019, respectively. Other developments were the signing, in 2019, of the First Protocol to Amend the ASEAN-Japan Comprehensive Economic Partnership (AJCEP) to incorporate new chapters on trade in services, movement of natural persons, and investment; and the implementation of the First Protocol to Amend the ASEAN-Australia-New Zealand Free Trade Agreement in March 2019. In addition, ASEAN is working with the European Union to develop a framework setting out the parameters for a future ASEAN-EU free trade agreement; and with Canada to prepare a joint feasibility study and explore the potential of an ASEAN-Canada free trade agreement.

2.3.3 Other agreements and arrangements

2.3.3.1 Preferential trade agreements

2.33. Thailand benefits from trade preferences under the GSP schemes of the United States, Switzerland, Norway, and the Russian Federation and ten other members of the Commonwealth of Independent States (CIS). As an upper-middle-income country, Thailand no longer receives GSP treatment from the European Union, Canada and Turkey since January 2015, nor from Japan since April 2019. In October 2019, the United States announced a planned suspension of trade preferences under its GSP scheme for 573 Thai products (mainly industrial goods) on the grounds of concerns about worker rights.²⁸

2.34. In 2019, most of Thailand's GSP exports were destined to the United States (91.1%) (Table 2.4). Overall, exports of air-conditioning parts, vulcanized rubber gloves, food preparations, non-alcoholic beverages and spectacle lenses are reported to have been the top five Thai products benefitting from GSP treatment.²⁹

2.35. Since April 2015, Thailand has granted duty-free quota-free access to its market for imports from least developed countries.

²⁷ ASEAN, *The 51st ASEAN Economic Ministers' (AEM) Meeting, 6 September 2019, Bangkok, Thailand, Joint Media Statement*. Viewed at: <https://asean.org/asean-economic-community/asean-economic-ministers-aem/asean-economic-ministers-aem/51st-asean-economic-ministerial-meetings-thailand-2019/>.

²⁸ Bangkok Post, *Thailand seeks clarity on scrapping of US trade preferences*, 26 October 2019. Viewed at: <https://www.bangkokpost.com/business/1780229/trump-suspends-duty-free-trade-for-some-thai-goods>.

²⁹ Bangkok Post, *Exporters improve FTA and GSP use*, 17 October 2018. Viewed at: <https://www.bangkokpost.com/business/1559250/exporters-improve-fta-and-gsp-use>.

Table 2.4 Thailand's utilization of preferential tariffs under GSP schemes, 2015-19

(USD million)

Countries	2015	2016	2017	2018	2019
United States	3,605	4,034	4,159	4,344	4,787
Switzerland	271	310	304	360	299
CIS ^a	137	142	152	163	139
Norway	25	21	21	28	28
Japan ^b	16	18	19	8	1

a CIS includes the Russian Federation and ten other members of the CIS.

b Thailand graduated from Japan's GSP scheme on 31 March 2019.

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

2.3.3.2 Asia-Pacific Economic Cooperation (APEC)

2.36. Thailand is a member of APEC since November 1989. As stated in the Bogor Goals, APEC members seek to achieve free and open trade and investment by 2010 for industrialized economies and by 2020 for developing economies.³⁰ The group's trade objective is "open regionalism", and it relies on its members meeting unilateral voluntary targets for progressive liberalization. Individual Action Plans (IAPs) are roadmaps setting out APEC members' intended actions in a number of policy areas to achieve the Bogor Goals. IAPs are submitted every two years, and their progress is regularly assessed.

2.37. As a developing economy, Thailand intends to meet the target of free and open trade and investment by 2020. The 2018 progress report on Thailand's IAP highlights the country's achievements as well as the areas where there is room for improvement (Box 2.1). For example, the report acknowledges that tariffs have been reduced, but that agricultural products still have relatively higher tariffs than non-agricultural products and some are subject to tariff-rate quotas; import/export licensing requirements are in place; and foreign restrictions remain in some sectors. The report also highlights the introduction of the Digital Government Plan 2017-2021; a new Customs Act aimed at facilitating trade, and improvements in the IP and competition regimes, among others.³¹ The next progress report is due to take place in 2020.

Box 2.1 Thailand's Bogor Goals Progress Report (September 2018)

Highlights of achievements, and areas for improvement:

- Average tariffs are lower than those in the first half of this decade. However, agricultural products are still maintaining higher tariffs than non-agricultural products. Tariff-rate quotas still apply to some agricultural products.
- No import/export levies, export subsidies and minimum import prices are in place. Import/export licensing requirements apply for some products.
- The new Digital Government Plan 2017-2021 aims to improve digital capabilities in all sectors by integrating digital technologies into public services.
- Foreign ownership restriction remains in some areas. Some professions are still reserved for Thai citizens only.
- The new Customs Act is looking to facilitate trade and increase transparency. More certainty added to the appeal process.
- The 2017 Computer Crime Act provides new tools for combating online IP crimes, and empowers officials to conduct investigations and confiscations.
- The Trademark Act was amended in 2016 with significant structural policy changes.
- The Trade Competition Act introduced the Office of Trade Competition Commission as an independent government agency. SOEs are subject to this Act.

³⁰ APEC's 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; the Russian Federation; Singapore; Chinese Taipei; Thailand; the United States; and Viet Nam.

³¹ APEC, Thailand's Bogor Goals Progress Report and its 2018 IAP. Viewed at: <https://www.apec.org/About-Us/About-APEC/Achievements-and-Benefits/2018-Bogor-Goals>.

- A new Constitution which aims to introduce laws only to the extent of necessity and repeal unnecessary ones, conduct consultations with stakeholders, and evaluate the outcomes of the law regularly, among other things, was enacted in 2017.
- A new SMART Visa, targeting highly skilled professionals in areas such as robotics, biotechnology and digital issues, was launched in February 2018 to encourage knowledge transfer and improve the competitiveness of Thailand.

Source: APEC Policy Support Unit, *APEC's Bogor Goals Progress Report, November 2018*. Viewed at: <https://www.apec.org/Publications/2018/11/APEC-Bogor-Goals-Progress-Report>.

2.3.3.3 Asia-Europe Meetings (ASEM)

2.38. Thailand is an active participant in the Asia-Europe Meetings. ASEM is an informal platform for dialogue and cooperation among 53 partners from across Europe and Asia.³² Summit meetings take place biannually to discuss the main challenges facing a rapidly changing world, including trade and investment, climate change, political and social issues, and security matters such as counter-terrorism, and cyber and migration issues. A few years ago, ASEM worked on a Trade Facilitation Action Plan, aimed at reducing non-tariff barriers, increasing transparency and fostering trade ties and opportunities between the two regions. Currently, participants are engaged in the exchange of experiences with the implementation of the WTO Trade Facilitation Agreement. In the last couple of years, ASEM has focused on fostering connectivity in all its dimensions, including economic, political, digital, institutional and socio-cultural.³³ Thailand contributed to the exchange of ideas by presenting its Eastern Economic Corridor Project, aimed at connecting the East Asian region through improvements in physical, transportation and digital infrastructure.

2.3.3.4 Other cooperation arrangements

2.39. Thailand takes part in other subregional cooperation frameworks, notably the following: the Bay of Bengal Initiative on Multi-Sectoral Technical and Economic Cooperation (BIMSTEC), which aims to enhance and accelerate economic growth through mutual cooperation in a number of areas among its members³⁴; they are currently negotiating several constituent agreements that will eventually form part of a free trade agreement.³⁵ The Ayeyawady-Chao Phraya-Mekong Economic Cooperation Strategy (ACMECS) is a cooperation framework among Cambodia, Lao PDR, Myanmar, Viet Nam and Thailand aimed at promoting balanced development in the subregion.³⁶ The Greater Mekong Subregion Economic Cooperation (GMS) programme seeks to enhance prosperity and integration among participating economies³⁷; its strategic plan 2012-2022 is based on a three-pronged strategy: increasing connectivity through the development of physical infrastructure and transnational economic corridors; improving competitiveness through facilitation of the cross-border movement of people and goods and the integration of markets, production processes, and value chains; and building a greater sense of community through programmes that address shared social and environmental concerns.³⁸ The Asia Cooperation Dialogue (ACD) is aimed at fostering strategic partnerships and cooperation in all of the Asian subregions.

³² ASEM partners are: the EU member States, the European Commission, Norway, Switzerland, the ASEAN 10, the ASEAN Secretariat, Australia, Bangladesh, China, India, Japan, Kazakhstan, the Republic of Korea, Mongolia, New Zealand, Pakistan and the Russian Federation.

³³ European Commission, Press release, *ASEM Summit: Europe and Asia – Global Partners for Global Challenges*, 19 October 2018. Viewed at: https://europa.eu/rapid/press-release_IP-18-6136_en.htm.

³⁴ The members are Bangladesh, Bhutan, India, Myanmar, Nepal, Sri Lanka and Thailand. The areas of cooperation include: trade and investment; transport and communication; energy; tourism; technology; fisheries and agriculture; public health; poverty alleviation; climate change; and cultural cooperation.

³⁵ The constituent agreements include trade in goods, trade in services, investment, trade facilitation, economic cooperation, and technical assistance. An agreement on customs cooperation was expected to be concluded by end-2019.

³⁶ Key areas of cooperation include trade and investment facilitation, transport, agriculture, industry and energy, tourism, public health, and human resource development.

³⁷ The GMS programme's participants are: Cambodia, China, Lao PDR, Myanmar, Thailand and Viet Nam.

³⁸ Asian Development Bank, *Greater Mekong Subregion Economic Cooperation Program: Overview*. Viewed at: <https://www.adb.org/publications/greater-mekong-subregion-economic-cooperation-program-overview>.

2.4 Investment Regime

2.40. Thailand encourages foreign direct investment (FDI) in order to foster the country's transition to a high-income, well-connected and knowledge-based economy, in line with its Thailand 4.0 policy. Accordingly, some amendments to legislation on FDI have recently been made in order to remove restrictions to foreign participation in infrastructure development and in certain services industries, notably financial services. However, FDI restrictions continue to apply in several economic sectors.

2.41. The Foreign Business Act B.E. 2542 (1999) (FBA) remains the main law governing foreign investment. It stipulates a range of business activities that may not be carried out by foreigners, and defines the term "foreigner" as: (i) a person who is not a Thai national; (ii) a "juristic" (i.e. legal) person registered under foreign laws; or (iii) a juristic person registered under Thai law with 50% or more of its shares held by foreign parties (either natural or legal persons). Foreigners conducting business in Thailand must comply with FBA requirements, and other applicable laws. Indeed, foreign investment in certain business activities (e.g. transportation, mining, financial services, telecommunications, and tourism) is restricted under sector-specific laws.

2.42. Under the FBA, industries are classified into three categories or lists according to the level of restrictiveness, with different foreign equity limits and approval requirements for each of them (Table 2.5). List 1 sets out the industries in which foreign investment is not permitted, including businesses such as newspapers, media broadcasting, rice farming, livestock, forestry and timber processing from natural forests, fisheries, and trading in land. The industries in List 2 are permitted only if foreign investors obtain prior approval from the Cabinet and a licence from the Minister of Commerce (MoC). Moreover, they are subject to a foreign equity limit of 60% (up to 75% in some cases), and at least two fifths of the board of directors must be Thai nationals. List 2 industries include those concerning national safety and security, and those which have an impact on the arts, culture, tradition, local handicrafts, natural resources or the environment. List 3 includes industries in which "Thai nationals are not yet ready to compete with foreigners". These are open to foreign investors provided they receive a licence from the Director-General of the Department of Business Development of the MoC and approval from the Foreign Business Committee; no foreign equity limits apply in this case. A wide range of businesses are covered under List 3, including rice milling, construction, engineering, legal and accounting services, and hotel businesses (except management). Notwithstanding the above, foreign companies making substantial investments that benefit the Thai economy may be authorized by the Board of Investment to operate businesses in Lists 2 and 3.

2.43. The FBA allows the MoC to review and remove categories of business from the above-mentioned lists through ministerial regulations. During the period covered by this Review, the MoC issued such ministerial regulations in a few instances: in 2016, a regulation removed the foreign business licence requirement on banking and insurance investments³⁹; in 2017, the exemption was extended to other businesses governed by the laws on financial institutions (group 1) and to businesses under other specific laws such as asset management, representative offices, regional offices and contractual services provided to government agencies or SOEs (group 2).⁴⁰ A ministerial regulation issued in June 2019 exempted domestic loan services, the lease of office space, and consultancy services (management, marketing, human resources and IT) among parent companies, their affiliates and subsidiaries, from the foreign business licence requirement.⁴¹

2.44. There are rules and procedures for submitting licence applications for restricted businesses (Lists 2 and 3), and time-frames for deciding on applications. As a general rule, licence applications must be decided within 60 days of being filed and issued within 15 days of approval. In early 2015, the Department of Business Development established that the issuance of foreign business licences for international headquarters and international trading centres must be completed within 30 days

³⁹ Ministerial Regulation Prescribing Service Businesses Not Subject to Application for Foreign Business Permission (No. 2), B.E. 2559 (2016).

⁴⁰ Ministerial Regulation Prescribing Service Businesses Which Do Not Require a Foreign Business Licence (No. 3), B.E. 2560 (2017), 9 June 2017. Exempted businesses are still subject to licensing requirements and foreign equity limits under specific regulations, especially those in group 1. Companies in group 2 need to register with the Government and notify the place where they conduct their businesses in Thailand, in order to comply with their obligations under the Accounting Act.

⁴¹ Ministerial Regulation Prescribing Service Businesses Not Subject to Application for Foreign Business Permission (No. 4), B.E. 2562 (2019).

from the filing date⁴²; this is in line with the authorities' objective to promote the role of Thailand as an international business hub. The number of licence applications approved annually during the period under review was: 404 in 2015; 352 in 2016; 270 in 2017; 272 in 2018; and 217 in 2019.⁴³

Table 2.5 Businesses 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 less than 50% for foreigners and foreign companies</i>	
1.	Newspapers, radio or television stations
2.	Rice farming, plantation or crop growing
3.	Livestock farming
4.	Forestry and timber processing from natural forests
5.	Fisheries, only in respect of aquatic animals in Thai waters and Thai specific economic zones
6.	Extraction of Thai medicinal herbs
7.	Trading and auction sale of antiques objects of Thailand or objects of historical value for the country
8.	Making or casting of Buddha images and monk 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 licence granted by the Minister of Commerce</i>	
1.	Production, distribution and maintenance of (i) firearms, ammunition, gun powder, and explosives; (ii) components of firearms ammunition and explosives; (iii) armaments, military ships, aircraft or vehicles; and (iv) equipment or components of all war materials
2.	Domestic transportation by land, water or air, including domestic aviation
3.	Trading of antiques or artistic objects that are artistic works or handicrafts of Thailand
4.	Production of wood carvings
5.	Silkworm raising, production of Thai silk yarn, weaving of Thai silk or printing of Thai silk patterns
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, including non-sea salt farming
11.	Production of rock salt
12.	Mining, including rock blasting or crushing
13.	Timber conversion for the production of furniture or utensils
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 licence granted by the Director-General of the Department of Business Development</i>	
1.	Rice milling, and production of flour from rice and other crops (e.g. cassava)
2.	Fishery, only in respect of hatching and raising of aquatic animals
3.	Forestry from a grown forest
4.	Production of plywood, veneer, chipboard or hardwood
5.	Production of lime
6.	Accounting services
7.	Legal services
8.	Architecture services
9.	Engineering services
10.	Construction, except for (i) that of infrastructure for delivery of public services in the sphere of public utilities or transportation, requiring the use of special machinery, technology or expertise and having a minimum foreign capital of THB 500 million; and (ii) other types of construction as prescribed by ministerial regulations
11.	Brokerage or agency businesses, except: (i) for underwriting securities or services related to futures trading of agricultural commodities or financing instruments or securities; (ii) for trading or procuring goods or services necessary for the production or provision of services amongst affiliated enterprises; (iii) for trading, purchasing or distributing, or seeking both domestic and foreign markets for distributing domestically manufactured or imported goods in the manner of international business operations, having a minimum foreign capital of THB 100 million; and (iv) other types as prescribed by ministerial regulations
12.	Sale by auction, except (i) in the manner of international bidding of items other than antiques, historical or artistic objects which are Thai works of art, handicrafts or antiques, or having historical value for the country; and (ii) other types as prescribed by ministerial regulations

⁴² Notification of the Department of Business Development, B.E. 2558 (2015), 14 January 2015.

⁴³ Information provided by the Department of Business Development, MoC.

No.	Business activity
13.	Internal trade related to traditional agricultural products or produce not yet prohibited by law, except agricultural futures trading on the Agricultural Futures Exchange of Thailand without delivery or taking delivery of agricultural commodities within the country
14.	Retail sale of all types of goods having a total minimum capital of less than THB 100 million, or less than THB 20 million per shop
15.	Wholesale of all types of goods having a total minimum capital of each shop of less than THB 100 million
16.	Advertising businesses
17.	Hotel businesses, except hotel management
18.	Guided touring
19.	Sale of food or beverages
20.	Cultivation, propagation or development of plant varieties
21.	Other categories of business services except for those prescribed in ministerial regulations ^a

- a Pursuant to Ministerial Regulation, B.E. 2560 (2017), businesses governed by the laws on financial institutions (including banking and insurance), and businesses under other specific laws such as asset management, representative offices, regional offices and business operators who are contracted to provide services to government agencies or SOEs were excluded from List 3. Under Ministerial Regulation, B.E. 2562 (2019), the provision of loan services, the leasing of office space, and certain consultancy services were also excluded from List 3.

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

2.45. For foreign investors from countries with which Thailand has signed an international treaty, some requirements under the FBA are exempted for specific sectors. Such is the case of investors from the ASEAN Economic Community, Australia, Japan, and the United States.⁴⁴

2.46. Pursuant to the FBA, any initial foreign investment is subject to a minimum capital requirement of THB 2 million. In the case of restricted businesses, the requirement is equivalent to 25% of the total three-year average expected annual expenditure, but not less than THB 3 million. However, these requirements shall not apply if the business in question is being promoted by the Board of Investment (BOI) at the time of entry.

2.47. Land ownership by foreign individuals and legal persons is regulated under several laws, i.e. the Land Code, the Industrial Estate Authority of Thailand Act, the Investment Promotion Act, and the Condominium Act. In general, under the Land Code, a foreign company or a Thai company with foreign capital in excess of 49% may not own land in Thailand, unless the company is promoted by the BOI or the land is on a government-approved industrial estate, and provided certain conditions are met. A foreign company that is promoted by the BOI may apply for land ownership under Section 27 of the Investment Promotion Act; if the land acquisition is approved, the use of the land is limited to the activity being promoted. A foreign company that is allowed to undertake industrial or commercial activities in an industrial estate will be granted the right to own land for the business undertaking and commerce under Section 44 of the Industrial Estate Authority Act (1979) and its revisions. Under the Condominium Act, foreign individuals and companies may hold ownership in a condominium, provided they do not own more than 49% of the total area of the condominium unit.

2.48. The Government offers several tax and non-tax incentives, mostly through the Board of Investment (BOI), which is the main promotion authority; some of these incentives were introduced during the period under review (Section 3.3.1). The BOI also offers business support to investors, and can help expedite investment approvals and ease certain FBA requirements for investments that are eligible under its promotional schemes.

2.49. Thailand is a member of the World Bank Multilateral Investment Guarantee Agency (MIGA) and party to the Convention on the Recognition of Foreign Arbitral Awards. It is also a signatory to, but has not yet ratified, the International Convention on the Settlement of Disputes between States and Nationals of other States (ICSID Convention). Several free trade agreements signed by Thailand incorporate provisions on investment, or are being reviewed in order to allow for the inclusion of investment provisions.

⁴⁴ Under the 1966 Treaty of Amity and Economic Relations with the United States, Thailand extends national treatment to US investors, thereby exempting them from most restrictions. However, Thailand can still apply restrictions in communications, transport, fiduciary functions, banking involving depository functions, exploitation of land or other natural resources, and domestic trade in indigenous agricultural products.

2.50. Thailand has 36 bilateral investment treaties in force, one of which (with the United Arab Emirates) came into force during the period under review. The country also maintains 61 double taxation treaties (DTAs), 3 of which entered into force since the last Review (with Cambodia, Ireland and Tajikistan); previously existing DTAs with India and Singapore were revised during the review period, and a new DTA with the Philippines was concluded and came into force in 2018 (Box 2.2).

Box 2.2 Bilateral investment treaties and double taxation agreements in force, 2019

Bilateral investment treaties (year of entry into force)

Argentina (2002); Bahrain (2002); Bangladesh (2003); Belgium-Luxembourg Economic Union (2004); Bulgaria (2004); Cambodia (1997); Canada (1998); China (1985); Chinese Taipei (1996); Croatia (2005); Czech Republic (1995); Egypt (2002); Finland (1996); Germany (2004); Hong Kong, China (2006); Hungary (1991); Indonesia (1998); Israel (2003); Jordan (2007); 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 Arab Emirates (2016); United Kingdom (1979); and Viet Nam (1992).

Double taxation agreements (year of entry into force)

Armenia (2002); Australia (1989); Austria (1986); Bahrain (1998); Bangladesh (1998); Belarus (2006); Belgium (1980); Bulgaria (2001); Cambodia (2017); 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 (2017); Indonesia (2003); Ireland (2015); 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 (2018); Poland (1983); Romania (1997); Russian Federation (2009); Seychelles (2006); Singapore (2016); Slovenia (2004); South Africa (1996); Spain (1998); Sri Lanka (1990); Sweden (1989); Switzerland (1996); Chinese Taipei (2012); Tajikistan (2013); Turkey (2005); Ukraine (2004); United Arab Emirates (2000); United States of America (1997); Uzbekistan (1999); and Viet Nam (1992).

Source: UNCTAD, *International Investment Agreements Navigator*. Viewed at: <https://investmentpolicy.unctad.org/international-investment-agreements/countries/207/thailand>; and Revenue Department, *Double Taxation Agreements*. Viewed at: <http://www.rd.go.th/publish/766.0.html>.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures Directly Affecting Imports

3.1.1 Customs procedures, valuation, and requirements

3.1.1.1 Registration and documentation

3.1. Thailand's customs procedures are governed mainly by the Customs Act B.E. 2560 (2017), which came into force on 13 November 2017.¹ The Act, which repealed the Customs Act B.E. 2469 (1926), aims to modernize Thailand's customs law by easing customs procedures and bringing more transparency. It reduced incentives and rewards to customs officers and whistle-blowers; clarified customs offences and statutory penalties; imposed deadlines for post-clearance audits, duty evaluation, duty refunds, and appeals; and created an Appeal Committee, among other aspects (Table 3.1).

Table 3.1 Differences between the old and new Customs Acts

Old Act	New Act
Reduction in incentives and rewards Customs was rewarding officials and third-party whistle-blowers for reporting instances of customs evasion and customs avoidance. The excessively generous rewards facilitated wrongdoings in customs procedures, and introduced biased audits and investigations.	The commission paid to a customs officer or a whistle-blower is limited to THB 5 million per case, with a view to eliminating any possibility of bias or wrongdoing.
Clarification of customs offences, and relaxation of penalties for evasion offences Customs offences – smuggling, evasion, and non-compliance in respect of restricted or prohibited goods – and the related criminal penalties were classified under one section of the old Act.	The new Act considers differences in the range of wrongdoing by an offender, and prescribes new methods for calculating the related penalties for different evasion offences.
Time-frame for customs post-clearance audit No deadline imposed for customs officers to carry out post-clearance audits.	The new Act allows customs officers to enter a company's premises and carry out a post-clearance audit relating to imports and exports for up to 5 years from the date of import or export.
Time-limits for duty evaluation Customs officers evaluated import and export duties too far back in time.	Under the new Act, customs officers must evaluate duty within 3 years from the date of submission of an import or export entry clearance form. The 3-year deadline may be extended by another 2 years in exceptional cases. If the Director General of the Customs Department believes that a taxpayer intends to avoid paying duty, the officer may be given an additional 5 years to assess the duty.
Appeal consideration period No time-limit to conclude appeal cases.	The new Act stipulates the creation of the Appeal Committee, to complete an appellate procedure within 180 days from the date of receipt of an appeal with all relevant evidence and documents. If the Appeal Committee does not complete the appellate procedure within that period, the importer or exporter may bring the case to court.
Duty refund The importers or exporters could claim a duty refund within 2 years of the date of shipment.	The importers or exporters may claim a duty refund within 3 years of the date of shipment.

Source: ASEAN Briefing, 27 October 2017, *Thailand's New Customs Act: A Relief for Importers and Exporters*. Viewed at: <https://www.aseanbriefing.com/news/thailands-new-customs-act-relief-importers-exporters/>; and information from the authorities.

3.2. Customs procedures are administered by the Customs Department under the Ministry of Finance. Improving customs procedures and trade facilitation remain important objectives of the Government. Other major policy objectives are transparency, simplicity, honesty, and expedited and secure electronic processing.

¹ Customs Department, *Customs Act B.E. 2560 (2017) – Unofficial Translation*. Viewed at: http://www.customs.go.th/data_files/a48902e107a80bbbfc83d38742957569.pdf.

3.3. Thailand ratified the WTO Agreement on Trade Facilitation (TFA) on 5 October 2015. By 4 June 2020, it had implemented 97.1% of its commitments.² The authorities state that full implementation will be achieved by 2024. The National Committee on Trade Facilitation (NCTF) was established in 2017, and is chaired by the Deputy Prime Minister; the vice chairman is the Minister of Commerce. The NCTF consists of 14 public and 4 private agencies, including the Ministries of Commerce, Finance, Foreign Affairs, Agriculture and Cooperatives, Industry, and Transport, and the Thai Chamber of Commerce, the Thai National Shippers' Council, the Federation of Thai Industries, and the Thai Bankers' Association, among others. Furthermore, to ensure the implementation of the TFA, Thailand established a Working Group on Trade Facilitation as a coordinating and track-keeping platform. The Working Group consists of 31 public agencies, including the Thai Customs Department, the Department of Fisheries, the Department of Livestock Development, the Department of Agriculture, the Department of Land Transport, the Food and Drug Administration, the Department of Foreign Trade, the Department of Business Development, and the Department of Trade Negotiations. It held several meetings to discuss issues such as: the notification of commitments under the TFA; the implementation of ASEAN Solutions for Investments, Services, and Trade; and the monitoring of the implementation progress of the National Single Window (NSW) and the ASEAN Single Window (ASW).

3.4. In order to enhance trade facilitation, Customs developed several action plans to improve processes, including the pre-arrival processing, e-Bill payment, and e-Tracking systems. Under the e-Customs system, customs registration, declaration, and all document submissions are conducted electronically. Currently, e-declarations cover 100% of import declarations, and importers may submit e-data with digital signature standardized by the Customs Department. The issuance of most import licences and other supporting documents (e.g. invoices, bills of lading) is paperless, and they can be submitted electronically with the import/export declaration. Importers may pay tariffs via e-Payment if their bank account is registered in the Customs' electronic system. They may also pay via Internet banking, mobile banking, or other payment methods.

3.5. Documents required to be submitted with the customs declaration include: bill of lading or air waybill; commercial invoice; packing list; delivery order; customs declaration; and, if applicable, import licence, technical standards certificate, certificate of origin, and Safety of Life at Sea (SOLAS) certificate.³ Traders may use the e-tracking system to track the status of customs clearance, including accessing import/export declaration information, product account information, and cargo handling information.⁴ To submit import declarations electronically, traders must register with the Customs Department as an importer.

3.6. According to Customs Notification No. 61/2561 of 27 February 2018, a customs broker must be a juristic person registered in Thailand, or an ordinary person with Thai nationality. The same Notification stipulated two types of customs brokers in Thailand: a general customs broker, and an Authorized Economic Operator (AEO).⁵

3.7. The AEO Programme, covering importers, exporters, and customs brokers, aims at facilitating international trade, and improving speed, cost-saving and time-saving. As at 31 March 2020, 196 companies were authorized as AEO operators under the category of "importer and exporter", and 186 companies were authorized under the category of "customs broker". With a view to facilitating international trade for Thai entrepreneurs, the Customs Department signed mutual recognition arrangements (MRAs) with Hong Kong, China in 2015, the Republic of Korea in 2016, and Singapore in 2018. It is currently negotiating MRAs with Malaysia, Australia and Japan.

² WTO, *TFA Database*. Viewed at: <https://www.tfadatabase.org/members/thailand>.

³ World Bank, *Doing Business 2020 – Economy Profile Thailand*. Viewed at: <https://www.doingbusiness.org/content/dam/doingBusiness/country/t/thailand/THA.pdf>.

⁴ Customs, *e-Tracking*. Viewed at: http://e-tracking.customs.go.th/ETS/index.jsp?lang=en&left_menu=nmenu_eservice_002.

⁵ WTO document G/TFA/N/THA/2, 9 May 2019.

3.8. Since October 2014, the infrastructure of the NSW has been in place to support both national and international data linkages. Through it, information is digitally exchanged between the Government and businesses.⁶

3.9. In 2018, Customs conducted its most recent time release study based on World Customs Organization (WCO) guidelines, and reviewed importation/exportation process at Suvarnabhumi Airport Cargo Clearance Customs Office (by air) and Laem Chabang Port Customs Office (by sea). The study also compared import clearance time for goods imported under the pre-arrival processing and the regular import clearance procedures, and found that the former led to a significant decrease in time. The authorities stated that, based on this study, the time taken for the release of goods has been decreasing continuously, and bottlenecks in customs procedures can be reduced. The next time release study is scheduled for October 2020.

3.10. Customs has been implementing the risk management system at the border in accordance with the WCO Customs Risk Management Compendium. Based on the Import/Export Entry Declaration reports from May 2019 to February 2020, 71% of imports went through the green line, 24% through the red line, and 5% through the yellow line. For exports, 89% went through the green line, 8% through the red line, and 3% through the yellow line.

3.11. According to World Bank Doing Business data, in 2020, Thailand was ranked in 62nd place (down from 59th in 2019) out of 190 economies in the ease of trading across borders, better than the East Asia and Pacific regional average.⁷ Importing a standard container of goods takes 50 hours and costs USD 233 for border compliance, and 4 hours and USD 43 for documentary compliance; exporting the same container requires 44 hours and USD 223 for border compliance, and 11 hours and USD 97 for documentary compliance.

3.1.1.2 Customs valuation procedures

3.12. The authorities stated that customs valuation is mainly based on the price actually paid or payable, i.e. the transaction value of the imported goods, which is the declared value on commercial invoices, adjusted with the cost, insurance, and freight (c.i.f.), as well as the prescribed conditions under Article VIII of the GATT Valuation Agreement. If the transaction value cannot be applied, other methods are used in the following sequence: transaction value of identical and similar goods; deductive value; computed value; and a fall-back estimated value.⁸ The deductive value method and the computed value method can be alternated, if such requests from importers are approved by the customs officers. Currently, the transaction value method accounts for 99% of import declarations.

3.13. Importers may appeal valuations within 30 days to the Customs Appeal Committee; the decision of the Appeal Committee is final unless the importer raises concerns in a tax court. The authorities stated that, since 2015, 116 appeals have been made.

3.14. The authorities stated that, in accordance with the Customs Act B.E. 2560 (2017), provisions on advance rulings were revised. With the intention of better facilitating international trade, the new Customs Act allows anyone to apply for an advance ruling on customs value, origin of goods, or customs tariff; previously, only importers were allowed to do so.

3.15. Regarding the case brought by the Philippines in 2008⁹ on a number of Thai fiscal and customs measures affecting cigarettes from the Philippines, including Thailand's customs valuation practices, excise tax, health tax, TV tax, VAT regime, retail licensing requirements, and import guarantees

⁶ Thailand NSW, *The Progress Report on the Development of Thailand National Single Window: NSW - As of March 2020*. Viewed at: <http://www.thainsw.net/INSW/Ent/DisplayDocumentDetailServlet?act=SRH&docCde=992&nswLang=E>.

⁷ World Bank, *Doing Business 2020 – Economy Profile Thailand*. Viewed at: <https://www.doingbusiness.org/content/dam/doingBusiness/country/t/thailand/THA.pdf>; and World Bank, *Doing Business 2019 – Training for Reform*. Viewed at: https://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB2019-report_web-version.pdf.

⁸ Customs Department, *The Customs Value of Imported Goods & Advance Valuation Ruling for Facilitated and Transparent Clearance of Importation*. Viewed at: http://www.customs.go.th/data_files/f95c29de15a05ea2db2db03fda1bbf23.pdf.

⁹ WTO, *Thailand – Customs and Fiscal Measures on Cigarettes from the Philippines*. Viewed at: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds371_e.htm.

imposed upon cigarette importers, the compliance panel report was circulated to WTO Members on 12 July 2019.¹⁰ Thailand filed an appeal on 9 September 2019 concerning the WTO compliance panel report.

3.1.1.3 Rules of origin

3.16. Thailand does not have legislation on non-preferential rules of origin, and notified this to the WTO under Article 5 of the Agreement on Rules of Origin.¹¹

3.17. Preferential rules of origin are in place for imports from Thailand's regional trade agreement (RTA) trading partners. For goods to be eligible for preferential tariff treatment, they must meet the origin criteria specified in the relevant RTA. Imports from ASEAN countries are subject to the rules of origin contained in the ASEAN Trade in Goods Agreement (ATIGA).

3.18. Thailand notified to the WTO its preferential rules of origin for least developed countries (LDCs): according to the list specified by the Ministry of Finance, goods originating from LDCs are subject to duty-free quota-free access to Thailand's market.¹² In 2018, Thailand notified its preferential rules of origin under the bilateral free trade agreement with Chile.¹³

3.1.2 Tariffs

3.1.2.1 Tariff structure

3.19. Thailand's 2020 Tariff Schedule applies the ASEAN Harmonized Tariff Nomenclature (AHTN) consisting of 10,813 tariff lines (9,558 in 2015) at the HS eight-digit level, in the HS17 nomenclature. Of all tariffs, 92% are applied on an *ad valorem* basis. Among all the *ad valorem* duties, the applied MFN tariff rates vary between duty-free and 226%. Domestic tariff peaks affect 7.1% of all tariff lines, while international tariff peaks affect 26.8% of them. Overall standard deviation was 23.7% in 2020, the same as in 2014 (Table 3.2).

3.20. Thailand has a relatively complicated tariff structure. Non-*ad valorem* duties account for 8% of all tariff lines (860 out of 10,813). Specific duties are applied on 37 tariff lines (mainly petroleum oils; playing cards and tables designed for games; and undenatured ethyl alcohols). Alternate rates (the higher of an *ad valorem* rate and a specific duty) apply to 823 tariff lines. It was not possible to calculate *ad valorem* equivalents (AVEs) for a number of non-*ad valorem* tariffs.¹⁴

3.21. For the specific duties where AVEs were calculated, AVEs range from zero to 270% (HS code 2207.10.00 - undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol. or higher (THB 80/litre)). For the alternate duties where AVEs were calculated, their AVEs range from 1% to 557.4% (HS code 4421.99.80 - toothpicks of wood other than bamboo (20% or THB 100/kg, whichever is higher)).

Table 3.2 Structure of the tariff schedule, 2014 and 2020

	MFN applied		Bound rate ^a
Bound tariff lines (% of all tariff lines)	..	76.3	76.3
Simple average rate (%)	13.4	14.5	31.3
WTO agricultural products	34.7	32.7	41.7
WTO non-agricultural products	10.1	11.8	29.2
Duty-free tariff lines (% of all tariff lines)	17.6	30.4	3.3
Simple average of dutiable lines only	16.3	20.8	32.7
Tariff quotas (% of all tariff lines)	1.2	1.2	1.2
Non- <i>ad valorem</i> tariffs (% of all tariff lines)	7.8	8.0	17.7
Domestic tariff "peaks" (% of all tariff lines) ^b	4.1	7.1	0.7
International tariff "peaks" (% of all tariff lines) ^c	27.4	26.8	67.0

¹⁰ WTO documents WT/DS371/30, 11 September 2019; and WT/DS371/RW2 and WT/DS371/RW2/Add.1, 12 July 2019.

¹¹ WTO document G/RO/N/1, 9 May 1995.

¹² WTO document G/RO/LDC/N/THA/1, 7 August 2017.

¹³ WTO document G/RO/N/167, 24 May 2018.

¹⁴ No AVEs were calculated for 86 out of the 823 alternate rates; rather, their *ad valorem* parts were used in the tariff analysis. No AVEs were calculated for 10 of the 37 specific rates; thus, the tariff analysis was based on 10,803 tariff lines.

	MFN applied		Bound rate ^a
Standard deviation	23.7	23.7	23.2
Nuisance applied rates (% of all tariff lines) ^d	9.3	0.6	0.1
Total number of tariff lines	9,558	10,813	10,813
Duty-free rates	1,683	3,289	355
<i>Ad valorem</i> rates (>0%)	7,129	6,664	5,990
Specific rates	39	37	7
Alternate rates	707	823	1,904
Unbound tariff lines	n.a.	n.a.	2,557

.. Not available.

n.a. Not applicable.

a Based on the 2020 tariff schedule. Latest certified bound tariffs are provided in the HS02 nomenclature. Concordance to HS17 is done to the best possible extent. Calculations on bound rates include partially 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: Calculations for averages are based on the national (8-digit) tariff line level. The 2014 and 2020 tariffs are based on the HS12 and HS17 nomenclatures, respectively. *Ad valorem* equivalents (AVEs) for non-*ad valorem* rates are included when available. In 2014, out of 746 non-*ad valorem* rates, 427 AVEs were calculated based on 2013 import data; in 2020, out of 860 non-*ad valorem* rates, 764 AVEs were calculated based on 2019 import data. For alternate rates where AVEs were not available, the *ad valorem* parts were used. In-quota rates were excluded.

Source: WTO Secretariat calculations, based on data provided by the authorities. AVE calculations were based on import values and import quantities from the Ministry of Commerce, *Foreign Trade Statistics of Thailand*. Viewed at: <http://tradereport.moc.go.th/TradeEng.aspx>.

3.1.2.2 Tariff bindings

3.22. In the WTO, Thailand bound 76.3% of its tariff lines at the HS eight-digit level: 100% binding on agricultural products (WTO definition), and 73% on non-agricultural products. Seven tariff lines carry specific duties, 1,904 carry alternate duties, and the rest carry *ad valorem* rates. The rates of tariff lines carrying *ad valorem* rates range from zero to 226% (raw silk) for agricultural products, and from zero to 80% (motor vehicles) for non-agricultural products. When AVEs are included, the overall average bound tariff is 31.3%; the average bound tariff for agricultural products is 41.7%, and that for non-agricultural products is 29.2%. 2,557 tariff lines remain unbound.

3.1.2.3 Applied tariff

3.23. The simple average applied MFN tariff rate rose from 13.4% in 2014 to 14.5% in 2020 (including AVEs where calculable). The rise was mainly due to the nomenclature change from HS12 to HS17. A major change during the transposition process was the split of tariff lines in the transport equipment section (HS section 17), where the number of tariff lines at the HS eight-digit level increased from 565 in 2014 to 1,033 in 2020, and the number of tariff lines with a tariff rate of 80% increased from 106 in 2014 to 436 in 2020. The authorities stated that the ASEAN Harmonized Tariff Nomenclature Task Force (currently the Technical Sub-Working Group on Classification) changed and split these tariff lines to align them with the standard HS2017 of the WCO.

3.24. As per WTO sectoral definitions, the average tariff rate on agricultural products (32.7%) is much higher than that on non-agricultural products (11.8%) (Table 3.3).

3.25. Overall, tariff protection is highest on fully processed products, and lowest on semi-processed products.

3.26. In 2020, 30.4% of tariff lines are duty-free (up from 17.6% in 2014), while 42.6% of applied tariff rates are below 10.0%, and 16.8% range from 10% to 30% (Chart 3.1). Sixty-two tariff lines (0.6%) carry *ad valorem* tariff rates higher than 100%. The highest *ad valorem* rates apply to: HS 5002.00.00 – raw silk (226%); HS 1209.91.10 – onion seeds (218%); and HS 0402.10 (6 lines) – milk and cream not containing added sugar (216%). All these are out-of-quota rates. If out-of-quota rates are excluded, the highest *ad valorem* rates apply to: HS 2304.00.90 – solid residues resulting from the extraction of soya bean oil (119%); and HS 8703 – motor vehicles (80%).

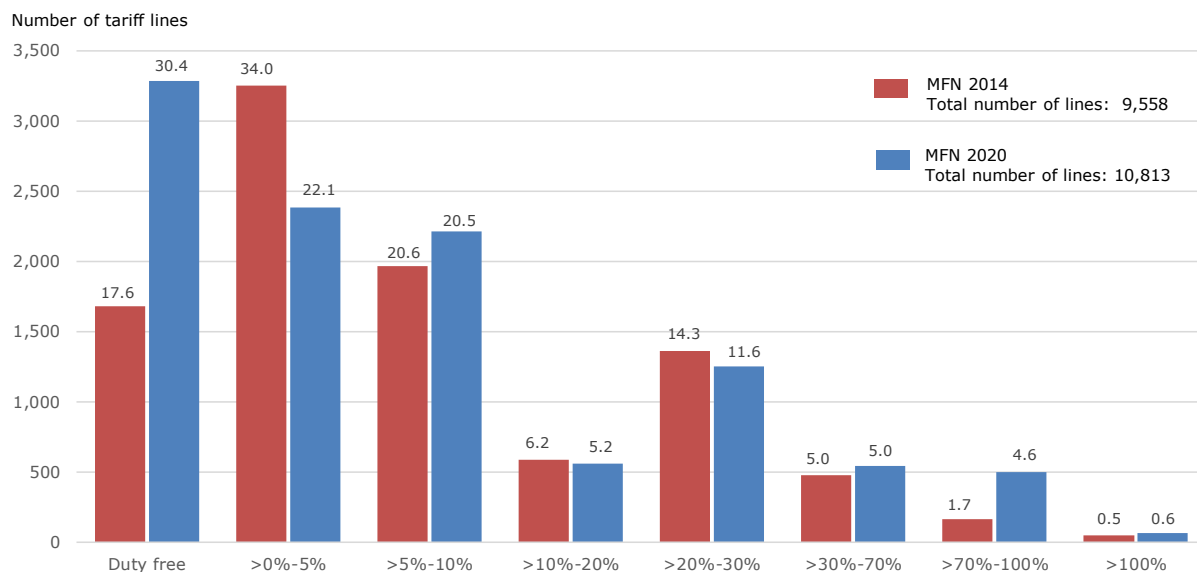
Table 3.3 Summary analysis of the MFN tariff, 2020

	Number of lines	Average (%)	Range (%)	Standard deviation	Duty free (%)
Total	10,813	14.5	0-557.4	23.7	30.4
HS 01-24	1,725	28.2	0-528.8	34.2	14.1
HS 25-97	9,088	11.9	0-557.4	20.1	33.5
By WTO category					
WTO agricultural products	1,369	32.7	0-528.8	36.7	9.9
Animals and products thereof	152	28.1	0-50	13.2	11.2
Dairy products	45	52.4	5-216	65.0	0.0
Fruit, vegetables, and plants	356	38.6	0-528.8	44.0	6.5
Coffee and tea	43	50.2	0-90	36.4	7.0
Cereals and preparations	200	20.5	0-73	16.3	10.5
Oil seeds, fats, and oil, and their products	222	36.1	0-146	40.3	0.9
Sugars and confectionary	31	34.3	0-94	30.0	3.2
Beverages, spirits and tobacco	122	54.4	0-270	28.3	1.6
Cotton	5	0.0	0-0	0.0	100.0
Other agricultural products, n.e.s.	193	12.2	0-226	24.6	31.6
WTO non-agricultural products	9,444	11.8	0-557.4	19.9	33.4
Fish and fishery products	437	10.2	0-156.1	14.8	32.5
Minerals and metals	1,554	5.9	0-30.1	7.0	36.1
Chemicals and photographic supplies	1,506	3.7	0-30	6.1	54.4
Wood, pulp, paper and furniture	557	6.8	0-557.4	28.3	38.6
Textiles	855	10.2	0-299.5	14.1	2.2
Clothing	351	28.8	10-60	5.1	0.0
Leather, rubber, footwear and travel goods	322	10.9	0-30	9.2	13.4
Non-electric machinery	1,329	3.6	0-30	5.4	59.1
Electric machinery	719	7.2	0-30	5.6	31.7
Transport equipment	1,019	49.8	0-80	29.2	6.2
Non-agricultural products, n.e.s.	751	7.7	0-30	7.9	36.2
Petroleum	44	4.2	0-30	5.6	13.6
By ISIC sector					
ISIC 1 - Agriculture, hunting and fishing	685	22.0	00-528.8	36.5	33.0
ISIC 2 - Mining	122	1.3	0-30	4.7	91.0
ISIC 3 - Manufacturing	10,005	14.1	0-557.4	22.6	29.5
Manufacturing excluding food processing	8,883	12.2	0-557.4	20.3	32.2
Electrical energy	1	0.0	0	0.0	100.0
By stage of processing					
First stage of processing	1,132	16.4	0-528.8	32.1	45.5
Semi-processed products	2,855	3.9	0-103.6	7.0	38.0
Fully processed products	6,826	18.6	0-557.4	25.2	24.7
By HS section					
01 Live animals and products	589	15.4	0-216	24.9	31.1
02 Vegetable products	491	33.4	0-528.8	41.0	10.0
03 Fats and oils	175	40.3	0-146	43.0	1.1
04 Prepared food, beverages and tobacco	470	34.1	0-270	27.4	1.9
05 Mineral products	218	2.0	0-30	4.8	71.1
06 Chemicals and products thereof	1,259	3.0	0-30	5.6	64.3
07 Plastics, rubber, and articles thereof	565	7.0	0-30	6.7	10.3
08 Raw hides and skins, leather, and their products	91	10.6	0-30	8.6	17.6
09 Wood and articles of wood	228	10.2	0-557.4	43.5	36.0
10 Pulp of wood, paper and paperboard	300	3.5	0-10	4.0	44.3
11 Textiles and textile articles	1,175	15.7	0-299.5	16.3	3.1
12 Footwear, headgear, etc.	84	21.1	5-30	8.8	0.0
13 Articles of stone, plaster, cement	250	11.4	0-30.1	10.7	20.4
14 Precious stones and metals, pearls	86	0.0	0-0	0.0	100.0
15 Base metals and articles thereof	1,035	6.1	0-30	5.7	26.4
16 Machinery, electrical equipment, etc.	2,133	4.7	0-30	5.6	50.5
17 Transport equipment	1,033	49.2	0-80	29.4	6.8
18 Precision equipment	326	2.9	0-10	3.9	59.8
19 Arms and ammunition	30	27.0	0-30	9.0	10.0
20 Miscellaneous manufactured articles	267	12.7	0-30	5.2	0.4
21 Works of art, etc.	8	8.8	0-10	3.3	12.5

Note: Calculations include AVEs for non-*ad valorem* rates, as available. For alternate rates, where AVEs were not available, the *ad valorem* parts were used.

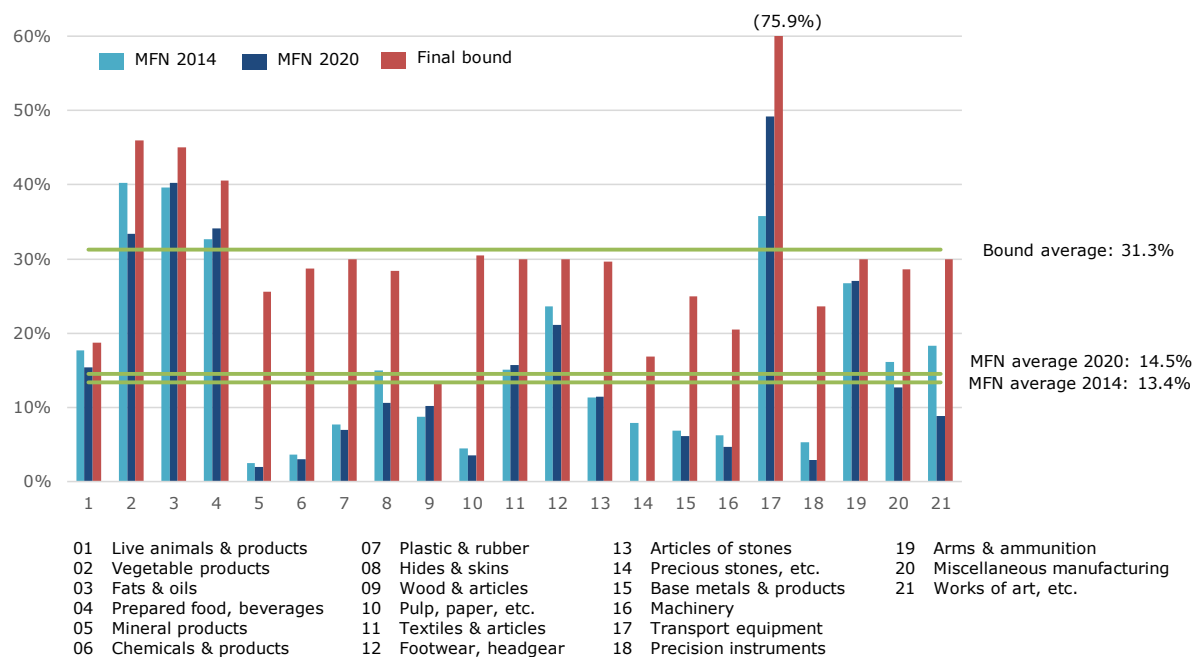
Source: WTO Secretariat calculations, based on data provided by the authorities; and Ministry of Commerce, *Foreign Trade Statistics of Thailand*. Viewed at: <http://tradereport.moc.go.th/TradeEng.aspx>.

3.27. The difference between bound and applied rates is significant (Chart 3.2). Hence, potentially Thailand has ample scope to raise applied tariffs to their bound level.

Chart 3.1 Distribution of MFN tariff rates, 2014 and 2020

Note: The 2014 tariff is based on HS12 nomenclature; the 2020 tariff is based on HS17. Figures above the bars refer to the percentage of total lines. Totals do not add up to 100%. Not AVEs were available for 16 and 10 specific tariff rates in 2014 and 2020, respectively.

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

Chart 3.2 Average applied MFN and bound tariff rates, by HS section, 2014 and 2020

Note: The 2014 tariff is based on HS12 nomenclature; the 2020 tariff and final bound rates are based on HS17. Including AVEs, as available. Only HS Section 02 is fully bound.

Source: WTO Secretariat calculations, based on data provided by the authorities and the Ministry of Commerce.

3.28. According to Thailand's Tariff Schedule for 2020, provided by the authorities and also notified to the IDB, the applied rates on a number of tariff lines are higher than the bound rates (Table 3.4).

The authorities indicate that this is not the case, using as evidence a 2017 notification from the Ministry of Finance (in Thai only).¹⁵

Table 3.4 Tariff lines with applied rates higher than their bound rates

HS code	Description	Applied MFN rate	AVE (%)	Bound rate (%)
Full breaching				
HS 29391110	Concentrates of poppy straw	30%	n.a.	27
Partial breaching				
HS 02072600	Cuts and offal of turkey, fresh or chilled	40%	n.a.	Cuts: 30 Edible offal: 40
Alternate rates with AVEs higher than bound rates				
10039000	Barley other than seed	27% or THB 2.75/kg, whichever is higher	36.6	27
10089000	Other cereals	27% or THB 2.75/kg, whichever is higher	28	27
44219160	Toothpicks of bamboo	20% or THB 100/kg, whichever is higher	353.8	20
44219980	Toothpicks of wood other than bamboo	20% or THB 100/kg, whichever is higher	557.4	20

n.a. Not applicable.

Source: WTO Secretariat calculations, based on data provided by the authorities; and Ministry of Commerce, *Foreign Trade Statistics of Thailand*. Viewed at: <http://tradereport.moc.go.th/TradeEng.aspx>.

3.1.2.4 Tariff quotas

3.29. Tariff quotas are applied to 128 tariff lines, all of which relate to 23 agricultural product groups (Table 4.4). In 2020, the average out-of-quota rate is 94.6%, and the average in-quota rate is 25.8%. The Ministry of Commerce (MoC) is responsible for regulating imports and exports of these agricultural products, except tobacco leaves which are regulated under the Ministry of Finance.

3.1.2.5 Tariff exemption

3.30. Tariff reductions and exemptions for the importation of machinery, equipment and materials have been maintained, as the Government tries to support the development of local industry, through incentive schemes provided by the Board of Investment and the Revenue Department, among others (Section 3.3.1).

3.31. In accordance with the Customs Tariff Decree B.E. 2530 (1987), goods exempted from import duties include:

- export articles being re-imported, with a re-importation certificate;
- imported articles sent out of the country for repairs, if re-imported with a re-importation certificate;
- temporarily imported articles, to be re-exported within six months;
- parts and accessories of aircraft or vessels imported to be used for repair or construction; and
- fuel oil, lubricating oil and lubricants used for the replenishment of aircraft or vessels of a gross tonnage of more than 500 tonnes.

3.32. Other imports exempted from tariffs include personal effects, those through diplomatic channels, for donation purposes, samples of merchandise, or for disabled persons.

¹⁵ Ministry of Finance notification, provided by the authorities, in Thai only. Viewed at: http://www.customs.go.th/data_files/79d38615b4cb039de3ac78810e926653.pdf.

3.1.2.6 Preferential tariffs

3.33. Thailand provides tariff- and quota-free access to practically all goods originating in ASEAN partners under the ASEAN Trade in Goods Agreement (ATIGA). In addition, Thailand applies preferential tariffs under the trade agreements signed by ASEAN with Australia, China, India, Japan, New Zealand, the Republic of Korea, and Hong Kong, China¹⁶, and under its own bilateral trade agreements with Australia, Chile, India, Japan, New Zealand, and Peru. Furthermore, Thailand provides duty-free and quota-free market access for imports from LDCs (Table 3.5).

Table 3.5 Summary analysis of preferential tariffs, 2020

	Total				WTO agriculture		WTO non-agriculture	
	Average (%)	Range (%)	Coverage ^a (%)	Duty-free rates ^b (%)	Average (%)	Duty-free rates ^b (%)	Average (%)	Duty-free rates ^b (%)
MFN	14.5	0-557.4		30.4	32.7	9.9	11.8	33.4
ASEAN Trade in Goods Agreement (ATIGA)	0.0	0-5	69.5	99.9	0.1	98.9	0.0	100.0
ASEAN-Australia-New Zealand	1.1	0-226	68.3	98.8	8.7	90.4	0.0	100.0
ASEAN-China	3.8	0-226	64.6	86.4	8.9	87.4	3.1	86.3
ASEAN-Hong Kong, China	11.4	0-270	46.1	30.5	24.0	9.9	9.6	33.5
ASEAN-India	7.4	0-226	49.9	71.6	13.4	58.8	6.5	73.4
ASEAN-Japan	5.4	0-226	60.2	88.4	10.1	88.1	4.7	88.4
ASEAN-Republic of Korea	5.3	0-226	63.0	85.7	8.9	87.8	4.7	85.4
Thailand-Australia	0.4	0-194.4	69.4	99.5	3.4	95.9	0.0	100.0
Thailand-Chile	0.4	0-40	68.8	98.1	1.6	94.2	0.2	98.6
Thailand-India	14.2	0-557.4	2.1	32.5	32.2	10.4	11.6	35.7
Thailand Japan	4.8	0-226	62.8	89.0	9.9	88.5	4.1	89.1
Thailand-New Zealand	0.3	0-196.2	69.4	99.7	2.2	97.8	0.0	100.0
Thailand-Peru	8.3	0-557.4	39.3	69.8	17.4	61.9	7.0	70.9
LDCs (DFQF)	0.0	0-0	69.6	100.0	0.0	100.0	0.0	100.0

a Percentage of total number of lines. Tariff lines with rates lower than the corresponding MFN rates are included in the analysis.

b Duty-free lines as a percentage of total tariff lines.

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

3.34. Thailand also grants preferences to participants in the Global System of Trade Preferences among Developing Countries (GSTP).

3.35. Under Thailand's bilateral and regional free-trade agreements, the degree of preference over MFN tariffs varies. The simple average tariff under ATIGA is 0%, with rates ranging from zero to 5%. At the regional level, the simple average tariff under the ASEAN-Australia-New Zealand agreement (1.1%) is lower than those under other RTAs signed through ASEAN. At the bilateral level, the simple average tariff rates under the FTAs that Thailand signed with Australia, Chile, and New Zealand are close to zero, while those under the FTA with India are close to the MFN level.

3.1.3 Other charges affecting imports

3.36. Import surcharges are applied to fish meal with a protein content of more than 60% (2301.20.20); soya bean cake (2304.00.90); and maize for feedstuff (1005.90.90.002). Importers must pay the import surcharge to the Department of Foreign Trade before importing these products.

3.37. In addition to import surcharges and internal taxes collected at the border (Section 3.3.1), fees are also collected by Customs for cargo handling, customs clearance, and post-clearance compliance activities. Fees and charges continue to be imposed on a cost-recovery basis rather than on import values, and they are at similar levels for imports and exports.

3.1.4 Import prohibitions, restrictions, and licensing

3.38. In accordance with Section 5 of the Export and Import Act B.E. 2522 (1979), the Minister of Commerce, with the approval of the Cabinet, may publish notifications in the Government Gazette

¹⁶ The authorities stated that the ASEAN Secretary will notify the AHKFTA to WTO once all member States have submitted the notification of ratification of the Agreement.

to impose restrictions on imports (and exports) for reasons of economic stability, public health, national security, peace and order, public morals, or for any other reason in the national interest.

3.39. The Investment Promotion Act allows the Board of Investment (BOI) to request the MoC to ban imports of goods competing with those produced by a domestic industry, with a view to assisting the industry. The authorities stated that the BOI has not made any such request.

3.1.4.1 Import prohibitions

3.40. In general, import prohibitions are used only to protect public morals, national security, human, animal, or plant life, health, and intellectual property rights (IPRs) (Table 3.6).

Table 3.6 Products prohibited from importation, 2020

Products	HS code (2017)	Rationale
Used engines, parts and accessories of motorcycles of a cylinder capacity not exceeding 50 cc and wheels with diameters not over 10 inches	72.04, 76.02, 8407.31.00, 8714.10.30, 8714.10.50	Human life, and public health and safety
Electrical and mechanical operating games, including tables for games, slot machines, horse racing game machines or racecourse models or other similar articles, pachinko, roulette, game machines operated by coins, banknotes (paper currency), discs, cards or other similar articles, among others, with or without skills of players	9504.30.10, 9504.30.20, 9504.30.90, 9504.90.32, 9504.90.33, 9504.90.36, 9504.90.39, 9504.90.92, 9504.90.93	Public morals and national security
Logs and sawn wood from teak trees, rubber trees or forbidden trees from the borders of the Tak and Kanchanaburi provinces	Various	To prevent illegal logging and conserve natural resources
Household refrigerators, and combined refrigerator-freezers utilizing CFCs in the production process	Various	Public health, and environment
Ceramic food containers and metal-coated food containers with excessive lead and cadmium exposure	6911.10.00, 6912.00.00	Public health
Bodies of used motor vehicles, including cabs and chassis thereof, and frames of used motorcycles excluding those of a cylinder capacity not exceeding 50 cc and forks and wheels with diameters not over 10 inches	Various	Public health
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, 4012.19.40, 4012.20.40, 4012.19.40, 4012.20.50, 4004.00.00	Human life, public health, and the environment
Baraku/shisha and electronic cigarettes	2403.11.00, 8543.70.90, 9614.00.90	Public health, public morals, and national security
HCFC-22-based air conditioning equipment with a cooling capacity of under 50,000 British thermal units per hour	8415.10.10.001	Environment protection, public health, human life, and to comply with the Montreal Protocol
Municipal solid waste	3825.10.00	Environment protection, public health, and human life
Goods by deceptive practice	Various	Intellectual property, and national financial security
Copyright-infringing cassette tapes, audio or compact discs, video tapes, computer programs and books	Various	Intellectual property, and national financial security
Used motor vehicles	- 8701 (excluding: used tractors, e.g. used road tractors for semi-trailers, used agricultural tractors HS codes: 8701.30.00, 8701.91.10, 8701.92.10, 8701.93.10, 8701.94.10, and 8701.95.10) - 8702 - 8703 (excluding used ambulances) - 8704 - 9706 (used historic vehicles of 100 years or more)	Environment protection, public health and safety, and human life

Source: The Export and Import Act B.E. 2522 (1979); and information provided by the authorities.

3.41. In conformity with UN Resolution, the import and export of all types of arms, military vehicles, hardware and spare parts to, and originating from, Ethiopia, the Democratic People's Republic of Korea, Iran, Libya, Somalia, Sudan, the Democratic Republic of Congo, among others, are prohibited.¹⁷ The importation and exportation of: luxury goods, coal and charcoal, iron, textile products, machinery, electrical equipment, food and agricultural products, and wood, among others, to and originating from the Democratic People's Republic of Korea, and charcoal to Somalia, are prohibited to comply with UN Resolutions.

3.42. The importation of chemical substances which may be used as chemical weapons is prohibited, except by a government authority, state organization, state enterprise, the Thai Red Cross Council, or the Organisation for the Prohibition of Chemical Weapons¹⁸.

3.1.4.2 Import licensing

3.43. Under the Export and Import Act B.E. 2522 (1979), Thailand applies both automatic and non-automatic import licensing requirements on a number of products (Table 3.7). Licences are issued electronically or manually (depending on the product) by the MoC. The MoC may issue notifications allowing other government authorities to issue such licences. Product coverage may change, and the changes are announced through MoC notifications, and through Thailand's notifications to the WTO under the Agreement on Import Licensing Procedures.¹⁹ The authorities stated that all changes have been notified to the WTO.

Table 3.7 Products subject to import licensing requirements, 2020

Products	HS codes (2017)	Purpose	Measures
16 kinds of drugs, chemical and pharmaceutical products and their salts, and semi-finished pharmaceutical products	Various	Public health, national economic security, control and check that the person who wishes to import the drugs has adequate capability for doing such business.	Automatic licence
Clenbuterol compounds and salts	2922.19.90	Public health and human life regarding pork consumption.	Automatic licence
Albuterol or salbutamol and their salts	2922.50.90	Public health and human life regarding pork consumption, and to prevent negative effects on pork exports.	Automatic licence
Used motor vehicles	- 8701 (used tractors, e.g. used road tractors for semi-trailers) - 8703 (used ambulances) - 8705	Environment protection, public health and safety, and human life.	Automatic and non-automatic licence
Used motorcycles	8711	Public safety and environmental conservation.	Non-automatic licence
Fish meal with a protein content of less than 60%	2301.20.10	To stabilize the price of raw material used for animal food.	Non-automatic licence
Machinery and parts thereof which can be used to violate the copyright of cassette tapes, video tapes, and compact discs	Various	Intellectual property protection.	Non-automatic licence
Coins, sized and weighted similar to official coins	Various	Counterfeit medal and coin prevention.	Non-automatic licence
Waste and scrap of plastics	3915.10.10, 3915.10.90, 3915.20.10, 3915.20.90, 3915.30.10, 3915.30.90, 3915.90.00	Environment protection, and public health.	Non-automatic licence
Used diesel engines of 331-1,100 cc.	8408.90	Human life, and public health and safety.	Non-automatic licence

¹⁷ WTO documents G/LIC/N/1/THA/2, 24 October 2016; and G/MA/QR/N/THA/2, 9 November 2018. The authorities state that the same import and export prohibitions also apply to: the ISIL and Al-Qaida, the Taliban, Yemen, the Central African Republic, and the Republic of South Sudan.

¹⁸ WTO document G/MA/QR/N/THA/2, 9 November 2018.

¹⁹ WTO documents G/LIC/N/1/THA/2, 24 October 2016; and G/LIC/N/2/THA/5, 4 June 2020.

Products	HS codes (2017)	Purpose	Measures
Antique idols and parts thereof, parts of ancient monuments, ancient coins, inscriptions and ancient manuscripts, and prehistoric implements	Various	To prevent smuggling of historical objects or antiques.	Non-automatic licence
Building stone - marble, travertine, ecaussine and other calcareous monumental or building stone; and - marble, travertine and alabaster, granite; other stone	25.15 (ex 2515.12.10), 6802.21.00, 6802.23.00, 6802.29.10, 6802.29.90	To administer the importation and utilization of marble and building stone.	Non-automatic licence
Re-treaded or used pneumatic tyres of rubber for buses or trucks	4012.12.10, 4012.12.90, 4012.20.21, 4012.20.29	Human life, public health, and the environment.	Non-automatic licence
Volatile alkyl nitrite substance	2920.90.00	Public health, and social and national security.	Automatic licence
Intaglio printing machines and colour copier machines	8443.19.00, 8443.32.90, 8443.39.10, 8443.39.20, 8443.39.30, 8443.39.90	To prevent the making of counterfeit money.	Automatic licence
Gold	Various	To protect economic security and stability.	Non-automatic licence
Caffeine and its salts	2939.30.00	To control narcotic drugs, and to protect human health and national security.	Automatic licence

Source: The Export and Import Act B.E. 2522 (1979); and information provided by the authorities.

3.44. The import of munitions is subject to a non-automatic licence, for maintaining national security, public order or public benefit reasons; the same requirement applies to the importation of narcotic drugs, and psychotropic substances, to protect human health.²⁰

3.45. Some products are subject to other import requirements (Table 3.8).

Table 3.8 Products subject to other import requirements, 2020

Products	HS code (2017)	Rationale	Measures
Logs, wood and all wooden products (imported into Thailand along the Thai-Myanmar and Thai-Cambodia borders)	Various	To preserve the environment and exhaustible natural resources. To prevent illegal logging	The importation of logs, wood and all wooden products through the customs houses specified in the notification requires a certificate of origin or evidence of approval to export from the exporting country
Wooden products from the borders in the Tak and Kanchanaburi provinces	Various	To create employment, create earnings for small entrepreneurs of both Thailand and Myanmar, prevent the problem of illegal workers and narcotics, and prevent the tension on border trading and in the relationship between Thailand and Myanmar	
Ceramic food containers and metal-coated food containers	6911.10.00, 6912.00.00	To protect public health	Importers must submit a health certificate issued by a government agency or competent authority of the exporting country to Customs for importation

²⁰ WTO document G/MA/QR/N/THA/2, 9 November 2018.

Products	HS code (2017)	Rationale	Measures
Fuel oil	2207.20.11, 2207.20.19, 2707.50.00, 2710.12, 2710.19.71, 2710.19.83, 2710.20.00, 2711.12.00, 2711.13.00, 2711.29.00, 2711.14.90, 2711.19.00, 3826.00.10, 3826.00.90, 3826.00.21, 3826.00.22, 3826.00.29, 3826.00.30	To sustain economic stability and security	Importers must submit the certificate issued by the Department of Energy Business to Customs for importation
Cassava and cassava products	0714.10.11, 0714.10.19, 0714.10.99	To protect plant life and health	- Importers must be registered as importers of cassava and cassava products with the Department of Foreign Trade (DFT); - Importers must declare to the DFT before importation and report to the DFT after importation; - Importers must show a Phytosanitary Certificate, a Certificate of Origin, and a Standard Certificate issued by a government agency or competent authority of the exporting country to Customs for importation; and - The cassava and cassava products must be imported via provinces and customs houses at the prescribed point specified in the notification
Fresh oranges	0805.10.10, 0805.21.00, 0805.22.00, 0805.29.00	To protect public health	- Importers must be registered with the DFT as importers of fresh oranges, and must report the import, possession, export, storage, disposal and balance of their products to the DFT every month; and - Importers must show a Phytosanitary Certificate issued by a government agency or competent authority of the exporting country to Customs for importation
Shallots	0703.10.21, 0703.10.29	To protect public health	- Importers must be registered with the DFT as importers of shallots, and must report the import, possession, export, storage, disposal and balance of their products to the DFT every month; and - Importers must show a Phytosanitary Certificate issued by a government agency or competent authority of the exporting country to Customs for importation
Swine offal	0206.30.00, 0206.41.00, 0206.49.00	To protect public health	- Importers must be registered with the DFT as importers of swine offal, and must report the import, possession, export, storage, disposal and balance of their products to the DFT every month; and - Importers must show a Health Certificate issued by a government agency or competent authority of the exporting country to Customs for importation
Electric fans, electric rice cookers, and electric lamps	8414.51.10, 8516.60.10, 8539.31, 8539.39	To protect human life and public safety	- Importers must be registered with the DFT as importers of electric fans, electric rice cookers or electric lamps, and must report the import, possession, export, storage, disposal and balance of their products to the DFT every month; and - Importers must show a Standard Certificate issued by a government agency or competent authority of the exporting country to Customs for importation
Gas water warmers and water heaters	8419.11.10, 8419.11.90	To protect human life and public safety	- Importers must be registered with the DFT as importers of gas water warmers or water heaters, and report the import, possession, export, storage, disposal and balance of their products to the DFT every month; and - Importers must show a Standard Certificate issued by a government agency or competent authority of the exporting country to Customs for importation
3D printing machines, rapid prototyping machines, and additive manufacturing machines	8477.10.39, 8479.89.39	To prohibit the illegal use of products	- Importers must be registered with the DFT as importers of 3D printing machines, and must notify the importation to the DFT, and report the import, possession, disposal and balance of these products to the DFT twice a year (end-June and end-December); and - Importers must notify Customs of importation

Products	HS code (2017)	Rationale	Measures
Rough diamonds	7102.10.00, 7102.21.00, 7102.31.00	To comply with UN Resolution 55/56 (2000) dated 1 December 2000	- Importers must be registered with the DFT as importers of rough diamonds and must report the importation within 3 days; and - Importers must submit the Kimberly Process Certificate issued by the exporting country to Customs for importation
Potassium permanganate	2841.61.00	To protect national security and public morals	- Importers must be registered with the DFT as importers of potassium permanganate, and must notify the importation to the DFT; and - Importers must notify Customs of importation

Source: The Export and Import Act B.E. 2522 (1979); and information provided by the authorities.

3.46. According to Thailand's notification to the WTO, permission is needed for the import or export of CITES-listed species, and other protected or reserved species, to preserve endangered species and to regulate their international trade.²¹

3.1.5 Anti-dumping, countervailing, and safeguard measures

3.1.5.1 Anti-dumping and countervailing measures

3.47. The legislation on anti-dumping and countervailing measures – the Anti-Dumping and Countervailing Act, B.E. 2542 (1999) – was amended on 22 May 2019, and the amendment came into effect on 18 November 2019. The authorities indicated that they will notify the WTO once the translation into English is completed. The authorities state that the amendment clarifies certain issues, including anti-circumvention provisions.

3.48. The MoC remains the government agency responsible for policy on contingency measures, including on safeguards. Its Department of Foreign Trade (DFT) is in charge of investigations, and its Committee on Dumping and Subsidies, chaired by the Minister of Commerce, is responsible for making preliminary and final determinations. An investigation may be initiated by the Committee, or in response to a petition from the DFT, or from the domestic industry. Investigations are announced in the Royal Gazette and local newspapers, in Thai and in English. The DFT must inform the petitioners, as well as known exporters and importers of the product, or their representatives, of the initiation of an investigation.

3.49. Between 1995 and end-2019, Thailand initiated 84 anti-dumping cases, including 23 after 2015.²² It notified to the WTO that, as at 30 June 2020, 43 anti-dumping measures in the form of duties were in force on 12 types of products: 10 types of steel or steel alloys; citric acid; and inner tubes of rubber for motorcycles.²³ Thirty of these measures were extensions of existing measures beyond their sunset period. Actions mostly affected products originating in China (11), Chinese Taipei (5), the Republic of Korea (5), and Viet Nam (5). During the review period, Thailand terminated its anti-dumping measures on:

- sodium tripolyphosphate from China, in 2015;
- unglazed/glazed ceramic flags and paving, hearth or wall tiles; unglazed/glazed ceramic mosaic cubes and the like, whether or not on backing, from China, in May 2017;
- "H-sections" from China, on 10 October 2017; and
- painted hot dip, galvanized, of cold-rolled steel, and painted hot dip, plated or coated with aluminium zinc alloys of cold-rolled steel, from China, Chinese Taipei, and the Republic of Korea, in January 2019.²⁴

²¹ WTO document G/MA/QR/N/THA/2, 9 November 2018.

²² WTO, *Anti-dumping*. Viewed at: https://www.wto.org/english/tratop_e/adp_e/adp_e.htm.

²³ WTO document G/ADP/N/342/THA, 22 July 2020.

²⁴ WTO documents G/ADP/N/280/THA, 20 January 2016; G/ADP/N/3000/THA, 23 August 2017; G/ADP/N/308/THA/Corr.1, 1 April 2019; and G/ADP/N/328/THA, 3 October 2019.

3.50. 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.

3.51. As at the time of the previous Review, the Anti-dumping and Subsidized Import Act allows appeals to the Intellectual Property and International Trade Court. Since 2015, the determinations of the Committee on Dumping and Subsidies have been challenged six times, of which five appeals are still in court proceedings. The authorities stated that these cases are mainly the appeals against the scope of products under consideration, the interpretation of the domestic industry, and the consideration of public interests.

3.1.5.2 Safeguards

3.52. The legislation regulating safeguard measures in Thailand remains the Safeguard Measures on Increased Imports Act B.E. 2550 (2007). There has been no amendment or revision to this legislation since 2015. The procedure to initiate safeguard investigations remains unchanged since the previous Review. A domestic producer of a like or directly competitive product may file a petition to the DFT under the MoC. After being checked by the Department, the petition is passed to the Committee on Safeguard Measures for a determination. The DFT may also submit petitions to the Committee on its own initiative, based on evidence of increased imports and injury to the domestic industry. The initiation of an investigation is published in the Royal Gazette and local newspapers, in Thai and in English. The DFT must inform petitioners and other known interested parties.

3.53. The DFT is responsible for conducting investigations. The Committee, based on investigation results, may impose safeguard measures in the form of an additional duty, a quantitative restriction, or other measures 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. Safeguard measures are for a maximum of four years, and may be extended to a total of 10 years.

3.54. During the review period, Thailand notified to the WTO that definitive safeguard measures were:

- imposed on structural hot-rolled H-beam with alloy (HS2017 7228.70.10.093 and 7228.70.90.000), safeguard duties at *ad valorem* rates of 31.43% and 31.05% of the c.i.f. price from 28 January 2017 to 27 January 2019, respectively²⁵;
- extended on hot-rolled steel flat products with certain amounts of alloying elements, safeguard duties at *ad valorem* rates of 41.67%, 40.42%, and 39.21% of the c.i.f. price from 27 February 2016 to 26 February 2019, respectively²⁶; and
- extended on non-alloy hot-rolled steel flat products, in coils and not in coils, at *ad valorem* rates of 21%, 20.87%, and 20.74% of the c.i.f. price from 7 June 2017 to 6 June 2020, respectively.²⁷

3.55. Thailand reserved its right to take special safeguard (SSG) action on 55 HS02 eight-digit agricultural 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. During the review period, Thailand notified to the WTO that it did not invoke the SSG provisions under Article 5 of the WTO Agreement on Agriculture.²⁸

3.2 Measures Directly Affecting Exports

3.2.1 Customs procedures and requirements

3.56. Customs procedures and requirements regarding exports from Thailand are similar to the import requirements (Section 3.1). Exporters must submit the following documents to Customs: bill

²⁵ WTO documents G/SG/N/8/THA/4/Suppl.1; G/SG/N/10/THA/4/Suppl.1; and G/SG/N/11/THA/4/Suppl.1, 22 February 2017.

²⁶ WTO documents G/SG/N/10/THA/2/Suppl.3; and G/SG/N/11/THA/2/Suppl.5, 4 March 2016.

²⁷ WTO documents G/SG/N/8/THA/3/Suppl.2; and G/SG/N/10/THA/3/Suppl.2, 21 June 2017.

²⁸ WTO document G/AG/N/THA/86-90, 6 June 2019.

of lading, terminal handling receipt, commercial invoice, packing list, customs declaration, certificate of origin (if applicable), technical standards certificate (if applicable), and SOLAS certificate (if applicable).²⁹ Export declarations are submitted via the e-Export system. Like importers, exporters may use the e-Tracking system to access export declaration information.

3.57. According to the World Bank's 2020 Doing Business report, the time taken to export was 11 hours for documentary compliance and 44 hours for border compliance, and the cost was estimated at USD 97 for documentary compliance and USD 223 for border compliance. The procedure is much shorter and the cost less than East Asia and Pacific averages.³⁰

3.58. The Department of Foreign Trade issues certificates of origin for exports from Thailand. Two private organizations may also issue non-preferential certificates of origin: the Federation of Thai Industries, and the Board of Trade.

3.2.2 Taxes, charges, and levies

3.59. Based on Customs Tariff Decree B.E. 2530, Thailand levies export taxes on a number of products (Table 3.9). The share of export duty values to total tax revenues was 0.01% in 2019 (Section 3.3.1.1). Most export taxes (statutory rates) are exempted in practice (applied rates). However, the persistence of relatively high statutory export taxes leaves an element of uncertainty in Thailand's trade regime, as export taxes could be reintroduced up to the level of the statutory rates without legislative approval.

Table 3.9 Export duties, 2020

Commodity	Applied rate	Statutory rate
Rice and glutinous rice, whether in the form of paddy, white rice, cargo rice, parboiled rice, broken rice or meal	Exempt	10%
Metal scraps of any kind	Exempt	50%
Hides of bovine animals, raw or tanned (excluding parings, waste and dust which cannot be used in the production or manufacture of leather)		
(a) Raw hides	Exempt	THB 5/kg
(b) Other		
For parings, waste, and dust for use in the production of leather	THB 0.4/kg	THB 4/kg
Tanned hides	Exempt	THB 4/kg
Other	THB 0.4/kg	THB 4/kg
Rubber of the genus <i>Hevea</i> , in the form of sheets, blocks, cuttings, slabs, latex or scraps from rubber trees, rubber containing soil or bark from rubber trees, including rubber in other forms which is usable as raw material		
(a) Rubber sheets, blocks and waste thereof, other than those specified in sub-headings (b) and (c)	Exempt	40%
(b) Rubber blocks according to the standard specified by the Director General of Customs	Exempt	40%
(c) Crepe rubber and waste thereof	Exempt	40%
(d) Concentrated latex	Exempt	40%
(e) Field latex	Exempt	40%
(f) Other	Exempt	40%
Wood, sawn wood and articles made of wood.		
(a) Wood and sawn wood		
For the veneer of logs imported and produced in a bonded warehouse of manufacturing type, established under Section 8 bis (2) of the Customs Act B.E. 2469 (1926) amended by Section 9 of the Customs Act (No. 18), B.E. 2543 (2000)	Exempt	40%
For the veneer of logs imported and refunded of Customs duty under Section 19 bis of the Customs Act (No. 9) B.E. 2482 (1939) as added by an announcement of the National Executive Council No. 329 dated 13 December B.E. 2515 (1972) and Section 9 of the Customs Act (No. 18), B.E. 2543 (2000), the foregoing provisions shall be in accordance with the regulations prescribed by the Customs Department	Exempt	40%
For eucalyptus, casuarina, giant bamboo, hedge bamboo, giant thorny bamboo, cashew nut tree, wattle, horse tamarind, Queensland swamp oak or horsetail tree, almond-wood or chickrassy chittagong-wood, Caribbean pine and oocarpa pine	Exempt	40%
For wood and sawn wood from rubber trees of the genus <i>Hevea</i>	Exempt	40%

²⁹ World Bank, *Doing Business 2020 - Economy Profile Thailand*. Viewed at: <https://www.doingbusiness.org/content/dam/doingBusiness/country/t/thailand/THA.pdf>.

³⁰ World Bank, *Doing Business in 2020 - Economy Profile Thailand*.

Commodity	Applied rate	Statutory rate
For phai-ruak (<i>Thyrsostachys siamensis</i> Gamble) and coconut wood	5%	40%
For veneer	10%	40%
Other	40%	40%
(b) Articles of wood		
Unsuitable for further conversion	Exempt	10%
Other	Exempt	20%
Raw silk (not thrown), silk yarn and yarn spun from waste silk and noil silk	Exempt	THB 100/kg
Fish, pulverized or only baked, unfit for human consumption	Exempt	75%
Goods exported from the Joint Development Area under the law on the Thailand-Malaysia Joint Authority	Exempt	10%
Goods not elsewhere specified or included in this Export Tariff	Exempt	n.a.

n.a. Not applicable.

Source: Customs Tariff Decree B.E. 2530.

3.60. The imposition of export taxes could constitute a form of assistance to domestic downstream industries and, if they are applied to products Thailand is a major supplier of, could exacerbate world price fluctuations.

3.2.3 Export prohibitions, restrictions, and licensing

3.61. Export prohibitions and restrictions are regulated under the Export and Import Act B.E. 2522 (1979). They may take the form of prohibitions, licensing requirements (non-automatic or automatic), or other restrictions.

3.2.3.1 Export prohibitions

3.62. Under the Export and Import Act, the following products are prohibited from export from Thailand:

- natural sand (HS 2505.10.00, 2505.90.00), to preserve natural resources;
- goods by deceptive practice, to protect intellectual property (IP) and national financial security; and
- copyright-infringing cassette tapes, audio and compact discs, video tapes, computer programs and books, to protect IP and national financial security.

3.63. To comply with UN Resolution, as for imports, the exports of all types of arms, military vehicles, hardware and spare parts to individual state and/or target groups referred to in Section 3.1.4.1 are prohibited. Similarly, the exportation of: luxury goods, coal and charcoal, iron, textile products, machinery, electrical equipment, food and agricultural products, and wood, among others, to and originating from the Democratic People's Republic of Korea, and charcoal to Somalia, are prohibited to comply with UN Resolutions.

3.64. In addition, live snakes, including unfinished snakeskins, are also prohibited from exportation, with a view to preventing or reducing environmental impact and maintaining the ecological balance.

3.65. During the COVID-19 pandemic, Thailand notified to the WTO its temporary export prohibition measures for bird eggs and surgical masks. The exportation of bird eggs was prohibited from 26 March to 30 April 2020, and the exportation of surgical masks is prohibited for one year since 5 February 2020.³¹

3.2.3.2 Export licensing

3.66. The Minister of Commerce, with the approval of the Cabinet, may impose non-automatic or automatic export licensing requirements for various reasons (Table 3.10). Licences are issued

³¹ WTO documents G/MA/QR/N/THA/2/Add.2, 30 March 2020; and G/MA/QR/N/THA/2/Add.3, 2 April 2020.

electronically or manually, depending on the product, by the MoC. The MoC may issue notifications to allow other government authorities to issue such licences.

Table 3.10 Products subject to export licensing requirements, 2020

Products	HS code (2017)	Purpose	Measures
Sacred Buddha images and parts thereof, and antique idols, graven images	Various	To protect national treasures of artistic, historic or archaeological value	Non-automatic licence
Shellfish and shell	Various	To promote the pearl cultivation industry, and the manufacturing of jewellery and home decorations	Automatic licence
Cassava products/cassava starches	0714.10.11, 0714.10.19, 0714.10.91, 0714.10.99, 1106.20.10, 1108.14.00	To meet standard requirements for classification, grading or marketing of commodities in international trade	Automatic licence
Minerals composed of natural sand	Various	To preserve exhaustible natural resources	Non-automatic licence
All types of coal except pulverized from Hongai anthracite coal	2701.11.00, 2701.12.10, 2701.19.00, 2701.20.00, 2702.10.00, 2702.20.00, 2704.00.10, 2704.00.10, 2704.00.20, 2704.00.30	To preserve exhaustible natural resources	Non-automatic licence
Wood charcoal	Various	To preserve natural resources	Automatic licence
Elephants, including parts, derivatives and products thereof	Various	To preserve endangered species	Non-automatic licence
Wood and sawn wood	Various	To preserve natural resources	Automatic licence
Gold	Various	To protect economic security and stability	Non-automatic licence
Caffeine and its salts	2939.30.00	To control narcotic drugs and to protect human health and national security	Automatic licence
Potassium permanganate	2841.61.00	To protect national security and public morals	Automatic licence

Source: The Export and Import Act B.E. 2522 (1979); and information provided by the authorities.

3.67. According to Thailand's notification to the WTO as well as information provided by the authorities, the following products are also subject to non-automatic export licensing:

- rice (1006.10, 1006.20, 1006.30, 1006.40), to prevent domestic shortages;
- coffee and its products (0901.11, 0901.12, 0901.21, 0901.22, 2101.11, 2101.12), to comply with the requirements of the International Coffee Organization;
- bean cake (23.05), to prevent domestic shortages;
- sugar, to comply with the requirements of the International Sugar Organization;
- products re-exported to third countries, to comply with international agreements;
- narcotic drugs, to protect human health and narcotic drug control; and
- psychotropic substances, to protect human health and psychotropic substance control.³²

3.68. Under the Export and Import Act B.E. 2522 (1979), some other products must be registered with, or possess a certificate obtained from, relevant agencies before being exported (Table 3.11).

³² WTO document G/MA/QR/N/THA/2, 9 November 2018; and information provided by the authorities.

Table 3.11 Other products subject to export requirements, 2020

Products	HS code (2017)	Purpose	Measures
Fresh durian	Various	To ensure their exports meet relevant TBT requirements	Exporters must be registered with the Department of Agriculture
Fresh longan	Various	To ensure their exports meet relevant TBT requirements	Exporters must be registered with the Department of Agriculture
Fresh orchids	Various	To ensure their exports meet relevant TBT and SPS requirements	Exporters must be registered with the Department of Agriculture
Living ornamental fish	Various	To improve fish protection	Exporters must show a certificate issued by the Department of Fisheries to Customs for exportation
Canned pineapple	Various	To ensure their exports meet standards requirements	Exporters must be on the list of the Thai Industrial Standard Institute
Tuna in airtight containers	1604.14.11, 1604.14.19	To promote the export to correspond with the current trade situation ^a	Exporters must be members of the Thai Food Processors' Association or the Thai Tuna Industries Association
Finished products made of shell	Various	To promote the pearl cultivation industry, and the manufacturing of jewellery and home decorations	Exporters must show a certificate issued by the Department of Fisheries to Customs for exportation
Rough diamonds	7102.10.00, 7102.21.00, 7102.31.00	To comply with UN Resolution 55/56 (2000) dated 1 December 2000	Exporters must show a Kimberly Process Certificate issued by the Department of Foreign Trade (DFT) to Customs for exportation
Rice exported to the European Union under tariff quotas	1006.30, 1006.40	To comply with the agreement between Thailand and the European Union	Automatic licensing, with a certificate from the DFT, and export quota (European Union)

a Ministry of Commerce Notification B.E. 2557 (2014) on Determination for Canned Tuna to be Goods subject to Measure Regulating Export out of the Kingdom. Viewed at: <http://www.dft.go.th/en-us/Legal-Translation/smid/6241/ArticleId/12000>.

Source: The Export and Import Act B.E. 2522 (1979); and information provided by the authorities.

3.2.4 Export support and promotion

3.69. The Government continues to offer several schemes to promote and facilitate exports. These include bonded warehouses, duty drawback, other measures allowing for tax and duty refunds, and tax and non-tax incentives under the Customs free zones scheme and the Industrial Estate Authority of Thailand Act (No. 4) B.E. 2550 (2007).³³

3.2.4.1 Bonded warehouses

3.70. Goods can be imported into a bonded warehouse without payment of import duties and taxes if they are to be used as inputs in products for export, or are themselves re-exported. These imports remain stored under customs control, generally for a maximum period of two years from the date of importation.³⁴ In the case of the factory-type bonded warehouse, imports must be used in a production process for export within that two-year period.

3.2.4.2 Duty drawback

3.71. Section 29 of the Customs Act B.E. 2560 (2017) provides for a duty drawback scheme. Importers/exporters are entitled to a refund of duties paid (in cash or through a guarantee deposit) on imports of raw materials that are used in the production, mixing, assembling, packaging or any other method of processing of goods, provided such goods are exported within one year. If the goods

³³ Detailed information on these schemes can be obtained from the Thai Customs Service Centre, *Duty refund under Section 29 of the Customs Act B.E. 2560*. Viewed at: http://www.customs.go.th/cont_strc_simple.php?ini_content=tax_incentive_160928_01&ini_menu=menu_tax_incentive&left_menu=menu_tax_incentive_160928_02&lang=th&left_menu=menu_tax_incentive&lang=th&left_menu=information_service_170123_07.

³⁴ The Customs Act allows for several types of bonded warehouses, with the maximum storage period varying in some cases. The types of warehouses include: the bonded warehouse of general type; the factory-type bonded warehouse; the bonded warehouse for exhibitions; the bonded warehouse for duty-free shops and for the storage of duty-free goods; the bonded warehouse for customs-free zones; the bonded warehouse for vessel repair or construction (with a maximum storage period of three years); and the bonded warehouse for oil storage (maximum storage period of six months).

are transferred to a bonded warehouse or sold to a person lawfully entitled to a duty exemption, they are deemed to be exported for the purpose of the duty refund (Section 31 of the Act). The formula for calculating the amount of the refund depends on the type of product concerned. Requests for duty drawback must be made within six months from the date of exportation, unless the Director-General of the Customs Department allows an extension of not more than six months. Machinery, tools, moulds, and fuels for manufacturing are not eligible for duty drawback.

3.2.4.3 Tax and duty compensation

3.72. Exports of goods manufactured in Thailand continue to be eligible for tax coupons, which may be used to pay taxes and duties. The scheme is regulated under the Tax and Duty Compensation of Exported Goods Produced in the Kingdom Act B.E. 2524 (1981). In addition to goods exported to other countries, the scheme also covers goods sold in Thailand to government agencies or state enterprises under foreign loans or foreign aid programmes, and goods sold to international organizations that are entitled to tax and duty exemptions.

3.73. The amount of the tax and duty compensation is set as a fixed percentage of the f.o.b. value of the exports, and is calculated taking into account the proportion of raw materials/inputs used for the production (according to established input/output tables) and their average import tariff. The compensation rate is regularly adjusted to reflect changes in these two variables. Products that are not eligible for tax compensation include minerals, goods subject to export duties or fees, goods exported for non-commercial purposes (e.g. samples), and other products determined by the Committee for Tax and Duty Compensation of Exported Goods Produced in the Kingdom. During the period under review, compensation rates ranged from 0.47% to 0.64% of the f.o.b. value (Table 3.12).

Table 3.12 Exported goods: duty compensation rate as percentage of f.o.b. value, 2015-19

	f.o.b. value of exports (THB million)	Compensation value (THB million)	Compensation rate (% of f.o.b. value)
2015	1,616,447	9,601	0.59
2016	1,384,594	8,925	0.64
2017	1,315,879	8,048	0.61
2018	1,766,403	9,128	0.52
2019	1,744,800	8,268	0.47

Source: Fiscal Policy Office, Ministry of Finance.

3.2.4.4 Customs free zones

3.74. Customs has been administering a free zones (FZ) programme since 2000, aimed at promoting investment into, and exports from, these zones. Under this programme, goods imported and moved into an FZ by a licensee operator are exempted from: import duties, VAT, excise tax, export duties on re-exports, and standards and quality control requirements. In addition, they may be eligible for export tax refund/exemption schemes. In October 2019, Thailand launched the E-Commerce Customs Free Zone in the Eastern Economic Corridor (EEC) area, with the aim of promoting exports of goods through electronic commerce³⁵; the Zone was not yet operational at the time of drafting this report. Currently, there are 119 FZs (84 in 2014), with a total of 394 commercial and industrial units operating within them. The main sectors of activity are distribution centres, logistics, packaging, and production of auto parts. The authorities indicated that the share of exports from FZs in total exports averaged 10.2% annually over the period 2015-19.

3.2.4.5 Free zones under the Industrial Estate Authority of Thailand

3.75. The Industrial Estate Authority of Thailand (I-EA-T) is a government agency under the Ministry of Industry responsible for the planning, development and management of industrial estates throughout the country. There are two types of industrial estates: general industrial zones (for the location of both light and heavy industries); and I-EA-T free zones. The latter are established to

³⁵ Announcement of the Customs Department No. 204/2562, Customs Clearance Protocol at the E-Commerce Duty-Free Zone within the Special Economic Zone, 28 October 2019.

cater to the specific needs of export-oriented businesses, providing infrastructure facilities, customs offices and other government services, and a range of incentives.

3.76. Under the current I-EA-T Act, as amended by the Industrial Estate Authority of Thailand Act (No. 5) B.E. 2562 (2019)³⁶, companies located in I-EA-T free zones are eligible for several tax and non-tax incentives. Tax benefits include exemption from import duties, VAT, and excise tax on factory-building materials, machinery, equipment, tools, components, and raw materials necessary for the production of goods or for commercial purposes, as well as exemption from export duties and taxes. Under the Act, eligibility to receive such benefits is not contingent upon export performance requirements. Non-tax incentives for companies in the I-EA-T free zones consist of the right to own land in the industrial estate, visas to bring in foreign technicians and experts and their dependants, and the right to remit foreign currency abroad.³⁷ Firms in I-EA-T free zones may also import supplies or raw materials to produce goods intended for export, without being subject to import permits, standards and quality controls, or any other control except those under the customs law. A 2019 amendment to the I-EA-T Act extended this benefit to I-EA-T free zones carrying out commerce for the purpose of exportation, *mutatis mutandis*.³⁸ Companies located in I-EA-T free zones are also entitled to receive additional privileges from the Board of Investment, when applying for investment promotion (Section 3.3.1).

3.77. Goods from an I-EA-T free zone that are sold to the local market must be declared, and import duty and other applicable taxes paid at the rates in force on the date when they were imported into the local market.³⁹

3.78. According to data provided by the authorities, between 2017 and 2019, the number of I-EA-T free zones remained stable, the number of companies established in these zones increased slightly but the number of employees decreased. In 2019, 12 I-EA-T free zones were run by the Industrial Estate Authority of Thailand⁴⁰, with a total of 1,820 companies and 201,923 employees (Table 3.13). The main industries established in the I-EA-T free zones include electronics and electrical appliances; automotive and transport; rubber, plastics and artificial leather; gems and jewellery; and businesses related to industrial operations. The authorities indicated that there is no record of the share of exports of I-EA-T companies in total Thai exports.

Table 3.13 I-EA-T free zones, 2015-19

Number	2015	2016	2017	2018	2019
I-EA-T free zones	..	..	13	12	12
Companies	..	..	1,631	1,602	1,820
Employees	..	..	240,572	189,261	201,923

.. Not available.

Source: Information provided by the authorities.

3.2.4.6 Export promotion

3.79. The Department of International Trade Promotion (DITP), under the Ministry of Commerce, is the main government agency in charge of promoting Thai exports of goods and services worldwide, and enhancing the competitiveness of Thai entrepreneurs, particularly small and medium-sized enterprises (SMEs). The DITP's responsibilities include a wide range of activities, such as formulating and proposing export promotion strategies, providing trade information services, creating opportunities through business matching and networking between Thai exporters and potential importers, promoting the value creation of Thai products and services, and providing capacity-building services to Thai SMEs (Box 3.1). The DITP has established DITP overseas offices in major cities across the world to implement such policies and activities, with a special focus on fostering

³⁶ The Industrial Estate Authority of Thailand Act (No. 4) B.E. 2550 (2007) was amended by the Industrial Estate Authority of Thailand Act (No. 5) B.E. 2562 (2019).

³⁷ I-EA-T, *Investment Privileges from I-EA-T*. Viewed at: <https://www.ieat.go.th/en/investment/privileges/investment-privileges-from-i-ea-t>. Repatriation of foreign capital must be in accordance with Section 47 of the I-EA-T Act.

³⁸ Section 49 of the I-EA-T Act (No. 5) B.E. 2562 (2019).

³⁹ Section 52 of the I-EA-T Act (No. 4) B.E. 2550 (2007).

⁴⁰ There are also over 40 industrial estates operating as joint ventures between the I-EA-T and private developers.

business relations between Thai exporters and potential importers. The overseas offices also gather and analyse relevant market information, and produce reports on emerging trends and developments. In 2020, the DITP operates internationally from 58 locations in 43 countries and territories. In addition, it has trade representatives in four other locations.⁴¹ There are also 34 honorary trade advisors in 23 countries.

Box 3.1 Responsibilities of the Department of International Trade Promotion (DITP)

- Formulate suggestions for export promotion strategies and set goals and action plans for Thai exports.
- Organize activities in the domestic and overseas markets to promote Thailand's exports of goods and services, such as assisting and supporting Thai businesses to participate in international trade fairs and organizing incoming and outgoing trade missions.
- Produce trade data and provide trade information services. Provide support for the use of information technology related to exports by Thai manufacturers, exporters, service providers and importers.
- Undertake public relations activities to promote exports of Thai goods and services and brand-building for "Thai quality" export products (e.g. Thailand Trust Mark (quality certification for Thai products); Thai Select (Thai restaurants abroad); Prime Minister's Export Award (outstanding exporters); and DEMARK award (Thai-designed products)).
- Provide capacity-building services for Thai SMEs by organizing seminars and workshops and providing on-line and off-line training in order to enhance the competitiveness of Thai exporters.
- Support the development and value creation of Thai products in terms of design and branding so that they can meet international market demand.
- Support the advancement of trade logistics systems by organizing promotional activities such as trade logistic fairs and the Excellent Logistics Management Award.
- Create and operate Thailand's e-commerce official platform (Thaitrade.com) to provide channels for quality Thai SME products to expand into global markets.

Source: DITP. Viewed at: <https://www.ditp.go.th>.

3.80. With the aim of promoting Thai products and services that meet international quality standards, the DITP has implemented the Thai Select and the Thailand Trust Mark (T-Mark) programmes. Thai Select is a seal of DITP approval, recognizing high-quality standards; it is granted to Thai restaurants overseas and processed Thai food products. The T-Mark is intended to be a symbol of excellence and trusted quality; it was created to add a distinctive value to the Thai products and services that are made in Thailand. Thai entrepreneurs have received the T-Mark recognition in six industry groups: food and agriculture industry, industrial products, lifestyle industry, fashion, other industries (medical equipment, pharmaceutical products, cosmetics and spa products), and service businesses (wellness and medical services, trade logistics, and animation and digital content).

3.81. Another DITP policy is to encourage Thai exporters' participation, especially SMEs, in e-commerce, through the DITP official e-marketplace called Thaitrade.com, which has now been extended to cover not only business to business trade but also business to consumer sales under the platform Thaitrade.com Small Order OK (SOOK).⁴²

3.82. Each year, the DITP undertakes more than 300 activities, both in Thailand and overseas, to help boost exports, including trade fairs and exhibitions, trade missions, business-matching, in-store promotions, and capacity-building. The activities cover traditional markets, e.g. China, the United States, ASEAN, Japan, and Europe, as well as new frontier markets like India, the Middle East, Africa, and Latin America. Among the products and services promoted are food and agricultural products, fashion and lifestyle products, gems and jewellery, construction materials and services, auto parts, and animation and digital content.

3.2.5 Export finance, insurance, and guarantees

3.83. The Export-Import Bank of Thailand (EXIM Thailand) is a state-owned specialized financial institution under the supervision of the Ministry of Finance.⁴³ It offers a wide range of credit and insurance products to promote exports, imports and investment, with the aim of enhancing Thai businesses' participation in international markets, and thus furthering economic development. The

⁴¹ Vladivostok, Lima, Hiroshima and Siem Reap.

⁴² DITP, *Annual Report 2016*. Viewed at: https://www.ditp.go.th/ditp_web61/article_sub_view.php?filename=contents_attach/242101/242101.pdf&title=242101&cate=1161&d=0.

⁴³ EXIM Thailand was established in 1994 by the Export-Import Bank of Thailand Act, B.E. 2536 (1993).

Bank seeks to fill up financial gaps faced by Thai exporters and entrepreneurs who have inadequate or no access to funding or other financial facilities, and supports companies at all stages of development, from start-ups to SMEs and large enterprises. As at end-2019, EXIM Thailand's outstanding trade loans and export credit insurance turnover was THB 157.1 billion or 1.86% of total exports.

3.84. EXIM Thailand offers its credit and insurance products at market rates based on risk, in order to cover its own costs and generate profits. Under the Export-Import Bank of Thailand Act B.E. 2536 (1993), any severe loss incurred by EXIM Thailand from export-credit insurance or business operations approved by the Government is to be compensated by the Ministry of Finance through the allocation of funds from the Government's budget.⁴⁴

3.85. The facilities offered by EXIM Thailand include export credit, working capital loans, export supplier's credit, buyer's credit, financing for investment projects in Thailand and abroad, export-credit and investment insurance, buyers' risk assessment, letters of guarantee, and other services to support traders and investors.⁴⁵ In July 2018, the Bank's Act was amended, through the EXIM Bank of Thailand Act (No. 3) B.E. 2561 (2018), in order to expand its insurance facilities; among the Bank's new services are export-credit insurance for suppliers of products or services to Thai exporters, and investment insurance for commercial banks that lend to Thai investment projects abroad.

3.86. Export credits are provided for the short, medium and long terms, in either baht or foreign currency. Short-term loans usually cover a maximum of one year; the duration of medium-/long-term loans depends on the cashflow projection of the company requesting the loan. Export credits can be offered for pre-shipment, post-shipment, or both. As indicated, a new credit facility is also available for indirect exporters (i.e. suppliers of exporters) covering pre- and post-shipment. The interest rates and fees applied by EXIM Thailand are published online at: https://www.exim.go.th/th/exchange_rate/interest.aspx. As at 19 March 2020, the EXIM Thailand's Prime Rate on loans in baht was 5.75% per annum. The Prime Rate is a reference rate, while the interest rate actually offered to clients depends on several factors (i.e. cost of funds, liquidity, and the client's risk rating).

3.87. EXIM Thailand is the only state-owned financial institution providing export-credit insurance. It offers short-, medium- and long-term export-credit insurance to cover commercial and political risks. Depending on the type of insurance product, coverage varies between 85% and 90% of the loss realized. Short-term export-credit insurance schemes are available for exporters offering payment terms of up to 180 days from the date of exportation. Examples of these facilities are: the SMEs Easy Export Insurance scheme, which offers export-credit insurance for up to THB 2 million, with simplified procedures for start-up and small-scale exporters; and the EXIM 4 SMEs scheme, providing export-credit insurance with attractive premiums and expedited approval procedures for SMEs with an export value not exceeding THB 200 million per year.⁴⁶ In 2018, the Bank's short-term export-credit insurance turnover amounted to THB 89.1 billion, or a 42.8% increase from the previous year. The products accounting for the largest share of insurance turnover were canned and processed food (almost a third of the total), followed by petroleum, natural gas, rice and rice products, and jewellery and accessories.⁴⁷

3.88. Medium- and long-term export-credit insurance facilities are provided to exporters and to financial institutions granting credit to exporters. They cover exports of goods and services with payment terms beyond 180 days but no longer than five years, and the maximum coverage is 90% of the loss realized. Demand for medium- and long-term export-credit insurance comes mainly from exporters of manufacturing products and services. In 2018, EXIM Thailand's medium- and long-term export-credit insurance turnover totalled THB 50 million.⁴⁸ EXIM Thailand takes part in the Portfolio Guarantee Scheme (PGS) of the Thai Credit Corporation, a state-owned specialized financial

⁴⁴ Sections 23 and 24 of the Export-Import Bank of Thailand Act B.E. 2536 (1993).

⁴⁵ The terms and conditions of these programmes can be viewed at the EXIM Thailand website, *Products and Services*. Viewed at: https://www.exim.go.th/th/Products_Services.

⁴⁶ As part of its promotional strategy, the Bank offers export-credit insurance products with a 50% reduction in premium for the first five buyers. The Nation, *Exim Thailand offers support and incentives for rise in trade*. Viewed at: <https://www.nationthailand.com/Economy/30353725>.

⁴⁷ EXIM Thailand, *Annual Report 2018*. Viewed at: <https://www.exim.go.th/th/Annual-Reports/aaa.aspx>.

⁴⁸ In 2018, the aggregate amount of medium- and long-term export-credit insurance granted in both foreign and domestic currency was almost THB 3 billion. EXIM Thailand, *Annual Report 2018*.

institution that provides credit guarantees to viable SMEs which do not have sufficient collateral. Under this arrangement, established in 2009, EXIM Thailand is in a position to expand its credits to exporters, utilizing the PGS to enhance the creditworthiness of SME clients.

3.89. Over the past few years, EXIM Thailand has put in place new strategies in order to adapt to the rapid changes in global trade and investment, including intensified competition in financing, and the need to diversify into new frontier markets, and to embrace new digital technologies. Under its strategies for 2017-19, the Bank focused on enhancing trade and investment in new markets, mainly in the Greater Mekong Subregion comprising Cambodia, Lao PDR, Myanmar and Vietnam (CLMV) and in Africa, by developing projects specifically designed to cater to the needs of exporters and investors engaged in these regions. EXIM Thailand also worked to develop the capabilities of start-up exporters, especially SMEs, to participate in international trade, by promoting online sales channels in partnership with global and domestic digital business platforms. The Bank is also in the process of developing online facilities to expedite and ease the provision of its services to the exporter community (e.g. the online export-credit insurance system (ECI Online)).

3.90. Among the main new products and services developed by EXIM Thailand in accordance with its strategies are:

- EXIM Loan for CLMV Buyers, a loan facility for entrepreneurs in the CLMV to purchase goods and services from Thailand with an initial interest rate of LIBOR +4% per annum, a credit line of up to USD 4 million per borrower and a maximum term of five years depending on the creditworthiness of the buyer; and
- EXIM Special Zone Credit, a long-term credit facility combined with a revolving credit line for up to 15 years, to support investors in the Eastern Economic Corridor (EEC), the Special Economic Zones (SEZs), border provinces, industrial estates, and industrial zones, with attractive interest rates and special reductions for investors in the EEC and the SEZs.⁴⁹

3.91. In 2019, EXIM Thailand posted a net profit of THB 507 million (compared to almost THB 1.4 billion in 2018). Its total outstanding loans amounted to THB 121.9 billion, an increase of 12.2% over 2018. The Bank's non-performing loans ratio stood at 4.6%. In 2019, the Bank granted new loans worth THB 59 billion, a decrease of 20.9% over 2018. The accumulated amount of credit lines approved until the end of 2019 was THB 298.6 billion; 69% of credit lines was to support export, capacity expansion and domestic investment projects, while the rest went to Thai investment abroad. It is estimated that 1.86% of Thailand's total export value in 2019 resulted from the Bank's support through credit lines and export-credit insurance.⁵⁰

3.3 Measures Affecting Production and Trade

3.3.1 Incentives

3.3.1.1 Taxation

3.92. In FY2019, tax revenue accounted for 88% of government revenue, and was equivalent to 16% of GDP. VAT, corporate income taxes, excise tax, and personal income tax accounted for about 30%, 26%, 22%, and 12%, respectively, while import tariffs accounted for about 4% of total tax revenue (Table 3.14).

3.93. According to the Revenue Code, the corporate income tax (CIT) rate is 20%.⁵¹ Companies incorporated in Thailand are taxed on worldwide income. A company incorporated abroad is taxed on its profits arising from, or in consequence to, the business carried out in Thailand. Foreign companies not carrying out business in Thailand are subject to a final withholding tax, normally at a rate of 15%, on some types of income, e.g. interest, dividends (at a rate of 10%), royalties, rentals, and service fees, paid from or in Thailand.

⁴⁹ For additional information on these schemes, see the EXIM Thailand website, *Products and Services*. Viewed at: https://www.exim.go.th/th/Products_Services.

⁵⁰ Information provided by the authorities.

⁵¹ Revenue Department, *Income Tax Rates Schedule*. Viewed at: http://www.rd.go.th/publish/fileadmin/user_upload/kormor/eng/Tax_rate_table2_161060.pdf.

Table 3.14 Central government tax revenue, by source, FY2015-FY2019

(Year ending 30 September) (THB million)

	2015	2016	2017	2018	2019
Total government revenue	2,619,866	2,813,036	2,792,765	2,974,133	3,061,071
Total tax revenue	2,279,553	2,383,075	2,455,865	2,598,739	2,700,182
Revenue Department	1,728,815	1,757,473	1,793,001	1,915,019	2,008,861
Personal income taxes	302,491	319,116	314,762	319,022	336,275
Corporate income taxes	566,150	604,929	626,714	663,526	694,654
Petroleum income taxes	83,522	46,297	39,389	63,679	99,687
VAT	708,905	716,384	742,248	792,999	799,664
Specific business taxes	54,175	56,249	55,733	60,375	62,056
Stamp duties	13,572	14,498	14,090	15,199	16,074
Inheritance taxes	n.a.	n.a.	65	219	451
Excise Department	439,092	517,686	562,361	580,448	585,407
Oil taxes	127,786	177,697	216,885	224,884	210,025
Tobacco taxes	62,734	65,438	68,603	68,548	67,410
Liquor taxes	62,488	61,953	62,657	55,965	62,147
Beer taxes	80,114	86,143	87,198	76,357	79,091
Car taxes	80,704	100,764	102,150	121,088	133,181
Beverage taxes	17,599	17,899	16,858	21,994	24,232
Electronic appliance taxes	471	81	26	6	0
Motorcycle taxes	2,915	2,949	3,436	3,843	3,898
Battery taxes	2,190	2,392	2,437	2,971	3,009
Other taxes	1,323	1,468	1,310	1,578	1,609
Customs Department	112,414	108,818	101,305	106,486	106,720
Import duties	112,210	108,714	101,214	106,342	106,510
Export duties	204	104	91	144	210

n.a. Not applicable, as the inheritance tax was enforced on 1 February 2016.

Source: Department of Excise Tax's Annual Report 2015-19; Fiscal Policy Office, Ministry of Finance. Viewed at: <http://www.fpo.go.th/main/getattachment/acc87e72-5864-4e8c-b601-8d8ad0668152/4908.aspx>; and data provided by the authorities.

3.94. Companies with paid-in capital not exceeding THB 5 million, and income from the sale of goods and/or the provision of services not exceeding THB 30 million, are subject to lower CIT rates:

- for net profit of THB 0 – THB 300,000, CIT rate of 0%;
- for net profit of THB 300,000 – THB 3 million, CIT rate of 15%; and
- for net profit above THB 3 million, CIT rate of 20%.

3.95. Lower CIT rates also apply to:

- banks deriving profits from international banking facilities – 10% of their net profits;
- foreign companies engaging in international transportation – 3% of their gross receipts;
- foreign companies disposing profits outside of Thailand – 10% of the amount disposed; and
- profitable associations and foundations – 2% or 10% of their gross receipts.⁵²

3.96. In accordance with the Petroleum Income Tax Act, petroleum companies under a concession are taxed at a rate of 50% of their annual net profit from petroleum operations, and companies under production-sharing contracts are taxed at a rate of 20% of their annual net profit derived from their petroleum business. Companies under a service contract are taxed under the Revenue Code and are subject to the 20% CIT.

3.97. All individuals who earn assessable income arising in Thailand are liable for personal income tax, whether they are residents or not, and regardless of where the income is received. Taxable income includes employment income, business income, and investment income, as well as income

⁵² Revenue Department, *Corporate Income Tax*. Viewed at: <http://www.rd.go.th/publish/6044.0.html>.

from a range of activities.⁵³ A wide range of deductions and allowances are permitted, and the income tax rate is applied progressively, with a top rate of 35% on annual incomes (net of deductions and allowances) over THB 5 million (up from THB 4 million in 2016).⁵⁴

3.98. The standard statutory VAT rate is 10%, although the applied rate is 7% (until 30 September 2020, unless further extended by the Government). VAT is levied at the same rate on imported and domestically produced/provided goods and services. VAT on imports is charged on the c.i.f. price plus import duty, excise tax, and other taxes and fees (if any). Persons with an annual turnover in excess of THB 1.8 million are required to register as VAT operators. VAT is exempted, or applied at a zero rate, on a number of business activities (Table 3.15).

Table 3.15 VAT exemptions and zero-rate VAT

VAT exemptions	Business activities
	Taxpayers with total sales of less than THB 1.8 million
	Sales of unprocessed agricultural products
	Sales of goods or products related to agriculture, e.g. fertilizers, animal feed and pesticides
	Sales of newspapers, magazines, and textbooks
	Sales of animals, whether dead or alive
	Educational services, including government and private schools
	Artistic and cultural services
	Medical, auditing, and court practice services
	Healthcare services, including government and private hospitals and clinics
	Research and technical services
	Libraries, museums, zoos, and amateur sports
	Public performers
	Domestic transportation
	International transportation by land
	Rental of immovable property
	Services of government agencies and local governments which send all revenue before expenses to the Government
	Religious activities and public charities
	Imported goods brought into a duty-free zone that are exempt from import duties
	Goods exempt from import duties pursuant to Chapter 4 of the Customs Tariff Code
	Imported goods processed by the Customs Department and re-exported
Zero-rate VAT	Exports
	International transportation by aircraft or ship
	Sales of goods or services to government agencies or state enterprises under foreign aid programmes
	Sales of goods or services to the UN or its specialized agencies, and embassies and consulates general
	Sales of goods or services between bonded warehouses or between enterprises located in a duty-free zone or between bonded warehouses and enterprises located in a duty-free zone

Source: PWC (2019), *Thai Tax 2019/20 Booklet*. Viewed at: <https://www.pwc.com/th/en/tax/assets/2019/thai-tax2019-20-booklet-en-1.pdf>.

3.99. A specific business tax (SBT) was introduced as an alternative to VAT, reflecting difficulties in determining the value added of certain services activities. The SBT is collected on gross revenue at fixed rates:

- 3% on commercial banking, financial and credit foncier business (the rate was lowered to 0.01% for certain items of banking income);
- 2.5% on life insurance;

⁵³ Deloitte (2017), *Taxation and Investment in Thailand 2017*. Viewed at: <https://www2.deloitte.com/content/dam/Deloitte/cn/Documents/international-business-support/deloitte-cn-ibs-thailand-tax-invest-en-2017.pdf>.

⁵⁴ From 1 January 2017, for those earning between THB 4 million and THB 5 million, their personal income tax rate was lowered from 35% to 30%. This change was aimed at easing tax burdens and boosting disposable income. ASEAN Briefing, *Thailand's New Personal Income Tax Structure Comes into Effect*. Viewed at: <https://www.aseanbriefing.com/news/thailands-new-personal-income-tax-structure-comes-effect/>.

- 2.5% on pawnshop brokerage;
- 3% on the sale of immovable property, real estate;
- 0.1% on the sale of securities on the stock exchange (currently exempt from SBT); and
- 3% on business with regular transactions similar to commercial banking.

3.100. An additional 10% of the SBT rate is levied as a municipality tax. The sale of agricultural futures contracts on the Agricultural Futures Exchange of Thailand, and the sale of derivatives on the Thailand Futures Exchange, are exempt from the SBT.

3.101. The new Excise Act B.E. 2560 (2017) entered into force on 16 September 2017. It merged all relevant provisions from seven pieces of law, i.e. the Excise Tax Act B.E. 2527 (1984), the Excise Tariff Act B.E. 2527 (1984), the Liquor Act B.E. 2493 (1950), the Tobacco Act B.E. 2509 (1966), the Playing Cards Act B.E. 2486 (1943), the Allocation of Excise Tax Act B.E. 2527 (1984), and the Allocation of Liquor Tax Act B.E. 2527 (1984).

3.102. Excise duties are levied on a number of products and services (Table 3.16). It is calculated based on *ad valorem* rates, plus specific rates where applicable. Excise duties are levied at the same rates on domestically produced/supplied goods or services and imported ones. The valuation basis for both domestically produced goods and imports is the suggested retail price, excluding VAT, and for services, the revenue of service facility. Exports are exempt from excise tax under Article 103 of the Excise Act B.E. 2560 (2017).

Table 3.16 Excise tax

Goods/services	<i>Ad valorem</i> rate (%)	Specific rate
Oil and petroleum products	50	THB 20 per litre or kg
Beverages	30	THB 20 per litre, THB 100 per litre
Electronic appliances	30	n.a.
Batteries	30	n.a.
Glasses and glassware	30	n.a.
Automobiles	40, 80	n.a.
Motorcycles	30	n.a.
Boats	30, 50	n.a.
Perfumery and cosmetics	20	n.a.
Carpets and other floor-covering textiles	30	n.a.
Marble and granite products	30	n.a.
Ozone-depleting substances	30	n.a.
Liquor	30	THB 3,000 per litre, THB 1,000 per litre
Tobacco	90	THB 5 per piece or gram
Playing cards	60	THB 500 per 100 cards
Other products, excluding the above as prescribed by Royal Decree	50	THB 1,000 per unit
Entertainment or recreation business	30	THB 3,000 per m ²
Gambling business	30	n.a.
Environmental impact business, such as golf courses, and others as prescribed by Ministerial Regulation	50, 30	n.a.
Business under permission or concession of the State, such as telecommunications, and others as prescribed by Ministerial Regulation	30	n.a.
Other services excluding the above services, as prescribed by Royal Decree	30	n.a.

n.a. Not applicable.

Source: Excise Act B.E. 2560 (2017).

3.103. In addition, an interior tax is also levied by the Excise Department, at a rate of 10% of the excise tax payable. According to the Excise Act, this is to support local governments.

3.104. According to the World Bank Doing Business report, in 2020, Thailand stands 68th out of 190 economies (62nd in 2015)⁵⁵ on the ease of paying taxes, above the regional average for East Asia and Pacific. On average, firms make 21 tax payments a year (22 in 2015), spend 229 hours a year filing tax returns (264 hours in 2015), and their total tax contribution amounts to 29.5% of their profit (26.9% in 2015).

3.105. The Government has released a range of measures in response to the COVID-19 pandemic. These include reductions in withholding tax, higher tax deductions for SMEs, and faster VAT refunds for exporters, among others, for a few months or a couple of years.⁵⁶

3.3.1.2 Tax and non-tax incentives

3.3.1.2.1 Overview

3.106. Thailand maintains a myriad of investment incentives, such as tax and duty deductions and exemptions, grants, permits for various activities, guarantees, and protection measures, among others (Table 3.17). Incentives are mainly regulated under the Investment Promotion Act, 1977 (which was most recently amended in 2017), and the Competitive Enhancement Act, 2017. Obtaining incentives under both Acts simultaneously is not possible. Most incentives are approved and granted by the Office of the Board of Investment (BOI), a government agency under the Office of the Prime Minister. The authorities stated that the incentives are provided to domestic and foreign investors under the same conditions. The incentive system is complex, and there seems to be a lack of analysis on impact and effectiveness. The authorities stated that external experts evaluate the effectiveness of Thailand's investment promotion policy once every two years. According to the authorities, the most recent report found that the investment promotion policy contributed positively to the economy: in 2015 and 2016, the incentive schemes boosted real GDP growth by 3.31%, private consumption by 1.59%, private investment by 6.03%, exports by 4.29%, and employment by 0.46% on average.

Table 3.17 Incentives

Tax incentives	Non-tax incentives
Exemptions from, or reductions of, import duties on machinery	Permit for foreign nationals to enter the country, for the purpose of studying investment opportunities
A reduction of import duties on raw or essential materials imported for manufacturing for domestic sale	Permit to bring into the country skilled workers and experts to work in investment-promotion activities
Exemption of import duties on materials imported for R&D purposes	Permit to own land
Exemption from corporate income tax on the net profit and dividends derived from the promoted activity	Permit to take out or remit money abroad in foreign currency
A 50% reduction of the corporate income tax	Guarantees against nationalization, competition from new state enterprises, price controls, and tax-exempt imports by government agencies or state enterprises
Double deductions from the costs of transportation, electricity, and water supply	Protection measures, including the imposition of a surcharge on imports, import bans on competing products and the authority of the Chairman of the BOI to order any action or tax relief measures for the benefit of promoted projects
Additional 25% deduction of the cost of installation or construction of facilities	
Exemption of import duty on raw or essential materials imported for use in production for export	

Source BOI, *A Guide to the Board of Investment 2019*. Viewed at: https://www.boi.go.th/upload/content/BOI-A%20Guide_EN.pdf; and PWC (2019), *Thai Tax 2019/20 Booklet*. Viewed at: <https://www.pwc.com/th/en/tax/assets/2019/thai-tax2019-20-booklet-en-1.pdf>.

⁵⁵ WTO document WT/TPR/S/326/Rev.1, 10 February 2016; and World Bank, *Doing Business 2020 – Economy Profile Thailand*. Viewed at: <https://www.doingbusiness.org/content/dam/doingBusiness/country/t/thailand/THA.pdf>.

⁵⁶ KPMG, *Thailand: Tax developments in response to COVID-19*. Viewed at: <https://home.kpmg/xx/en/home/insights/2020/04/thailand-tax-developments-in-response-to-covid-19.html>.

3.107. During the review period, Thailand made two notifications pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the WTO Agreement on Subsidies and Countervailing Measures. Both notifications covered some of the BOI investment promotion incentives, and other incentive schemes such as those under the I-EA-T, and at the sectoral level (Section 3.3.1.2.4).⁵⁷

3.108. In 2015, the BOI revised the investment promotion policies and criteria to bring them in line with Thailand's National Economic and Social Development Plan, and the Seven-Year Investment Promotion Strategy (2015-21). Since 1 January 2015, the BOI has shifted from a zone-based investment scheme, to an activity- and merit-based scheme (see below). Once approved, tax concessions are available to all investment projects, by foreign or local investors.

3.109. Criteria for the BOI to approve applications include:

- the value added of the project must not be less than 20% of revenues (for projects in agriculture, agricultural products, electronic products and parts, and coil centres⁵⁸, the value added must be at least 10% of revenue);
- activities must use advanced technology;
- adequate and efficient guidelines and measures to protect the environment and to reduce environmental impacts must be included;
- the minimum capital requirement of each project must be THB 1 million (excluding the cost of land and working capital); and
- for newly established projects, the debt-to-equity ratio must not exceed 3:1. Expansion projects are considered on a case-by-case basis.⁵⁹

3.110. As notified to the WTO, the authorities recognize that there is no specific budget earmarked for investment promotion incentives. Information on the subsidy per unit, statistics on tax exemptions and reductions, and information on revenue forgone, are not available.

3.111. Based on online statistics from the BOI, in 2019, of the 1,500 projects approved by the BOI, more than one third were in the services and public utilities sectors (36.0%), followed by metal products, machinery and transport equipment (17.1%), electronics and the electronics industry (17.0%), and agriculture and agricultural products (13.8%).⁶⁰ In 2019, 38.2% (35.4% in 2014) of BOI-approved projects were 100% foreign-owned investments, and 20.3% (22.4% in 2014) were joint ventures.

3.3.1.2.2 Activity- and merit-based incentives

3.112. The BOI groups incentives into a general list of activities eligible for investment promotion, and additional or "merit-based" incentives.

3.113. The general list of activities for investment promotion contains various groups of activities:

- knowledge-based activities (A1);
- infrastructure activities (A2);
- high-technology activities (A3);

⁵⁷ WTO documents G/SCM/N/315/THA, 19 January 2018; and G/SCM/N/343/THA, 4 July 2019.

⁵⁸ A coil centre is the precision processing of steel sheets and coils used in electronics, electrical appliances, and automotive industries.

⁵⁹ BOI, *A Guide to the Board of Investment 2019*. Viewed at: https://www.boi.go.th/upload/content/BOI-A%20Guide_EN.pdf.

⁶⁰ BOI, *Approval of investment promotion by sector, January – December 2019*. Viewed at: <https://ipstat.boi.go.th/pubrpt/index.php>.

- activities with lower technology but that add value to domestic resources and strengthen the supply chain (A4)⁶¹;
- activities supporting industry that does not use high technology, but is important to the value chain (B1, B2)⁶²;
- activities supporting the development of targeted technology; and
- technology and innovation development.

3.114. These activities are granted the following incentives: tax concessions such as exemption/reduction of CIT, exemption of import duties on machinery, exemption of import duties on raw and essential materials used for exports, and special deduction of certain expenditures.

3.115. The BOI grants additional incentives based on the value of a project (i.e. merit-based incentives):

- merit for competitiveness enhancements: additional CIT exemption of up to three years; and additional investment cap of up to 300% of the permitted expenses;
- merit for decentralization: additional CIT exemption of up to three years; some activities receive a 50% reduction in CIT for five years; double deduction for transportation, electricity, and water costs for ten years; and deduction of 25% from the net costs of the project's infrastructure installation or construction; and
- merit for industrial area development: additional CIT exemption of up to one year.

3.3.1.2.3 Other incentives offered by the BOI: SEZs and others

3.116. Apart from the main scheme mentioned above, the BOI also offers other incentives, particularly to promote investment in SEZs, but also to: improve production efficiency; promote industrial development in border provinces in Southern Thailand; promote the grassroots economy; and promote investment in the rail system and related industries.⁶³

3.3.1.2.3.1 Measures to promote investment in SEZs

3.117. SEZs are border areas, located inside or outside of industrial estates, aiming at creating economic connectivity with neighbouring countries. Thailand introduced its SEZ development policy in 2015.⁶⁴ Currently, SEZs are located in certain sub-districts in the ten provinces of Tak, Mukdahan, Sa Kaew, Trat, Songklah, Chlang, Nongkai, Nakhon Panom, Kanjanaburi, and Narathiwat. The authorities stated that free zones (FZs) are operated under the Customs Act, while incentives granted to SEZs are under the Investment Promotion Act. Incentives for FZs are import duty exemption on raw materials and machinery, and those for SEZs are CIT exemption, import duty exemption on raw materials and machinery, and non-tax incentives.

3.118. Tax incentives for investment in the SEZs may be granted both under the Revenue Code, and by the BOI. In accordance with the Revenue Code, the CIT rate is reduced by 10% for ten years for corporate entities with a place of business in an SEZ. Incentives allocated by the BOI are available for eligible targeted activities, and for eligible general activities (Table 3.18).⁶⁵

⁶¹ The authorities stated that one example of A4 activities is the manufacturing of products from agriculture outputs, or agriculture waste (except for those with uncomplicated production processes, e.g. drying and dehydration).

⁶² Examples of B1 activities are crop drying and silo facilities, and an example of a B2 activity is a coil centre.

⁶³ BOI, *A Guide to the Board of Investment 2019*. Viewed at: https://www.boi.go.th/upload/content/BOI-A%20Guide_EN.pdf.

⁶⁴ ASEAN Briefing, *Thailand's Special Economic Zones – Opportunities for Investment*. Viewed at: <https://www.aseanbriefing.com/news/thailands-special-economic-zones-opportunities-investment/>.

⁶⁵ PWC, *Thai Tax 2019/20 Booklet*. Viewed at: <https://www.pwc.com/th/en/tax/assets/2019/thai-tax2019-20-booklet-en-1.pdf>.

Table 3.18 Incentives granted to SEZs

Incentives for activities on the BOI general list	Incentives for targeted activities
3-year additional exemption of CIT, not exceeding 8 years in total	Exemption of CIT up to 8 years
Projects with activities in groups A1 or A2, which are already granted an 8-year CIT exemption, receive an additional 50% CIT reduction for 5 years	Additional 50% CIT reduction for 5 years
10-year double deductions from the costs of transportation, electricity and water supply	Same incentives
25% deduction of the cost of installation or construction of facilities (apart from normal depreciation deduction)	
Exemption of import duties on machinery	
Exemption of import duties on raw materials used in production for export	
Permission to own land and permission to bring in foreign experts to work	

Source: BOI, *Investment Promotion Policy for Investment in SEZ*. Viewed at: https://www.boi.go.th/un/SEZ_policy.

3.119. The Policy Committee of Special Economic Zones, under the Office of National Economic and Social Development Council, stipulates targeted industries for each Zone, i.e. each Zone has different targeted activities depending on local potential, limitations, and needs. The 13 targeted industries are: agriculture and fisheries, and related industries; ceramics; textile, garment, and leather industries; furniture manufacturing; gems and jewellery; medical equipment manufacturing; automotive, machinery, and parts; electrical appliances and electronics; plastic production; medicine production; logistics; industrial estates/zones; and tourism-related industries.

3.120. In addition, there is a list of expanded industries in SEZs: manufacture of animal feed products and animal food ingredients; manufacture of construction materials and prestressed concrete for public utilities; manufacture of body-care products, such as soap, shampoo, toothpaste and cosmetics; manufacture of plastic products for consumer goods, such as plastic packages; manufacture of goods from paper pulp or paper, such as cardboard boxes; and factory development for industrial plant and warehouses.

3.121. Companies in SEZs may be wholly foreign-owned, without the requirement to secure a foreign business licence.⁶⁶ The authorities indicated that, during 2015-19, the BOI approved 70 investment projects in SEZs, mainly in the agri-business (28.6%), plastics (24.3%), apparel and clothing (17.1%), and power generation sectors (7.1%). Total investment value reached THB 12.3 billion.

3.122. Businesses located within SEZs also benefit from good infrastructure, low-interest loans, and access to one-stop services for investment and immigration.⁶⁷ The authorities stated that there are no export performance requirements for enterprises to be located in these SEZs, nor any nationality requirements for employees. Goods produced in SEZs can be sold in the country with no import duties.

3.3.1.2.3.2 Other incentives offered by the BOI

3.123. To obtain various tax incentives to improve production efficiency, applicants must submit their investment plans: for machinery change or upgrade to save energy, the introduction of alternative energy, or the reduction of the environmental impact; for machinery replacement or upgrade; for research and development or engineering designs; or to upgrade agri-industry to meet international standards.

3.124. The BOI also provides incentives to:

⁶⁶ ASEAN Briefing, *Thailand's Special Economic Zones – Opportunities for Investment*. Viewed at: <https://www.aseanbriefing.com/news/thailands-special-economic-zones-opportunities-investment/>.

⁶⁷ ASEAN Briefing, *Thailand's Special Economic Zones – Opportunities for Investment*.

- promote investment in the southern border provinces, and to boost "model cities"⁶⁸;
- promote investment and potential entrepreneurs at the community level, with a view to supporting community enterprises of agriculture and processed agriculture, light industry, and community-based tourism; and
- stimulate investment in the manufacture of trains, parts, or rail system equipment in conformity with the Government's future plan on the rail mass transit system.

3.3.1.2.4 Other incentives

3.125. In addition, incentives may be granted to businesses located in the Eastern Economic Corridor (EEC), the International Business Centres, as well as the I-EA-T and the Customs free zones (Section 3.2.4); incentives are also offered at the sectoral level, and to SMEs. They may be approved and granted by the BOI, the Revenue Department, the Department of Fisheries, the Bank of Agriculture and Agricultural Cooperatives (BAAC), the SME Development Bank, the Committee on Energy Policy Administration, and the Department of Alternative Energy Development and Efficiency, among others.

Eastern Economic Corridor (EEC)

3.126. On 15 May 2018, the Eastern Economic Corridor Act (2018) (EEC Act) entered into force. It aims to promote new technology and innovation in targeted industries located in the special economic promotion zones in the three eastern provinces of Rayong, Chonburi, and Chachoengsao. The authorities noted that tax incentives under the EEC Act have not yet been announced. Nevertheless, non-tax incentives have been prescribed, aiming at removing procedural obstacles and facilitating business activities in the EEC, such as customs procedures for e-commerce, and relaxing foreign ownership restrictions for aircraft, major aircraft components, and repair station businesses.

3.127. Under the Investment Promotion Act, the BOI stipulated criteria and incentive packages for promoted activities located in the EEC. Additional incentive packages, in the form of CIT exemption or reductions, are granted to companies investing in:

- human resource development programmes, by creating a collaboration with an academic or research institution, or centre of excellence; and
- the eastern airport city (EEC-A), the eastern economic corridor of innovation (EECi), the digital park Thailand (EECd), the Thammasat Integrated Medical Innovation Centre (Pattaya) (EECmd), or in the industrial estate and promoted industrial zones.

3.128. To attract high-skilled workers from abroad, individuals with special knowledge or abilities who work or operate a business in certain zones within the EEC may benefit from personal income tax (PIT) reductions. Qualified expatriates and Thai employees are granted a flat rate of 17% PIT on their income derived from working for companies carrying on target activities within the EEC.

3.129. In January 2020, the BOI extended and revised incentives for investment in the EEC: incentives are extended to investments outside industrial estates or promoted industrial zones, and the list of target activities was expanded.⁶⁹ Several infrastructure projects were launched with a view to enhancing the connectivity between the EEC and the rest of the world. They include four public private partnership (PPP) flagship projects aiming to deliver a high-speed rail line; the upgrade of an international airport; and the expansion of two deep-water seaports.

⁶⁸ Currently Thailand has four "model cities": Nong Chik district in the Pattani province, Betong district in the Yala province, Su-ngai Kolok district in the Narathiwat province, and the recently added Chana district in the Songkhla province.

⁶⁹ BOI, *Investment Promotion Measures in the EEC*. Viewed at: https://www.boi.go.th/un/Policy_EEC.

International Business Centre (IBC)

3.130. On 10 October 2018, the Revenue Department announced a new tax incentive scheme to promote Thailand as an IBC. This replaced the existing regional operating headquarters (ROH) and international headquarters (IHQ) regimes, and amended the international trade centre regime. According to the authorities, these steps were in response to the OECD's action plan to combat harmful tax practices. Existing ROHs and IHQs can apply to convert to an IBC.

3.131. In December 2018, the BOI issued its announcement Sor. 6/2561 on the Promotion of International Business Centres (IBC).⁷⁰ Accordingly, to establish and operate as an IBC, a company must:

- have business plans in providing services for associated enterprises as follows:
 - i. general business management, business planning, and business cooperation;
 - ii. procurement of raw materials and parts;
 - iii. research and development of products;
 - iv. technical support;
 - v. marketing and sales promotion;
 - vi. human resources management and training;
 - vii. financial advisory services;
 - viii. economic and investment analysis and research;
 - ix. credit management and control;
 - x. financial management services of the treasury centre;
 - xi. international trade business; and
 - xii. other supporting services stipulated by the Announcement of the Revenue Department.
- have paid-up capital on the last day of each accounting period of at least THB 10 million;
- employ at least ten full-time knowledgeable and skilled personnel, or at least five if the IBC acts only as a treasury centre; and
- if operating international trade business, at least one scope of business in ix above must be involved.

3.132. The company is not eligible for import duty exemption on raw or essential materials used in the production for export; and is not eligible for additional merit-based incentives.

3.133. An IBC obtains income from: the provision of management, technical, support, or treasury management services to its associated enterprises; and royalties from associated enterprises arising from R&D activities carried out by the IBC or other entities hired by the IBC. This income may benefit from the following incentives for 15 accounting periods: reduced CIT rate on qualifying income; exemption from tax on dividends; exemption from withholding tax on dividends or interest; exemption from specific business tax; and a lower personal income tax for full-time expatriate employees.

SMEs

3.134. Support continues to be provided to SMEs, particularly through low-interest loans provided by the SME Development Bank. In 2018, SME bank loans were granted to different types of enterprises: 78.0% to the service sector; 10.8% to the industrial sector; 7.3% to the commercial sector; 2.0% to the real estate and construction sector; and 1.7% to the agricultural sector.⁷¹ The

⁷⁰ BOI, *Announcement of the Board of Investment No. Sor. 6/2561 Promotion of International Business Centers*. Viewed at https://www.boi.go.th/upload/content/S6_2561_EN_5c496fa941e85.pdf.

⁷¹ SME Development Bank, *Annual Report 2018*. Viewed at: <https://www.smebank.co.th/en/about/annual-report>.

Bank's minimum interest rates range from 3.875% (minimum hire-purchase rate) to 8.300% (minimum retail rate).⁷²

3.135. The BOI also supports the development of SMEs in the form of tax and non-tax incentives. In December 2017, the BOI expanded its incentives for SMEs by, *inter alia*: enlarging the coverage of business activities from 40 to over 100; and increasing the ceiling of CIT exemption from 100% to 200% (i.e. the amount of tax exemption on capital investment was doubled) to enhance SMEs' competitiveness.⁷³ The authorities stated that these incentives were terminated on 31 December 2019.

3.136. The Government is planning to launch a new support package for SMEs, which is to integrate incentives provided by the BOI, and soft loans provided by various banks.⁷⁴ Also, the BOI has been working with other public agencies and private-sector representatives to prepare incentive packages to promote investment by SMEs. The new package aims to improve support to the agricultural, tourism, and services sectors.⁷⁵

Some incentives at the sectoral level

3.137. In accordance with Thailand's notifications to the WTO under Article XVI:1 of the GATT 1994 and Article 25 of the WTO Agreement on Subsidies and Countervailing Measures, incentives are also given to a number of sectors, in various forms, by various agencies (Table 3.19).⁷⁶ Some of these incentives have already expired.

Table 3.19 Notified subsidies at sectoral levels

Title	Duration	Objective	Form	Responsible authority
Improving farming construction for recovering shrimp production	April 2016–September 2019	Resolve decreasing shrimp production due to EMS shrimp disease	Soft loan	Department of Fisheries (DOF), Bank of Agriculture and Agricultural Cooperatives (BAAC)
Soft loan programme for fishermen and fishing operations	September 2015–December 2016	Help fishermen affected by the Government combating illegal, unreported and unregulated (IUU) fishing	Soft loans	DOF
Fishing vessel-buying programme	April–May 2016	Help fishermen affected by the Government combating IUU fishing	Grants	DOF
Encouraging the transformation of plastic waste into fuel oil	August 2015–August 2018	Decrease dependency on oil imports, solve the problem of waste disposal	Financial support	Committee on Energy Policy Administration (CEPA)
Energy Efficiency Revolving Fund (EERF)	FY 2016	Promote energy efficiency	Loan	Department of Alternative Energy Development and Efficiency (DEDE)
Low-interest loan/Energy Service Company (ESCO) revolving fund	FY 2015	Fund projects with global potential, promote the use of ESCO	Loan	DEDE
Compensation programme for fishing-vessel owners	March–Sept 2019	Compensate fishing-vessel owners affected by the Government's fishing vessel removal measure	Grants	DOF

⁷² SME Development Bank, *Loan Interest Rates and Discounts*. Viewed at: <https://www.smebank.co.th/en/interest-rates/loan-interest-rates-and-discounts>.

⁷³ Cision PR Newswire, *Thailand Board of Investment Offers More Attractive Incentives for SMEs and Identifies List of Targeted Industries in EECi and EECd*. Viewed at: <https://www.prnewswire.com/news-releases/thailand-board-of-investment-offers-more-attractive-incentives-for-smes-and-identifies-list-of-targeted-industries-in-eeeci-and-eeecd-300574885.html>.

⁷⁴ SME Magazine (15 January 2020), *Thailand Plans New Support for SMEs*. Viewed at: <https://smemagazine.asia/thailand-plans-new-support-for-smes/>.

⁷⁵ Cision PR Newswire, *Thailand BOI Approves Revised Incentives to Promote Investment in the EEC Area*. Viewed at: <https://www.prnewswire.com/news-releases/thailand-boi-approves-revised-incentives-to-promote-investment-in-the-eeec-area-300977404.html>.

⁷⁶ WTO documents G/SCM/N/315/THA, 19 January 2018; and G/SCM/N/343/THA, 4 July 2019.

Title	Duration	Objective	Form	Responsible authority
Livelihood improvement and resilience-building programme for artisanal fisheries communities	April–Sept 2019	Increase artisanal fishers' income and improve their livelihoods	Grants	DOF
- Capacity-building on marine shrimp production and marketing for domestic shrimp consumption	2019-21	Support small-scale marine shrimp farmers	Grants and soft loans	DOF, BAAC
- Microorganism production centres for groups of marine shrimp farmers	March–Sept 2018	Establish microorganism centres to provide microorganisms for shrimp farmers	Grants	DOF
Investment promotion in solar hot water for service, industry and residence	2008-15	Encouraging the use of solar hot water	Energy Conservation Promotion Fund (ENCON Fund)	DEDE
Investment promotion in solar greenhouse dryers in agricultural products	From 2011	Promote renewable energy	ENCON Fund	DEDE
Financial subsidy to change industrial boilers from steam burners to biomass fuel burners	Feb 2016–July 2017	Promote the use of biomass fuel instead of fuel oil	ENCON Fund	DEDE
Compressed bio-methane gas (CBG) promotion in biogas plants	Oct 2016–June 2017	Promote CBG to replace LPG and NGV	ENCON Fund	DEDE

Source: WTO documents G/SCM/N/315/THA, 19 January 2018; and G/SCM/N/343/THA, 4 July 2019.

Thailand-Plus

3.138. In September 2019, Thailand introduced "Thailand Plus", a stimulus package aimed at attracting foreign businesses to relocate and to expedite large-scale investment, and at strengthening workforce development.⁷⁷ The new measures include an enhanced incentive package for projects worth at least THB 1 billion of investment, additional incentives for companies engaged in human resource development, and revised incentives to encourage corporations to set up science, technology, engineering, and mathematics (STEM) education or vocational training institutions.

3.3.2 Standards and other technical requirements

3.139. Standards and other technical requirements are regulated under the National Standardization Act B.E. 2551 (2008), and the Industrial Products Standards Act B.E. 2511 (1968) and its amendment (No. 8) B.E. 2562 (2019). Amendments made by the Industrial Products Standards Act (No. 8) B.E. 2562 (2019) include:

- mandatory standards are enforced by a ministerial regulation, not by a royal decree;
- penalties for manufacturers and importers of products under mandatory standards without permission from the competent authority were changed, from imprisonment of not more than two years, or a fine of not more than THB 1 million, or both, to imprisonment of not more than two years, or a fine of not more than THB 2 million, or both; and
- penalties for sellers of products under mandatory standards without standards mark were changed, from imprisonment of not more than 1 month, or a fine from THB 5,000 to THB 50,000, or both, to imprisonment of not more than 6 months, or a fine not exceeding THB 500,000, or both.⁷⁸

3.140. Since the previous Review, there have been no major changes to the institutional framework for standards and conformity assessment. The Thai Industrial Standards Institute (TISI), under the Ministry of Industry, was established in 1969 under the Industrial Product Standards Act B.E. 2511

⁷⁷ BOI, *Press Release No. 148/2562 (O.88)*, 20 September 2019, BOI approves Thailand Plus incentives to expedite investment relocation. New package also encourages workforce development and STEM education. Viewed at: https://www.boi.go.th/upload/content/No.148_2562EN.pdf.

⁷⁸ TISI, *Annual Report 2018*.

(1968). It is responsible for developing national standards (both voluntary and compulsory), product certification and registration, and participating in the standardization activities both at regional and international levels. In addition to the TISI, other bodies responsible for different aspects of technical regulations and standards are:

- the National Bureau of Agricultural Commodity and Food Standards (ACFS), under the Ministry of Agriculture and Cooperatives, responsible for enforcing standards along the food supply chain; accrediting certification and inspection bodies of agricultural commodities and foods; international cooperation; and food standards control⁷⁹;
- the MoC, responsible for policy and legislation on metrology;
- the National Institute of Metrology (Thailand), under the Ministry of Science and Technology, responsible for the implementation of metrology; and
- the Office of the National Standardization Council (NSC) and its network agencies, including the Department of Medical Service, the Department of Science Service, and the ACFS, all responsible for accreditation of organizations for conformity assessment.

3.141. During the review period, TISI's Strategic Plan (2015-19) set the target of developing needs-based standards in line with international principles; overseeing products and conformity assessment procedures for wide recognition; and promoting and developing Thai standardization. The procedure for developing standards and technical regulations remains unchanged. TISI works with other government agencies and private-sector organizations to develop standards. Its work programme, containing, *inter alia*, the standards it is currently preparing and those that it adopted in the preceding period, is published at least once every six months.⁸⁰ According to the TISI annual report, standards development is in accordance with government policy, the Ministry of Industry's strategy, Thailand's 20-year national strategy, and international guidelines.⁸¹

3.142. For each standard in preparation, a technical committee, made up of the responsible national standards body and other interested parties, develops a draft standard. The draft standard is then circulated for comment, with final approval by the Industrial Products Standards Council. Thailand also notifies the draft standard to the WTO Committee on Technical Barriers to Trade for comments. Voluntary standards may be made compulsory by reference to technical regulations.

3.143. By the end of 2019, TISI had established 3,481 Thai industrial standards, of which 1,303 adopted international standards (International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC)). Since 2015, TISI has established 743 new standards, of which 711 were not compulsory and 32 were compulsory. Another 4 were withdrawn during this period.

3.144. The main categories of products that are subject to compulsory standards are as follows: civil and construction materials; consumer products; electrical/electronic engineering; fluid engineering; food; heat transfer engineering; medical, science; paints, colours, and varnishes; mechanical engineering and vehicles; and chemicals. Products subject to compulsory standards must comply with the standard and show the mandatory certification mark. Their producers and importers must obtain a licence from TISI before production or importation. On 19 February 2018, an e-licence system was launched. Applications, together with relevant documents including the assessment report of quality controls, and the report of product testing, are submitted electronically. After evaluating the quality control system and the result of product testing, TISI issues an e-licence within 15 working days.

3.145. Thailand's accreditation framework is operated under the Standardization Act B.E. 2551 (2008), and includes:

⁷⁹ ACFS. Viewed at: <http://www.acfs.go.th>.

⁸⁰ TISI, *List of draft Thai Industrial Standards (TIS)*. Viewed at: <https://www.tisi.go.th/list-tisi>.

⁸¹ TISI, *Annual Report 2018*.

- the NSC and TISI, both of which provide accreditation to certification bodies, inspection bodies, and testing and calibration laboratories;
- the ACFS, in charge of providing accreditation in the areas of agricultural commodities and foods;
- the Department of Science Service, in charge of providing accreditation in the areas of testing laboratories, proficiency-testing providers, and reference material producers; and
- the Department of Medical Science, in charge of providing accreditation in the areas of testing and medical testing laboratories, reference material producers, and national good laboratory practice (GLP) compliance monitoring authorities.⁸²

3.146. The authorities stated that, as at March 2020, there were 1,542 TISI-accredited testing laboratories, 987 calibration laboratories, 98 accredited inspection bodies, and 135 accredited certification bodies authorized to issue certificates in line with international and national standards, such as the ISO 5001, ISO 9001, and ISO 17065. There were 9 companies with ISO 9001 certification, and 7 with ISO 14001 certification, and 12 were certified to other standards.

3.147. TISI is the designated foreign inspection body of the standard institutes of several countries with which Thailand has standards-related agreements, such as Germany (VDE for electrical appliances), Sri Lanka, the Philippines, and South Africa (for a surveillance scheme).⁸³ During the review period, Thailand signed two MRAs: the ASEAN BE MRA for the Bio-equivalence Study Report of Generic Medicinal Products in 2017; and the ASEAN Sectoral MRA for Inspection and Certification Systems on Food Hygiene for Prepared Foodstuff Products in 2018.⁸⁴

3.148. Also, in June 2017, Thailand signed the Pacific Accreditation Cooperation (PAC) Multilateral Recognition Arrangement and, in April 2018, the International Accreditation Forum (IAF) Multilateral Recognition Arrangement, both related to energy management systems.⁸⁵ Thailand is a member of the ISO, the IEC, and the International Telecommunications Union (ITU). In the areas of accreditation, TISI also participates in the activities of the IAF, and the International Laboratory Accreditation Cooperation (ILAC). It is active in regional standards organizations, such as the Pacific Area Standards Congress, and the ASEAN Consultative Committee for Standards and Quality.⁸⁶

3.149. At the WTO, TISI is the enquiry point for technical regulations relating to industrial products, and the ACFS is the enquiry point for those relating to food and agricultural products.⁸⁷ Thailand accepted the Code of Good Practice for the Preparation, Adoption and Application of Standards in Annex 3 of the TBT Agreement.

3.150. From 1 January 2015 to 27 July 2020, Thailand made 234 notifications to the WTO Committee on Technical Barriers to Trade, including 135 regular notifications, 7 corrigenda, 71 addenda, and 21 revisions.⁸⁸ The majority of the notifications were made under Article 2.9 of the TBT Agreement, mainly notified by TISI, with a comment period of 60 days. Notifications related to agricultural and food products were made by the ACFS. Most of notifications were for human health and safety, some for consumer protection through labelling, protecting the environment, or reducing trade barriers and facilitating trade.

⁸² TISI, *Agency-in-Charge for Standardization*. Viewed at: https://www.tisi.go.th/data/accreditation/NSC_11_en.pdf.

⁸³ TISI. Viewed at: <https://www.tisi.go.th/tisiinbrief>.

⁸⁴ Before the review period, Thailand signed some MRAs within the APEC: the APEC MRA on Conformity Assessment of Electrical and Electronic Equipment (APEC Electrical MRA - Part I); 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.

⁸⁵ Thailand also signed 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 (MOU).

⁸⁶ TISI. Viewed at: <https://www.tisi.go.th/tisiinbrief>.

⁸⁷ WTO TBT Information Management System. Viewed at: <http://tbts.wto.org/en/NationalEnquiryPoints/Search>.

⁸⁸ WTO TBT Information Management System.

3.151. At the WTO TBT Committee, specific trade concerns (STCs) were raised against Thailand a few times during the review period on:

- new certification requirements on the importation of spirits;
- rules, procedures and conditions for labels of alcoholic beverages; and
- controls regarding the market promotion of food for infants and young children, and other related products.⁸⁹

3.3.3 Sanitary and phytosanitary requirements

3.152. Since the previous Review, there have been no major changes to Thailand's sanitary and phytosanitary regime. Relevant legislation includes⁹⁰:

- Food Act B.E. 2522 (1979), which stipulates different requirements for registration and labelling, and requirements for the safety and quality of some food products;
- Agricultural Standard Act (3rd edition) B.E. 2561 (2018), which assigns agencies to issue licences to manufacturers, exporters, or importers of agricultural products. For those agricultural commodities subject to mandatory standards requirements, these requirements may be exempted, and these commodities may be imported if: in the case of emergencies where no international agreement exists; exporting countries demonstrate equivalent standards; and inspection and certification is conducted by exporting authorities. For those agricultural commodities subject to standards requirement, i.e. voluntary, they may be imported after being inspected and certified by conformity assessment service providers approved by the ACFS;
- Animal Epidemics Act B.E. 2558 (2015), on animal epidemic disease prevention and control for the import, export, and transit of animals and animal products;
- Animal Feed Quality Control Act B.E. 2558 (2015), on the rules, procedures, and conditions for the import or sale of animal feed, the requirements for licences for the import or sale of animal feed, the prohibition of the import or sale of contaminated or deteriorated animal feed, and registration for entrepreneurs;
- Plant Quarantine Act (No. 3) B.E. 2551 (2008), on plant quarantine;
- Plants Act (No. 3) B.E. 2550 (2007), on qualifications for the licensee to collect, sell, import, and export-controlled seeds, and on the label attached to the container of controlled seeds;
- Plant Quarantine Import Regulations Thailand, on the prevention of the invasion of plant pests and diseases from outside the country; and
- Wildlife Preservation and Protection Act, B.E. 2535 (1992).

3.153. The institutional framework on SPS-related matters includes the following:

- the ACFS, under the Ministry of Agriculture and Cooperatives, responsible for: setting standards for agricultural systems, commodity and food items, and accrediting certification bodies and inspection bodies of agricultural commodities and foods; food standard controls; and promoting compliance with standards on farms and in food establishments⁹¹;

⁸⁹ WTO TBT Information Management System.

⁹⁰ Thailand National Trade Repository, *Non-Tariff Measures*. Viewed at: <http://www.thailandntr.com/en/goods/non-tariff-measures?page=1#tab3-ntm>.

⁹¹ Thailand Government, *National Bureau of Agricultural Commodity and Food Standards (ACFS)*. Viewed at: <http://www.organic.moc.go.th/en/standard/acfs>.

- the Department of Agriculture, under the Ministry of Agriculture and Cooperatives, responsible for plant health;
- the Department of Livestock Development, and the Department of Fisheries, both under the Ministry of Agriculture and Cooperatives, deal with animal health and imports of some animal products; and
- the Food and Drug Administration (FDA), under the Ministry of Public Health, responsible for food safety.

3.154. Thailand is a member of the World Organisation for Animal Health (OIE), and of the Codex Alimentarius on food safety, and is a contracting party to the International Plant Protection Convention (IPPC). According to the authorities, Thailand generally follows standards set by the OIE, Codex Alimentarius, and the IPPC, where they exist. New SPS regulations are based on an analysis of the risks involved, and draft regulations are subject to a public hearing and are notified to the WTO Members for comments before being approved by the responsible authority.

3.155. Thailand is an active participant in the WTO Committee on Sanitary and Phytosanitary Measures. During the review period, STCs were raised against SPS measures maintained by Thailand at the WTO SPS Committee. Thailand reported progress and cooperated with trading partners to resolve these STCs, which were raised by:

- Chinese Taipei, on Thailand's import restriction on papaya seeds (Status: Resolved);
- the United States, on Thailand's import fees related to the approval procedures for live animals and/or animal products.⁹² In response to the concern raised by the United States, Thailand explained how to calculate the rate of import fees and demonstrated that its calculation complies with Annex C(1)(f) of the SPS Agreement. Until June 2020, the United States had not raised this issue again in SPS meetings;
- Brazil and the European Union, on Thailand's approval procedures for imports of pork and other animal products.⁹³ In response to the concern raised, Thailand updated that it has been working with trading partners to expedite the process for allowing the importation of pork and other animal products according to the notified import procedure;
- Japan, regarding Thailand's import restrictions on fresh citrus fruits; and
- the United States, on Thailand's draft list of hazardous substances regarding food containing pesticide residues.⁹⁴

3.156. The ACFS is the SPS enquiry point and the notification authority at the WTO. From 1 January 2015 to 27 July 2020, Thailand submitted 148 SPS notifications, including 50 emergency notifications with one emergency addendum and one emergency corrigendum, as well as 54 regular notifications with 37 regular addenda and five regular corrigenda.⁹⁵ Most notifications related to food safety, and some concerned animal and plant health. Emergency notifications referred to the revision of the import requirement on food and animal products due to the outbreak of animal diseases such as African Swine Fever (ASF) and Highly Pathogenic Avian Influenza (HPAI).

3.157. All foods must meet, and are monitored for, specific hygiene, safety, labelling, marketing and advertisement requirements. Food products are classified into four groups according to the Food Act B.E. 2522 (1979), in descending order of risk, with different requirements for registration, labelling, and obligatory standards:

⁹² WTO SPS Information Management System, *STC Number 451*. Viewed at: <http://spsims.wto.org>.

⁹³ WTO SPS Information Management System.

⁹⁴ WTO online information, *New STCs*. Viewed at: https://www.wto.org/english/news_e/news20_e/sps_26jun20_e.htm.

⁹⁵ WTO, *SPS Information Management System*. Viewed at: <http://spsims.wto.org>.

- Group 1, for specifically controlled foods, mainly infant and child formula products, food for weight control, and food additives, requires product registration and must meet specifications set by the FDA as well as packaging and labelling requirements;
- Group 2, for prescribed foods, including coffee, honey, butter and fish sauce, must obtain a Food Serial Number and must abide by specific quality requirements as well as packaging and labelling requirements;
- Group 3, for prescribed foods, including bread, meat, chewing gum and candy, must abide by packaging and labelling requirements; and
- Group 4, for any other general food not covered under Groups 1 to 3, product registration is not required, nor is the obtention of a Food Serial Number (the only exception in Group 4 is foods derived from "Food obtained through certain techniques of Genetic Modification/Genetic Engineering" which require a Food Serial Number). They must abide by packaging and labelling requirements.

3.158. Licences, renewed every three years, are issued by the FDA before the importation or manufacturing of food products. The FDA is responsible for the monitoring and surveillance of food production and imports, pre- and post-marketing control, and the establishment of food regulations. The FDA conducts compliance-monitoring not only through inspections and sampling of food products at food-manufacturing premises and other premises where food is stored, but also through sampling of food products in retail markets where samples are delivered to the Food Analysis Division of the Department of Medical Science in the Ministry of Public Health, for testing.

3.159. Fifty-seven products, including infant food, several dairy products, edible oils, tea, coffee, and food products of animal origin, whether imported or domestically produced, must comply with the Code of Good Manufacturing Practice (GMP). When importing these products, importers must show a certificate indicating that the production standards in the exporting country are equivalent to Thailand's GMP Code or one of the food quality assurances, such as good practice based on guidelines from Codex Alimentarius or ISO 9000, HACCP or ISO 22000.

3.160. Under notifications from the Ministry of Public Health (MOPH) (e.g. No. 264⁹⁶, No. 345⁹⁷, and No. 391⁹⁸), Thailand prohibits imports of several food products on health grounds, including food containing several additives, such as some sweeteners, along with puffer fish, and some types of genetically modified maize.

3.161. Also, according to information provided by the authorities, the importation of: logs, wood and all wooden products; wooden products from the borders with the Tak and Kanchanaburi provinces; cassava and cassava products; fresh oranges; shallots; and swine offal are subject to various requirements for SPS-related reasons (Table 3.8).

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

3.163. All imports of plants and plant products must be accompanied by a phytosanitary certificate from the competent authorities in the exporting country. Imports of prohibited or restricted articles, where an import permit is required, must be made through the plant quarantine station for inspection by the plant quarantine official. A pest risk analysis is required for imports of restricted articles.

⁹⁶ MOPH, Notification No. 264 B.E. 2545 (2002) Re: Prescribed Prohibited Food to be Produced, Imported, or Sold. Viewed at: http://food.fda.moph.go.th/law/data/announ_moph/V.English/No.264-45Prescribed%20Prohibited%20Food%20to%20be%20Produced,%20Imported,%20or%20Sold.pdf.

⁹⁷ MOPH, Notification No. 345 B.E. 2555 (2012) Title: Prescribed Prohibited Foods to be Produced, Imported or Sold. Viewed at: http://food.fda.moph.go.th/law/data/announ_moph/P345_E.pdf.

⁹⁸ MOPH, Notification No. 391 B.E. 2651 (2018) Issued by virtue of the Food Act B.E. 2522 Re: Prescribed Foods which are to be prohibited to be produced, imported or sold. Viewed at: http://food.fda.moph.go.th/law/data/announ_moph/V.English/No.391.pdf.

3.164. Maximum residue limits (MRLs) for food and agricultural products are regulated by the FDA under the Ministry of Public Health's notifications (No. 387 B.E. 2560 (2017) on Food Containing Pesticides Residues⁹⁹, and No. 393 B.E. 2561 (2018) on Food Containing Pesticide Residues (No. 2)¹⁰⁰). These notifications are mandatory standards for both domestic and imported produce and products. Additionally, standards (voluntary) for MRLs on crops and agricultural commodities were also established by the Ministry of Agriculture and Cooperatives (MOAC):

- the Agricultural Standard on Pesticide Residues: Maximum Residue Limits (MRLs: TAS 9002-2016)^{101, 102}; and
- the Agricultural Standard on Pesticide Residues: Extraneous Maximum Residue Limits (EMRLs: TAS 9003-2004).¹⁰³

3.165. The ACFS and the MOAC issued voluntary standards to promote food safety in agriculture and aquaculture production, and they are used as a criterion and reference for GAP (Good Agricultural Practices) and GAqP (Good Aquaculture Practices) products.

3.166. Regarding genetically engineered (GE) plants for cultivation, Thailand allows the importation of GE soybeans, and corn grain for processed foods, feed, and industrial use. Four government agencies are involved in the approval of agricultural biotechnology: the Department of Agriculture; the National Centre for Genetic Engineering and Biotechnology (BIOTEC) (Ministry of Higher Education, Science, Research and Innovation); the Ministry of Natural Resources and Environment; and the FDA. Applications for open field trials and commercial cultivation of genetically modified (GM) products must be submitted to the MOAC. The Department of Agriculture will then conduct a biosecurity risk evaluation to consider the risk management control measures. Based on the risk evaluation, the MOAC conducts a public hearing before approvals are granted by the Minister. The authorities indicated that, so far, three applications have been approved.

3.167. Food products for public consumption must carry a label in Thai, providing basic information on the product, in accordance with the MOPH notification regarding food labelling. For food containing at least 5% of ingredients derived from GM or GE products, their labels must declare the statement of "genetically modified" (such as "Genetically Modified Corn", "Tofu produced from Genetically Modified Soybean", etc.). Labelling such as GM-free or non-GM food is prohibited.

3.3.4 State trading, state-owned enterprises, and privatization

3.3.4.1 State trading

3.168. In 2020, Thailand notified to the WTO Working Party on State Trading Enterprises its state trading arrangements within the scope of Article XVII of the GATT 1994.¹⁰⁴ The notification covered the Public Warehouse Organization (PWO), the Liquor Distillery Organization Excise Department (LDO), and the Thailand Tobacco Monopoly (TTM), for the period 2014-16.

3.169. The PWO, a state-owned enterprise (SOE) under the MoC, is responsible for the implementation of government policies regarding agricultural goods and consumer products, including their importation and exportation, and warehouse storage. The PWO allocates import quantities under an in-quota tariff system for some agricultural products.

⁹⁹ MOPH, Notification No. 387 B.E. 2560 (2017) Re: Food Containing Pesticides Residues (Pesticide Residues in Food). Viewed at: http://food.fda.moph.go.th/law/data/announ_moph/V.English/No.387.pdf.

¹⁰⁰ MOPH, Notification No. 393 B.E. 2561 (2018) Re: Food Containing Pesticide Residues (Pesticide Residues in Food) (No. 2). Viewed at: http://food.fda.moph.go.th/law/data/announ_moph/V.English/No.393.pdf.

¹⁰¹ ACFS, Pesticide Residues: Maximum Residue Limits, TAS 9002-2016 (Vol.1). Viewed at: <https://www.acfs.go.th/#/standard-commodity/general>, and search "TAS 9002-2016".

¹⁰² ACFS, Pesticide Residues: Maximum Residue Limits, TAS 9002-2016 (Vol.2). Viewed at: <https://www.acfs.go.th/#/standard-commodity/general>, and search "TAS 9002-2016".

¹⁰³ ACFS, Pesticide Residues: Extraneous Maximum Residues Limits, TAS 9003-2004. Viewed at: <https://www.acfs.go.th/#/standard-commodity/general>, and search "TAS 9003-2004".

¹⁰⁴ WTO document G/STR/N/16/THA, 17 April 2020.

3.170. The LDO is the sole producer and distributor of pure alcohol (ethyl alcohol 96% and ethyl alcohol 99.8%, HS 2207.10.00) within the country. According to the notification, the LDO has exclusive rights "but no powers or influences through purchase or sale of imports or exports of pure alcohol", and the output level of pure alcohol was not enough to export.¹⁰⁵

3.171. The TTM is an SOE under the supervision of the Ministry of Finance. It was authorized under the Tobacco Act B.E. 2509 as the sole producer of cigarettes in Thailand, with a view to reducing the negative consequences of cigarette consumption by controlling the product's domestic supply. Private traders with permission from the Excise Department may import or export tobacco or tobacco-related products. In 2014 and 2015, all cigarettes imported into Thailand were imported through the TTM but in 2016 the TTM imported only a quarter of all cigarette imports. From 2014 to 2016, all cigarettes exported from Thailand were exported through the TTM.

3.3.4.2 SOEs

3.172. Thailand's 56 SOEs remain active in the following sectors: financial institutions, energy, telecommunications, transport, social issues and technology, industry and commerce, agriculture, natural resources, and public utilities (Table A3.1). In 2018, total assets of these SOEs reached THB 15.5 trillion, equivalent to 95% of GDP (up from THB 13.8 trillion in 2015). They generated THB 4.9 trillion revenue and THB 378 billion net profit, and the latter accounted for about 2.3% of GDP (Table 3.20).

Table 3.20 Performance of SOEs, 2015-18

Items	2015	2016	2017	2018
SOE employees (number of people)	300,859	303,178	302,468	309,330
Total employment (number of people)	38,016,170	37,692,650	37,458,250	37,864,550
% of total	0.79%	0.8%	0.81%	0.82%
SOE assets (THB billion)	13,849.72	14,489.90	15,082.53	15,496.49
% per GDP	100.77%	99.56%	97.39%	94.69%
SOE revenues (THB billion)	4,445.23	4,088.65	4,507.04	4,916.98
% per GDP	32.34%	28.02%	29.10%	30.04%
SOE net profit (THB billion)	196.45	312.91	383.84	377.77
% per GDP	1.43%	2.14%	2.48%	2.31%
GDP (THB billion)	13,743.46	14,592.59	15,486.55	16,365.57

Source: Information provided by the authorities: Financial Statement of SOEs and GF-MIS SOE System; the National Statistical Office; and the Office of the National Economic and Social Development Council.

3.173. In FY2019¹⁰⁶, incomes from SOEs and government-owned businesses accounted for THB 169.16 billion, or 6.60% (6.59% in FY2014) of the total receipts of the central Government. SOEs are companies where the State has 50% or more of ownership, while government-owned businesses are those that the State has less than 50% of ownership. These incomes consisted of profits of SOEs and government-owned businesses (THB 127.24 billion), and THB 41.92 billion from the Government Lottery Bureau.¹⁰⁷ Incomes from SOEs and government-owned businesses rose by 7.72% from FY2018.

3.174. In FY2019, these state enterprises (both SOEs and government-owned businesses) accounted for THB 141 billion (of which THB 22.6 billion in subsidies) or 4.7% of the estimated total central government expenditure. Expenditure on state enterprises fell by 8.8% from FY2018. The top three receivers of state budget expenditures were: the Bank for Agriculture and Agricultural Cooperatives (56.5%), the Mass Rapid Transit Authority of Thailand (10.4%), and the State Railway of Thailand (6.4%). They are followed by the Tourism Authority of Thailand (4.7%), and the Government Savings Bank (4.2%). As at 31 July 2018, the principal outstanding for domestic debt stood at THB 5,884.8 billion, of which 12% (THB 713.6 billion) was the guaranteed domestic loans of state enterprises.

¹⁰⁵ WTO document G/STR/N/16/THA, 17 April 2020.

¹⁰⁶ In Thailand, the fiscal year is from 1 October to 30 September.

¹⁰⁷ Bureau of the Budget (2019), *Thailand's Budget in Brief Fiscal Year 2019*.

3.175. On 23 May 2019, the State-Owned Enterprise Development Act was enacted, which summarized the SOE development mechanisms in Thailand. Under the Act, the State Enterprise Policy Office (SEPO) is the agency in charge of:

- supervising and overseeing SOEs and enhancing systematic collaboration and efficiency, through its State-owned Enterprise Policy Committee;
- providing clear and consistent direction for SOE development, through its SOE Development Plan;
- setting up an evaluation system to reflect the efficiency of the implementation of the SOE Development Plan, through its Performance Evaluation System;
- selecting qualified persons to be board members, through a standardized and transparent process, through its Director Nomination Committee; and
- enhancing good corporate governance and ensuring fiduciary obligations, through its Governance and Transparency Mechanisms.

3.176. The Government has been using public private partnerships (PPPs) to further reform and improve the performance of SOEs, in particular to spur private investment in state enterprises and improve the infrastructure of the country. The Public Investment in State Undertakings Act (PISU Act), 1992, was replaced by the PISU Act, 2013, which requires the PPP Committee to publish a PPP Strategic Plan that is consistent with the National Economic and Social Development Plan (NESDP). In 2015, the first PPP Strategic Plan, covering the period 2015-19 and based on the NESDP No. 11, was issued. In 2017, the second PPP Strategic Plan, covering the period 2017-21 and based on the NESDP No. 12, was published. The focus of PPP projects was expanded from roads and rail, to cover new sectors such as airports, education, and health.¹⁰⁸

3.177. In addition, the PPP Fast Track Process was another effort by the Government to eliminate red tape and bottlenecks in the approval procedures of infrastructure projects. It allows the PPP Committee to focus their efforts on strategically important projects. In 2019, a new PPP Act, the Public Private Partnership Act B.E. 2562 (2019), went into effect, to emphasize infrastructure projects based on the partnership concept. It also provides a mechanism to solve problems throughout the PPP process. Furthermore, the PPP Fast Track measures used in previous PPP Law (PISU Act) were incorporated into the PPP Act 2019, to streamline the PPP projects. The SEPO is also preparing the new PPP Delivery Plan (PPP Plan), which is consistent with the National Strategy prepared by the Office of the National Economic and Social Development Council. The authorities stated that this PPP Plan is to play a significant role in setting up a PPP policy framework.

3.178. Another measure showing the Government's commitment toward PPPs is the EEC Fast Track, which is part of the EEC project. It aims at accelerating infrastructure development, and encouraging local and foreign investment in the three eastern provinces of Thailand (Section 3.3.1.2.4). The EEC Fast Track governs all PPP projects within the three provinces through the EEC Policy Committee. One of the targets of the Committee was to attract at least 30 world-class companies to invest in the EEC between 2017 and 2021.

3.179. The authorities stated that the Government has not implemented any policy on SOE privatization since 2015.

¹⁰⁸ PWC, *Infrastructure Developments and Public Private Partnerships in Thailand: A 2018 Update*. Viewed at: <https://www.pwc.com/th/en/deals/assets/public-private-partnerships-in-thailand-2018.pdf>.

3.3.5 Government procurement

3.3.5.1 Overview

3.180. The value of Thailand's government procurement reached more than THB 1.1 trillion in FY2019¹⁰⁹ (Table 3.21), accounting for around 6.7% of GDP in the year.¹¹⁰ Compared with the previous review period, both the absolute amount and its share in GDP grew significantly.¹¹¹ In 2019, the procurement values of construction works, goods, and services were THB 459.3 billion (or 40.49% of the total), THB 415.2 billion (36.61%) and THB 215.5 billion (19.00%), respectively. By type of procuring entity, 57.6% was procured by the central Government, 15.6% by local governments, 13.1% by state enterprises, and 13.7% by other public entities. Six ministries (Interior, Transport, Education, Defence, Public Health, and Agriculture and Cooperatives) continued to dominate government procurement expenditures during the review period.

Table 3.21 Value of government procurement by type of procuring entity, 2015-19

(THB million)

Type of procuring entity	2015	2016	2017	2018	2019
Central Government	225,973.46	591,331.44	640,796.59	624,414.05	653,307.67
Local government	55,798.98	146,015.77	50,321.83	181,106.13	177,266.79
State enterprises	62,219.96	162,818.31	57,675.71	98,376.04	148,593.86
Other public entities ^a	9,006.30	23,576.86	28,820.18	112,683.53	155,156.15
Total	352,998.70	923,733.38	777,614.32	1,016,579.74	1,134,324.42

a Given the change in the entity coverage following the enactment in 2017 of the Public Procurement and Supplies Administration Act B.E. 2560, the statistics are not fully comparable before and after 2017, so this Table does not show a breakdown of the procurement values of "other public entities". These include, *inter alia*, government agencies not under the Office of the Prime Minister, ministries or bureaus; universities; public organizations; administrative departments of courts; independent organizations; government agencies established by specific laws; and government agencies under parliament.

Source: Information provided by the authorities.

3.181. According to the authorities, the public procurement administration follows the main principles of value for money, transparency, efficiency, effectiveness, and accountability. Open tendering is considered the most effective way to achieve these principles. Meanwhile, the Government considers government procurement as a significant tool to promote social and economic development, and certain policies have been introduced and maintained in this regard. Thailand has been an observer in the WTO Committee on Government Procurement since 2015. However, it is not yet a signatory of the WTO Agreement on Government Procurement (GPA), and the authorities indicate that it is not yet in a position to consider obtaining full membership in the GPA in the coming years. Thailand has included government procurement chapters in its RTAs with relevant trade partners. However, all these chapters are limited to cooperation and information-sharing aspects, and do not contain market access commitments.

3.3.5.2 Legislation, general policies and institutional arrangements

3.182. During the review period, the main development in the area of government procurement was the enactment of new legislation, namely, the Public Procurement and Supplies Administration Act B.E. 2560, in August 2017.¹¹² The previous legislation, i.e. the Office of the Prime Minister Regulations on Procurement B.E. 2535 (1992), ceased at the same time. According to the authorities, the new Act is centred on preventing corruption and anti-competitive behaviour, with an

¹⁰⁹ FY2019 covers 1 October 2018 to 30 September 2019.

¹¹⁰ Government procurement usually accounts for 10%-15% of a country's GDP. The authorities explained that the reason for Thailand's relatively lower figure might be the fact that all mega projects carried out in the form of PPPs in Thailand are not considered government procurement.

¹¹¹ In FY2013, the value of the government procurement market for goods and services was estimated at THB 521.5 billion or 4% of GDP, according to the TPR Report of 2016 (WT/TPR/S/326/Rev.1).

¹¹² *Public Procurement and Supplies Administration Act, Tentative Translation*. Viewed at: <http://www.gprocurement.go.th/wps/wcm/connect/cb6ae8e9-ddb3-4640-9393-04d9fc09b5af/PUBLIC%2BPROCUREMENT%2BAND%2BSUPPLIES%2BADMINISTRATION%2BACT%2C%2BB.E.%2B2560%2B%282017%29.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE-cb6ae8e9-ddb3-4640-9393-04d9fc09b5af-mLvSLpp>.

increased level of transparency and monitoring.¹¹³ Compared with the previous Regulations, the new Act has the following prominent features: (i) it standardized the public procurement process across the country by extending the scope of application from government agencies to SOEs and public organizations, such as universities under the supervision of the State¹¹⁴; (ii) it focuses on transparency and fair competition, and requires that all steps in a procurement process be published on the e-procurement website; (iii) it introduced new bid evaluation criteria that take into consideration not only the price but also the performance aspect of a tender, which the authorities consider would help achieve value for money in public procurement; (iv) it emphasizes procurement planning and performance assessment, and reduces the risk of corruption; and (v) it encourages public participation in the procurement process by allowing the public to observe and criticize government procurement projects. The Act also introduced criminal penalties for government officials who violate the law. If found guilty, they are subject to one to ten years' imprisonment and/or a fine of up to THB 200,000; penalties are extended to those in the private sector that pay bribes.

3.183. The Ministry of Finance, specifically its Comptroller General's Department (CGD), is in charge of the overall execution of the new Act, including the issuance of relevant implementing regulations, the budget disbursement of the central Government, and the monitoring of procurement activities. A number of commissions and committees, with the participation of representatives from relevant ministries, were established in accordance with the Act to fulfil different aspects of work related to government procurement. They include the Public Procurement and Supplies Administration Policy Commission (the Policy Commission), the Public Procurement and Supplies Administration Ruling Committee (the Ruling Committee), the Committee in Charge of Focal Prices and Registration of Business Operators (the Focal Prices Committee), the Anti-Corruption Cooperation Committee, and the Appeals Committee.

3.184. Since the enactment of the new Act, the Ministry of Finance has issued regulations concerning different aspects of its implementation. Table 3.22 lists these regulations.

3.185. Government procurement is carried out in a decentralized manner. Individual departments award contracts under their own authority. In order to allow flexibility and achieve expediency of their procurements, SOEs, universities under state supervision and foreign-located state agencies are allowed to put in place their own rules, subject to approval by the Policy Commission. Nonetheless, the procurement methods provided by these rules should be in line with the methods established by the Public Procurement and Supplies Administration Act B.E. 2560 (2017) and should be published in the Government Gazette. According to the authorities, relevant education institutions have already put in place their own procurement rules for research and development, for technical services of a higher education institution, and for employment of consultants. Government procurement in the form of PPPs is regulated by the Public Private Partnership Act B.E. 2562 (2019).

3.186. Thailand does not allow direct cross-border participation of foreign suppliers in its government procurement contracts. The CGD maintains a mandatory registration system for business operators that wish to participate in Thailand's government procurement. The registration should be filed according to the criteria, procedures and conditions prescribed in relevant ministerial regulations.¹¹⁵ Generally speaking, a supplier eligible for registration must be a juristic person registered in Thailand. S/he must have an office located in Thailand, and half of the board directors must hold Thai citizenship. Regarding the registration of consultants, independent consultants must be Thai citizens and, in the case of juristic persons, they should be juristic persons in Thailand, with no less than 51% of their total shares held by Thai citizens.

¹¹³ Relevant international organizations and private watchdogs have pointed out that government procurement was one of the sectors in Thailand that involved corruption. See, for example, Blomberg, P. (2015), *Integrity Risk Assessment in Public Procurement in Thailand. A Priority Framework for Public Procurement Integrity Reform*. Study commissioned by the UNDP. Viewed at: <https://www.oecd.org/governance/procurement/toolbox/search/15%2005%20Integrity%20risk%20assessment%20in%20Thailand.pdf>; and CIPS, *Thailand drafts public procurement law following UNDP review*. Viewed at: <https://www.cips.org/en/supply-management/news/2015/january/thailand-drafts-public-procurement-law-following-undp-review/>.

¹¹⁴ The old Regulations only applied to central government agencies. SOEs, local governments and other independent public organizations had full autonomy for framing their own procurement regulations.

¹¹⁵ Ministerial Regulation Prescribing Criteria Concerning Persons Eligible for Registration of Business Operators B.E. 2560 (2017); and Ministerial Regulation Prescribing Criteria, Procedures and Conditions for Registration as Consultants B.E. 2560 (2017).

Table 3.22 Regulations issued by the Ministry of Finance on the implementation of the Public Procurement and Supplies Administration Act B.E. 2560

Titles	Date of issuance
Regulation of the Ministry of Finance on Public Procurement and Supplies Administration B.E. 2560 (2017)	23 August 2017
Ministerial Regulation Prescribing that Other Agencies shall be State Agencies According to the Act on Public Procurement and Supplies Administration B.E. 2560 (2017)	23 August 2017
Ministerial Regulation Prescribing of Criteria Concerning Persons Eligible for Registration of Business Operators B.E. 2560 (2017)	23 August 2017
Ministerial Regulation Prescribing of Supplies that the State needs to Promote or Support and Prescribing of Procurement Method by the Selection and Specific Methods B.E. 2560 (2017)	23 August 2017
Ministerial Regulation Prescribing of Budget for Procurement for the Specific Method; Budget that is not Settled into a Written Agreement; and Budget for Appointment of Supply Assessment Officer for Acceptance B.E. 2560 (2017)	23 August 2017
Ministerial Regulation Prescribing of Criteria, Procedures and Conditions for Registration as Consultants B.E. 2560 (2017)	23 August 2017
Ministerial Regulation Prescribing of Fees for Design or Construction Work Supervision B.E. 2560 (2017)	23 August 2017
Ministerial Regulation Prescribing of Procurement Conducted with State Agencies that Cannot Use the Right of Appeals B.E. 2560 (2017)	23 August 2017
Ministerial Regulation Prescribing of Procurement Cases by the Specific Methods B.E. 2561 (2018)	30 January 2018
Ministerial Regulation Prescribing of Supplies that the State needs to Promote or Support and Prescribing of Procurement Procedures by the Selection Method and Specific Method (No. 2) B.E. 2561 (2018)	20 August 2018

Source: Information provided by the authorities.

3.3.5.3 Procurement methods

3.187. The 2017 Act provides for three methods for the procurement of supplies: (i) the general solicitation notification method; (ii) the selection method; and (iii) the specific method (Table 3.23). These methods apply, *mutatis mutandis*, to the procurement of consultancy work, and the procurement of design and construction supervision works. A design competition can also be used as a procurement method for the latter. Procurements of goods, services or construction works with a budget of no more than THB 500,000 may use the specific method. When the general solicitation notification method and the selection method are used, the tender evaluation criteria usually take into account the price of supply, the life-cycle cost, the quality, after-sale services, and the work performance of the suppliers.

Table 3.23 Procurement methods for the procurement of supplies under the 2017 Act

Procurement method	Main characteristic	Application conditions
General solicitation notification method	The procuring entity allows all qualified suppliers to submit proposals.	A state agency should first use the general solicitation notification method.
Selection method	The procuring entity invites no less than three qualified suppliers to submit proposals, except when less than three qualified suppliers exist.	The selection method can be used under the following circumstances: (i) a general solicitation notification method has been used but no one has tendered a proposal, or the proposals have not been selected; (ii) the supplies to be procured have exceptional or complicated specifications, or must be produced, distributed, constructed or serviced by a business operator possessing specific workmanship or exceptional expertise or high skills, and such business operators are limited; (iii) there arises an urgent need for the use of such supplies following an unexpected event which makes the use of a general solicitation notification method untimely for the demand of the supplies; (iv) the supplies, by reason of the nature of their use or technical restrictions, make it necessary to specify a particular brand; (v) it is necessary for the supplies to be purchased directly from abroad or procured through an international organization; (vi) the supplies are to be used for official intelligence or affairs which involve confidentiality of the state agency or which are related to national security;

Procurement method	Main characteristic	Application conditions
		(vii) for repairs work, the object to be repaired must first be disassembled for inspection in order to know the defects before estimating the cost of repair; for instance, work for the repair of a machine, a mechanical instrument, an engine, an electrical device, or an electronic device; and (viii) in any other case prescribed in the relevant ministerial regulation.
Specific method	The procuring entity invites only one specific qualified supplier to submit a proposal or to participate in price-bargaining negotiations.	The specific method can be used under the following circumstances: (i) both a general solicitation notification method and a selection method have been used but no one has tendered a proposal, or the proposals have not been selected; (ii) the procurement of supplies to be generally produced, distributed, constructed or serviced and the cost estimate for each procurement do not exceed that prescribed in the relevant ministerial regulation; (iii) the procurement of supplies in respect of which only one business operator directly possesses the qualifications, or the procurement of supplies from a business operator who is the only legally authorized sales distributor or service distributor in Thailand, and no other supplies may be used in lieu thereof; (iv) the need for the use of such supplies in an emergency following a disaster or a natural disaster or a dangerous communicable disease under the law on communicable diseases, and procurement by the general solicitation notification method or the selection method may cause a delay and result in serious loss; (v) the supplies to be procured are associated with those previously procured, and additional procurement thereof is needed for the sake of completion or continuity of their use, provided that the value of the supplies to be additionally procured is not higher than that of the supplies previously procured; (vi) the supplies are those to be sold in auction by a state agency, an international organization, or a foreign agency; (vii) the supply is the land, or a structure specifically needed to be purchased; and (viii) in any other case prescribed in the relevant ministerial regulation.

Source: WTO Secretariat, based on the Public Procurement and Supplies Administration Act B.E. 2560 (2017).

3.188. The procuring entities are obliged to give preference to domestic suppliers to which the State intends to promote or support. In accordance with the Ministerial Regulation on Determining Supplies and Procurement Methods that the Government Wants to Promote or Support B.E. 2563 (2020), relevant suppliers or industries that receive promotion or support include those in agricultural production, those in village development, farmers' cooperatives, SMEs, underprivileged people, educational institutions, certain industrial and energy sectors, innovations, the public health sector, and those in energy security and natural resources, food security, and agricultural security. They are promoted or supported by applying the specific procurement method. The authorities confirm that there is no price preference under the 2017 Act.

3.189. In 2019, procurement using competitive methods (electronic market and electronic bidding) accounted for 51.9% of the total value of procurement, followed by procurement using the specific method, which accounted for 37.2% of the total (Table 3.24).

Table 3.24 Value of annual procurement by method of procurement, 2018 and 2019

(THB million)

Procurement method	2018	2019
General solicitation method		
Electronic market (e-market)	360.14	291.22
Electronic bidding (e-bidding)	495,109.55	588,125.15
Price comparison ^a	10,316.39	n.a.
Selection method	91,275.87	111,41.31
Specific method	403,801.85	421,399.16
Consultancy work by general solicitation notification method	589.81	502.03
Consultancy work by selection method	11,514.81	9,534.95
Consultancy work by specific method	3611.32	3,030.60
Total	1,016,579.74	1,134,324.42

a Price comparison is no longer a procurement method under the new Act.

Source: Information provided by the authorities.

3.3.5.4 Electronic government procurement

3.190. Thailand introduced an electronic government procurement system (e-GP system) in April 2010. The Comptroller General's Department is responsible for the development and promotion of the system.¹¹⁶ The system started with pilot projects covering a limited number of procurement entities and procurement methods, and was gradually extended to other procurement entities, with the aim of including all government procurement contracts. During the review period, the e-GP system concluded its Phase 3 projects and entered Phase 4 projects on 24 August 2017. Phase 4 projects are aimed at bringing the system in line with the new Act and, in particular, enabling the selection method and the specific method in the system. According to the authorities, the e-GP system helped to save 8.26% of the budget for the completed procurements.¹¹⁷

3.3.5.5 Remedies

3.191. A bidder may submit an appeal within seven working days from the date on which the result of the procurement is announced. The appeal is first considered and decided by the procuring entity. A decision is made by that entity within seven working days. If the procuring entity does not agree with the appeal, it turns to the Appeals Committee for consideration.¹¹⁸ If the Appeals Committee considers the appeal justified and has material effects on the procurement, it orders the procuring entity to recommence the procurement. The decision of the Appeals Committee is final. If the bidder is not satisfied with the decision of the Appeals Committee and holds the opinion that the procuring entity should be liable to pay damages, it has the right to file a claim with the Court for compensation.

3.3.5.6 Other policy considerations

3.192. To achieve sustainable procurement, Thailand has implemented green public procurement policies since 2005.¹¹⁹ The Pollution Control Department, within the Ministry of Natural Resources and Environment, has developed plans to build awareness and support the implementation of green public procurement. Procuring entities are encouraged to give favourable consideration to products that are certified to be environmentally friendly according to the criteria established by the authorities. Products and services certified by the Green Label Scheme¹²⁰ are automatically recognized as compliant with the criteria.

3.193. In the interests of transparency and integrity, Thailand joined the Construction Sector Transparency Initiative (CoST), established by the British Department for International Development and the World Bank in 2014.¹²¹ The Initiative requires disclosure to the public of information regarding ongoing infrastructure projects, and verification of information. It encourages stakeholder participation in the monitoring of projects under the Initiative. A Multi-Stakeholder Group, composed of representatives from the Government, civil society, and the private sector, was established to oversee the implementation of relevant infrastructure projects. Since 2015, 254 construction projects, with a total budget value of THB 97.9 billion, were selected to participate in CoST, covering the sectors of airport, piers, roads and bridges, irrigation, buildings and museums, basic utilities,

¹¹⁶ Thai Government Procurement. *CoST Thailand*. Viewed at: http://www.gprocurement.go.th/new_index.html.

¹¹⁷ The savings margin is estimated by comparing the real contract value to the budget value. *Government Procurement Results, Budget Year 2019 (October 2018-September 2019)* (available only in Thai). Viewed at: http://www.gprocurement.go.th/wps/wcm/connect/bb604b41-ac12-4fae-b2fd-21cb649e32e0/01+report_6209.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE-bb604b41-ac12-4fae-b2fd-21cb649e32e0-mVvulUs.

¹¹⁸ According to the authorities, the Appeal Committee is fully independent from government. The Committee consists of five to seven private members from the Council of Engineers, the Architects' Council of Thailand, the Board of Trade of Thailand and the Federation of the Thai Industries. They are persons with knowledge, expertise or experience in engineering, architecture, fiscal matters and finance, administration, science and technology or other related areas.

¹¹⁹ UNEP, *Comparative Analysis of Green Public Procurement and Ecolabelling Programmes in China, Japan, Thailand and the Republic of Korea: Lessons Learned and Common Success Factors*. Viewed at: https://www.greengrowthknowledge.org/sites/default/files/downloads/resource/UNEP_green_public_procurement_ecolabelling_China_Japan_Korea_Thailand_report.pdf.

¹²⁰ The Green Label Scheme was launched by the Thailand Environment Institute in association with the Ministry of Industry. It is an environmental certification scheme, on a voluntary basis, to promote the concept of resource conservation, pollution reduction, and waste management. It promotes environmentally friendly products and services among all consumers, including government procuring entities.

¹²¹ CoST. Viewed at: <http://process3.gprocurement.go.th/eGPCostWeb/home>.

hospital, facilities and attractions, etc.¹²² The authorities believe that participation in CoST has helped to enhance transparency and integrity in the government procurement system.

3.3.5.7 Bilateral initiatives and international cooperation

3.194. During the review period, Thailand concluded a free trade agreement (FTA) with Chile (Thailand-Chile Free Trade Agreement), effective on 5 November 2015, which included government procurement provisions, bringing the total number of Thailand's FTAs with such provisions to four.¹²³ Similar to the provisions in the other three FTAs, the government procurement provisions in Thailand-Chile FTA encourage cooperation and information exchange between the two parties. The Agreement has best-endeavour provisions on promoting transparency, open and effective competition, fair dealing, accountability and due process, and non-discrimination in their government procurement procedures; however, it has no market access commitments.¹²⁴

3.3.6 Competition policy and price regulation

3.3.6.1 Legal and institutional frameworks

3.195. During the review period, Thailand renewed its competition-related legal and institutional frameworks in order to enhance its effectiveness in tackling anti-competition practices by addressing a number of shortcomings. Some of these were identified in previous Reviews, and included: poor transparency in administration and enforcement of the law; the broad discretionary authority of the competition agency; political influence and lack of independence; and ineffective structure and composition.¹²⁵

3.196. The new Trade Competition Act B.E. 2560 (2017) was enacted in October 2017.¹²⁶ It repealed the previous version of the Trade Competition Act B.E. 2542 (1999). The new Act addresses competition issues, such as cartels, the abuse of dominant position, anti-competitive mergers, unfair business practices, exemptions, and penalties. It regulates commercial activities, including agricultural businesses, manufacturing, commerce, financial services, insurance, and other service industries. However, sectors with specific competition provisions in their laws are excluded from the scope of the new Act (e.g. telecommunications and energy). Other exclusions are central, provincial and local government administrations, farmer and other cooperatives, and non-profit organizations.

3.197. A notable change is that SOEs, public organizations, and other state agencies are included in the scope of application of the new Act for the first time. These groups were not regulated in the previous Act. A World Bank report indicated that this exclusion had enabled major players in key sectors to abuse their market power and engage in collusive behaviour.¹²⁷ Under the new Act, SOEs are exempt only if their activities are considered, by laws or resolutions of the Cabinet, necessary for the benefit of maintaining national security, public interest, the interest of society, or the provision of public utilities. While this is considered a positive development, it has been suggested that the partial retention of this carve-out has the potential to be a broad exemption in practice, depending on how widely it is construed.¹²⁸ Hence, transparent criteria and the restrictive interpretation of exemptions are important in achieving the Act's objectives and effective

¹²² CoST, *Assurance Report 2019*. Viewed at: [https://www.cgd.go.th/cs/Satellite?blobcol=urldata&blobheadervalue1=Content-Type&blobheadervalue2=Content-Disposition&blobheadervalue3=filename&blobheadervalue2=inline;+filename=%22871/830/Assurance+Report+Construction+Sector+Transparency+Initiative+\(CoST\)+Thailand+In+Fiscal+Year+2018+Public+Edition.pdf%22&blobheadervalue3=871/830/Assurance+Report+Construction+Sector+Transparency+Initiative+\(CoST\)+Thailand+In+Fiscal+Year+2018+Public+Edition.pdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1438175232228&ssbinary=true](https://www.cgd.go.th/cs/Satellite?blobcol=urldata&blobheadervalue1=Content-Type&blobheadervalue2=Content-Disposition&blobheadervalue3=filename&blobheadervalue2=inline;+filename=%22871/830/Assurance+Report+Construction+Sector+Transparency+Initiative+(CoST)+Thailand+In+Fiscal+Year+2018+Public+Edition.pdf%22&blobheadervalue3=871/830/Assurance+Report+Construction+Sector+Transparency+Initiative+(CoST)+Thailand+In+Fiscal+Year+2018+Public+Edition.pdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1438175232228&ssbinary=true).

¹²³ The other three FTAs with government procurement provisions are the Thailand-Australia Free Trade Agreement, the Thailand-New Zealand Closer Economic Partnership Agreement, and the Japan-Thailand Economic Partnership Agreement.

¹²⁴ Article 11.8, Thailand-Chile Free Trade Agreement.

¹²⁵ WTO documents WT/TPR/S/191/Rev.1, 6 February 2008; WT/TPR/S/255/Rev.1, 8 February 2012; and WT/TPR/S/326/Rev.1, 10 February 2016.

¹²⁶ *Trade Competition Act B.E. 2560*, unofficial translation. Viewed at: https://otcc.or.th/wp-content/uploads/2020/02/TRADE-COMPETITION-ACT-B.E.-2560-EN-article_20190221100346.pdf.

¹²⁷ World Bank Group (2018), *Thailand Economic Monitor*, April. Viewed at: <http://documents.worldbank.org/curated/en/991791530850604659/Thailand-economic-monitor-beyond-the-innovation-paradox>.

¹²⁸ World Bank Group (2018), *Thailand Economic Monitor*, April.

implementation. In addition, the new Act expands the definition of a business operator to include affiliates and group companies; it also broadens the liability of top management and directors, who may be subject to administrative and criminal sanctions if their actions or omissions give rise to violations of the Act.

3.198. Significant changes were also made to the competition authority. The Trade Competition Commission (TCC), a seven-member board supported by the Office of the Trade Competition Commission (OTCC), is the decision-maker in competition policy enforcement.¹²⁹ Its responsibilities include, among others: (i) providing recommendations to the Government on regulatory issues related to competition policies; (ii) publishing guidelines and implementation rules on the enforcement of the Act; (iii) receiving complaints from business operators about instances of possible anti-competitive conduct, and carrying out investigations and making decisions on the cases; and (iv) initiating relevant criminal cases or imposing administrative fines according to the Act.

3.199. Despite the fact that the names of the authorities remain unchanged, the structure, composition and status of the TCC and the OTCC were changed substantially to enhance their independence and impartiality. Under the previous Act, the TCC was subordinate to the Department of Internal Trade of the Ministry of Commerce, and did not have independent status from the Government, both in terms of administration and budget. The new TCC is a separate entity, independent of the Government. The seven commissioners of the TCC are appointed by the Prime Minister. They are selected from experienced professionals with expertise in different business sectors. They are individuals without political or business ties, and do not hold positions in the Government. In decision-making, the TCC decides by majority vote with a quorum of half the total number of commissioners.

3.200. The OTCC was established as a government agency but is not part of the civil service or an SOE. It undertakes the administrative work of the TCC. It is headed by a Secretary-General who reports directly to the Chairperson of the TCC. The Secretary-General should have neither political nor business ties with the Government, nor hold a position in the Government. The budget of the TCC and the OTCC is independent from the budget of any other government agency. It may comprise the initial capital received from the Government, its income from service charges and operations, and donations from foreign countries or international organizations. If the budget falls short of the operational costs, the Government subsidizes the TCC and the OTCC. No official assessment of the performance of the TCC and the OTCC has yet been made. However, according to the authorities, their performance has improved due to enhanced independence. The OTCC is a member of the International Competition Network.

3.201. The TCC is responsible for issuing implementing rules and regulations for the new Act. The new Act also provides that it is obligatory for the TCC to hear stakeholders' opinions when drafting the implementing rules and regulations. Major rules and regulations that were introduced by the TCC and remain in force include:

- Classifications of Business Operators Related to Each Other due to Policies or Commanding Power, 2018;
- Guidelines on the Determination of Market Definition and Market Shares, 2018;
- Guidelines for Consideration of the Prohibition of Business Operators with Dominant Position in the Market, 2018;
- Guidelines for Consideration of Joint Actions by Business Operators to Act as a Monopoly, or to Reduce or Limit Competition in the Market, 2018;
- Guidelines for Consideration of Actions that Cause Damage to Other Business Operators, 2018;
- Criteria for Acquisition of Assets or Shares to Control Policies, Business Administration, Directorate, or Management which is Considered a Merger, 2018;

¹²⁹ OTCC, *Activities*. Viewed at <https://otcc.or.th/?lang=en>.

- Criteria, Procedures and Conditions of Notification of Mergers, 2018;
- Criteria, Procedures and Conditions in Requesting for the Permission for Business Merging, 2018;
- Criteria of Business Operator with a Dominant Market Position, 2018;
- Rules and Procedures for Filing a Request to the TCC to Make an Advance Ruling, 2018;
- Criteria for Collecting or Taking Products as Samples, 2018;
- Guidelines for Determining Unfair Trade Practices between Wholesalers/Retailers and Manufacturers or Distributors, 2019;
- Guidelines for Determining Unfair Trade Practices in Franchise Business, 2019 (being translated);
- Criteria, Procedures and Conditions for Imposing the Settlement Fine, 2019;
- Regulation on Complaints, Investigation and Procedures for Criminal or Administrative Prosecution, 2019; and
- Regulation on Criteria, Procedures, Conditions and Period of the Issuance of the Order to Business Operator to Suspend, Cease or Rectify its Action.

3.202. The new Act maintained the competition-related powers of sectoral regulators. For example, the National Broadcasting and Telecommunications Commission (NBTC) is the authority for competition issues related to the broadcasting and telecommunications sectors, while the Energy Regulatory Commission (ERC) is responsible for competition issues in the energy and gas industry. In 2009, the ERC published the Regulation of the Energy Regulatory Commission on Establishment of Criteria to Prevent Mergers, Competition Lessening or Restriction in Energy Services; and, in 2018, the NBTC published the Notification of the NBTC on Merger Regulatory Measures for Broadcasting and Telecommunications Business. The Trade Competition Act only applies to these sectors when relevant competition issues are not addressed by the sectoral regulations.

3.203. Several other Acts continue to influence 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).¹³⁰

3.3.6.2 Prohibitions and permissions under the Trade Competition Act B.E. 2560 (2017)

3.3.6.2.1 Anti-competitive agreements

3.204. Hardcore cartels are illegal, *per se*, under the Trade Competition Act B.E. 2560 (2017). They include anti-competitive agreements between business operators on matters such as price-fixing, output control, market allocation, and bid-rigging. Other non-hardcore cartels are subject to case-by-case review, and R&D and licensing agreements that do not result in restrictions exceeding what is necessary to achieve such benefits are excluded from prohibition.

3.3.6.2.2 Abuse of dominant market position

3.205. The new Act prohibits a business operator with a dominant market position from abusing its dominance, such as by fixing purchase or selling prices, imposing unfair conditions on trading partners, restricting the supply of goods or services, or intervening in the business operations of other persons.

¹³⁰ More information about these Acts is available in WTO document WT/TPR/S/255/Rev.1, 8 February 2012.

3.3.6.2.3 Mergers

3.206. The 2017 Act requires pre-merger permission and a post-merger notification system. Any business merger which may result in a monopoly or dominant market position must get permission from the TCC before proceeding. Mergers which may substantially reduce competition must be notified to the TCC within seven days of the merger date.

3.207. Dominant market position is defined in the TCC Regulations. They provide that, in the case of one business operator, it should have a market share of more than 50% in the previous year, and it should have sales of no less than THB 1 billion. In the case of a group, the top three business operators' combined market share should be no less than 75%, and the sales amount should be no less than THB 1 billion.

3.208. Business operators are entitled to request advance official adjudication from the TCC and receive advice from the OTCC on whether their practice is suspected to be illegal.

3.3.6.3 Enforcement

3.209. During previous Reviews, enforcement of the old Act was considered weak due to legislative and institutional shortcomings. In order to enhance effectiveness in restraining violations, the new Act empowers the TCC to issue administrative penalties in response to violations (Table 3.25). However, only the Intellectual Property and International Trade Court is authorized to order criminal penalties. The TCC has the power to settle cases with the alleged business operators. It may also order remedies to redress market conditions affected by a merger or competition violation. The new Act does not prescribe a leniency programme as such. However, under Article 79 paragraph 3, it does authorize the TCC to impose a lower fine for a whistleblower, provided that s/he follows the criteria, methods, and conditions prescribed by the Commission; these are yet to be approved.

Table 3.25 Penalties for different types of anti-competitive conduct

Violations	Criminal penalties	Administrative penalties
Abuse of dominant market position	1. A term of imprisonment of not more than two years; or 2. A fine of not more than 10% of the turnover in the year of the offence; or 3. Both.	-
Hardcore cartels	1. A term of imprisonment of not more than two years; or 2. A fine of not more than 10% of the turnover in the year of the offence; or 3. Both.	-
Non-hardcore cartels	-	- An administrative fine of not more than 10% of turnover in the year of the offence - An administrative fine of no more than THB 1 million for an offence committed in the first year of the business operation
Merger: failure to notify the TCC of the outcome of a merger which may substantially reduce competition in a market, within 7 days of the date of merging	-	An administrative fine of not more than THB 200,000 and a further fine of not more than THB 10,000 per day for the duration or the period the violation occurred
Merger: failure to seek permission from the TCC for a merger which may cause a monopoly or result in a dominant position in a market	-	An administrative fine of not more than 0.5% of the transaction value of the merger
Unfair trade practices		- An administrative fine of not more than 10% of turnover in the year of the offence

Violations	Criminal penalties	Administrative penalties
Unreasonable agreements with foreign firms		- An administrative fine of no more than THB 1 million for an offence committed in the first year of the business operation - An administrative fine of not more than 10% of turnover in the year of the offence - An administrative fine of no more than THB 1 million for an offence committed in the first year of the business operation

Source: WTO Secretariat, based on the Trade Competition Act B.E. 2560 (2017); and information provided by the authorities.

3.210. The 2017 Act also incorporates the possibility of private enforcement. Specifically, a person who suffers damages from relevant violations of the Act has the right to file a lawsuit and make a damage claim. The Consumer Protection Commission, or any association or foundation recognized by the Commission under the law on consumer protection, has the power to initiate damages claims on behalf of consumers.

3.211. The new TCC is now more active in competition enforcement. By end-May 2020, 44 claims had been filed with the TCC. Among them, 34 claims were related to unfair trade practices, 3 to restrictive agreements, 7 to abuse of dominant position, and 1 was in the area of mergers. The TCC concluded 27 cases and found violation in 1 case. Fines were imposed in 2 cases. The first case concerned the abuse of dominant market position and the restriction of competition by the manufacturer of an energy drink.¹³¹ It was filed by distributors who were prohibited by the relevant manufacturer from selling the energy drinks of its competitors. The TCC concluded that the operator was abusing its dominant market position to restrict competition and the business activities of other operators. The TCC arrived at a settlement with the relevant operator and imposed a fine of THB 6 million on the latter and an additional THB 6 million on the director of the company. This is considered a landmark case, as it marks the first time that the TCC exercised its settlement power. The second case took place in 2018 and concerned unfair trade practices in the agricultural sector; the TCC originally imposed a fine of THB 50,000 but subsequently lowered it to THB 25,000 as the offender pleaded guilty.

3.212. To raise awareness of the new Act, different advocacy activities have been organized since 2017, for the business community, educational institutes, law firms, sector regulators, and the public. Notably, during July-September 2019, the OTCC, together with 76 Provincial Commercial Offices, organized a series of workshops concerning unfair trade practices and relevant legal procedures in each province of Thailand. In February-March 2020, the OTCC organized another series of seminars concerning unfair trade practices in wholesale/retail and franchise businesses with the view to disseminating information on relevant guidelines. Activities were also held around World Competition Day in 2019, with the objective of heightening public awareness of competition law and exchanging knowledge and experience regarding competition law enforcement in developed countries.

3.213. There are competition chapters/provisions in some FTAs to which Thailand is a party (ASEAN-Australia-New Zealand FTA, ASEAN-Japan FTA, Thailand-Japan FTA, Thailand-Australia FTA, and Thailand-New Zealand FTA). However, they are generally limited to transparency and cooperation aspects.

3.3.6.4 Price regulation and control

3.214. The legal and institutional framework for price regulation has not changed since the previous Review. The Price of Goods and Services Act B.E. 2542 (1999) is the main piece of legislation in this regard.¹³² The purpose of the Act is to ensure the fair price of goods and services, and their adequate supply. The Central Commission on Prices of Goods and Services (CCP), established in accordance

¹³¹ This case was filed under the old Trade Competition Act B.E. 2542 (1999) and, therefore, is not included in the above-mentioned 44 claims.

¹³² Price of Goods and Services Act, B.E. 2542 (1999) (English translation). Viewed at: <https://www.dit.go.th/en/backoffice/uploadfile/255609171740127152262.pdf>.

with the Act and located in the Department of Internal Trade at the Ministry of Commerce, is the competent authority for implementing relevant policies under the Act. The main responsibilities of the CCP include: (i) to designate controlled goods or services; (ii) to prescribe price controls and/or other control measures for such goods or services; (iii) to enforce the measures and monitor implementation; and (iv) to review complaints and make appropriate decisions thereon. In addition to the CPP, provincial commissions were established under the Act to monitor prices locally.

3.215. Once the CPP, with the approval of the Cabinet, issues a notification designating controlled goods or services, it has the power to fix or maintain the price of such goods or services or to fix the distributor's maximum per unit profit rate. It also has the power to prescribe rules, procedures and conditions with regard to the production, import, export, purchase, distribution or storage of the controlled goods or services, and to prescribe measures to prevent hoarding of such goods or services.¹³³ In addition, the CPP may require business operators to display the prices of their goods or services.¹³⁴

3.216. The CCP maintains two types of lists: one list contains goods and services under price monitoring (Table 3.26), and the other contains goods and services subject to price control (Table 3.27). Both lists are updated regularly.

Table 3.26 Goods and services subject to price monitoring, March 2020

List	Products
Goods	
Sensitive list	1. sugar, 2. vegetable oil, 3. diesel, 4. medical masks
Priority watch list	1. pesticides and fungicides, 2. products that contain ethyl alcohol as a component for hand hygiene, 3. scrap paper and recycled paper
Watch list	1. fresh chicken meat, 2. eggs, 3. duck eggs, 4. beef, 5. pork, 6. tiger prawns and vannamei (white shrimp), 7. mackerel, 8. catfish, 9. tilapia, 10. steamed mackerel, 11. morning glory, 12. Chinese kale, 13. coriander, 14. spring onions, 15. chili, 16. limes, 17. freshly-made noodles, 18. Chinese cabbages, 19. cabbages, 20. Bok choy, 21. cockles and mussels, 22. ready-to-eat meals, 23. packed rice, 24. powdered milk, 25. fresh milk, 26. yoghurt, 27. soy milk, 28. sweetened condensed milk, 29. condensed imitation cream, 30. instant powdered coffee, 31. creamers, 32. ice, 33. carbonated drinks, 34. drinking water in sealed containers, 35. ready-to-drink juice in sealed containers, 36. ready-to-drink instant tea in sealed containers, 37. ready-to-drink instant coffee in sealed containers, 38. fruit in sealed containers, 39. vegetables in sealed containers, 40. Chocolate-flavoured drinks (liquid and powdered), 41. salt, 42. fish sauce, 43. dark soy sauce, 44. vinegar, 45. soy sauce, 46. oyster sauce, 47. ketchup, 48. chili sauce, 49. sweet chili sauce, 50. monosodium glutamate (MSG), 51. wheat flour, 52. cassava flour, 53. dried rice vermicelli, 54. vermicelli, 55. half-instant food in sealed containers, 56. instant food seasonings, 57. food in sealed containers, 58. ground pepper in sealed containers, 59. soybean paste in sealed containers, 60. coconut milk in sealed containers, 61. body lotions, 62. facial foam, 63. soap/liquid soap, 64. shampoo, 65. hair conditioner, 66. styling or hair dye gel, 67. cream or hair dye solution, 68. odour eliminators and air fresheners, 69. talcum powder, 70. detergent, 71. liquid detergent, 72. stain remover products for clothes, 73. diapers, 74. fabric softener, 75. ironing liquid, 76. dishwashing products, 77. disinfectant toilet cleaner, 78. floor cleaner, 79. furniture polish, 80. shoe polish solution or cream, 81. toothpaste, 82. toothbrushes, 83. sanitary napkins, 84. diapers, 85. cotton buds, 86. dry batteries, 87. razor blades, 88. mosquito and insect repellents, 89. deodorant products, 90. paper pulp, 91. Kraft paper, 92. corrugated paper, 93. printing and writing paper, 94. proof paper, 95. toilet paper and facial tissue, 96. school notebooks 97. light bulbs, 98. electric hair dryers, 99. electric fans, 100. electric rice cookers, 101. refrigerators, 102. televisions, 103. electric kettles, 104. food grinders and mixer machines, 105. irons, 106. air conditioners, 107. washing machines, 108. vacuum machines, 109. water heaters, 110. air purifiers, 111. microwaves, 112. electric water pumps, 113. cars, 114. small trucks, 115. motorcycles, 116. bicycles, 117. engine oil filters, 118. air filters, 119. brake pads, 120. car tyres, 121. motorcycle tyres, 122. bicycle tyres, 123. batteries, 124. tint films, 125. helmets, 126. floor tiles, wall tiles, 127. roof tiles, 128. gypsum sheets, 129. insulation sheets, 130. pavers, 131. mirrors, 132. cement, 133. cement pipes, 134. PVC pipes, 135. aluminium pipes, 136. zinc sheets, 137. rebar, 138. steel plates (including galvanized), 139. structural steel, 140. aluminium faces, 141. plywood, 142. nails, 143. electrical wires, 144. paints, 145. stones, 146. sand, 147. red bricks, 148. lightweight concrete, 149. cement blocks, 150. ready-mixed concrete, 151. ready-mixed concrete floors, 152. tanks, 153. grease trap containers, 154. cement grout, 155. gasoline, 156. lubricants, 157. bunker oils, 158. gasohol, 159. liquefied petroleum gas, 160. LPG for cars, 161. plastic pellets, 162. plastic bags, 163. plastic carrier bags, 164. plastic garbage bags, 165. plastic wraps, 166. natural gas vehicles (NGV) 167. polypropylene (spunbond) for producing medical masks, 168. painkiller medicine, 169. cold medicine, 170. muscle relaxants, 171. wound dressings, 172. bandages, 173. cotton wool, 174. walking tractors, 175. tractors, 176. lawn mowers, 177. rice combine harvesters and threshers, 178. gasoline water pumps, 179. light protection nets, 180. hoes, 181. spades, 182. grass shears, 183. fertilizers, 184. agricultural chemical

¹³³ Section 25, Price of Goods and Services Act, B.E. 2542 (1999).

¹³⁴ Section 28, Price of Goods and Services Act, B.E. 2542 (1999).

List	Products
	sprayers, 185. animal feed/ maize/ wheat, 186. fish meal, 187. tin plate steel, 188. chromium plate steel, 189. school bags, 190. school uniforms, 191. school socks, 192. school shoes, 193. water filters, 194. gold ornament, bullion, 195. closed circuit television cameras, 196. car cameras, 197. power banks, 198. flash drives, 199. hens, 200. chicks
Services	
Sensitive list	1. treatment services, medical services, and other services of medical institutions relating to treatments
Priority watch list	None
Watch list	1. repair of electrical devices, watches or shoes, 2. air-conditioner installation and maintenance, 3. car parking, 4. rental residences, hotels or accommodation, 5. sports and movie tickets, 6. sports/ exercise facilities, 7. hairdressers or barbers, 8. laundry, 9. beauty salons, 10. tailoring services, 11. photocopying, 12. veterinary, 13. locksmith/ spare keys, 14. residential rental fees, e.g. plumbing, electricity and other service fees, 15. auto repair, 16. engine oil changing or replacing, 17. delivery (goods, documents, and packages), 18. installation of electrical devices, plumbing, or telephones, 19. tutoring, 20. payment at a service point, 21. termite, insect, rat and pest control

Source: Information provided by the authorities.

Table 3.27 List of goods and services under price control, March 2020

	Category of paper and product		Category of construction materials		Category of food
1	Corrugated cardboard, Kraft paper	19	PVC pipes	38	Garlic
2	Printing and writing paper	20	Cement	39	Eggs
3	Scrap paper and recycled paper	21	Electrical wires	40	Durians
	Category of transportation hardware	22	Structural steel, flat steel, rebar	41	Powder milk, ready-to-consume milk products in liquid form, not including yoghurt
4	Motorcycle tyres, automobile tyres		Category of important agricultural goods	42	Oils and fats obtained from plants and animals (edible or inedible)
5	Motorcycles, passenger cars, small trucks	23	Paddy, milled rice	43	Wheat flour
	Category of agriculture materials	24	Wheat, barley	44	Mangosteens
6	Water pumps	25	Maize	45	Longans
7	Fertilizers	26	Cassava branches and boughs for propagating and producing products	46	Pigs, pork
8	Pesticides or fungicides	27	Oil palm fruits	47	Onions
9	Rice combine-harvesters	28	Ripe coconuts and products	48	Pre-cooked food packaged in sealed containers
10	Tractors	29	Rubber, i.e. fresh latex, rubber cubes, rubber scraps, thick latex, rubber sheets, rubber bars, rubber crepes	49	Food packaged in hermetically sealed containers
11	Animal feed and concentrated feed		Category consumer goods		Others
	Category of petroleum products	30	Toilet paper, facial tissue	50	Student uniforms
12	Liquefied petroleum gas	31	Shampoo		Category of services
13	Fuel oil	32	Fabric softener	51	Rights granted for publicizing copyrighted works of songs for commercial purposes
	Category of medicine and medical supplies	33	Detergent, liquid detergent	52	Services of product delivery for online business
14	Medicine	34	Dishwashing products	53	Agricultural services
15	Medical supplies for medical treatments	35	Sanitary napkins	54	Treatment services, medical services and other services of medical institutions relating to treatments
16	Medical mask	36	Diapers for babies and adults	55	Services of receiving payments at a service point
17	Polypropylene (spunbond) for producing medical mask	37	Soap, liquid soap	56	Warehouse rental services
18	Products that contain ethyl alcohol as a component for hand hygiene				

Source: Information provided by the authorities.

3.217. The 229 goods and services on the price monitoring list are watched over by the Department of Internal Trade. The list is further subdivided into three categories: (i) the sensitive list; (ii) the priority watch list; and (iii) the watch list. Products on the sensitive list are subject to daily monitoring; those on the priority watch list are subject to monitoring twice a week; and those on the watch list, every 15 days or every month. For the 56 goods and services currently on the price control list, the manufacturers or services suppliers must get approval from the CPP before raising prices, or give advance notice of a change in price. The price control list covers essential items for daily use, such as food and consumer products, farm-related products (fertilizers, pesticides, animal feed, tractors, rice harvesters), construction materials, transport equipment, paper, petroleum, and medicines. Delivery services for online shopping were added to the control list in 2017, and medical services in 2019. In March 2020, face masks and hand sanitizers were declared controlled goods, due to the COVID-19 pandemic.

3.218. Since May 2019, private hospitals have been required to report to the Department of Internal Trade the prices at which they purchase and sell medicines, and to notify the Department 15 days in advance of any price adjustment.¹³⁵ They are also required to show the QR code¹³⁶ on medicines in a visible area so that patients can compare price information.

3.219. The Ministry of Commerce may also, through administrative measures, ask for the cooperation of business operators to sell essential goods and services at affordable prices, while reflecting changes in production costs. According to the authorities, the purpose is to ensure fair trade for both consumers and business operators, and this is done in accordance with market mechanisms.

3.220. The Department of Internal Trade may take legal or administrative action against those who do not comply with the provisions of the Price of Goods and Services Act. Violations are punishable by imprisonment ranging from one month to seven years and/or a fine ranging from THB 2,000 to THB 140,000, depending on the type of offence committed.¹³⁷

3.3.7 Intellectual property rights (IPRs)

3.3.7.1 Overview

3.221. During the review period, Thailand adopted various reforms in its intellectual property (IP) system with a view to improving it and boosting performance in the areas of science, technology, and innovation. Following the publication of a 20-year IP Roadmap by the Department of Intellectual Property (DIP) at the MoC in 2017, Thailand implemented a number of improvements regarding administrative resources and the legislative IP framework.

3.222. Domestic improvements during the review period included the establishment of a subcommittee on enforcement against IP infringement (led by a Deputy Prime Minister), the amendment of the Trademark Act to provide for the registration of sound marks, and the amendment of the Copyright and Computer Crime Acts to better address online IP infringement. Thailand made considerable efforts towards streamlining its trademark and patent examination processes, which led to a reduction in patent pendency during the review period.

3.223. At the international level, Thailand joined the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol), which facilitates foreign filing; acceded to the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (Marrakesh Treaty); and began the implementation of the ASEAN IPR Action Plan 2016-25.¹³⁸

¹³⁵ The Economist Intelligence Unit, *Thailand – Price controls*. Viewed at: <http://country.eiu.com/article.aspx?articleid=1348871918&Country=Thailand&topic=Regulation&subtopic=Competition+policy&subsubtopic=Price+controls&oid=1258871909&aid=1>.

¹³⁶ A QR is a matrix barcode that can be read quickly by a cell phone.

¹³⁷ Chapter V, Price of Goods and Services Act, B.E. 2542 (1999).

¹³⁸ ASEAN IP Portal, *ASEAN Framework Agreement on Intellectual Property Cooperation*. Viewed at: <https://www.aseanip.org/About>.

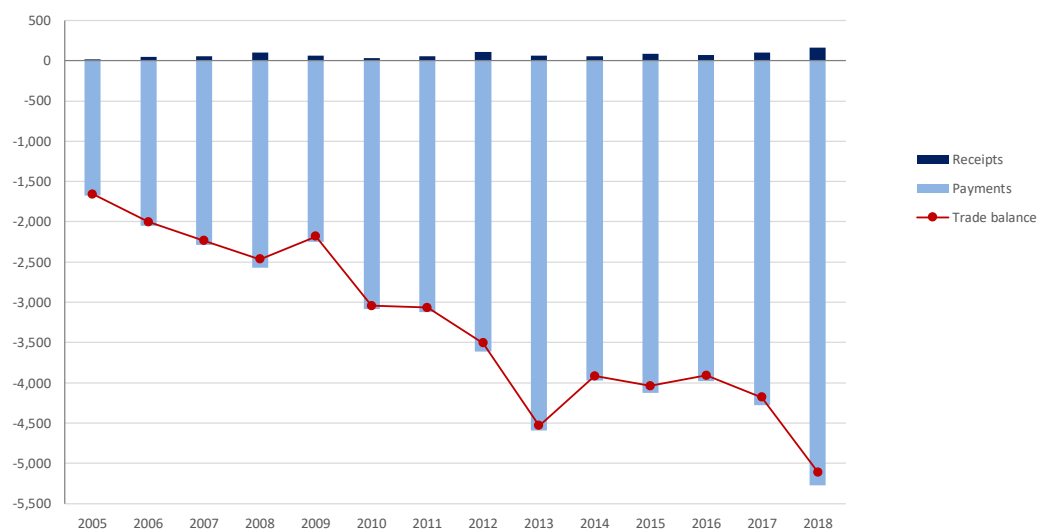
3.3.7.2 Economic policy context

3.224. Thailand's rankings in global indices of innovation and competitiveness reflect its status as a well-performing middle-income economy within the ASEAN. Although its overall competitiveness ranking fell (in the Global Competitiveness Index¹³⁹) from 34th place in 2016 to 40th in 2019, Thailand remains one of the few non-high-income economies in the top 40 of that Index. Thailand continues to pay increasing attention to the more complex areas of its policy framework and institutional development, ICT adoption, and complex skills training for its workforce, which are vital for its growing creativity and innovation capital.¹⁴⁰

3.225. Thailand, like most middle-income countries, is a net IP-importing country (Chart 3.3). Since 2016, the negative trade balance on IP licence fees has continued its long-term trend, reaching USD 5 billion in 2018.

Chart 3.3 Charges for the use of IP n.i.e., 2005-18

(USD million)



Source: Bank of Thailand. Viewed at: <https://www.bot.or.th/English/Statistics/EconomicAndFinancial/Pages/StatBalanceofPayments.aspx>.

3.226. In 2017, the DIP published a 20-year IP Roadmap that sets out the reform of the country's IP system, focusing on six IP-related areas, including IP creation, protection, and enforcement.¹⁴¹ The objectives of this Roadmap are consistent with the 20-year National Strategy (2018-37), the 12th National Social and Economic Development Plan (2017-21), and the MoC's policy on creating a more innovative economy by boosting the technical and creative sectors.¹⁴²

3.227. The National Committee on Intellectual Property Policy, established in 2011 and led by the Prime Minister, is the driving body for these policies. This Committee, and its Subcommittee on IPR Enforcement, established in 2016 and led by a Deputy Prime Minister, improved communication and coordination on IP protection and enforcement among the competent authorities.

3.3.7.3 Structure and use of the IP system

3.228. Thailand's institutional framework for IP has remained unchanged since the previous Review. The MoC is responsible for IP policy, and governmental initiatives of IP legislation. The DIP is responsible for administering and implementing laws and initiating reforms on a wide range of IPRs,

¹³⁹ World Economic Forum (WEF), *Global Competitiveness Report Rankings*. Viewed at: www.weforum.org/reports.

¹⁴⁰ WEF, *Global Competitiveness Report Rankings 2017*. Viewed at: http://www3.weforum.org/docs/GCR2016-2017/05FullReport/TheGlobalCompetitivenessReport2016-2017_FINAL.pdf.

¹⁴¹ Information provided by the authorities.

¹⁴² DIP, *Annual Report 2018*. Viewed at: <http://www.ipthailand.go.th/images/2284/ARDIP2018.pdf>.

covering copyright, trademarks, patents, utility models, integrated circuit topographies, geographical indications, trade secrets, optical disc production, and other relevant subjects.

3.229. The DIP continues to rank among the top IP offices in middle-income economies regarding the number of trademark and patent applications.¹⁴³ The numbers of patent applications, patents granted, and trademark and industrial design applications have witnessed a general increase since 2014 (Table 3.28). The relative share of filings by residents *vis-à-vis* foreign applicants remains at between 50% and 60% for trademarks and at around 12% for patents. Similarly, applications for industrial design protection in Thailand, both by residents and by foreign applicants, show continuous growth, and around 65% of all applications come from Thai residents.¹⁴⁴

Table 3.28 Applications for trademarks, industrial designs, and patents, and patents granted, 2014-19

	2014	2015	2016	2017	2018	2019
Trademark applications						
Resident	27,517	33,347	35,720	31,183	32,826	26,653
Non-resident	18,144	18,997	20,415	22,819	45,455	21,402
Total	45,661	52,344	56,153	54,002	78,281	48,055
Abroad	10,963	9,520	11,204	11,949	13,260	21,357
Industrial design applications						
Resident	2,806	3,162	3,566	3,698	4,043	3,599
Non-resident	1,271	1,299	1,357	1,424	1,426	1,701
Total	4,077	4,461	4,923	5,122	5,469	5,300
Abroad	2,315	1,383	1,535	2,119	1,019	..
Patent applications						
Resident	1,006	1,029	1,098	979	904	850
Non-resident	6,947	7,138	6,722	6,886	7,245	7,367
Total	7,953	8,167	7,820	7,865	8,145	8,217
Abroad	399	366	503	632	781	..
Patents granted						
Resident	73	62	61	88	128	171
Non-resident	1,219	1,302	1,777	2,992	3,690	2,951
Total	1,292	1,364	1,838	3,080	3,818	3,122
Abroad	126	157	164	161	220	..

.. Not available.

Source: WTO Secretariat, based on WIPO statistical data, and information provided by the authorities.

3.230. A significant shift is observed in the number of patents granted by the DIP per year. While the number of patent applications remained stable, the ratio of grants to applications improved from around 15% in 2014 to over 45% in 2018, reflecting successful efforts to modernize the office procedure, improve capacity, and reduce the pendency rate and examination time.¹⁴⁵ The authorities reported that the rate of patent registration increased by 25.59% from FY2017 to FY2018.¹⁴⁶

3.231. A new electronic filing system for patent and trademark applications (e-Filing) through the DIP's website, and an e-Payment system for accepting electronic payments, were launched in 2018, and were used in the applications of 6,850 trademarks and 1,207 patents within the first year of their launch.¹⁴⁷ While online filing has been available for trademarks in Thailand since 2005, the DIP upgraded the online communication platform for the filing of office communications. The DIP also joined WIPO's global system for centralized access to search and examination (CASE) as an "accessing office" (2015), although not as a "providing office".¹⁴⁸ The authorities indicated that an online filing system for copyright notification has also been available since February 2020.

¹⁴³ WIPO, *WIPO IP Facts and Figures 2018*. Viewed at: https://www.wipo.int/edocs/pubdocs/en/wipo_pub_943_2018.pdf.

¹⁴⁴ WIPO, *Statistical Country Profile - Thailand*. Viewed at: https://www.wipo.int/ipstats/en/statistics/country_profile/profile.jsp?code=TH.

¹⁴⁵ Based on WIPO statistical data (last updated in March 2018), and information provided by the authorities.

¹⁴⁶ DIP, *Annual Report 2018*. Viewed at: <http://www.ipthailand.go.th/images2284/ARDIP2018.pdf>.

¹⁴⁷ DIP, *Annual Report 2018*.

¹⁴⁸ Many patent applications are filed in multiple offices, and patent examiners can increase the efficiency and quality of their work by sharing their examination results. The WIPO CASE system enables patent offices to securely share search and examination documentation related to patent applications, in order

3.232. Thailand continues to experience a surge in applications for utility models (referred to as "petty patents") under Section 65bis of the Patent Act (No. 3 as amended in 1999). While Thai IP law has a novelty requirement for utility models, it does not impose substantive examination, which is only triggered upon a request by either the applicant or any interested third party within one year of publication of the registration. The authorities stated that most utility model applications by Thai residents were for food and cosmetics.

3.3.7.4 International context and WTO participation

3.233. Since the previous TPR, Thailand has signed and ratified WIPO's Marrakesh VIP Treaty, which entered into force on 28 April 2019, and joined the Madrid Protocol in 2017. Thailand is a member of WIPO and party to a number of its treaties, such as the Patent Cooperation Treaty, the Paris Convention for the Protection of Industrial Property, and the Berne Convention for the Protection of Literary and Artistic Works.¹⁴⁹ It has yet to accede to the WIPO Copyright Treaty (WCT) or the WIPO Performances and Phonograms Treaty (WPPT). According to the authorities, preparations for these are underway.

3.234. As a member of the ASEAN, Thailand cooperates with other ASEAN members on IP policy formulation in the ASEAN Working Group on IP Cooperation (AWGIPC)¹⁵⁰. The ASEAN IPR Action Plan 2016-25¹⁵¹, adopted by the AWGIPC, formulates a number of strategic regional goals¹⁵² and provides the backdrop for the DIP's 20-year Roadmap (Sections 3.3.7.1 and 3.3.7.2).

3.235. Thailand is party to several FTAs, either individually or in the context of its ASEAN membership; some of them contain IP provisions (ASEAN-Australia-New Zealand FTA, Thailand-Australia FTA, Thailand-New Zealand Closer Economic Partnership, and Japan-Thailand FTA). The FTAs that entered into force during the reporting period, namely the Thailand-Chile FTA¹⁵³ and the ASEAN-Hong Kong, China FTA,¹⁵⁴ contain few or no commitments with respect to IP protection.

3.236. With respect to the TRIPS Agreement, Thailand deposited the instrument of acceptance on the 2005 Protocol Amending the TRIPS Agreement in 2016 and is in the process of amending the Patent Act to reflect the amendment. In the context of the TRIPS Council, Thailand is a co-sponsor of the Modalities Proposal¹⁵⁵ in the negotiations of the TRIPS Special Session, which advocates a multilateral register for wine and spirit geographical indications (GIs), as well as GI extension and a requirement to disclose the origin of genetic resources and associated traditional knowledge in patent applications. Under the provisions of Article 63.2 of the TRIPS Agreement, Thailand submitted responses to the Checklist of Issues on Enforcement on 14 January 2015. In May 2020, the authorities notified main legislative changes to the WTO:

to facilitate work-sharing programmes. Examiners at an "accessing office" have access to the WIPO CASE web portal, and can use the system to search for patent applications at other participating offices and to retrieve the documents that are made available by those offices. The "providing office" makes available the search and examination documentation for patent applications filed at that office. Technically, this may be done by uploading the documents into the WIPO CASE system hosted by WIPO, or by making the documents available to the WIPO CASE system via secure web services. WIPO, *WIPO CASE – Centralized Access to Search and Examination*. Viewed at: <https://www.wipo.int/case/en/>.

¹⁴⁹ For a detailed list of IP-related treaty membership, see WIPO IP Portal, *Thailand*. Viewed at: <https://wipo.int/ipportal/en/legislation/profile/TH>.

¹⁵⁰ ASEAN Intellectual Property Portal. Viewed at: <https://www.aseanip.org/About>.

¹⁵¹ ASEAN Intellectual Property Portal. *ASEAN IP Rights Action Plan 2016-2025*. Viewed at: <https://www.aseanip.org/Statistics-Resources/ASEAN-IPR-Action-Plan-2016>.

¹⁵² The four strategic goals of the ASEAN IPR Action Plan 2016-25 are: (i) Strategic Goal 1: a more robust ASEAN IP system is developed by strengthening IP offices and building IP infrastructures in the region; (ii) Strategic Goal 2: regional IP platforms and infrastructures are developed to contribute to enhancing the ASEAN Economic Community; (iii) Strategic Goal 3: an expanded and inclusive ASEAN IP ecosystem is developed; and (iv) Strategic Goal 4: regional mechanisms to promote asset creation and commercialization, particularly GIs and traditional knowledge, are enhanced.

¹⁵³ Signed on 4 October 2013, the Agreement entered into force on 5 November 2015. It contains no specific rules on IP protection.

¹⁵⁴ Signed on 12 November 2017, the Agreement entered into force for Thailand on 11 June 2019. It contains a re-affirmation of the parties' rights and obligations under the TRIPS Agreement, and a commitment to enhance cooperation (Chapter 10).

¹⁵⁵ WTO documents TN/C/W/52/Add.3, 29 July 2008; and TN/C/W/60, 19 April 2011.

- Trade Secrets Act B.E. 2545 (2002) (as amended by Trade Secrets Act (No. 2) B.E. 2558 (2015))¹⁵⁶;
- Copyright Act B.E. 2537 (1994) (as amended by Copyright Act (No. 2) B.E. 2558 (2015), Copyright Act (No. 3) B.E. 2558 (2015), and Copyright Act (No. 4) B.E. 2561 (2018))¹⁵⁷; and
- Trademark Act B.E. 2534 (1991) (as amended by Trademark Act (No. 2) B.E. 2543 (2000) and Trademark Act (No. 3) B.E. 2559 (2016)).¹⁵⁸

3.237. Parallel imports are allowed for goods protected by registered or unregistered trademarks. 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. For layout designs, although the right holders have an exclusive right to import their protected layout design, another person may import the protected layout design without constituting an infringement if:

- that person did not know or had no reasonable ground to know, at the time of acquiring such integrated circuit or product, that the layout-design infringing the right holder's rights was incorporated; or
- the layout-design was lawfully acquired from the commercial exploitation of the right holder.

3.3.7.5 Patents

3.238. There has been virtually no change to Thailand's patent legislation since its previous Review. The Patent Act B.E. 2522 covers 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, from the date of filing, are 20 years for inventions, 10 years for designs, and 6 years for petty patents (renewable for another 2 years twice).

3.239. Thai residents filed most patent applications in the area of optics, accounting for 13.7% of the overall global applications in that area in the period 2015-17.¹⁵⁹ Thailand's patent protection system witnessed steady growth during the review period, especially in the areas of human necessities, transportation, and chemistry and metallurgy.

3.240. Over the review period, the DIP made significant efforts to improve efficiency and timely service by improving the allocation of existing resources. It more than tripled the number of patent examiners during the review period (from 30 in 2014 to 99 in 2018), and intensified the training provided to examiners in order to allow them to handle more complex applications, with the particular aim of reducing the lengthy pendency and examination time. Additional examiners helped decrease the patent application backlog by 20% in 2018.¹⁶⁰ Since then, the examination of patent applications has been shortened from an average of 10 years, to an average of 6-8 years.¹⁶¹

3.241. Long examination times constitute a factor impacting the average age of patents in a country.¹⁶² In 2018, the age of patents in Thailand averaged 13.4 years, improved from the

¹⁵⁶ WTO documents IP/N/1/THA/3/Rev.1; and IP/N/1/THA/U/2/Rev.1, 27 May 2020.

¹⁵⁷ WTO documents IP/N/1/THA/4; and IP/N/1/THA/C/3, 27 May 2020.

¹⁵⁸ WTO documents IP/N/1/THA/5; and IP/N/1/THA/T/2, 27 May 2020.

¹⁵⁹ WIPO, *World Intellectual Property Indicators 2019*. Viewed at: https://www.wipo.int/edocs/pubdocs/en/wipo_pub_941_2019.pdf.

¹⁶⁰ In 2016, Thailand had the highest ratio of patent applications to examiners of any ASEAN country. (Schultz, M. and Madigan, K. *The Long Wait for Innovation: The Global Patent Pendency Problem*. Center for the Protection of Intellectual Property (CPIP), 2016, p. 22).

¹⁶¹ US Department of State, *2019 Investment Climate Statements: Thailand*. Viewed at: <https://www.state.gov/reports/2019-investment-climate-statements/thailand/>. (According to a study, in 2016, it took on average 10 years for a patent to be granted, and almost 12 years for a life science patent. Schultz, M. (No.32), pp. 2 and 17.)

¹⁶² The patent age is the number of years a patent remains in force after the filing date. While patents can last up to 20 years, only about 20% of all patents are maintained throughout the entire period and just

14.9 years average in 2013.¹⁶³ Furthermore, Thailand has among the highest shares of withdrawn or abandoned applications, reaching 59.3% in 2018, after India (66.2%) and Argentina (60.8%).¹⁶⁴

3.242. Test data for marketing approval of pharmaceutical products is protected under Article 15 of the Trade Secret Act B.E. 2545. While Thailand, which provides patent protection of pharmaceutical products since the first amendment of its Patent Act in 1992, accepted the TRIPS Amendment in 2016, it has yet to implement this flexibility into its national patent legislation.¹⁶⁵ The generic pharmaceutical industry, which seems well-positioned to engage in manufacturing and exporting generic drugs, could benefit from such implementation to open business opportunities.

3.243. The situation regarding compulsory licences remained unchanged during the review period. Of the compulsory licences for government use granted for seven medicines in 2006-08 by the Ministry of Public Health¹⁶⁶, only one remains in use: the licence on a combined formulation of Lopinavir and Ritonavir, which covers up to 250,000 patients entitled to essential medicines under three national health security schemes, and is due to expire in 2021, after an extension in 2010.¹⁶⁷ The other licences have either expired, or are effective only where an essential need for these medicines exist.¹⁶⁸

3.3.7.6 Trademarks

3.244. In recent years, the DIP has taken measures to improve efficiency in the trademark application and registration process. These include ongoing efforts to enhance the online trademark database, in order to provide accurate and up-to-date information. In 2017, the DIP introduced trademark forms designed for the electronic filing process. It also increased the number of trademark examiners (from 20 in 2014 to 36 in 2018) and improved their training to streamline the examination process. In 2019, the average time taken to register a trademark was around 16-18 months (without opposition or appeal).

3.245. The Trademark Act B.E. 2534 amendment in 2016 that enabled sound marks to be filed for trademark registration and protection in Thailand came into force on 28 July 2016.¹⁶⁹ On 1 September 2017, the corresponding Ministerial Regulation came into force which, among others, provides (in Clause 11bis) a clarification on the sound mark application process. The amendment also implemented Thailand's 2017 accession to the WIPO Madrid Protocol, which has since facilitated businesses' access to international trademark registration.¹⁷⁰ 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.

3.246. Under the Tobacco Products Control Act of 2017 (TPCA B.E. 2561), which revised the primary piece of legislation governing tobacco control, the Ministry of Public Health issued Regulation concerning Criteria, Methods and Conditions of Tobacco Product and Cigarette Packaging B.E. 2561. The Regulation entered into force in September 2019, and imposed tobacco plain packaging and health warning requirements from 8 December 2019. Thailand is thus the first country in Asia to require compulsory standardized packaging for tobacco products, including cigarettes. Tobacco packaging must bear the manufacturer's name in a standardized font, in either English or Thai, display packaging in the standard colour pantone cool grey 2 C, and include health warning photos

under 50% are maintained for six to nine years after filing. The average patent age in the United Kingdom and in China was 7.7 and 7.4 years, respectively, in 2018.

¹⁶³ WIPO, *World Intellectual Property Indicators 2019*. Viewed at: https://www.wipo.int/edocs/pubdocs/en/wipo_pub_941_2019.pdf.

¹⁶⁴ WIPO, *World Intellectual Property Indicators 2019*.

¹⁶⁵ Information provided by the authorities.

¹⁶⁶ The compulsory licences were granted under Article 51 of the Patent Act B.E. 2522 (Compulsory License and Government Use). For details, see the previous TPR Report WT/TPR/S/326, para. 3.171.

¹⁶⁷ Lee, J.Y., *A Human Rights Framework for Intellectual Property*, Routledge, 30 June 2017, Chapter 3.

¹⁶⁸ In the cases of some covered medicines, such as the license for imatinib, the patent owner agreed to supply the product for patients under the Universal Health Care Coverage Scheme at no cost, and thus no further essential need for this medicine was considered to exist, as long as this offer lasts. (Lee, J.Y. *A Human Rights Framework for Intellectual Property*, Routledge, 30 June 2017.)

¹⁶⁹ WTO documents IP/N/1/THA/5; and IP/N/1/THA/T/2, 27 May 2020.

¹⁷⁰ European Commission, *2020 Report on the Protection and Enforcement of IP Rights in Third Countries*, p. 43.

on both sides of the cigarette box, which must extend to 85% of the packet's area. The Regulation sets an administrative fine of THB 40,000 (around USD 1,300).¹⁷¹

3.3.7.7 Geographical indications (GIs)

3.247. Arrangements for the protection of GIs remained unchanged during the review period. Under the Geographical Indication Protection Act B.E. 2546, terms that, when used on or in connection with the goods in question, identify the territory, region or locality to which a given quality, reputation or other characteristic of the good is attributable, are registerable as GIs, and use of these with other goods that could be designated as originating from the place to which such given quality, reputation or other characteristic are attributable is prohibited.¹⁷² A higher standard of protection is available for wine, spirits, rice, silk, and others as may be designated by the Minister of Commerce.¹⁷³ Registration is valid until it is cancelled.

3.248. In late 2018, in line with the 20-Year National Strategy, the 12th National Social and Economic Development Plan, and the 20-Year IP Roadmap, the DIP revised its mission statement to "upgrade the national intellectual property system toward 4.0 by 2022", and accentuated the importance of developing and adding value for agricultural products through the utilization of GIs in order to maintain existing revenue and generate new bases to sustainably increase the incomes of farmers and agricultural communities.¹⁷⁴

3.249. As at March 2020, Thailand had a total of 137 registered GIs, consisting of 17 foreign GIs from eight different countries, and 120 local GIs from 76 provinces. The Thai GI products comprised 13 rice products, 23 food products, 57 fruit and vegetable products, 11 textile products, 14 handicraft and industrial products, and 2 wine-liquor products. Authorities report that 6 Thai GI products are already protected in four economies, namely the European Union, India, Indonesia, and Vietnam. Moreover, 7 Thai GI products are in the process of gaining GI protection in four countries, namely Cambodia, China, Japan, and Vietnam.

3.3.7.8 Copyright and related rights

3.250. On 11 November 2018, the Copyright Act (No. 4) B.E. 2561 (2018) was adopted. It entered into force on 11 March 2019.¹⁷⁵ It allows the authorized or recognized entities to reproduce or adapt and communicate to the public the copyright works for the benefit of persons with disabilities, making the current Copyright Act conforms to the Marrakesh VIP Treaty. The Copyright Act gives protection for the lifetime of the author plus 50 years, except:

- for photographic works, audiovisual works, cinematographic works, sound recordings and broadcasting works, copyright protection is for 50 years from the date of creation or the first publication; and
- for works of applied art, protection is for 25 years from the date of creation or the first publication.

3.251. Registration is not required, but the DIP issues certificates for notified copyrighted works.

3.252. Several legislative changes relating to the copyright regime took effect during the review period. The amendments to the Copyright Act (Nos. 2 and 3) B.E. 2558 were both published in the Government Gazette in February 2015. Foreshadowing Thailand's intention to accede to the WIPO

¹⁷¹ Tobacco Control Laws, *Legislation by Country: Thailand*, 19 December 2019. Viewed at: <https://www.tobaccocontrollaws.org/legislation/country/thailand/summary>; and Intellectual Property Magazine, *Thai businesses must comply with plain packaging rules*. Viewed at: <https://www.intellectualpropertymagazine.com/trademark/thai-businesses-must-comply-with-plain-packaging-rules-138629.htm>.

¹⁷² Geographical Indication Protection Act B.E. 2546 (2003).

¹⁷³ Chapter 5 of the Act prohibits uses of such GIs even where the true origin of the goods is indicated or the GI is used in translation or accompanied by expressions such as "kind", "type", "style", "imitation", or the like.

¹⁷⁴ DIP, *Annual Report 2018*. Viewed at: <http://www.ipthailand.go.th/images/2284/ARDIP2018.pdf>.

¹⁷⁵ WIPO, *Thailand Copyright Act (No. 4) B.E. 2561 (2018)*. Viewed at: <https://wipolex.wipo.int/en/legislation/details/18436>. WTO documents IP/N/1/THA/4; and IP/N/1/THA/C/3, 27 May 2020.

Copyright Treaty (WCT)¹⁷⁶, the amendments include the introduction of a temporary reproduction exception necessary for the operation of a computer program¹⁷⁷, the protection of rights management information¹⁷⁸, and the protection of technological protection measures against circumvention, where the perpetrator is aware that such act may induce or cause copyright infringement.¹⁷⁹ In addition, the concept of exhaustion of rights was introduced, to ensure that the distribution right over the copyright work is exhausted after lawful distribution.¹⁸⁰ In Thailand, the first-sale doctrine is applicable to parallel importation of copyrighted works: lawful distribution of an original copyright work or its copies by a person who has lawfully obtained the ownership of such work or copies is exempted from copyright infringement. Parallel imports of copyright works are thus allowed in Thailand.

3.253. The amendments further establish a separate cause of action against the illegal recording of films in movie theatres ("camcording")¹⁸¹, and introduce liability exemptions for Internet service providers (ISPs) when preliminary injunction motions are filed for the removal of copyright-infringing content from the Internet.¹⁸² While the adoption of the takedown mechanism was well received, IP owners continue to raise concerns over excessive requirements and limited effectiveness *vis-à-vis* foreign ISPs¹⁸³, since Section 32/3 does not explicitly provide for website blocking. Further concerns relate to the functioning of collective rights management and the widespread use of unlicensed software.¹⁸⁴ The authorities reported that Thailand is in the process of addressing these concerns, by replacing Section 32/3 with a notice on the takedown process.

3.254. Copyright owners may opt for takedown under the new Computer Crime Act (No. 2) B.E. 2560 (2017), which provides for a permanent injunction to block websites that have online IP-infringing content. Under the Act, where there is an offensive dissemination of computer data, an officer may, with approval from the Minister of Digital Economy and Society (MDES), file a motion with evidence to the court requesting the cessation of dissemination or deletion of such computer data from the computer system. Copyright owners cannot file the application directly to the MDES officers; they must notify through the DIP or the police, who will then gather evidence before submitting to the MDES for further action.

3.3.7.9 Enforcement

3.255. Since its inception on 1 December 1997, Thailand's Central Intellectual Property and International Trade Court (CIPITC) exercises specialized IP jurisdiction in civil and criminal cases at trial level (Table 3.29). Its judgements may be appealed at the Court of Appeal for Specialized Cases. Following the amendment of the Civil Procedure Code in 2015, judgements of the Courts of Appeal in civil lawsuits, including civil IP cases, are final unless the Supreme Court grants permission to appeal further. In 2019, the CIPITC employed 22 judges with IP and trade law expertise, and 182 associate judges with subject matter specialization (e.g. engineering, pharmacy, and computer programming) to hear cases in panels of three judges, with the possibility of hearing expert witnesses.¹⁸⁵

3.256. In 2019, more than one third of civil cases (207 out of 582 cases) related to IP disputes. In contrast, virtually all the criminal cases relate to IP offences such as dealing in counterfeit goods (60%-70%), trademark counterfeiting, and violating the Copyright Act. While civil cases are settled or withdrawn in about 50% of the cases, criminal cases are almost universally decided for the

¹⁷⁶ Information provided by the authorities.

¹⁷⁷ Copyright Act B.E. 2558, Section 32/2.

¹⁷⁸ Copyright Act B.E. 2558, Sections 53/1 to 53/3.

¹⁷⁹ Copyright Act B.E. 2558, Sections 53/4, 53/5 and 70/1.

¹⁸⁰ Copyright Act B.E. 2558, Section 32/1.

¹⁸¹ Copyright Act B.E. 2558, new Section 28/1. Under Section 69/1, violators may now be subject to penalties ranging from THB 100,000 to THB 800,000 (USD 3,210 to USD 25,680) or six months to four years' imprisonment, or both.

¹⁸² Copyright Act B.E. 2558, Section 32/3.

¹⁸³ Bloomberg Law, *Thailand's New Law for Combating Online IP Infringement*. Viewed at: <https://news.bloomberglaw.com/ip-law/thailands-new-law-for-combating-online-ip-infringement?context=search&index=8>.

¹⁸⁴ USTR, *2018 Special 301 Report*, p. 65; and European Commission, *2020 Report on the Protection and Enforcement of IP Rights in Third Countries*, p. 43.

¹⁸⁵ Information from a presentation at the WTO IP Judges' Symposium 2017.

plaintiff. Cases from the CIPITC account for only 2%-3% of the cases submitted to the Court of Appeal and the Supreme Court.¹⁸⁶

Table 3.29 Cases brought to the CIPITC, 2014-19

	2014	2015	2016	2017	2018	2019
Civil cases	874	551	602	569	603	582
Criminal cases	5,823	4,626	3,720	3,697	3,262	2,631
Total number of new cases	6,697	5,177	4,322	4,266	3,865	3,213

Source: Annual Judicial Statistics Thailand (B.E. 2557-2561).

3.257. The 20-year IP Roadmap includes the reform of IP enforcement as one of six focus areas, and led to a number of improvement efforts, along with increased engagement and communication at the international level.¹⁸⁷ Recognizing that sanctions and penalties imposed for IP infringements were, at times, too low to have a deterrent effect, the Customs Act B.E. 2560 was revised in 2017 to introduce higher penalties for the importation, transit and transshipment of counterfeit and pirated goods, to a maximum of ten years' imprisonment and/or a fine of up to THB 500,000 (USD 16,200), and extended the liability to acts committed by "wilful intent" or "negligence".

3.258. Enforcement actions by the Royal Thai Police, the Department of Special Investigation, and the Customs Department have, in general, declined, from a total of 8,733 in 2015, to 4,880 in 2019. Raids conducted by the Customs Department during said period remained stable, at around 1,000 per year, while those conducted by the Royal Thai Police and the Department of Special Investigation declined. The decline reflected overall changes of IPR-infringing cases from physical to digital ones.

3.259. Overall, the number of items seized declined from over 10.8 million items (9 million of which were counterfeit cigarettes seized by the Customs Department in April) in 2018 to 1.6 million in 2019.¹⁸⁸ All items seized by enforcement authorities were destroyed. In September 2019, the DIP, in collaboration with the enforcement authorities, destroyed more than 10 million infringing goods.

3.260. Despite the considerable efforts made to tackle enforcement issues, use of unlicensed software in both the public and private sectors¹⁸⁹, extensive cable and satellite signal theft, and counterfeit goods (that find their way to other countries in Asia, South America and the Middle East, which serve as transit channels), remain significant. These have a chilling effect on the ecosystem for creative content in Thailand, making it a difficult marketplace for the content industry, consumers and other pertinent actors.

3.261. The percentage of pirated software in Thailand continued to decline during the reporting period but is estimated to remain significantly above the regional average for the Asia Pacific region. The rate fell from 71% in 2013 (compared with a 62% average for the Asia Pacific region) to 69% in 2015 and to 66% in 2017 (compared with a 57% average for the Asia Pacific region).¹⁹⁰

3.262. It was suggested that a comprehensive IP reform programme might include: further streamlining and automating procedures and processes at the DIP, the FDA, and other institutions to support innovation; enhancing the institutional capacity of all IP-related agencies, and in particular the DIP; and improving IP teaching and training, as well as raising the awareness of IP protection in the country.¹⁹¹

¹⁸⁶ Annual Judicial Statistics Thailand 2014-18 (B.E. 2557-2661).

¹⁸⁷ These improvements are also reflected in the downgrading of Thailand's status, in 2017, from the USTR's Special 301 "Priority Watch List" to its "Watch List".

¹⁸⁸ DIP, *IPR Enforcement Statistics*. Viewed at: www.ipthailand.go.th.

¹⁸⁹ USTR, *2018 Special 301 Report*, p. 65; and European Commission, *2020 Report on the Protection and Enforcement of IP Rights in Third Countries*, p. 43.

¹⁹⁰ The Software Alliance, *Software Management: Security Imperative, Business Opportunity*. BSA Global Software Survey, June 2018. Viewed at: https://gss.bsa.org/wp-content/uploads/2018/05/2018_BSA_GSS_Report_en.pdf.

¹⁹¹ World Bank, *Thailand Economic Monitor – Productivity for Prosperity*, January 2020. Viewed at: <http://documents.worldbank.org/curated/en/394501579357102381/pdf/Thailand-Economic-Monitor-Productivity-for-Prosperity.pdf>.

4 TRADE POLICIES BY SECTOR

4.1 Agriculture

4.1.1 Features

4.1. In 2019, agriculture, forestry and fisheries contributed 8.0% to GDP, down from 10.5% in 2014. One third of total employment is in the agricultural sector (31.4% of employment in 2019, slightly down from 32.3% in 2015) (Table 1.3), reflecting lower labour productivity as compared with other sectors. Growth rates of the agriculture, forestry and fisheries sector have been volatile, ranging from -6.5% in 2015 to 5.5% in 2018, and falling to 0.1% in 2019 (Table 1.3).

4.2. Agriculture continues to play a vital role in the economy. It is the main source of food supply domestically, and an important foreign exchange earner. Thailand is a net exporter of agricultural commodities, and is either the number one or number two producer of several agricultural products in the world. According to FAO online information, in 2018 (the latest year for which data is available), it was the world's biggest producer of natural rubber, and the second biggest producer of cassava. It is also a major producer of mangoes and mangosteens, guavas (3rd place in the world); palm oil (3rd); palm oil fruits (3rd); dry chillies and peppers (4th); pineapples (4th); sugar cane (4th); paddy rice (6th); coconuts (9th); and shallots (10th).¹

4.3. Since 2015, the output levels of garlic, peppers, natural rubber, sugar cane, palm oil, and palm oil fruits, as well as chicken meat and pig meat, have been generally increasing, while those of cassava, mangoes, and soya beans have been on a declining trend (Table 4.1). The authorities stated that Thailand is self-sufficient in rice, cassava, tropical fruits, sugar cane, and chicken meat.

Table 4.1 Production of selected agricultural products, 2015-19

('000 tonnes)

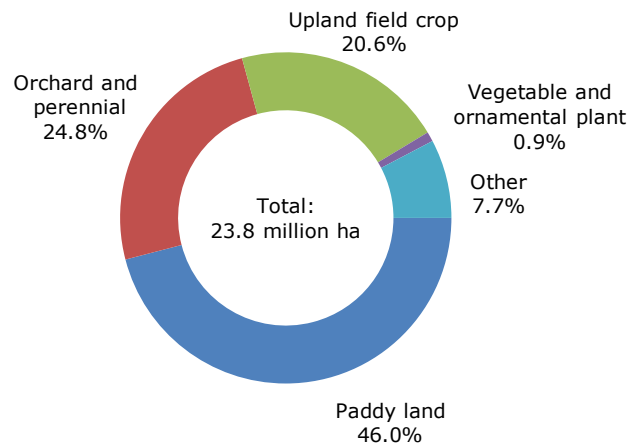
	2015	2016	2017	2018	2019 ^a
Crops					
Cassava	32,357.7	31,161.1	30,495.2	29,368.2	31,080.0
Peppers	1.4	1.4	2.5	2.0	2.2
Coconuts	774.0	731.4	761.9	858.2	806.0
Garlic	73.6	67.6	69.2	91.0	84.0
Maize	4,029.2	4,390.2	4,821.0	5,069.4	4,309.5
Mangosteens	221.9	186.0	115.5	185.6	351.7
Mangoes	2,582.5	2,560.0	2,877.1	1,390.8	1,276.5
Onions	35.5	40.4	31.1	36.8	34.2
Shallots	129.7	88.2	128.9	166.7	118.1
Pineapples	1,825.2	2,013.6	2,328.4	2,350.9	1,679.7
Paddy rice	27,421.0	31,857.2	32,898.9	32,348.1	28,356.9
Natural rubber	4,413.7	4,342.9	4,503.0	4,813.5	4,840.0
Soya beans	42.4	37.8	42.8	41.2	39.2
Sugar cane	105,959.1	94,047.0	92,950.8	134,929.3	130,970.0
Palm oil	2,068.5	1,804.5	2,626.0	2,778.1	3,033.7
Palm oil fruits	12,396.7	11,662.6	14,452.3	15,535.0	16,772.4
Livestock					
Cattle meat	171.4	157.6	179.2	162.2	186.0
Chicken meat	2,267.4	2,424.0	2,527.4	2,840.7	2,908.9
Pig meat	1,204.6	1,330.0	1,521.6	1,652.2	1,632.7

a 2019 data are forecast data except for cassava.

Source: Office of Agricultural Economics (for crops); and Department of Livestock Development (for livestock).

4.4. Almost half of all land in Thailand is used for agriculture (46%), and about half of the agricultural land is under rice paddies (Chart 4.1), with 22% of agricultural land irrigated. In 2017, there were 6.35 million farm-holdings, with an average farm size of 4 ha (up from an average of 3.1 ha in 2013).

¹ FAO STAT, *Countries by Commodity, Rankings*. Viewed at: http://www.fao.org/faostat/en/#rankings/countries_by_commodity.

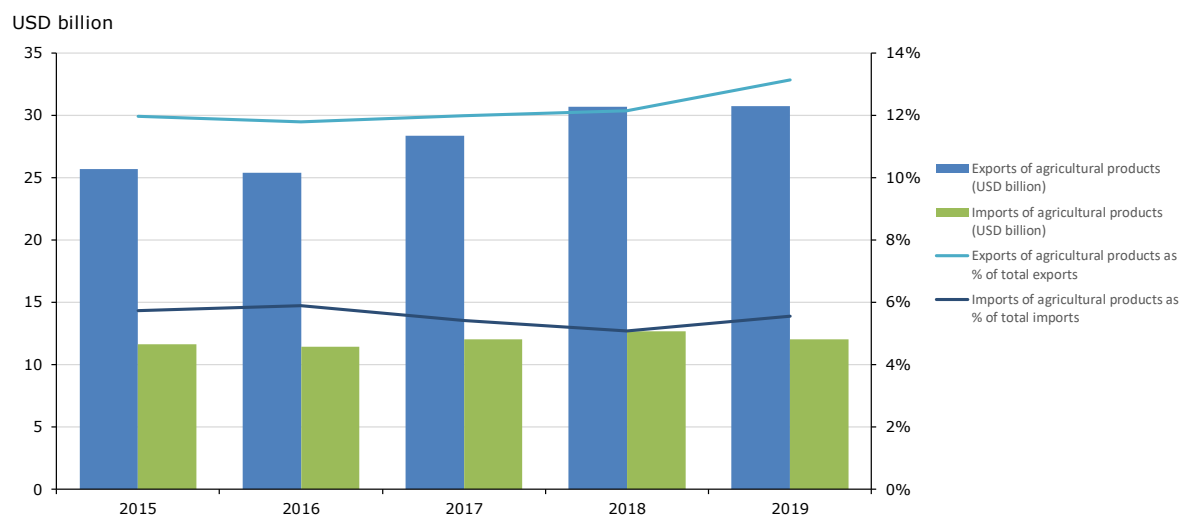
Chart 4.1 Agricultural land use, 2019

Note: Data is given in rai, this has been converted into hectares (6.25 rai = 1 hectare).

Source: Data provided by the authorities.

4.1.2 Trade

4.5. Thailand remains a net exporter of agricultural products (Chart 4.2). In 2019, exports of agricultural products reached USD 30.7 billion, or 13% of total exports from the country; imports of same reached USD 12.0 billion, or 5% of total imports.

Chart 4.2 Trade in agriculture, 2015-19

Source: WTO Secretariat calculations, based on data taken from UNSD Comtrade database.

4.6. In value terms, Thailand's key agricultural exports are rice, cane or beet sugar, and prepared or preserved meat (Table 4.2). The main export destinations for these products are China, Japan, the United States, Viet Nam, and Indonesia.

4.7. In value terms, major agricultural imports are soya bean oil cakes, soya beans, and wheat and meslin (Table 4.3). The main sources of these products are the United States, China, Brazil, Australia, and Indonesia.

Table 4.2 Exports of selected agricultural products, 2015-19

HS code		2015	2016	2017	2018	2019
1006 Rice	USD million	4,612.9	4,409.7	5,186.6	5,675.6	4,206.1
	'000 tonnes	9,795.8	9,907.9	11,674.3	11,232.2	7,580.5
1701 Cane or beet sugar in solid form	USD million	2,670.8	2,427.3	2,742.4	3,056.2	3,041.8
	'000 tonnes	7,591.3	6,360.3	5,888.5	9,523.0	9,722.2
1602 Other prepared or preserved meat	USD million	2,221.7	2,270.6	2,506.5	2,682.1	2,848.1
	'000 tonnes	490.1	519.5	576.7	601.3	629.7
2309 Animal feed preparations	USD million	1,225.3	1,252.1	1,400.8	1,606.6	1,673.8
	'000 tonnes	701.1	702.9	714.7	737.6	754.6
0810 Fresh fruits, n.e.s. in HS Chapter 8	USD million	759.7	915.5	1,363.5	1,591.0	2,253.0
	'000 tonnes	866.8	902.4	1,304.0	1,149.3	1,418.9
2202 Water and other non-alcoholic beverages ^a	USD million	998.2	1,142.7	1,296.4	1,461.3	1,590.7
	'000 tonnes	1,087.4	1,260.5	..	1,581.1	1,844.5
1108 Starches, inulin	USD million	1,219.5	1,134.2	1,030.8	1,366.4	1,236.7
	'000 tonnes	2,900.2	3,232.4	3,082.8	2,867.1	2,801.3
2106 Food preparations, n.e.s.	USD million	1,071.3	1,128.3	1,262.8	1,284.0	1,425.1
	'000 tonnes	..	..	650.0	..	799.9
0714 Manioc, arrowroot, etc.	USD million	1,567.1	1,121.8	1,091.6	902.6	531.1
	'000 tonnes	7,305.0	6,441.1	6,487.5	4,005.9	2,426.3
2008 Fruits and nuts, prepared or preserved	USD million	1,013.2	1,037.7	1,000.1	898.6	902.9
	'000 tonnes	692.3	709.9	732.8	679.5	597.7

.. Not available.

a Excluding fruit or vegetable juices of HS heading 2009.

Source: Ministry of Commerce; and the Customs Department.

Table 4.3 Imports of selected agricultural products, 2015-19

HS code		2015	2016	2017	2018	2019
2304 Soya bean oil cakes	USD million	1,240.9	1,036.2	1,159.4	1,251.7	1,233.0
	'000 tonnes	2,696.2	2,579.2	2,950.5	2,955.3	3,211.5
1201 Soya beans	USD million	1,122.2	1,215.1	1,158.4	1,150.3	1,256.4
	'000 tonnes	2,557.4	2,957.7	2,745.7	2,723.0	3,209.2
1001 Wheat and meslin	USD million	1,135.2	967.4	600.9	710.8	786.3
	'000 tonnes	4,556.1	4,576.5	2,732.2	2,852.1	3,024.4
2106 Food preparations, n.e.s.	USD million	519.2	567.8	588.6	611.5	677.8
	'000 tonnes	..	..	119.1	118.4	118.7
5201 Cotton, not carded or combed	USD million	534.1	430.7	484.2	521.0	387.7
	'000 tonnes	503.9	256.8	254.7	258.9	205.1
2309 Animal feed preparations	USD million	359.8	363.9	419.6	416.4	415.7
	'000 tonnes	273.6	284.6	311.1	299.4	304.3
0402 Milk and cream, concentrated or sweetened	USD million	340.0	235.1	320.0	339.1	348.6
	'000 tonnes	130.7	108.6	121.2	137.5	138.2
1901 Malt extracts; flour and dairy preparations, etc.	USD million	355.2	277.3	317.7	305.4	286.9
	'000 tonnes	67.2	56.7	58.1	58.1	60.2
0714 Manioc, arrowroot, etc.	USD million	223.4	326.9	380.8	286.1	280.8
	'000 tonnes	1,726.4	2,559.0	2,912.2	2,139.5	2,176.6
2402 Cigars, cigarillos and cigarettes	USD million	153.9	186.3	216.7	267.4	309.7
	'000 tonnes	17.0	19.0	18.2	20.4	23.9

.. Not available.

Source: Ministry of Commerce; and the Customs Department.

4.1.3 Agricultural policies

4.1.3.1 Legal, institutional, and policy framework

4.8. The Ministry of Agriculture and Cooperatives (MOAC) is the authority responsible for formulating and implementing agricultural policies. It oversees agriculture, water sourcing and irrigation development, agriculture tourism promotion and development, and the cooperatives system, among others.

4.9. The MOAC follows its 5-year Agricultural Plan (2018-22) and the Organization Plan, both of which are in compliance with Thailand's 20-Year National Strategy (2018-37). The MOAC's plans aim to achieve "secured farmers, prosperous agriculture, and sustainable agricultural resources", where

farmers' income is to be increased by more than USD 3,134 by 2022. To reach the target, the MOAC adopts five strategies:

- improving farmers' and farmer institutions' capacities to become smart farmers and smart groups with smart enterprises, by, inter alia, applying innovation and technology to farm labour management, farmland, financing opportunities, and risk management;
- increasing agriculture productivity and improving agricultural commodities' quality, developing sustainable agriculture, and applying the bio-circular-green economy (BCG) model;
- building Agriculture 4.0 under the Thailand 4.0 economic model, through developing technology and innovation in agriculture, managing agricultural information technology, and developing agricultural research work;
- achieving balanced and sustainable management of agricultural resources and the environment, including water resource management, conservation and recovery of agricultural resources, agricultural area management, adaptation to climate change, and international cooperation; and
- developing the public administration system, and enhancing the skills and capacities of government personnel.

4.10. In 2020, the MOAC started implementing the following agricultural policies:

- increasing the irrigation area and improving water management;
- promoting alternative agriculture and integrated agriculture, encouraging organic farming, and replacing chemicals by organic substances to promote food safety;
- expanding markets and encouraging smart farmers to become entrepreneurs, strengthening community enterprises and cooperatives, and developing agricultural processing;
- reducing production costs and promoting technology and the use of agricultural machines, improving efficiency in agriculture logistics, and building agri-technology and innovation centres;
- encouraging rain-making during drought seasons, providing land right titles for farmers, promoting livestock that conforms to market demand, controlling and preventing the outbreak of animal or plant diseases, and simulating substitute plants to reduce water usage;
- building a National Agricultural Big Data Centre; and
- developing an Agricultural Learning Centre where farmers can learn local production programmes.

4.11. Regarding foreign investment in agriculture, in accordance with the Land Code B.E. 2497 (1954), foreigners are prohibited from purchasing and owning land; they may lease land and buildings for a period up to 30 years (Section 2). Under the Foreign Business Act B.E. 2542 (1999), foreigners are prohibited from rice farming, plantation or crop growing, and livestock farming. Foreigners must obtain approval from the Ministry of Commerce if they wish to engage in the production of sugar from sugar cane; rice milling and the production of flour from rice and economic plants; the cultivation, propagation or development of plant varieties; and internal trade related to traditional agricultural products or produce not prohibited by law.

4.12. Thailand has been using a number of policy tools, both at the border and domestically, to facilitate the development of the agricultural sector (see below). However, these measures may not always give the desired results. According to a World Bank study, subsidies for rice production may

have slowed the need to transform Thai agriculture.² While Thailand is currently the world's second largest exporter of rice, its rice exports face higher production costs compared to competitors from neighbouring countries. This is compounded by volatile foreign exchange rates.³ The authorities disagree, and stated that Thailand has been developing new rice varieties according to the needs of the world market by dividing rice products into five major groups, namely Thai Hom Mali Rice, Thai fragrant rice, white rice (hard and soft textures), glutinous rice, and niche market rice (such as organic rice, and high-nutrition rice).

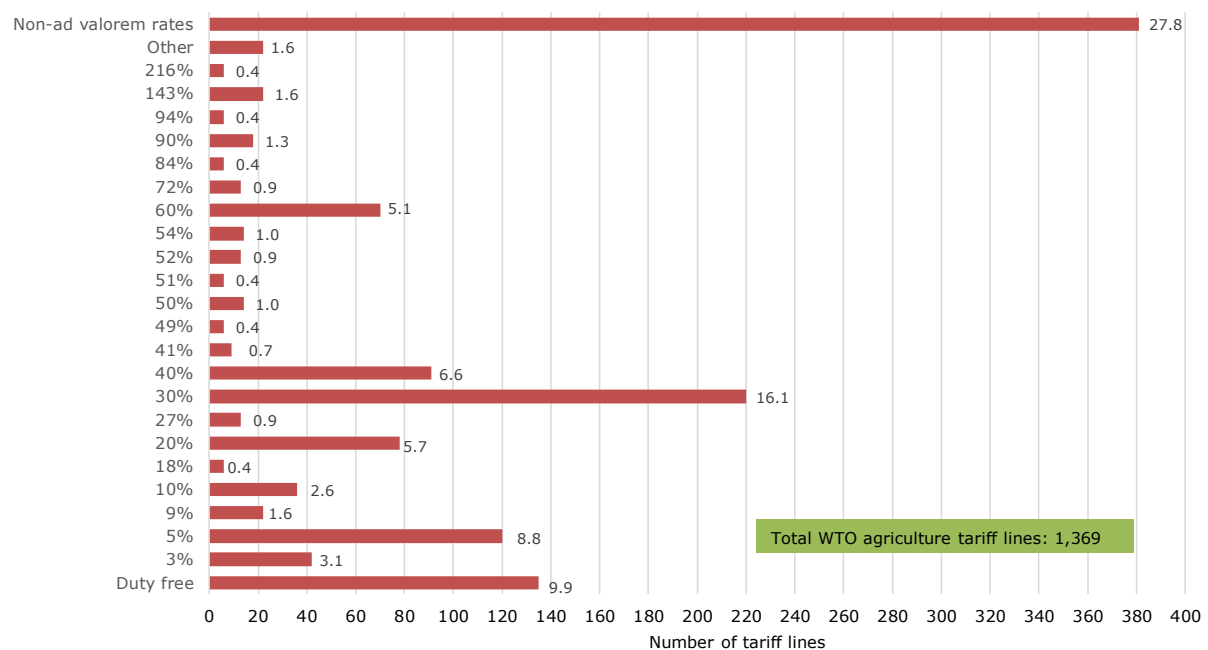
4.13. The World Bank suggested that raising labour productivity and deepening capital in agriculture could facilitate structural transformation. Accordingly, it recommended: developing a better-functioning land rental market; increasing the efficiency and sustainability of irrigation investments; more and better funding of agricultural research and extension programmes; and moving away from commodity support programmes towards a broad-based agricultural and food policy.⁴

4.1.3.2 Border measures

4.14. The agriculture sector receives more trade protection than the rest of the economy. Various trade policy tools have been used at the border, including tariffs, surcharges, tariff quotas, import and export licensing requirements on SPS grounds, and export taxes (Section 3).

4.15. In 2020, the simple average applied MFN tariff rate on agricultural products (WTO definition, AVEs included) is 32.7%, much higher than that on non-agricultural products (11.8%) (Table 3.2). Among the 1,369 agricultural tariff lines at the HS eight-digit level, 9.9% (135 lines) are duty free, much less than the duty-free percentage of non-agricultural tariff lines (33.4%). The other lines carry a rather large variety of tariff rates: 8.8% of tariff lines carry a duty rate of 5%, 16.1% a rate of 30%, 6.6% a rate of 40%, and 5.1% a rate of 60% (Chart 4.3).

Chart 4.3 Distribution of MFN applied WTO agriculture tariff rates, 2020



Note: Figures beside the bars refer to the percentage of total lines under WTO agriculture. "Other" include one tariff line each at 1%, 7%, 36%, 53%, 73%, 119%, 218%, and 226%; two tariff lines at 80%; and three tariff lines each at 57%, 125%, 142% and 146%.

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

² World Bank (2020), *Thailand Economic Monitor – Productivity for prosperity*. Viewed at: <http://documents.worldbank.org/curated/en/394501579357102381/pdf/Thailand-Economic-Monitor-Productivity-for-Prosperity.pdf>.

³ Bangkok Post, *Thailand risks slipping to third place in rice shipments*. Viewed at: <https://www.bangkokpost.com/business/1856424/thailand-risks-slipping-to-third-place-in-rice-shipments>.

⁴ World Bank (2020), *Thailand Economic Monitor – Productivity for prosperity*.

4.16. A total of 381 lines (27.8%) carry non-*ad valorem* duties. They are:

- seven specific lines (one tariff line on popcorn (HS 1005.90.10); two on mineral waters (HS 2201.10); and four on undenatured ethyl alcohol (HS 2207)); and
- 374 alternative lines: e.g. shallots, leeks; fruits and nuts; certain spices (fruit of the genus capsicum or the genus pimento, ginger, saffron, and turmeric); certain cereals (rye, barley, oats, grain sorghum, and buckwheat); products of the milling industry, and starches; animal and vegetable fats and oils; and preparations of vegetables, fruits, and nuts.

4.17. Tariff rates range from zero to 226% when AVEs are excluded. The highest *ad valorem* rates apply to raw silk, onion seeds, and milk and cream not containing added sugar (Section 3.1.2). When AVEs are included, the highest rates apply to papayas (HS 0807.20.00, AVE=528.8%), bananas excluding plantains and lady finger bananas (HS 0803.90.90, AVE=360.1%), and undenatured ethyl alcohol of an alcoholic strength by volume of 80% or higher (HS 2207.10.00, AVE=270.0%).

4.18. Thailand maintains 23 tariff quotas (TQs) covering 128 tariff lines at the HS eight-digit level; all are agricultural products (Section 3.1.2.4). All quotas are global quotas. To import 21 out of 23 agricultural products (other than cane or sugar, or unmanufactured tobacco and tobacco leaves) subject to TQ arrangements, importers must obtain certificates from the Department of Foreign Trade under the Ministry of Commerce. To import cane or sugar, a certificate from the Office of Cane and Sugar Board under the Ministry of Industry is required; and to import unmanufactured tobacco and tobacco leaves, a certificate from the Excise Department under the Ministry of Finance is required.⁵

4.19. Quota fill rates vary significantly. In cases where in-quota imports exceed the scheduled TQ quantities, fill rates are capped at 100% (Table 4.4). The fill rates for garlic, dried longans, maize for feedstuff, copra, soya bean oil, palm oil, and raw silk were zero, while those for coconuts, rice, coconut oil, sugar and sucrose, and unmanufactured tobacco and tobacco leaves were less than 5%. For coffee, tea, dried peppers, and instant coffee, the TQ fill rates were less than 65%. Quotas may be allocated (i) on a demand basis, first-come and first-served; (ii) to manufacturing companies using the imports under quota as inputs for their production; or (iii) to specific organizations or associations.

Table 4.4 Tariff quotas fill rates, 2019

Product	Number of tariff lines	Tariff quota quantity as scheduled (tonnes)	In-quota imports during period (tonnes)	Fill rate (%)	Import arrangement ^a
Milk and cream, not concentrated, nor containing added sugar or other matter (including flavoured milk)	15	2,400	2,290.42	95.43	Allocated on demand basis. No restriction for importers.
Skim milk powder	6	55,000 ^b	41,878.64	76.14	Any manufacturing company (for use as input in production)
Potatoes	3	302 ^c	12,719.3	100	Allocated on demand basis. No restriction for importers.
Onions	3	365 ^d	685.35	100	Allocated on demand basis. No restriction for importers.
Garlic	3	65	0	0	Public Warehouse Organization
Coconuts	4	2,427	91.38	3.77	Any manufacturing company (for use as input in production)
Dried longans	1	8	0	0	Allocated on demand basis. No restriction for importers.
Coffee	10	5.25	2.42	46.16	Allocated on demand basis. No restriction for importers

⁵ WTO document G/AG/N/THA/103, 26 June 2019.

Product	Number of tariff lines	Tariff quota quantity as scheduled (tonnes)	In-quota imports during period (tonnes)	Fill rate (%)	Import arrangement ^a
Tea	8	625	237.01	37.92	Allocated on demand basis. No restriction for importers
Peppers (dried)	6	45	13.35	29.67	Allocated on demand basis. No restriction for importers
Maize, for feedstuff	1	54,700	0	0	Public Warehouse Organization
Rice	10	249,757	4,522.42	1.81	First-come first-served basis
Soya beans	2	10,922 ^b	2,515,007.84	100	Listed associations
Copra	1	1,157	0	0	Any manufacturing company (for use as input in production)
Onion seeds	1	3.15	3.15	100	Allocated on demand basis. No restriction for importers.
Soya bean oil	3	2,281	0	0	Thai Food Processors' Association, and Thai Tuna Industry Association
Palm oil	22	4,860	0	0	Public Warehouse Organization
Coconut oil	3	401	9.03	2.25	Any manufacturing company (for use as input in production)
Sugar and sucrose	6	13,760	174.02	1.26	Any juristic person on a first-come first-served basis
Instant coffee and coffee extracts	6	134	59.36	44.30	Allocated on demand basis. No restriction for importers
Soya bean cake	1	230,559	2,583,195.78	100	Fit for animal feed: listed domestic companies/ associations
		230,559	1,517.75	0.66	Human consumption: any manufacturing company (for use as input in production)
Unmanufactured tobacco; tobacco leaves	1	6,435	228	3.5	No restriction for importers
Raw silk	1	483	0	0	Allocated on demand basis. No restriction for importers.

a Information on the importation arrangement is for 2019, based on Thailand's notification to the WTO (WTO document G/AG/N/THA/103, 26 June 2019).

b Tariff quota quantity was expanded to: 77,172.88 tonnes in 2015; 60,795.82 tonnes in 2018; and 57,993.02 tonnes in 2019.

c Tariff quota quantity was expanded to: 36,000 tonnes for potatoes and unlimited quantities for potato seeds from 2012 to 2014; and 52,000 tonnes for potatoes and unlimited quantities for potato seeds from 2015 to 2019.

d Tariff quota quantity was expanded to 764 tonnes from 2015 to 2019.

e Tariff quota quantity has been expanded to unlimited quantities since 1997.

Source: WTO document G/AG/N/THA/106, 27 August 2019; and information provided by the authorities.

4.20. Members raised a number of questions in the WTO Committee on Agriculture on, *inter alia*, Thailand's TQ administration, and the reasons for low fill rates for certain products.⁶ Thailand responded to the low or zero-fill rates by explaining that imports of maize, palm oil, and garlic took place under FTAs and imports come mainly from other ASEAN countries. Moreover, Thailand is a major grower and exporter of some TQ products, such as rice, dried longans, and soya bean oil.⁷

4.21. In addition to tariffs, some agricultural commodities are subject to import surcharges (Section 3.1.3).

4.22. The importation of fish meal with a protein content of less than 60% is subject to a non-automatic import licensing requirement (Table 3.7). Import licensing requirements apply for SPS reasons to cassava and cassava products; fresh oranges; shallots; and swine offal (Table 3.8). At the WTO Committee on SPS Measures, specific trade concerns (STCs) were raised against some of

⁶ Response by Thailand to questions posed by: the United States on 30 October 2019 (AG-IMS ID 92021) and on 7 June 2017 (AG-IMS ID 84102), the Russian Federation on 30 October 2019 (AG-IMS ID 92106, AG-IMS ID 92110), Ukraine on 30 October 2019 (AG-IMS ID 92111), Australia on 30 October 2019 (AG-IMS ID 92112, AG-IMS ID 92113), Indonesia on 25 June 2019 (AG-IMS ID 91128), and Switzerland on 9 November 2016 (AG-IMS ID 82063). WTO, *Agriculture Information Management System*. Viewed at: <https://agims.wto.org/>.

⁷ WTO, *Agriculture Information Management System*.

the SPS measures maintained by Thailand: its import restriction on papaya seeds (by Chinese Taipei) – resolved; the control, inspection, and approval procedures for live animals and/or animal products (by the United States); its approval procedures for imports of pork and other animal products (by Brazil and the European Union); its import restrictions on fresh citrus fruits (by Japan); and its draft list of hazardous substances regarding food containing pesticide residues (by the United States) (Section 3.3.3).⁸

4.23. Thailand reserved its right to take special safeguard (SSG) action on 55 HS02 eight-digit agricultural items, such as milk, potatoes, onions, garlic, coconuts, coffee, tea, peppers, maize, rice, copra, soya bean oil, crude palm/coconut oil, sugar, non-alcoholic beverages, tobacco, and raw silk (Section 3.1.5.2). Thailand notified to the WTO that it did not invoke SSG provisions under Article 5 of the WTO Agreement on Agriculture during the review period.⁹

4.24. Export taxes are levied on a number of agricultural products, but are exempted in most cases; currently, exports of hides of bovine animals are subject to applied export taxes (Section 3.2.2). Cassava products and cassava starches are subject to automatic export licensing, while rice, coffee, bean cake, and sugar are subject to non-automatic export licensing (Section 3.2.3). Exports of fresh durian, fresh longan, fresh orchids, and canned pineapples, among others, must be registered with the relevant government agencies before exportation (Table 3.11).

4.25. On 6 June 2019, Thailand notified to the WTO that it did not provide any export subsidies to agricultural products from 2015 to 2018.¹⁰

4.26. In March 2020, Thailand notified to the WTO that, during the global outbreak of COVID-19, exports of bird eggs of fowls of the species *Gallus Domesticus* (HS 04072100, 04072990) were prohibited for seven days, from 26 March 2020 to 1 April 2020. The authorities stated that the aim was to prevent a critical shortage in the domestic market.¹¹

4.1.3.3 Domestic support

4.27. A number of investment incentives have been provided for various agricultural activities, agriculture-related services, and for the production of a wide variety of goods derived from agriculture (such as fertilizers, oils, rubber and leather products, and food and beverages). These incentives mainly take the form of corporate income tax holidays and import duty exemptions (Section 3.3.1).

4.28. Many agricultural and food products are subject to price monitoring (Section 3.3.6). Since 2018, the production quota on sugar has been removed, and sugar is no longer listed in the price monitoring list.

4.29. The Bank for Agriculture and Agricultural Cooperatives (BAAC), a specialized financial institution under the Ministry of Finance, is responsible for providing financial assistance and occupational training to: farmers, farmer associations, agricultural and non-agricultural cooperatives, individuals, entrepreneurs, community enterprises, informal farmer groups, social enterprises, village funds, and urban communities.¹² Farmers with Thai nationality may obtain loans from the BAAC.¹³ The BAAC has also been providing input subsidies to farmers (see below).¹⁴

4.30. Thailand has domestic support commitments from the Uruguay Round for a maximum Current Total Aggregate Measurement of Support (AMS) of THB 19 billion. Its most recent notification to the WTO on agriculture subsidies was in 2017, covering the period 2014-16.¹⁵ According to the

⁸ WTO, *SPS Information Management System*. Viewed at: <http://spsims.wto.org>; and WTO, *New STCs*. Viewed at: https://www.wto.org/english/news_e/news20_e/sps_26jun20_e.htm.

⁹ WTO documents G/AG/N/THA/86-90, 6 June 2019.

¹⁰ WTO documents G/AG/N/THA/92-95, 6 June 2019.

¹¹ WTO document G/AG/N/THA/107, 30 March 2020.

¹² BAAC, *Annual Report 2018 – Fiscal Year 2018 (1 April 2018 – 31 March 2019)*. Viewed at: <https://www.baac.or.th/file-upload/000196-1-BAAC%20Annual%20Report%202561%20Eng.pdf>.

¹³ BAAC, *Credit Services*. Viewed at: https://www.baac.or.th/baac_en/content-product.php?content_group_sub=2.

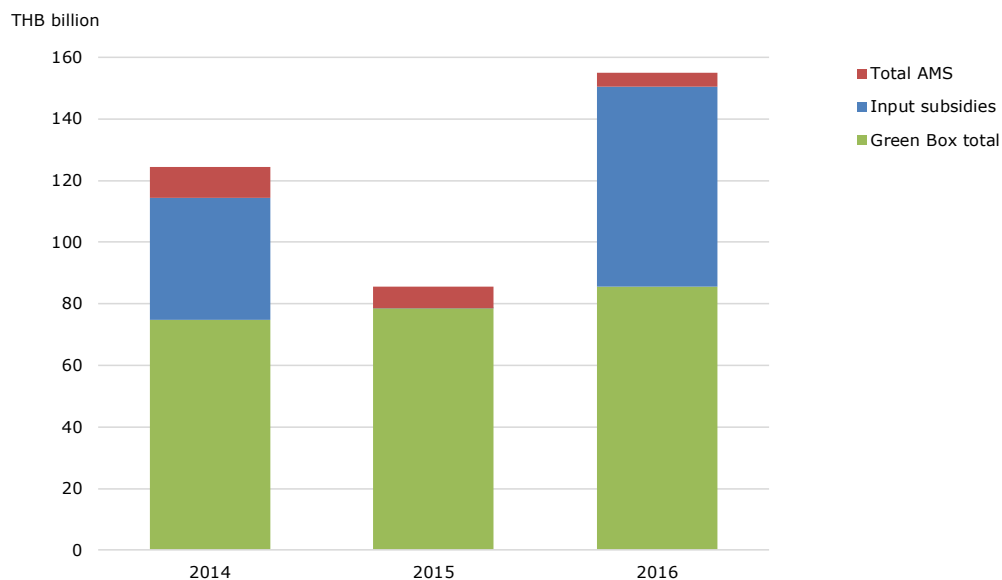
¹⁴ WTO document G/AG/N/THA/85, 6 October 2017.

¹⁵ WTO document G/AG/N/THA/85, 6 October 2017.

notification, more than half of all support to agriculture was in the Green Box category (Chart 4.4). The Green Box support level increased steadily, averaging about THB 80 billion from 2014 to 2016. Over 60% of all Green Box support was for infrastructural services, and 20% was for national extension and advisory services. From 2014 to 2016, the share of marketing and promotion of farmers' organization programmes went down from 3.0% to 0.2%, while the share of payments for relief from natural disasters went up from 0.2% to 2.0%. The shares of other support measures in total Green Box subsidies remained rather stable and, in 2016, they were:

- 7% on the Agricultural Research and Development Plan;
- 4% on pest and disease control;
- 3% on inspection services; and
- 1% on agricultural training services.

Chart 4.4 Agricultural support, 2014-16



Source: WTO document G/AG/N/THA/85, 6 October 2017.

4.31. In addition to Green Box support, Thailand also provides input subsidies in the form of loans from the BAAC:

- THB 39.6 billion in 2014 to low-income farmers;
- THB 0.4 million in 2015 to producers to facilitate their purchase of agricultural machinery; and
- THB 64.7 billion in 2016 to farmers to help them obtain inputs.

4.32. Product-specific AMS was given to rice, cassava, sugarcane, and cereals and, in 2015, it was also given to garlic. The support level fell from THB 10 billion in 2014 to THB 4.6 billion in 2016, mainly reflecting changes in support given to cereals. Support measures took the form of loans for production and stockholding, interest subsidies, government subsidies, and compensation for stockholding expenditure.

4.2 Fisheries

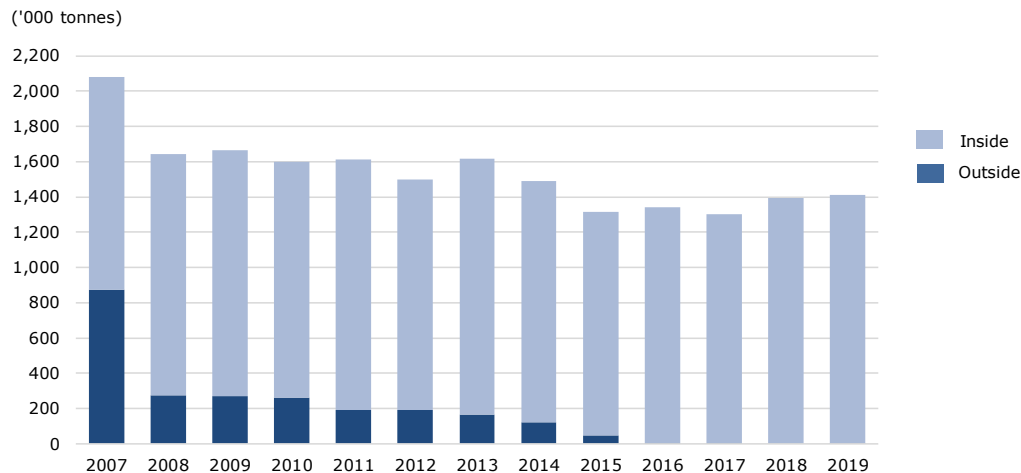
4.2.1 Features

4.33. In 2019, the fisheries industry contributed 0.68% to GDP (0.8% in 2013) and 2.13% to total exports (2.9% in 2014). According to Department of Fisheries (DOF) online information, in 2018, the fisheries sector was composed of:

- a marine fisheries subsector, made up of 11,069 commercial fishing vessels with 155,757 workers (64,935 Thai, 90,822 foreign), and 21,460 artisanal vessels with 32,190 workers; and
- an aquaculture subsector with 571,355 workers.¹⁶

4.34. The total marine catch fell from 2 million tonnes in 2007 to 1.4 million tonnes in 2019, probably reflecting the problem of over-fishing and the measures adopted by the Government to control illegal, unreported, and unregulated (IUU) fishing. Based on data from the authorities, the percentage of marine catch taken inside Thailand's Exclusive Economic Zone increased significantly, from 58% in 2007 to almost 100% in 2019, while fishing outside Thailand shrank (Chart 4.5).

Chart 4.5 Catch of marine fisheries, 2007-19



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

4.35. The Government has been adopting measures to conserve and rebuild fish stocks by, *inter alia*: imposing restrictions on mesh sizes in parts of the Gulf of Thailand; prohibiting commercial fishing within 3 km of the shore; and issuing fishing licences annually to existing licence holders eligible for new licences. In addition to fisheries management measures, the Government also closes fishing areas during aquatic animals' ovulation, egg-spawning and larvae-rearing periods. In addition, in 2015, the Government started to control the number of fishing vessels operating in Thai waters, to manage fisheries resources and to address IUU fishing, by maintaining fish stocks at the levels to produce the maximum sustainable yield.¹⁷ For those fishermen and fishing operators who were affected by these control measures, the DOF and the BAAC provided support to compensate for their losses (Section 4.2.3.3 and Table 3.19).

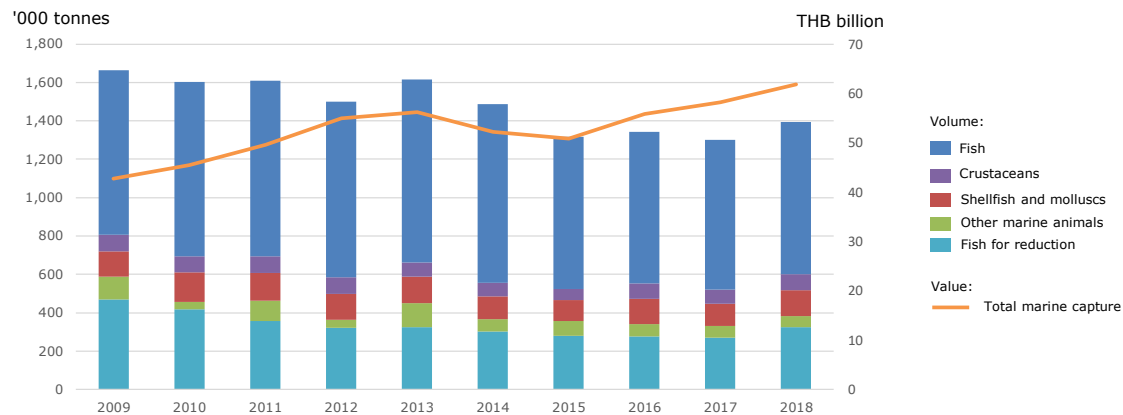
4.36. Marine fisheries production in volume terms has been declining over the years, although its value has increased. However, although in volume terms the annual output level in the marine fisheries subsector is much greater than that of the aquaculture subsector, the latter has a higher value (Charts 4.6 and 4.7), as prices of aquaculture products are higher than those of marine fisheries products, especially freshwater prawns. Coastal and freshwater aquaculture has been declining in volume terms, reflecting the declined output level of freshwater prawns due to

¹⁶ DOF, *Thailand Fisheries Overview*. Viewed at: https://www4.fisheries.go.th/index.php/dof_en/view_message/215.

¹⁷ WTO document G/SCM/N/343/THA, 4 July 2019.

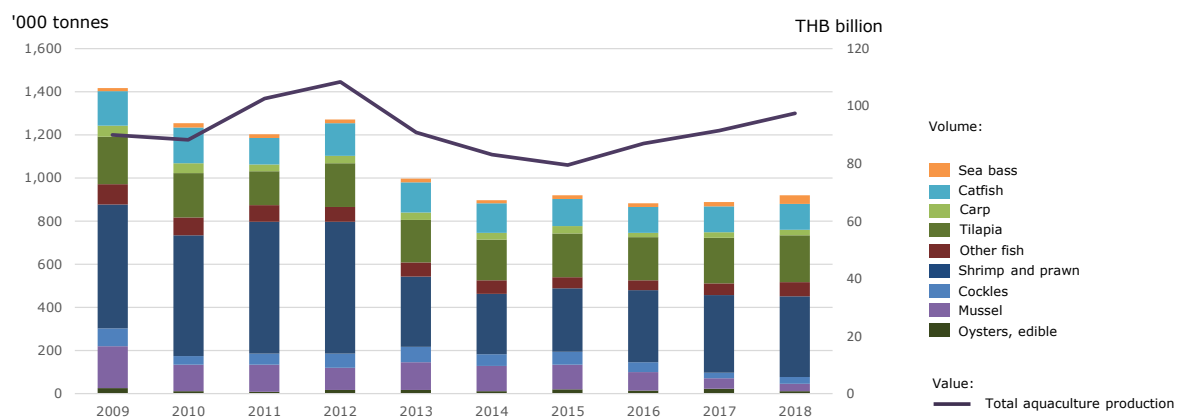
crustacean diseases (shrimp and prawn production has the highest share in Thailand's aquaculture production).

Chart 4.6 Marine capture fisheries: national landings in domestic ports, 2009-18



Source: Data provided by the authorities.

Chart 4.7 Main aquaculture production, 2009-18



Source: Data provided by the authorities.

4.2.2 Trade

4.37. Thailand is a net fish exporter: export value reached USD 5.8 billion in 2019, much higher than the import value at USD 3.9 billion (Table 4.5).

4.38. In 2019, main export products (at the HS four-digit level) were: prepared or preserved fish (51%); crustaceans, live, fresh, chilled, frozen, salted or in brine (17.2%); and prepared or preserved crustaceans, molluscs, etc. (14.2%). The main destinations for exports were Japan, the United States, EU-28, China, and Australia.

4.39. In the same year, close to half of all fisheries imports were frozen fish (48.9%). Other main fish imports were: molluscs, live, fresh, chilled, frozen, dried, salted, or in brine (14.6%); and fish fillets and other fish meat, fresh, chilled or frozen (7%). Thailand imports fish and fish products mainly from China, India, Viet Nam, Chinese Taipei, and the United States.

Table 4.5 Main exports and imports of fish and fish products, 2015-19

(USD million)

	2015	2016	2017	2018	2019
Exports	5,735.9	5,864.3	6,020.6	6,058.0	5,795.7
HS 1604 - fish, prepared or preserved	2,661.7	2,581.2	2,687.0	2,976.1	2,943.2
HS 0306 - crustaceans, live, fresh, chilled, frozen, salted or in brine	782.5	1,085.0	1,162.6	1,062.6	995.2
HS 1605 - crustaceans, molluscs, etc., prepared or preserved	1,054.6	1,012.8	1,059.4	909.3	826.1
Imports	2,572.6	3,128.6	3,568.6	4,179.6	3,950.1
HS 0303 - fish, frozen	1,522.1	1,811.7	2,082.0	2,216.3	1,933.7
HS 0307 - molluscs, live, fresh, chilled, frozen, dried, salted or in brine	341.5	395.4	449.2	543.2	578.6
HS 0304 - fish fillets and other fish meat, fresh, chilled or frozen	197.7	193.4	222.5	299.1	278.8

Source: Data provided by the authorities.

4.2.3 Fisheries policies

4.2.3.1 Legal, institutional, and policy framework

4.40. The Department of Fisheries (DOF), under the Ministry of Agriculture and Cooperatives (MOAC), is responsible for managing and developing fisheries and aquaculture in Thailand.

4.41. The Fisheries Act 2015, amended in 2017, is the main law governing the sector. The Act stipulates provisions on fisheries monitoring, surveillance and control, as well as aquaculture and sanitary standards. It aims to adjust fisheries resources management measures to be more compatible with international fisheries law and standards.

4.42. Since 2015, the Government has taken steps to tackle IUU fishing, and the yellow card was lifted on 8 January 2019. Measures adopted by the Government include:

- amending the Fisheries Act 2015 in 2017, which allows for strict penalties to deter illegal fishing behaviour. Thailand became a party to the Port State Measures Agreement (PSMA), and the UN Fish Stock Agreement (UNFSA), and formulated its National Action Plan to Prevent, Deter and Eliminate IUU Fishing, which is in line with the International Plan of Action to Prevent, Deter and Eliminate IUU Fishing (IPOA-IUU) of the FAO;
- managing and controlling fishing gear, fishing days, and fishing licences. The Government also established a Thai fishing vessel registration system to control and monitor the entire fishing fleet and to link data among relevant departments for efficient fleet management;
- developing a monitoring, controlling, and surveillance system to monitor illegal fishing. This includes: a Vessel Monitoring System installed in all Thai commercial vessels; Port In–Port Out Control Centres to control the entry/exit of Thai-flagged vessels before and after fishing; and ex-vessel inspections for species and weights of those aquatic animals that Thai fishing vessels bring to the fishing port. For vessels flying the Thai flag in international waters, DOF observers onboard monitor the fishing and transshipment of carrier vessels. A Fishing Info Network, which is a real-time database of fishing vessels, enables effective and accurate monitoring and control; and
- developing a traceability system to prevent the importation of aquatic animals derived from IUU fishing into Thailand.

4.43. The DOF set out the following strategies for fisheries management, following along similar lines as the strategies over the period 2013-16¹⁸ (Table 4.6).

¹⁸ WTO document WT/TPR/S/326/Rev.1, 10 February 2016.

Table 4.6 Strategies for fisheries management

Strategy	Components
Improve fish production and the capability of fish farmers	- Promote an environmentally friendly production system - Promote an integrated production management system with a market-driven approach - Develop clusters to strengthen the negotiating power of fish farmers - Develop and transfer knowledge of production to relieve effects of climate change - Undertake research and develop technology to improve efficiency
Improve competitiveness	- Promote and improve fish production according to standards and safety requirements - Develop a fish inspection and quality control system in compliance with international standards - Ensure fish production meets organic standards - Cooperate with other countries to expand market opportunities - Diversify products to increase their value added
Manage aquatic resources to ensure sustainability and biodiversity	- Rehabilitate and conserve fisheries resources - Promote community-based aquatic resource management - Monitor and survey fisheries activities to combat IUU fishing - Enhance efficiency of aquatic resource management through research and development and innovations
Organize and develop human resources	- Manage human resources efficiently - Develop human resources according to knowledge, skill and competence - Develop information technology systems - Improve budget management - Promote organization integration - Establish cooperation between public and private sectors - Strengthen law enforcement and awareness - Enhance international academic cooperation to develop or address fisheries problems

Source: Information provided by the authorities.

4.44. Foreigners are prohibited from engaging in fisheries in respect of the catching of aquatic animals in Thai waters and its specific economic zones, in accordance with the Foreign Business Act B.E. 2542 (1999) and the Act Governing the Right to Fish in Thai Fishery Waters B.E. 2482 (1939). However, foreigners may work on the crew of a fishing vessel, provided they are registered under the Working of Aliens Act B.E. 2551 (2008).¹⁹ In 2018, more than half of workers working on commercial vessels in the marine capture subsector were foreigners (58%).²⁰

4.2.3.2 Border measures

4.45. The simple average MFN tariff rate on fish and fishery products is 10.2% in 2020, lower than both the average tariff on non-agricultural tariff lines (11.8%), and that on agricultural tariff lines (32.7%). 32.5% of the 437 tariff lines (at the HS eight-digit level) for fish and fishery products are duty free. They cover mainly fish, fresh, chilled or frozen (HS 0302 and 0303); crustaceans, live, fresh or chilled (HS 0306); and molluscs, live, fresh, chilled or frozen (HS 0307 – excluding abalone).

4.46. Among all the fishery tariff lines, 35 have alternate rates (the higher of an *ad valorem* rate and a specific duty), and apply to:

- 1 line on shark fins (HS 030571);
- 4 lines on fats and oils of fish (HS 150410 and HS 150420); and
- 30 lines on prepared or preserved fish, caviar (HS 1604).

4.47. Tariff rates range from zero to 30% when AVEs are excluded. The highest *ad valorem* rate (30%) applies to all live fish (HS 0301); extracts and juices of fish, crustaceans, and molluscs

¹⁹ WTO document WT/TPR/S/326/Rev.1, 10 February 2016.

²⁰ DOF, *Thailand Fisheries Overview*. Viewed at: https://www4.fisheries.go.th/index.php/dof_en/view_message/215.

(HS1603); and abalone, fresh, chilled, frozen, dried, salted or in brine (HS 03078110, 03078120, 03078300, 03078710).

4.48. When AVEs are included, the highest rates apply to: mackerel, prepared or preserved in airtight containers for retail sale (HS 1604.15.10, AVE=156.1%); sardines, prepared or preserved in airtight containers for retail sale (HS 1604.13.11, AVE=137.2%); and fish balls (HS 1604.20.30, AVE=64.8%).

4.49. Fish and fish products are subject to relevant SPS requirements (Section 3.3.3). Exports of shellfish and shell are subject to export licensing requirements to promote the pearl cultivation industry (Table 3.10). Exporters of living ornamental fish, and finished products made of shell, must show a certificate issued by the DOF to Customs for exportation, for various reasons (Table 3.11). An export tax on fish, pulverized or only baked, unfit for human consumption, is currently not being applied (Table 3.9).

4.2.3.3 Domestic support

4.50. Several fisheries products, such as mackerel, catfish, tilapia, tiger prawns, cockles and mussels, are subject to price monitoring (Table 3.26).

4.51. Incentives are offered by the Board of Investment (BOI) to certain fishery activities (Section 3.3.1). In addition, Thailand notified to the WTO, under Article XVI:1 of the GATT 1994 and Article 25 of the WTO Agreement on Subsidies and Countervailing Measures, a number of support measures to the fisheries sector, in the form of soft loans or grants (Table 3.19).²¹ These include mainly programmes to help fishermen and fishing vessel owners affected by the Government's measures to combat IUU fishing (Section 4.2.1):

- soft loans to fishermen on fishing operations: from 2015 to 2016, the BAAC provided these soft loans to help improve fishing vessels and/or change fishing gear to ensure that fishing equipment is in compliance with the Fisheries Act 2015;
- the fishing vessel-buying programme: from April to May 2016, the DOF paid half of the price and bought 51 push net vessels from fishing vessel owners or fishing operators. These vessels were sunk to create artificial reefs and to reduce the number of fishing vessels; and
- the compensation programme: from March to September 2019, the DOF provided grants to the owners of 252 wooden fishing vessels of less than 90 GT, all of which were removed from fishing activities permanently. This programme was aimed at compensating fishing-vessel owners for their losses as a consequence of the Government's fishing-vessel removal measure introduced in 2015.

4.52. Other notified programmes which were, or are being, implemented include:

- the livelihood-improvement and resilience-building programme for artisanal fisheries communities: from April to September 2019, the DOF provided grants to 65 artisanal fishing communities in the three southern coastal provinces, to help them manage, maintain, conserve, restore and sustain the utilization of fisheries resources, and to improve their livelihoods and quality of life;
- the capacity-building programme on marine shrimp production and marketing for domestic shrimp consumption: from 2019 to 2021, the DOF provides grants to marine shrimp farmers (not more than THB 40,000 per farmer per year) so that they can buy specific pathogen-free and quality shrimp seeds at 90% of the price. The BAAC provides soft loans for marine shrimp farmers to buy farming inputs, and the interest on these loans is paid by the DOF. The BAAC also provides soft loans for marine shrimp farmer institutes and community enterprises to increase their managing, marketing, and product distribution abilities, and the interest on these loans is paid by the DOF;

²¹ WTO documents G/SCM/N/315/THA, 19 January 2018; and G/SCM/N/343/THA, 4 July 2019.

- the microorganisms production centre programme: the DOF sought to promote the use of microorganisms (liquid and powder) for shrimp farmers, with a view to alleviating damage and loss from environmental degradation and disease problems, and to reducing the use of antibiotics in shrimp farming. From March to September 2018, the DOF provided grants for groups of shrimp farmers with the potential to establish 20 microorganism production centres in 19 shrimp-producing provinces; and
- the programme to improve farming construction to facilitate the recovery of shrimp production: from 2016 to 2019, the BAAC provided soft loans to marine shrimp farmers, and the interest was paid by the DOF, with a view to resolving the decrease of domestic marine shrimp production due to Early Mortality Syndrome (EMS) shrimp disease. The loans were used to improve marine farming construction such as fishponds, sedimentation ponds, and wastewater treatment ponds.

4.3 Energy

4.3.1 Introduction

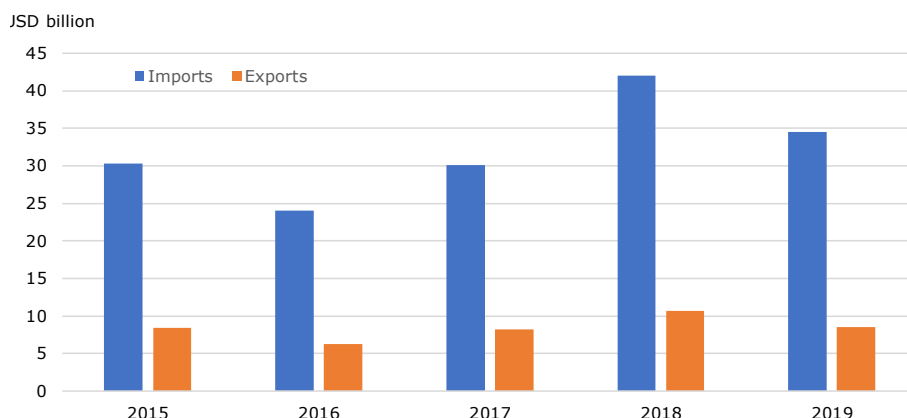
4.53. Thailand is a producer of a number of energy products, including crude oil, natural gas, coal, and hydroelectricity; the gap between production and consumption is filled by importation (Table 4.7). Thailand is thus a net importer of energy products: in 2019, energy imports amounted to THB 34.5 billion, four times the value of energy exports (THB 8.5 billion) (Chart 4.8).

Table 4.7 Energy production and consumption, 2015-19

	2015	2016	2017	2018	2019
Crude oil	(barrel (bbl)/day)				
Total production	152,387	163,080	141,248	129,200	125,889
Total consumption	1,107,476	1,055,674	1,093,385	1,130,748	1,025,195
Natural gas	(million cubic feet per day)				
Total production	3,850	3,767	3,620	3,527	3,623
Total consumption	4,764	4,714	4,682	4,676	4,762
Coal	('000 tonnes of oil equivalent)				
Total production	3,859	4,305	4,106	3,756	3,532
Total consumption	17,547	17,887	17,958	19,146	17,053
Hydroelectricity	('000 tonnes of oil equivalent)				
Total production	320	302	399	647	538
Total consumption	320	302	399	647	538

Source: Information provided by the authorities.

Chart 4.8 Imports and exports of energy products, 2015-19



Source: UNSD Comtrade database.

4.54. Thailand has a relatively energy-intensive economy, as measured by primary energy consumption per US dollar of GDP at 2015 purchasing power parities. The 2017 level, at 4,580 British thermal units (BTU) per US dollar, although an improvement from the 2013 level (4,730 BTU per

US dollar), still indicated that the economy was more energy-intensive than the average of ASEAN members.²²

4.55. The Ministry of Energy is in charge of setting government policy for the exploration and extraction of hydrocarbons, and for the production, transmission, and sale of electricity. The Energy Policy and Planning Office (EPPO), in the Ministry of Energy, is responsible for ensuring national energy security by devising energy policies and plans; defining measures for easing and preventing energy shortages; monitoring and evaluating compliance of measures with energy policies; and managing energy data and funds.²³ The EPPO took several policy measures during the review period, including the revision and development of the Power Development Plan (PDP) 2018-37 (see below).

4.56. Other relevant institutions include:

- the National Energy Policy Council (NEPC), chaired by the Prime Minister, responsible for submitting policy plans to the Council of Ministers, establishing rules for setting prices, and monitoring private and public energy entities to ensure their operations comply with the national energy policy;
- the Committee on Energy Policy Administration (CEPA), chaired by the Minister of Energy, responsible for ensuring the efficient operation of the NEPC, and making recommendations on the formulation of energy policies;
- the Energy Conservation Promotion Fund (ENCON Fund) Committee, chaired by a deputy prime minister assigned by the Prime Minister, aimed at promoting energy conservation; and
- the Energy Regulatory Commission (ERC), in charge of regulating the electricity, natural gas, and energy-network sectors.²⁴

4.57. The main laws regulating the energy sector include: the Petroleum Act (1971, amended most recently in 2017); the Petroleum Income Tax Act (1971); the Fuel Trade Act (2000, amended in 2007); the Fuel Oils Control Act (1999, amended in 2007); the Energy Conservation and Promotion Act (1992, amended in 2007); and the Energy Industry Act (2007). The 2017 amendment to the Petroleum Act added two regimes to the concession system for the rights to explore for, and produce, petroleum, i.e. production-sharing contracts, and service contracts.²⁵

4.58. The Oil Fuel Fund Act B.E. 2562 (2019) came into effect in 2019, and is aimed at stabilizing fuel prices in Thailand in the event of a fuel crisis. According to the Act, an Oil Fuel Fund Office, and an Oil Fuel Fund Administration Committee, were set up. Oil fuel fund money comes from levies on domestic petroleum product consumption except jet fuel.

4.59. The EPPO revised and amended the PDP 2018-37, to align it with the prevailing power demand and the potential for power generation, and with the 20-year National Strategy (2018-37) (Section 2) and the National Energy Reform Plan 2018. The latter, issued in January 2018, intends to reform Thailand's energy production and consumption structures by promoting renewable energy and good governance in the energy sector. It complements the Alternative Energy Development Plan (AEDP 2015), and the Energy Efficiency Development Plan (EEDP 2011-30).²⁶

4.60. The PDP 2018-37 was endorsed by both the NEPC and the CEPA in 2018. It focuses on:

²² US Energy Information Administration, *Energy consumption per capita GDP 2017*. Viewed at: <https://www.eia.gov/>.

²³ EPPO, *Annual Report 2018*. English version viewed at: <https://en.calameo.com/read/0049262933ad3bdbb4199>.

²⁴ ERC, *Establishment of the Energy Regulatory Commission*. Viewed at: <https://www.erc.or.th/ERCWeb2/EN/Front/StaticPage/StaticPageEN.aspx?p=1&Tag=History&muid=12&prid=2>.

²⁵ Ministry of Energy, *Annual Report 2017*. Viewed at: https://dmf.go.th/public/list_upload/backend/list_11432/files_21118_1.pdf.

²⁶ The AEDP (2015-36) aims to promote the use of renewable energy for power generation by 2036. The EEDP (2015-36) has a target of reducing energy intensity (i.e. the ratio of energy consumption to GDP) by 30% by 2036, compared to 2010, through energy-saving and efficiency programmes.

- ensuring reliable power-generation capacity, via strengthening the provision of conventional power plants²⁷, securing purchasing from abroad, and increasing renewable power plants and energy conservation;
- allocating reliable capacities to meet the power demand up to 2037, by building fossil fuel conventional power plants in seven regions, setting up public policy-promoted power plants based on renewable energies from community waste and biomass, building renewable power plants under the AEDP, and promoting power conservation under the EEDP.

4.61. The Government has been implementing a number of policies, mainly domestic measures such as subsidies and various incentive programmes, to reach these targets. These subsidies, however, have been generating significant costs to the economy.²⁸ In addition, prices of energy products are monitored or controlled (Section 3.3.6.4). For certain products, such as natural gas for vehicles (NGV), diesel, and liquefied petroleum gas (LPG), retail prices were set below the cost of production, resulting in government subsidies to cover price discrepancies. In recent years, Thailand has been focusing on promoting the use of renewable energy, not only through incentives in the form of corporate income tax and import tariff exemption or reductions offered by the BOI (Section 3.3.1), but also through other incentive programmes (Table 4.8).

Table 4.8 Renewable energy incentives, 2019

Programme	Description
FIT for Renewable Energy (RE) programme	Very small power producers (VSPPs) of renewable energy are 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 the technology used: solar, biomass, wind, garbage, and hydro. The programme was introduced in 2006, and the rates of feed-in tariffs have been revised several times. Rate changes must be approved by the NEPC.
Community power plant programme	Approved by the NEPC on 11 September 2019, it aims to improve community sustainability by building power plants to generate electricity from local renewable feedstocks such as biomass and biogas.
Solar power projects for households programme	Approved by the NEPC on 19 March 2020, its main purpose is to encourage power generation from solar rooftops for self-consumption and sale of the excess electricity to the grid. The AEDP 2018 plan set the target of the programme for 50 MW with a feed-in tariff for 10 years.
ENCON Fund	Established in 1992 under the ENCON Act B.E. 2535, the ENCON Fund aims to support projects to improve energy efficiency, promote renewable energy, and increase energy conservation. The Fund is managed by the ENCON Fund Committee. To apply for subsidies under the Fund, companies' businesses must be directly related to energy conservation or 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 (THB 0.10/litre). On 8 March 2018, the NEPC approved THB 10 billion per year to be used as ENCON Fund's expenses for the budget years 2017-21.

Source: Information provided by the authorities.

4.62. In addition, Thailand notified a number of support measures to the WTO under Article XVI:1 of the GATT 1994 and Article 25 of the WTO Agreement on Subsidies and Countervailing Measures, including those related to the energy sector (Table 3.19)²⁹:

- the programme encouraging the transformation of plastic waste into fuel oil: from 4 August 2015 to 3 August 2018, refineries that purchased fuel oil from plastic waste could submit requests for subsidies to the Excise Department, which forwarded them to the

²⁷ To improve the performance of conventional power plants, the Government is considering: exploiting the potential of fuel and infrastructure in each region to minimize additional investment, and adding conventional plants in metropolitan areas to minimize dependence on other regions' capacities; minimizing redundant investment; and reducing coal-generated power to reduce carbon dioxide emissions. EPPO, *Annual Report 2018*.

²⁸ WTO document WT/TPR/S/326/Rev.1, 10 February 2016.

²⁹ WTO documents G/SCM/N/315/THA, 19 January 2018; and G/SCM/N/343/THA, 4 July 2019.

Energy Fund Administration Institute (EFAI). The EFAI provided subsidies from the Oil Fund to the Excise Department, which then distributed them to the refineries;

- the low-interest loan and the Energy Efficiency Revolving Fund (EERF) programme in FY2016: the EERF coordinated with some commercial banks so that factories and buildings could obtain low-interest (3.5%) loans from participating banks. The loan applications were examined by both the bank, and the Department of Alternative Energy Development and Efficiency (DEDE) under the Ministry of Energy. The payback period of the loan could not be more than seven years, and the maximum amount of loan per project was THB 50 million. In FY 2016, 82 projects obtained a total of THB 1.22 billion in loans, resulting in an estimated energy saving of 7.3 kilotonnes of oil equivalent (ktoe);
- the low-interest loan and the Energy Service Company (ESCO) Revolving Fund programme in FY2016: the ESCO provides consultation services and advice on energy saving, and it may help factories design and implement energy-saving projects. Under the supervision of the DEDE, factories and buildings obtaining suggestions from the ESCO may obtain loans to lease equipment, for a maximum of THB 20 million per project, with a payback period of no more than seven years. In FY2016, 23 projects obtained loans worth THB 123 million via the programme, resulting in an estimated energy saving of 1.84 ktoe;
- the investment promotion in solar-heated water programme: from 2008 to 2015, support was provided to encourage the use of solar-heated water, instead of water heated by electricity, with a view to promoting renewable energy to meet the target of the AEDP. The subsidy was provided by the ENCON Fund, which paid 20% of the initial investment for the preparation, installation and operation of solar panels to heat water;
- the investment promotion in solar greenhouse dryers in agriculture programme: the ENCON Fund, together with the DEDE, offered 40%-50% of the initial investment for the preparation, construction, and operation of solar greenhouse dryers for small-scale dried-food producers, so that the moisture content from the fruit, herbs, and vegetable products could be removed. This programme is still in force;
- the financial subsidy to change industrial boilers from steam burners to biomass fuel burners programme: from 1 February 2016 to 31 July 2017, institutional and non-profit organizations obtained subsidies from the ENCON Fund, to cooperate with factory owners to change their boilers from steam burners to biomass fuel burners. For each factory, if its investment was lower than THB 2 million, 30% of this investment was paid by the ENCON Fund; and
- the compressed bio-methane gas (CBG) promotion in biogas plants programme: from 1 October 2016 to 30 June 2017, the ENCON Fund provided support to biogas factory owners to produce at least 3 tonnes of CBG per day. The target was to improve gas quality by substituting LPG and NGV with CBG. Total support for the whole scheme amounted to THB 75 million.

4.63. In 2018, the EPPO proposed guidelines to promote the use of B20 high-speed diesel, with a view to meeting the AEDP target of increasing the share of alternative energy in total energy consumption to 30% by 2037: in 2019, this share was 16.49%.³⁰ B20 is a type of biofuel blend consisting of up to 20% biodiesel and 80% petroleum diesel. The Ministry of Energy commenced a project in 2018 to distribute B20 to specific groups of vehicles, with a view to providing greater access to biodiesel and to reducing the oversupply of crude palm oil (CPO) by increasing absorption of CPO-based biodiesel.³¹ The CEPA also determined that the excise duty rate for B20 would be adjusted; the higher the proportion of biodiesel blended, the lower the excise duty.

4.64. The State continues to play a significant role in the energy sector, and SOEs such as PTT Public Company Limited, and the EGAT, play a major role in the hydrocarbon and electricity subsectors (see below).

³⁰ Ministry of Energy, *Percentage of Alternative Energy Consumption*. Viewed at: [https://www.dede.go.th/download/stat63/Percentage of Alternative Energy Consumption March 2563.pdf](https://www.dede.go.th/download/stat63/Percentage%20of%20Alternative%20Energy%20Consumption%20March%202563.pdf).

³¹ EPPO, *Annual Report 2018*.

4.3.2 Hydrocarbons

4.65. In 2018, Thailand held 136.9 million barrels of proven crude oil reserves, down from 178.3 million barrels in 2016. Its natural gas reserves have generally declined and, in 2018, it held 6.83 trillion cubic feet of proven natural gas reserves.

4.66. In 2019, 60% of Thailand's energy imports were petroleum oils and oils obtained from bituminous minerals, crude (HS 2709). These were followed by petroleum oils and oils from bituminous minerals, not crude (HS 2710), accounting for 15.5% of total energy imports; and petroleum gases and other gaseous hydrocarbons (HS 2711), 14.7% (Table 4.9).

Table 4.9 Imports and exports of main energy products (2018-19), and MFN tariff

(USD million)

HS	Description	2018		2019		Simplified average applied MFN tariff (%)
		Exports	Imports	Exports	Imports	
27	Mineral fuels, mineral oils, and products of their distillation; bituminous substances; mineral waxes	10,659.6	42,044.0	8,491.7	34,553.7	
2701	Coal, briquettes, ovoids and similar solid fuels manufactured from coal	15.6	1,639.1	9.8	1,323.2	0
2702	Lignite, whether or not agglomerated, excluding jet	0.0	7.1	0.0	9.9	0
2703	Peat, (including peat litter), whether or not agglomerated	0.1	4.5	0.0	3.8	0
2704	Coke and semi-coke, of coal, lignite or peat, whether or not agglomerated; retort carbon	0.0	10.3	0.0	9.6	0
2705	Coal gas, water gas, producer gas and similar gases, other than petroleum gases and other gaseous hydrocarbons	0.0	0.0	0.1	0.0	0
2706	Tar distilled from coal, lignite, peat and other mineral tars, whether or not dehydrated or partially distilled, including reconstituted tars	0.0	0.6	0.0	0.4	0
2707	Oils and other products of the distillation of high-temperature coal tar; similar products in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents	905.8	538.3	636.9	458.2	0
2708	Pitch and pitch coke, obtained from coal tar or from other mineral tars	0.2	5.3	0.0	3.9	0
2709	Petroleum oils and oils obtained from bituminous minerals, crude	825.6	27,799.1	663.9	20,851.3	0
2710	Petroleum oils and oils from bituminous minerals, not crude	8,252.8	5,364.9	6,552.7	5,372.3	4.60
2711	Petroleum gases and other gaseous hydrocarbons	316.2	5,057.7	182.8	5,083.3	0
2712	Petroleum jelly, paraffin wax, etc.	78.2	49.1	63.4	39.9	4.80
2713	Petroleum coke, petroleum bitumen, other residues of petroleum oils or oils obtained from bituminous minerals	157.0	152.9	155.5	137.2	0
2714	Bitumen and asphalt, natural; bituminous or oil shale and tar sands; asphaltites and asphaltic rocks	1.2	2.8	0.8	1.9	0
2715	Bituminous mixtures based on natural asphalt, on natural bitumen, on petroleum bitumen, on mineral tar or on mineral tar pitch (e.g. bituminous mastics, cut-backs)	22.0	2.4	18.5	1.9	10
2716	Electrical energy	84.8	1,409.6	207.4	1,256.9	0

Source: UNSD Comtrade database; and Thailand Tariff Schedule 2020.

4.67. Tariffs on energy products are low, with many at zero-rate (Table 4.9). Border measures mainly take the form of import or export restrictions. Importers of fuel oil must obtain a certificate issued by the Department of Energy Business, and submit it to Customs for approval (Table 3.8). Exports of all types of coal, except pulverized from Hongai Anthracite Coal, are subject to

non-automatic export licensing requirements; according to the authorities, this is to preserve exhaustible natural resources (Table 3.10).

4.68. According to the EPPO Annual Report, from 2017 to September 2019, exporters of locally produced LPG had to pay a contribution fee to the Oil Fuel Fund of THB 0.70 per kg. The EPPO stated that this was intended to discourage the exportation of locally produced LPG, to avoid domestic shortages. However, LPG exports persisted so, in the second half of 2018, the PTT Public Company Limited, which is the SOE that accounts for the largest share in the oil market in Thailand, suspended commercial exports of LPG at the request of the CEPA.³² The authorities stated that the exportation of LPG is not prohibited anymore.

4.69. Thailand's refining industry provides for most of the country's oil product demand. With eight refineries, Thailand has the second largest refining capacity in Southeast Asia (behind Singapore).³³ As a result of its refining capacity, Thailand is a net exporter of petroleum products: refined petroleum products accounted for almost 80% of total energy exports (Table 4.9).

4.70. Thailand relies increasingly on natural gas imports, which take the form of LNG, primarily from Qatar, and pipeline gas from neighbouring offshore fields in Myanmar. In 2015, Thailand signed its first long-term contract with Qatar to secure gas supplies. Thailand has an extensive natural gas transmission infrastructure, and the national gas pipeline system connects onshore and offshore gas fields to gas separation plants, power plants, and industrial users. Consumption of natural gas is primarily driven by electric-power generation, followed by the industrial sector, and natural gas processing plants.³⁴

4.71. The State continues to maintain a significant presence. The PTT Company Limited (51% owned by the State and formerly known as the Petroleum Authority of Thailand) is the main operator in the transmission and distribution of natural gas, and in the importation of LNG. Prices of natural gas are controlled by the ERC. The PTT is also involved in electricity generation, petrochemical production, oil and gas exploration, and gasoline retailing businesses. Its subsidiary, the PTT Exploration and Production (PTTEP) Company, also a state-owned company, operates several of Thailand's largest producing crude oil fields. The PTT holds about 65% of the shares of the PTTEP.³⁵

4.72. In accordance with the Foreign Business Act B.E. 2542 (1999) and the Petroleum Act B.E. 2514 (1971), foreign investors must obtain licences, issued by the Ministry of Commerce, if they wish to engage in: petroleum exploration; or the production and/or distribution of petroleum products. 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% in 2020, and the compulsory exploration period is six years. The concession is for 20 years, and the total exploration area of any single concessionaire may not exceed five blocks of 20,000 km². Concessionaires are allowed to sell or otherwise dispose of the petroleum produced, insofar as they meet their royalty and tax obligations.

4.73. The hydrocarbon sector is fully open to foreign investment at the exploration and production levels.³⁶ Foreign companies such as Chevron operate some of Thailand's largest crude oil fields. Chevron's Erawan and PTT's Bongkot oil and natural gas fields produce most of the condensate production.³⁷ Chevron, Mitui Oil Exploration Company, Total, Shell, and PTT hold sizeable shares in Thailand's natural gas fields.

³² EPPO, *Annual Report 2018*.

³³ US EIA, *Energy consumption per capita GDP 2017*. Viewed at: <https://www.eia.gov/>.

³⁴ US EIA, *Energy consumption per capita GDP 2017*.

³⁵ PTTEP, *Major Shareholders*. Viewed at:

<https://www.pttep.com/en/Investorrelations/Shareholderinformation/Top10shareholders.aspx>.

³⁶ WTO document WT/TPR/S/326/Rev.1, 10 February 2016.

³⁷ US EIA, *Energy consumption per capita GDP 2017*.

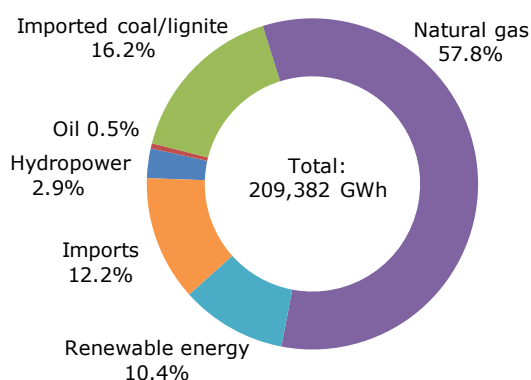
4.3.3 Electricity

4.74. Thailand ranks 6th out of 190 economies under the category of Getting Electricity in the World Bank's 2020 Doing Business Report, up from the 12th place in 2015.³⁸ It ranks second (after Malaysia) within the ASEAN member countries.

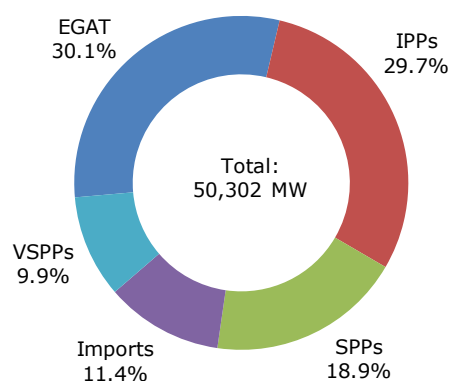
4.75. In December 2019, Thailand had an installed generating capacity of 50,302 MW, up from 34,690 MW in 2015. Slightly more power was generated by the state-owned EGAT (30.1%) than by independent power producers (IPPs, 29.7%). Small power producers (SPPs), imported electricity, and VSPPs accounted for 18.9%, 11.4%, and 9.9%, respectively (Chart 4.9). Natural gas accounted for more than half of the fuel source for electricity generation (57.8% in 2019, down from 69.9% in 2015), while the share of renewable energy went up from 2.6% in 2015 to 10.4% in 2019.

Chart 4.9 Electricity generation and installed generating capacity, as at 31 December 2019

Electricity generation by type of fuel:



Installed generating capacity:



Source: Data provided by the authorities.

4.76. The State and SOEs play an important role in the electricity sector. The EGAT, established in accordance with the Electricity Generating Authority of Thailand Act B.E. 2511 (1968), is Thailand's dominant electricity supplier, and is the sole buyer of electricity according to the "enhanced single buyer model". According to the NEPC's resolution in 2015, the large amount of electricity supply via high voltage transmission line to neighbouring countries is the responsibility of the EGAT, while the Provincial Electricity Authority (PEA) is in charge of electricity supply via low voltage transmission line to neighbouring countries. The EGAT sells wholesale electricity to two distributing authorities - the Metropolitan Electricity Authority (MEA) and the PEA - in addition to a small number of direct industrial customers. Both the MEA and the PEA are SOEs with exclusive rights to undertake distribution and retailing activities within their respective geographical areas of jurisdiction. The MEA is responsible for distributing electricity in the Bangkok metropolitan area, while the PEA distributes electricity outside that area.

4.77. The electricity sector, the natural gas sector, and the related interconnection network are regulated by the ERC, established under the Energy Industry Act B.E. 2550 (2007). The ERC issues electricity generation, transmission, distribution, and retail licences to public power utilities and privately-owned power suppliers.³⁹ It also settles disputes between consumers and operators, and makes disbursements under the Power Development Fund (the Fund).

³⁸ World Bank, *Doing Business 2020 – Economy Profile Thailand*. Viewed at: <https://www.doingbusiness.org/content/dam/doingBusiness/country/t/thailand/THA.pdf>.

³⁹ ERC (2018), *Annual Report 2018*. Viewed at: <https://www.erc.or.th/ERCWeb2/Upload/Document/annual%20report/Annual%20Report-%20ERC2018-190919%20FINAL.pdf>.

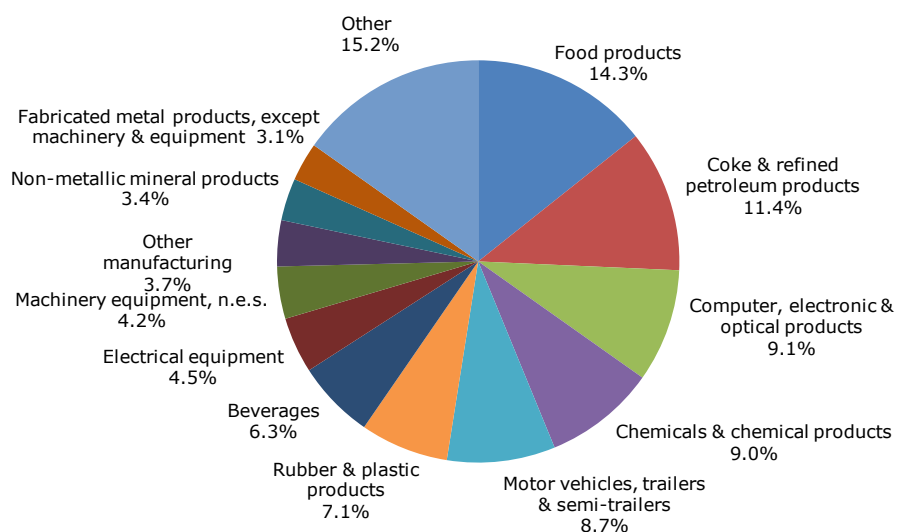
4.78. The Fund was set up under the Energy Industry Act B.E. 2550 (2007), with the following objectives: to enhance extensive electrification in rural areas; to subsidize services for underprivileged energy users; to develop and rehabilitate communities surrounded by power plants; and to promote the use of renewable energy and technologies with low impact on the environment in electricity generation. The sources of the Fund come mainly from contributions from electricity industry licensees: during plant construction, licensees must pay at least THB 50,000 per MW per year; during the plant commission, they must pay at a rate determined by the fuel type used for the power generation, ranging from 1-2 satang/kWh (100 satang = THB 1).⁴⁰

4.79. The ERC is responsible for regulating electricity tariffs that licensees impose on end-users, through rate-making regulations and a tariff-approval process. A regulated electricity base tariff borne by EGAT no longer exists, as wholesale prices are adjusted to reflect actual variable costs through the automatic tariff adjustment mechanism every four months. Cross-subsidization remains, where power suppliers are obliged to provide, free of charge, electricity to under-privileged residential customers at lifeline level. The Fund compensates their cost.⁴¹ The authorities indicated that the value of the cross-subsidy reached THB 2.1 billion in 2019, equivalent of 0.0125% of GDP.

4.4 Manufacturing

4.80. Manufacturing accounted for 25.3% of GDP in 2019, down from 27.4% in 2015 (Table 1.3). The sector's share in total employment went down slightly, from 17.0% in 2015 to 16.3% in 2019. The main subsectors, in terms of their contribution to GDP at current market prices, include: food products; coke and refined petroleum products; computer, electronic and optical products; chemicals and chemical products (including pharmaceuticals); motor vehicles, trailers and semi-trailers; and rubber and plastic products (Chart 4.10). Thailand's manufacturing sector had been growing steadily since 2015, but contracted in 2019 (Table 1.3); this apparently reflecting a slowdown in exports.⁴²

Chart 4.10 Main manufacturing subsectors, 2018



Source: Data provided by the authorities.

4.81. The authorities stated that major challenges facing the manufacturing sector include the appreciation of the Thai currency, and a slowdown in global trade in 2019 caused by international

⁴⁰ ERC (2016), *Fact Sheet - Power Development Fund*. Viewed at: <https://www.erc.or.th/ERCWeb2/Upload/Document/FactSheet%E0%B8%A0%E0%B8%B2%E0%B8%9E%E0%B8%A3%E0%B8%A7%E0%B8%A1%E0%B8%81%E0%B8%AD%E0%B8%87%E0%B8%97%E0%B8%B8%E0%B8%99@30Sep2016En.pdf>.

⁴¹ Thailand has a free-electricity policy for all residential customers who consume electricity at less than 50 units/month, in order to support low-income households.

⁴² World Bank (2020), *Thailand Economic Monitor – Productivity for Prosperity*. Viewed at: <http://documents.worldbank.org/curated/en/394501579357102381/pdf/Thailand-Economic-Monitor-Productivity-for-Prosperity.pdf>.

trade tensions. The authorities also indicated that the latter may play a positive role in the longer term for the development of the manufacturing sector in Thailand, as trade tensions may divert investment to other countries including Thailand.

4.82. In 2019, close to half of Thailand's manufacturing exports, which accounted for 73% of total merchandise exports, were machinery and transport equipment (43%), of which office machines and telecommunication equipment, and automotive products, were the two biggest subsectors. Other main manufacturing exports were chemicals (9.8% of total merchandise exports), and other semi-manufactures (9.6%) (Table A1.1).

4.83. In the same year, one third of the merchandise imports were machinery and transport equipment (35.6%), of which office machines and telecommunication equipment, other non-electrical machinery, other electrical machines, and automotive products, were the largest sub-sectors. Chemicals and other semi-manufactures accounted for 10.7% and 7.2% of total merchandise exports, respectively (Table A1.2).

4.84. The main export destinations for Thailand's manufacturing products are China, the United States, the EU-28, and Japan, while its imports mainly originate from China, Japan, and the EU-28.

4.85. In 2019, the Office of Industrial Economics, under the Ministry of Industry, launched an Action Plan on Industrial Development (2019-37), aimed at "moving towards a wisdom-driven industry that connects with global economy". The main objectives include: enhancing Thailand's industrial competitiveness in the world; generating more income and creating more jobs, and ensuring the continuity and stability of economic growth; and using industrial development as a key engine to transform Thailand into a high-income, developed country. The authorities stated that the Plan sets specific targets in terms of minimum annual growth rates from 2019 to 2037, for the following indicators: industrial sector's GDP no less than 4.5%; rate of investment in the industrial sector no less than 10%; export value no less than 8%; and total factor productivity no less than 2%.

4.86. To reach these targets, the Plan identified five subsectors, and mapped out three guidelines focusing on their development.

4.87. The five subsectors are: (i) the agricultural and bio-technology subsector, such as the food and beverage industry, the agricultural processing industry, and bio-industry; (ii) the health, wellness and bio-med subsector, such as the pharmaceutical and herb industry, medical devices, and the medical service industry; (iii) the smart device, robotics, and mechatronics subsector, such as the robotics, aerospace, automotive and auto parts industries; (iv) the digital industry subsector, such as data centre cloud computing and system integration (SI) services; and (v) the creative industry, culture and high value services subsector.

4.88. The three guidelines are:

- enhancing productivity and competitiveness of targeted industries by, *inter alia*, increasing the use of digital technology in SMEs and increasing the amount of innovative-driven enterprises;
- reforming the industrial ecosystem towards a wisdom-driven one by improving government structures to facilitate the development of targeted industries, increasing foreign investment in those industries that are located in targeted areas, increasing investment in R&D, and increasing the number of researchers, patents, and skilled workers; and
- better connecting Thailand's industry with the global economy, so that its industry responds to global demand and moves up in the global value chain, and both Thai investment abroad and foreign investment into Thailand in targeted industries are increased.

4.89. The Ministry of Industry has been implementing the Action Plan through: capacity-building projects in various sectors, such as automotive parts, processed agriculture, community products and local economy; the "food warrior" programme, by developing food entrepreneurs through

enabling innovation in healthy food, biotechnology food, and novel food; and increasing manufacturing productivity via recycling technologies and reusing industrial waste.

4.90. The Government applies both border and domestic measures to support the development of the manufacturing sector. At the border, the average applied MFN tariff on WTO non-agriculture products is 11.8% in 2020, up slightly from 10.1% in 2014 (Table 3.2). For manufactured products (ISIC definition), average applied tariff protection went up from 12.6% in 2014 to 14.1% in 2020 (Table 3.3). The rise was mainly caused by the nomenclature change (from HS12 to HS17). Notably, during the transposition process, tariff lines in the transport equipment section were split, and the number of tariff lines at the HS eight-digit level increased from 565 in 2014 to 1,033 in 2020. Among these lines, those carrying a tariff rate of 80% increased from 106 in 2014 to 436 in 2020.

4.91. In 2020, 29.5% of all manufacturing tariff lines (ISIC definition) are duty free. The highest *ad valorem* rate, at 80%, applies to motor vehicles (HS 8703). The highest AVE, at 557.4%, applies to toothpicks of wood (20% or 100 baht/kg, whichever is higher, HS codes 4421.99.80 and 4421.91.60).

4.92. Import prohibitions on a number of manufactured products are maintained for protecting public morals, national security, public health, public safety, national resources, the environment, or IPRs (Table 3.6). Some other manufactured products, such as used motor vehicles and motor cycles, used diesel engines, wood products, electric fans, electric rice cookers, and electric lamps, gas water warmers and heaters, 3D printing machines, and rapid prototyping machines, are subject to licensing and other import restrictions for reasons of protecting public health, national security, the environment, and IPR protection, among others (Section 3.1.4). Export prohibition and licensing requirements are also applied on some manufacturing products (Section 3.2). During the review period, anti-dumping and safeguard measures were implemented on a number of manufactured products (Section 3.1.5).

4.93. The Government launched Thailand 4.0, which is an economic model aimed at driving economic growth through innovation. To promote industrial restructuring in accordance with Thailand 4.0, the BOI has been promoting investment in targeted sectors and targeted technologies, including those related to the BCG model. Against this background, a range of incentives are provided to the manufacturing sector in the form of, *inter alia*, corporate income tax holidays and import tariff exemptions under the BOI's investment promotion policy. Several tax and non-tax incentives are also provided to businesses located in the EEC, the customs free zones, and the free zones under the Industrial Estate Authority of Thailand. In addition, several incentives to attract FDI are offered under the Thailand-Plus package (Section 3.3.1). In September 2019, the BOI launched a wide range of investment promotion measures, such as additional tax incentives to education and vocational training institutes specializing in science, technology, engineering, and mathematics, with a view to enhancing human resource development. The authorities stated that foreign and Thai investors are granted the same incentives for eligible activities.

4.5 Services

4.5.1 Financial services

4.94. During the period under review, Thailand's financial sector remained sound and stable, despite challenging external and internal conditions, including the COVID-19 outbreak.⁴³ The authorities continued to implement measures to improve the regulatory and supervisory frameworks of financial institutions and strengthen the sector's stability. In 2019, financial intermediation services contributed 7.6% to GDP (the same as in 2015) and 1.4% to total employment (1.5% in 2015).

4.95. Thai financial institutions are classified into two types: (i) depositary corporations (commercial banks, state-owned specialized financial institutions (SFIs), and saving cooperatives and credit unions); and (ii) non-depositary corporations (e.g. mutual funds, insurance companies, and

⁴³ At the time of writing this report (March 2020), Thailand's financial markets were experiencing heightened volatility due to the shock caused by the COVID-19 outbreak in global financial markets. According to the Bank of Thailand, the Thai financial system remained sound overall, although vulnerabilities had increased, particularly in relation to the debt-servicing capability of households and SMEs. Bank of Thailand, *BOT Press Release No. 16/2020*, 25 March 2020. Viewed at: <https://www.bot.or.th/English/PressandSpeeches/Press/2020/Pages/n1663.aspx>. See also Section 1 of this report.

securities companies) (Table 4.10). At end-2019, the financial institutions' total assets were worth THB 46.6 trillion, or about 276% of GDP. While commercial banks continue to hold the largest share of the financial sector's assets (45.3%), followed by SFIs (15.2%), other segments of the financial sector (credit cooperatives, mutual funds, and insurance) have grown considerably over the past few years.

Table 4.10 Number and assets of financial institutions, December 2019

	Number	% of total assets
Depository corporations		67.8
Commercial banks ^a	30	45.3
Specialized financial institutions (SFIs) ^a	6	15.2
Saving cooperatives and credit unions	1,418	6.7
Finance companies	2	0.1
Money market mutual funds	47	0.5
Non-depository corporations		32.2
Mutual funds (excluding money market mutual funds)	1,552	10.7
Insurance companies	81	10.0
Leasing companies	771	2.0
Credit card and personal loan companies (including nano finance) ^a	39	2.5
Provident funds	376	2.5
Government pension fund	1	2.0
Asset management companies ^a	60	0.7
Securities companies	48	0.8
Agricultural cooperatives	3,327	0.6
Pawn shops	689	0.2
Non-depository SFIs	2	0.2
Total assets (THB million)		46,580,756

a Under BOT regulation and supervision.

Source: BOT.

4.96. During the review period, Thailand was engaged in the implementation of the third phase of the Financial Sector Master Plan (FSMP III), covering the years 2016-20. The FSMP III promotes a more "competitive, inclusive, connected and sustainable" financial sector in Thailand. To this end, it focuses on the following strategic objectives: (i) to promote electronic financial and payment services, and the efficiency of the financial system; (ii) to promote greater financial services access for individuals and businesses of all sizes; (iii) to enhance the capacity of the financial system to support economic and financial integration under the ASEAN Economic Community and with other countries in the region; and (iv) to develop the financial infrastructure (including the legal infrastructure to enhance risk management, and to support financial innovation) so that the financial system remains robust, in compliance with international standards, and able to support the country's economic growth.⁴⁴

4.97. Under the FSMP III, the Bank of Thailand has implemented a number of measures and policy initiatives, leveraging new technologies and adapting the regulatory framework in order to build an enabling and more inclusive FinTech banking system. Some of the main measures include: amending IT regulations and guidelines to enhance the security of mobile banking services; formulating the Payment Systems Roadmap Phase 4 (2019-2021) to promote digital payments; adopting regulations on person-to-person lending platforms to increase access to funding for individuals and businesses; expanding the scope of the Consumer Debt Relief Program to include defaults on credit card debts, revolving loans and unsecured personal loans; revising the regulation on supervised personal loans, to allow the use of alternative information in assessing repayment capability to enhance the financial access of low-income individuals at a reasonable price; promoting the use of basic banking accounts; adopting a standardized QR code for domestic and cross-border e-payments; developing the electronic authentication infrastructure through the National Digital Identity platform; and setting up a regulatory framework on identification and authentication systems.⁴⁵ In addition, progress has been made towards ASEAN financial integration (Section 4.5.1.1.2).

⁴⁴ Bank of Thailand, *The Financial Sector Master Plan Phase III*. Viewed at: <https://www.bot.or.th/English/FinancialInstitutions/Highlights/Pages/FSMP.aspx>.

⁴⁵ Information provided by the authorities.

4.5.1.1 Banking

4.5.1.1.1 Market structure and overview

4.98. Commercial banks continue to dominate Thailand's banking sector. There are 30 commercial banks, including 15 locally incorporated banks (either domestically or foreign-owned), 11 foreign bank branches and 4 foreign bank subsidiaries (Table 4.11). As at end-2019, the five largest commercial banks held almost 70% of the banking sector assets.⁴⁶ Overall, commercial banks account for 71% of corporate loans and 43% of consumer loans, and their loan portfolio is quite diversified.

Table 4.11 Structure of the banking system: number of institutions and their respective market share, 2015-19

	2015		2016		2017		2018		2019	
	No.	Share ^a	No.	Share ^a	No.	Share ^a	No.	Share ^a	No.	Share ^a
Thai commercial banks	15	89.8	15	90.0	15	90.7	15	90.7	15	90.4
Locally incorporated and controlled by Thai nationals	10	73.9	10	73.6	10	73.6	10	73.4	10	72.8
Locally incorporated, with more than 49% foreign ownership	5	15.9	5	16.4	5	17.1	5	17.3	5	17.6
Foreign bank subsidiaries	4	0.7	4	0.7	4	0.8	4	1.0	4	1.1
Foreign bank branches	12	9.5	11	9.3	11	8.5	11	8.3	11	8.5
Total	31	100.0	30	100.0	30	100.0	30	100.0	30	100.0

a Percentage of market share in terms of assets.

Source: Information provided by the authorities.

4.99. As reported in Thailand's previous Reviews, state participation in the banking system remains significant. The Ministry of Finance (through the Financial Institutions Development Fund) owns a majority stake of 55% in the Krung Thai Bank, the country's third largest bank.⁴⁷ Additionally, the Crown Property Bureau and the Ministry of Finance (via the Vayupak Mutual Fund) have a combined stake of 23.12% (11.56% each) in the Siam Commercial Bank, the second largest bank.⁴⁸ Moreover, the Ministry of Finance holds minority shares in other commercial banks.

4.100. There are also eight Specialized Financial Institutions, all of which are state-owned. SFIs are mandated to provide financing to those who are not adequately served by commercial banks, such as low-income households and specific economic sectors (e.g. agriculture, small businesses, and housing). Their assets have increased over the past years, with some SFIs featuring among the largest financial firms in Thailand. They play a crucial role in providing financial services to households and, together with the savings and credit cooperatives and credit unions, now account for around a third of household credit.⁴⁹ There are six deposit-taking SFIs: the Government Savings Bank, the Bank of Agriculture and Agricultural Cooperatives, the Government Housing Bank, the Islamic Bank of Thailand, the Export-Import Bank of Thailand, and the Small and Medium Enterprise Development Bank of Thailand.⁵⁰

4.101. Thai commercial banks' fundamentals have remained strong during the review period. They have capital adequacy ratios that are well above the statutory domestic requirement of 8.5% and the Basel III requirements. At end-2019, banks had a capital adequacy ratio of 19.6%, a common equity Tier 1 ratio of 16.6%, and a liquidity coverage ratio (LCR) of 186.3% (Table 4.12). The

⁴⁶ Bank of Thailand, *Financial Stability Report 2018*. Viewed at: <https://www.bot.or.th/English/FinancialInstitutions/Publications/Pages/Financial-Stability-Report.aspx>.

⁴⁷ Krung Thai Bank. Viewed at: <https://www.ktb.co.th/en/investor-relations/shareholders-information/shareholders-list>.

⁴⁸ The Securities and Exchange Commission. Viewed at: <https://market.sec.or.th/public/idisc/en/CompanyProfile/Listed/SCB>.

⁴⁹ IMF (2019), *Thailand. Financial System Stability Assessment*, October 2019. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/10/07/Thailand-Financial-System-Stability-Assessment-48723>.

⁵⁰ The non-depositary SFIs are: the Thai Credit Guarantee Corporation and the Secondary Mortgage Corporation.

authorities indicated that such high levels are necessary to ensure that banks' capital base and liquidity are strong enough for their risk-weighted assets during periods of market volatility. While maintaining high levels of liquidity is a positive sign from a prudential point of view, a higher degree of financial intermediation may be desirable, considering especially that investment has been sluggish in recent years. The banks' ratio of non-performing loans (NPLs) to total loans remains low (2.9% at end-2019), but it increased over the review period, mainly due to a rise in NPLs in the SME sector. The banking system has continued to accumulate loan loss provisions to cushion for loan quality deterioration and also to prepare for the International Financial Reporting Standard 9 (IFRS9), scheduled to be implemented in 2020; the actual to regulatory loan loss provision stood at 205.9% at end-2019. Meanwhile, the performance of SFIs has been less robust: their capital adequacy ratio stood at 13.9% at end-2019, below that of commercial banks although still above the statutory requirement, and their average NPL ratio was 4.4%.

Table 4.12 Thai banks' key financial indicators, 2015-19

(%)

	2015	2016	2017	2018	2019
Capital adequacy					
Total capital adequacy ratio	17.4	18.0	18.2	18.3	19.6
Common equity Tier 1 ratio (CET1 ratio)	14.5	15.1	15.6	15.8	16.6
Asset quality					
Gross Non-performing (NPLs) to total loans ratio	2.55	2.83	2.91	2.93	2.98
NPLs to SME loans	3.50	4.35	4.51	4.56	4.63
Provisioning					
Actual/regulatory loan loss provision ratio	156.3	159.6	171.9	193.3	205.9
Profitability					
Return on assets (ROA)	1.11	1.13	1.05	1.11	1.39
Liquidity					
Loan-deposit ratio ^a	97.0	96.9	96.3	98.3	96.3
Liquidity coverage ratio (LCR) ^b	n.a.	175.2	180.0	184.2	186.3

a This ratio excludes interbank data, and covers all commercial banks (commercial banks registered in Thailand and foreign bank branches).

b LCR: is a requirement that banks hold an amount of high-quality liquid assets, enough to fund cash outflows for 30 days; data is available from 1 January 2016.

Source: BOT, Performance of the Thai Banking System, 2015, 2016, 2017, 2018 and 2019. Viewed at: <https://www.bot.or.th/English/PressandSpeeches/Press/layouts/application/BOTNews/News.aspx>.

4.102. Credit growth experienced a slow-down in 2015 and 2016; it then picked up in 2017 (4.4%) and in 2018 (6%), mainly driven by increases in consumer and corporate loans (particularly from large corporations and some SMEs).⁵¹ However, reflecting subdued economic conditions and loan repayments, credit growth decelerated in 2019 to 2.0% year-on-year, with large corporate and SME loans (excluding financial business) contracting by 1.9% and 2.1%, respectively. On the other hand, consumer loans expanded by 7.5% year-on-year, with personal loans and credit card loans expanding the most.⁵² Commercial banks' profitability remains low, in part as a result of increasing provisioning expenses over the past few years; the return on assets was 1.39% at end-2019.⁵³

4.103. According to the 2019 IMF Financial System Stability Assessment, Thailand's commercial banking sector appears to be sound and stable; it is resilient to severe shocks, and systemic risks seem to be contained. Nonetheless, the IMF identified financial vulnerabilities related to high levels of household indebtedness (equivalent to nearly 80% of GDP) and asset quality problems in some corporations and SMEs.⁵⁴

4.104. It should be noted that, in recent years, commercial banks made significant strides in developing and adopting new digital banking platforms to reduce operating costs, improve access to

⁵¹ Bank of Thailand, *Press Release No. 13/2019*, 15 February 2019. Viewed at: <https://www.bot.or.th/English/PressandSpeeches/Press/2019/Pages/n1362.aspx>.

⁵² Bank of Thailand, *Press Release No. 8/2020*, 17 February 2020. Viewed at: <https://www.bot.or.th/English/PressandSpeeches/Press/2020/Pages/n0863.aspx>.

⁵³ Bank of Thailand, *Press Release No. 8/2020*, 17 February 2020.

⁵⁴ IMF (2019), *Thailand. Financial System Stability Assessment*, October 2019. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/10/07/Thailand-Financial-System-Stability-Assessment-48723>.

a wider range of financial products, and contribute to promoting financial inclusion.⁵⁵ Thai banks have also started to undertake new initiatives to expand in the region as ASEAN Economic Community (AEC) integration and regional competition increase, and AEC member countries prepare for ASEAN-wide liberalization of the banking sector in 2020. For example, one of the top five Thai banks, Kasikornbank, opened locally incorporated banks in Cambodia, China and Lao PDR, and maintains representative offices in Indonesia, Myanmar, Vietnam and Japan.⁵⁶

4.5.1.1.2 Legal framework

4.105. The Financial Institutions Business Act (FIBA) B.E. 2551 (2008) remains the main law governing the banking sector, together with the Bank of Thailand Act (BOT Act). In 2015, the FIBA was amended to address certain prudential issues, such as the granting of credits to banks' directors, managers, deputy managers and other related persons with managerial power. Further amendments to the FIBA were announced in 2018 and implemented in February 2019, with the aim of enhancing the effectiveness of SFI supervision. In addition, the BOT Act was amended through the BOT Act (No. 7) B.E. 2561 (2018) in order to implement a bank resolution framework for dealing with distressed banks whose failure may pose a threat to the stability of the financial system. Thailand has implemented the Basel III capital requirements since 1 January 2013, and the liquidity requirement since 1 January 2016.

4.106. Under the FIBA, the Bank of Thailand is responsible for the supervision and regulation of commercial banks and other financial institutions.⁵⁷ The BOT is empowered, *inter alia*, to approve the establishment of commercial banks and their subsidiaries, to approve their directors and senior management, to supervise and examine their performance and soundness and take corrective action as appropriate, and to require them to submit data and reports. It also has supervisory powers to conduct consolidated supervision of financial conglomerates. The Minister of Finance retains the authority to grant or revoke banking licences upon the BOT's recommendation.

4.107. In 2015, the SFIs were brought under the supervision of the BOT. However, as noted by the IMF, SFIs are still not subject to the same supervision regime and disclosure obligations as commercial banks, and the BOT needs the approval of the Ministry of Finance to issue regulations and take corrective action in relation to SFIs. Hence, the IMF recommends bringing the regulatory and supervisory regime of the largest deposit-taking SFIs in line with that of commercial banks.⁵⁸

4.108. Under current legislation, foreign ownership of commercial banks is capped at 25% of the bank's shares, and the number of foreign directors may not exceed one quarter of the total. Nevertheless, the BOT can, on a case-by-case basis, increase the statutory cap on foreign ownership to 49% and the limit on foreign directors to one half of the total. Furthermore, the Minister of Finance, upon recommendation of the BOT, has the power to authorize foreign ownership of more than 49% in a commercial bank, where this is deemed necessary to improve the financial performance or strengthen the security of any financial institution, or the financial system in its entirety. The last time the Minister of Finance granted such authorization was in 2013.

4.109. A foreign commercial bank may be established in Thailand under either of two forms: as a foreign bank branch or as a subsidiary. Representative offices of foreign banks may not provide commercial banking services. Foreign bank branches may operate a maximum of three service points. However, as part of the Government's measures to liberalize the banking sector, in 2012, existing foreign bank branches were given the option to apply for a subsidiary licence and thus establish up to 40 service points, provided they met the relevant requirements, including a minimum paid-up capital of THB 10 billion. Foreign bank branches are eligible to apply for a subsidiary licence if their country of origin meets any of these conditions: it has signed a free trade agreement with Thailand; it offers reciprocal market access to Thai banks; or it has "significant business relations with Thailand". In 2013, the Thai bank market was opened again for applications to establish new

⁵⁵ Oxford Business Group (2016), *The Report: Thailand 2016*. London.

⁵⁶ The Economist Intelligence Unit (2019), *Industry Report. Financial services. Thailand*. London.

⁵⁷ Other financial institutions under BOT supervision are: finance companies, credit foncier companies, representative offices of foreign financial institutions, asset management companies, non-banks (credit card companies, personal loan companies, and e-payment businesses), service providers under the Payment System Act, and foreign means of payment businesses.

⁵⁸ IMF (2019), *Thailand: Financial System Stability Assessment*, October 2019. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/10/07/Thailand-Financial-System-Stability-Assessment-48723>.

foreign bank subsidiaries, with similar eligibility conditions as in 2012, and a minimum paid-up capital of THB 20 billion; as a result, licences were granted to two banks, whose subsidiaries have been in operation since 2015.⁵⁹ Once foreign banks obtain a subsidiary licence, they are subject to the same regulations and supervision standards as domestic commercial banks, and are able to provide the same range of services as local banks.

4.110. In February 2016, the Ministry of Commerce issued regulations to remove commercial banking, representative offices of foreign banks, and life and non-life insurance businesses from the list of restricted activities under the Foreign Business Act; and, in 2017, other activities governed by the legislation on financial institutions were also removed from said list (Section 2.4). As a result, foreign investors in commercial banking and other financial businesses are now exempted from obtaining a foreign business licence to operate, although they are still subject to the licensing requirements and foreign ownership limits prescribed under the FIBA.

4.111. It is government policy to encourage consolidation of the banking sector in order to boost operational efficiency. To this end, tax incentives and deductions for banks that engage in mergers were approved in April 2018. These include provisions exempting commercial banks that merge or transfer into another bank from corporate income tax, specific business tax and stamp duties on income and gross receipts. Incentives are also provided based on the size of the asset base: merged banks holding more than THB 4 trillion in assets are eligible for a double deduction on the costs associated with the merger or transfer.⁶⁰ Under the consolidation policy, a merger proposal submitted by TMB Bank (TMB) and Thanachart Bank (TBank) was approved in September 2019. The merger deal, worth approximately THB 150 billion, will create the sixth largest bank in Thailand, and is expected to be completed by 2021.

4.112. Incentives are also intended to encourage Thai banks to merge so they are in a better position to compete regionally. In the context of the AEC process, ASEAN member countries are working towards the liberalization of the banking sector in the region for "Qualified ASEAN Banks" (QABs). QABs are to be given market access and operational flexibility in the host country on a reciprocal basis through the conclusion of bilateral arrangements. Thailand completed negotiations with Malaysia, and is currently negotiating with Indonesia, Myanmar and the Philippines. The QABs commitments between Malaysia and Thailand were inscribed in the 8th package of commitments under the ASEAN Framework Agreement on Services (AFAS) and were ratified. In addition, ASEAN members agreed to a 5-year Roadmap for Regulatory Coherence (2020-2025) to enhance convergence of banking regulations and supervision across ASEAN towards international standards.⁶¹ Moreover, members have been negotiating the 9th package of commitments on financial services under the AFAS, which will be superseded by, and its results incorporated into, the ASEAN Trade in Services Agreement (ATISA), signed in April 2019.

4.113. Under the Deposit Protection Agency Act B.E. 2551 (2008), investor deposits in local currency with banks and other financial institutions are protected against loss in the event of bankruptcy by a financial institution. Both individual and juridical depositors are eligible for protection (non-resident baht accounts are not covered). Since the scheme's inception in 2008, the limit on the covered amount has been gradually reduced. On 11 August 2019, the maximum amount protected was set at THB 5 million per account per financial institution but, on 11 August 2021, it will be reduced to THB 1 million. The Deposit Protection Agency is responsible for administering this scheme.

4.5.1.2 Insurance

4.5.1.2.1 Market structure

4.114. Thailand's insurance industry continued to expand during most of the review period but showed a slight decrease in 2019 as the economy slowed down. In 2019, total insurance premiums amounted to THB 854.5 billion, compared to THB 704.0 billion reported in 2014. In 2019, the

⁵⁹ The licences were granted to ANZ Bank (Thai) Plc and Sumitomo Mitsui Trust Bank (Thai) Plc.

⁶⁰ Oxford Business Group (published on 24 April 2019). Viewed at: <https://oxfordbusinessgroup.com/new/how-mergers-are-changing-thailand's-banking-sector>.

⁶¹ Bank of Thailand, *Annual Report 2019*. Viewed at: <https://www.bot.or.th/English/ResearchAndPublications/Report/Pages/default.aspx>.

insurance industry accounted for 10.2% of the financial sector's assets.⁶² Thailand's insurance penetration ratio (gross premium/GDP) was 5.1% in 2019, higher than in regional peers such as Malaysia, Indonesia and Viet Nam. The life insurance segment dominates the insurance landscape, with over 70% of total premium income. Within the non-life insurance sector, motor vehicle coverage is the main product line, accounting for 58% of general insurance premiums, although the segments of personal accident and health have shown a growing trend during recent years.⁶³

4.115. At end-2019, there were 81 licensed insurance companies operating in Thailand, comprising 22 life insurance firms, 57 non-life insurance companies, and 2 reinsurers. The number of insurance firms decreased from the 95 reported in the 2015 TPR, partly as a result of the government policy to promote industry consolidation. Of the 81 authorized insurers, only 6 are branches of foreign insurance companies (1 life insurer and 5 non-life insurers). Nevertheless, foreign participation in the industry is important, as many locally incorporated insurance companies have foreign equity participation and belong to international insurance groups. At end-2019, 21 life insurance companies and 46 non-life insurance companies had foreign participation. Foreign shares accounted for 39.2% of the total shares of insurance companies in Thailand in 2019.⁶⁴

4.116. In respect of market share, in 2019, the top three life insurers held 51.7% of the market in terms of gross premium income, with the largest accounting for 23%. In the non-life insurance sector, in the same year, the top three insurers held 32.2% of the market, with the largest accounting for 15.3%.⁶⁵ There was some degree of industry consolidation over the last six years, as shown by the following examples: in 2014, the Swiss-based company AEC and a local firm bought 60.9% of Siam Commercial Samaggi Insurance, a non-life insurance company⁶⁶; in 2015, Thai Life Insurance acquired 50% of Thai Cardiff Life Assurance from BNP Paribas Cardiff; in 2016, there was a partial business transfer between Chubb Samaggi Insurance and Ace Ina Overseas; in 2018, there was an entire business transfer from Allianz General Insurance to Sri Ayudhya General Insurance⁶⁷; and, in 2019, the merger between Tokio Marine Insurance (Thailand) and Safety Insurance was approved, and the new company was established as Tokio Marine Safety Insurance (Thailand) in February 2020.

4.117. The insurance sector is currently facing some challenges. First, the global and economic downturn has affected the sector's performance: insurance premiums fell by 6% year-on-year during the first half of 2019, the first such occurrence in a decade and a half.⁶⁸ Second, as reported by the IMF, the continued downtrend in interest rates makes endowment insurance policies more prone to risks, as life insurers may struggle to match their long-duration liabilities with their assets, thereby affecting earnings, capital requirements and capital reserves. Third, amid intense competition, non-life insurers, particularly the smaller ones, could feel compelled to resort to price-cutting, rather than compete on quality of service grounds, potentially compromising the underwriting discipline and leading to solvency difficulties.⁶⁹ On the positive side, fierce competition has led many insurers to develop technologies to offer their insurance products online, helping reduce their operating costs and brokerage fees; some innovations in this area, particularly in the non-life insurance segment, have been reported in recent years. Meanwhile, insurance companies are now required to comply with new regulations, including the introduction of the second phase of risk-based capital requirements, and accounting standards (IFRS 9).

4.5.1.2.2 Legal framework

4.118. During the period under review, changes were introduced to the insurance industry's legal regime in order to modernize it and bring it in line with the rules governing banks and with

⁶² Bank of Thailand, *Financial Stability Report 2019*. Viewed at: https://www.bot.or.th/English/FinancialInstitutions/Publications/FSR_Doc/FSR2019e.pdf.

⁶³ 2017 OIC data quoted in Oxford Business Group (2018), *The Report: Thailand 2018*. London.

⁶⁴ Information provided by the authorities.

⁶⁵ Information provided by the authorities.

⁶⁶ Oxford Business Group (2016), *The Report: Thailand 2016*. London.

⁶⁷ Allianz General Insurance returned its licence in April 2019.

⁶⁸ Bangkok Post, *Insurance premiums shrank for the first time in 15 years in H1*, 1 August 2019. Viewed at: <https://www.bangkokpost.com/business/1722223/insurance-premiums-shrank-for-the-first-time-in-15-years-in-h1>.

⁶⁹ IMF (2019), *Thailand. Financial System Stability Assessment*, October 2019. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/10/07/Thailand-Financial-System-Stability-Assessment-48723>.

international standards. The changes included provisions to strengthen the supervisory framework and enhance consumer protection in all aspects of the insurance business. Also, as in the case of banking, there has been a progressive relaxation of restrictions on foreign participation in insurance firms for the purpose of promoting stability of the industry.

4.119. The Office of the Insurance Commission (OIC) is responsible for supervising and regulating the insurance industry, including approving premium rates.⁷⁰ The power to approve licensing decisions continues to rest with the Minister of Finance.⁷¹ During the period under review, the activities of the OIC were guided by the Third Insurance Development Plan (2016-20), whose main objectives are to strengthen the stability and efficiency of the insurance business, enhance people's knowledge and accessibility to the insurance system, and create an environment conducive to competition in the sector. Under the Plan, industry standards and corporate governance are to be improved, transparency increased, and innovation encouraged.

4.120. The insurance business is primarily regulated by the Life Insurance Act B.E. 2535 (1992) and the Non-Life Insurance Act B.E. 2535 (1992). During the review period, these Acts were amended in 2015 and 2019. The 2015 amendments focused on changes to the definition of Thai shareholders in both life and non-life insurance companies in order to allow greater participation of foreign ownership in local insurance companies. There were also changes to the provisions regarding the Life Insurance Fund, aimed at better protecting policy holders in the event an insurance company becomes insolvent or has its licence revoked.⁷² The 2019 amendments focused on new provisions governing electronic transactions in the insurance business, improving the supervision of insurance intermediaries (agents and brokers), and introducing penalties on insurance fraud activities.⁷³

4.121. In addition, over the review period, the OIC issued regulations (Notifications) pertaining to different aspects of insurance companies' activities, including procedures for computing capital funds (risk-based capital 2 framework); insurance companies' investment in financial products; rules for issuing insurance policies through digital channels; procedures regarding reinsurance activities; and disclosure of financial and business operating results. A set of regulations came into effect in 2019, pertaining to: standards of fair treatment of customers; permitted insurance distribution channels⁷⁴; enterprise risk management; fraud risk; corporate governance; and guidelines for approval of dividend payments to shareholders.

4.122. Under current law, life and non-life insurance businesses can only be undertaken by a public limited company or a branch of a foreign insurance company (no additional branches are allowed). In both cases, a licence is required. An application for a licence to open an insurance business must be lodged with the Minister of Finance; if it is approved, the interested investor must incorporate a public limited company, place a security deposit with the OIC, and maintain an adequate capital fund⁷⁵, within six months of incorporation. Once these conditions are satisfied, a licence is issued. A licensed life insurance company may not engage in non-life insurance business, and vice versa. As the local insurance market is overcrowded, the Government has not issued any new licences since 1997; rather, it is encouraging insurance companies to merge and to increase foreign equity participation. At present, the authorities are holding discussions regarding the structure of the insurance market, including with regard to the participation of virtual players from other countries. A non-life insurance company had its licence revoked in 2018 due to financial weaknesses.

⁷⁰ Insurance companies must request approval for premium rates for each type of insurance policy. Policy wording is also subject to approval by the OIC.

⁷¹ In addition, the Minister of Finance has the power of general supervision over the affairs of the OIC (Section 45 of the Insurance Commission Act, B.E. 2550 (2007)).

⁷² The Life Insurance Act (No. 3) B.E. 2558 (2015) and the Non-Life Insurance Act (No. 3) B.E. 2558 (2015).

⁷³ Brokers can be either individuals or a legal entity in Thailand; while only individuals can be insurance agents. The provisions amended in 2019 referred to, *inter alia*, duties and liabilities of corporate brokers (e.g. duty to only appoint licensed individual brokers, and joint liability for corporate brokers with their appointed individual brokers); qualifications of insurance agents and brokers; grounds for revocation of their licences; and new offences and penalties. The Life Insurance Act (No. 4) B.E. 2562 (2019) and the Non-Life Insurance Act (No. 4) B.E. 2562 (2019).

⁷⁴ Permitted distribution channels include offering insurance for sale through: employees or staff; telephone (telesales); bancassurance; post; electronic means; and other means.

⁷⁵ The minimum registered capital is THB 500 million for a life insurer, and THB 300 million for a non-life insurer.

4.123. Foreign shareholding in an insurance company is generally capped at 25%, and the limit on foreign directors in the company's board is one quarter of the total. However, in recent years, the authorities have gradually relaxed these limits. Amendments to the life and non-life insurance laws in 2015 empowered the OIC to raise the foreign equity limit to 49% and the number of directors to more than one quarter (but no more than one half), subject to certain conditions. Since 2015, foreign shareholding of up to 49% has been approved for eight companies (six non-life insurance and two life insurance). Moreover, in 2016, the Ministry of Finance issued regulations that further relaxed the foreign ownership restriction, allowing an insurance company to increase foreign equity beyond 49% (and up to 100%), and the number of foreign directors to exceed one half of the total, in the event that a non-life insurance company is facing financial difficulty to the point that it risks damaging the insured or the public at large, or for the purpose of strengthening the stability of any company or the life insurance business as a whole. Since 2016, there was one case in which an insurance company was allowed to increase foreign equity beyond 49% (and up to 100%), and to have foreign directors exceed one half of the total, in order to encourage market consolidation.

4.124. An insurance company wishing to exceed the 49% foreign ownership restriction must apply to the Ministry of Finance for approval and meet relevant criteria. These include: demonstrating a sufficient capital adequacy ratio; having a business plan for promoting the stability of the insurance company or the insurance industry, and a technology transfer plan; and establishing minimum credentials of the proposed foreign shareholder (including at least ten years of industry experience, and financial stability with a minimum "A" credit rating issued by a recognized international agency). Once approval is given, the company must maintain prescribed minimum capital requirements (THB 1 billion for non-life insurance companies and THB 4 billion for life insurers). Currently, six insurance companies have foreign equity of up to 100%.

4.125. Under regulations issued by the Ministry of Commerce in February 2016, foreign investors in life and non-life insurance businesses are now exempted from obtaining a foreign business licence to operate under the Foreign Business Act B.E. 2542 (Section 2.4), although they must still comply with licensing requirements and foreign ownership limits under the insurance laws.

4.126. A risk-based capital (RBC) framework for the solvency regime is in place since September 2011. The second version of the framework (RBC 2), introduced by the OIC, became effective on 31 December 2019. It requires insurance companies to meet a minimum capital adequacy ratio (CAR) of 100%. The supervisory CAR level, which allows regulatory intervention, is set at 120% until 31 December 2021, and at 140% from 1 January 2022 onwards. Under RBC 2, insurance companies must implement Enterprise Risk Management (ERM) and Own Risk and Solvency Assessment (ORSA). There are also changes on how insurance companies calculate capital funds, including total capital available, capital deductions, minimum capital requirements, and types of risks requiring capital charges. The capital reserves are assessed on six main risks: insurance, market, credit, concentration, surrender (only applicable to life insurance), and operational.

4.127. Thai insurance companies, corporations and consumers may willingly obtain insurance coverage and services from foreign insurance firms. However, foreign insurance firms are still subject to insurance licensing requirements under Thai insurance law for providing insurance coverage and services or performing any sale activities in Thailand. Cross-border trade in maritime, aviation and land transportation insurance is allowed, without requiring the foreign insurance firms to establish in Thailand, if Thai locals seek such insurance coverage on their own. Foreign reinsurers may offer coverage and services from abroad directly to Thai insurance companies or through licensed local reinsurance brokers. Thai insurance companies may cover risk that happens abroad if the relevant insurance policy wording so specifies.

4.128. The Life Insurance Fund and the Non-Life Insurance Fund, established in 2008, protect policy holders in the event an insurance company goes bankrupt or has its licence revoked. The Funds are financed by a 0.1% levy on the gross written premium of each insurance company. Neither Fund is guaranteed by the State.⁷⁶ Payments are limited to THB 1 million per claimant. The National Catastrophe Insurance Fund, established in 2012 to reinsure against losses from floods, earthquakes

⁷⁶ IMF (2019), *Thailand. Financial System Stability Assessment*, October 2019. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2019/10/07/Thailand-Financial-System-Stability-Assessment-48723>.

and storms, was wound up in November 2015, as the insurance industry recovered and gained capacity to provide disaster coverage.

4.129. The insurance industry benefits from tax incentives. Life insurance premiums are tax deductible for up to THB 100,000 a year for holders of policies issued by insurance companies authorized to operate in Thailand, including branches of foreign firms. Only insurance policies with maturities over ten years are tax deductible. In addition, in order to motivate people to buy health insurance coverage and to lessen the Government's public health care costs, holders of health insurance policies are entitled to a personal tax deduction equal to the health insurance premium but not more than THB 15,000. The total amount of tax deductible when combining with all other life insurance premiums must not exceed THB 100,000. Premiums paid into pension life plans are also deductible, subject to certain conditions.

4.5.2 Communications

4.5.2.1 Telecommunications

4.130. During the period under review, Thailand's telecommunications sector grew significantly; however, the penetration (subscriptions per 100 inhabitants) of fixed telephony halved over the past five years (from 7.9% in 2015 to 3.8% in 2019). A major reason for this was the dominance of the mobile segment and the growth of the mobile broadband segment. Mobile phone penetration increased from 153.1% in 2015 to 190.6% in 2019, and wireless broadband penetration increased and reached 88.8% in 2019. Fixed broadband penetration also grew, by almost 50% during the review period (Table 4.13). As at end-2018, two thirds of households had Internet access at home⁷⁷, and slightly more than half of the population used Internet.

Table 4.13 Selected telecommunications indicators, 2015–19

	2015	2016	2017	2018	2019
Fixed telephone subscriptions (million)	5.31	4.71	3.47	2.93	2.61
Fixed telephone subscriptions per 100 inhabitants	7.90	6.98	5.12	4.32	3.84
Mobile-cellular telephone subscriptions (million)	102.94	119.67	121.53	124.99	129.61
Mobile-cellular telephone subscriptions per 100 inhabitants	153.10	177.43	179.64	184.27	190.64
Internet users (%)	39.47	43.87	45.19	47.56	50.10
Fixed broadband subscriptions (million)	6.22	7.22	8.21	9.19	10.11
Fixed broadband subscriptions per 100 inhabitants	9.26	10.70	12.13	13.55	14.87
Wireless broadband subscriptions (million)	46.03	52.60	55.18	58.05	60.35
Wireless broadband subscriptions per 100 inhabitants	68.48	77.99	81.56	85.58	88.76

Source: ITU, *Statistics*. Viewed at: www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx; and information provided by the authorities.

4.131. The National Broadcasting and Telecommunications Commission (NBTC) remains the sectoral regulator.⁷⁸ Its regulatory powers cover telecommunications, broadcasting, and television/radio communication businesses.⁷⁹ During the review period, the Act on the Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunications Services was amended twice, in 2017 and 2019. According to the authorities, both amendments served to improve the structure of the NBTC for better governance in response to the latest developments in telecommunications technology. The 2019 amendment granted the NBTC power to also regulate satellite communication business in Thailand.

4.132. Aside from the above amendments, the main legislation governing the telecommunications sector remained largely unchanged during the review period. It includes the Telecommunications Business Act, the Broadcasting and Television Business Act, and the Radiocommunications Act.

4.133. In September 2016, the Ministry of Information and Communication Technology, as the policy making body of the telecom sector, was dissolved and replaced with the Ministry of Digital Economy and Society (MDES). The MDES is responsible for planning, promoting, developing and

⁷⁷ ITU, *ICT Country Profile: Thailand*. Viewed at: https://www.itu.int/itu-d/apis/clients/res/pdf/country_profile/report_THA.pdf.

⁷⁸ The NBTC was created in 2011 under the Act on the Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunications Services B.E. 2553.

⁷⁹ Online content services are regulated by the Ministry of Digital Economy and Society.

implementing activities related to a digital society and economy; it also houses the National Digital Economy Committee which is chaired by the Prime Minister.

4.134. Thailand has been aiming to transform itself into a digital economy; the Government has a vision to maximize digital technologies in all areas of society and the economy. In this context, it began implementing the Thailand 4.0 policy in 2016. Since February 2020, foreign investment in digital services and digital parks no longer requires prior approval from the MDES.⁸⁰

4.135. Thailand's telecommunication infrastructure has been significantly improved since the last Review. The national construction of the backbone network, under the name of the Village Broadband Internet project (Net Pracharat), was completed, and it became operational. The project, which aimed to provide affordable Internet for 44,325 villages, was implemented by the MDES together with the NBTC⁸¹; according to the authorities, accessing Internet is now possible in every village in Thailand. With regard to international connectivity, in addition to upgrading the capacity of the existing eight submarine cables, Thailand is constructing a new submarine cable to connect Southeast Asian countries, China, Japan and the Republic of Korea under the Southeast Asia-Japan 2 (SJC2) Project; the SJC2 project is expected to be completed in 2022.

4.136. The majority of the telecommunications infrastructure, such as the national broadband network and most submarine cable landing stations, is owned by the Government through SOEs. Some licensed private operators may also have their own networks (see below).

4.137. In Thailand's laws and regulations, a "telecommunication service" is defined as a "service which provides the emission, transmission or reception of signs, signals, writing, digits, images, sounds, codes, or intelligence of any nature by means of Hertzian, wire, optical, electromagnetic, or any other system, or a combination thereof, and shall include satellite communication services or other business prescribed as telecommunications services by the NBTC, but not including sound broadcasting, television broadcasting, and radio communication services".⁸² A person is considered as operating a telecommunications business if the nature of the business is to supply telecommunications services to other persons. If a particular business is determined to be a telecommunications business by the regulator, then a licence is required for the business to operate.

4.138. Pursuant to the Telecommunications Business Act, three types of telecommunications licences are issued to operators: Type I, Type II, and Type III. Each licence has different requirements, rules, and obligations that reflect the status of the operator:

- Type I licences are for telecommunications operators that do not own a telecommunications network and whose business does not have an impact on fair competition. A Type I licence is issued after the operator files an application. No foreign ownership restrictions are applied to Type I licensed operators⁸³;
- Type II licences are granted to operators that, either with or without a telecommunications network, provide services (or who lease out their network to operators who provide services) to a limited group of people, or services that cause no significant impact on fair competition, the public interest, or consumers.⁸⁴ Type II licensed operators must be Thai or a company in which more than 50% of the total issued shares are held by Thai shareholders; and
- Type III licences are granted to operators that possess a telecommunications network and provide services (or who lease out their network to other operators who provide services) to the general public, or services that cause a significant impact on fair competition, the

⁸⁰ BOI announcement No. Sor 1/2563.

⁸¹ Telephone of Thailand (TOT) Public Company Limited (2018), Net Pracharat. Viewed at: https://npccr.netpracharat.com/Netpracharat_EN/one-page/.

⁸² Act on the Organization to Assign Radio Frequency and to Regulate Broadcasting and Telecommunications Services BE 2553 (2010).

⁸³ Foreign nationals or companies with a majority of foreign shareholders are subject to general law on foreign business, and are required to obtain a Foreign Business Licence from the Ministry of Commerce in order to operate their business in Thailand.

⁸⁴ This type of licence is typically issued to operators who provide services exclusively to large organizations whose business operations are spread across a wide geographic area. A call-back/call re-origination service is one example of a Type II licensed business.

public interest, or require special consumer protection.⁸⁵ Type III licensed operators must be Thai or a company in which more than 50% of the total issued shares are held by Thai shareholders.

4.139. In March 2020, the NBTC published a new Notification on the Criteria and Procedures for Telecommunications Business Licensing B.E. 2563 (2020). This Notification set forth the licensing conditions, and defined types of services that licensed operators may provide. It also streamlined the types of licences – there are no longer separate licences for Internet services. Since 19 March 2020, ISPs are required to operate under telecommunications services licences, instead of under Internet services licences, as before.⁸⁶

4.140. On 19 February 2020, Thailand opened its satellite telecommunications services to foreign-owned satellites. Anyone who wants provide satellite telecommunications services must apply to the NBTC for a telecommunication services licence (see above). The licensee must have its own satellite gateway or uplink station in Thailand, regardless of the type of licence obtained. The right of each licensee to use foreign satellite transponders is exclusive to one satellite for each satellite operator. Each licensee can represent more than one satellites/satellite operators.⁸⁷

4.141. As at end-July 2020, there were 307 Type I licensees, 49 Type II (28 without networks, and 21 with networks), and 75 Type III operating in Thailand.⁸⁸

4.142. The major players in the Thai telecommunications market include SOEs and private operators (Table 4.14). Telephone of Thailand (TOT) Public Company Limited, and CAT Telecom Company Limited (CAT) are SOEs, owning the telecom infrastructure on behalf of the Government. Private operators initially acquired concession agreements with SOEs. Nearly all concessions are build-operate-transfer (BOT) contracts, with a validity ranging from 1 to 27 years. The last concession agreements expired in 2018. The leading private-owned operators in the market (e.g. True, and DTAC) have foreign capital equity.

Table 4.14 Leading telecommunications service providers, June 2020

	Ownership	Fixed telephone	Mobile telephone	Fixed broadband	Wireless broadband
TOT Public Company Limited	SOE	✓	✓	✓	✓
True Internet Corporation Company Limited	Private	✓		✓	
CAT Telecom Company Limited	SOE	✓	✓		✓
Advance Wireless Network Company Limited		✓	✓	✓	✓
Triple Three Broadband Company Limited	Private	✓		✓	
DTAC Trinet Company Limited	Private		✓		✓
True Move H Universal Communication Co., Ltd	Private		✓		✓

Source: Information provided by the authorities.

4.143. The concentration of Thailand's telecommunication market is considered high, with the latest available Herfindahl-Hirschman Index (HHI)⁸⁹ numbers greater than 2,500 (Table 4.15). According to the authorities, there are eight service providers in the fixed telephony market in 2020. In the

⁸⁵ Telecommunications services that fall under a Type III licence include public switched telecommunications services, integrated services digital networks, public cellular mobile telephone networks, and public mobile data services.

⁸⁶ As at end-July 2020, there were 240 operators operating under Internet services licences (233 Type I, and 7 Type II without network).

⁸⁷ Clause 9, the NBTC Notification on Criteria and Procedures to License Foreign Satellite to Provide Domestic Services. In case of NGSO satellites, the right for each licensee to use foreign satellite transponders is exclusive to one entire system.

⁸⁸ NBTC database, *List of licensed telecommunications business*. Viewed (in Thai) at: <http://apps.nbtc.go.th/license/>.

⁸⁹ The HHI index indicates the degree of market concentration. It can range from close to zero to 10,000. Usually, a market with a HHI of less than 1,500 is considered to be a competitive marketplace, a HHI of 1,500 to 2,500 to be a moderately concentrated marketplace, and a HHI of 2,500 or more to be a highly concentrated marketplace.

first quarter of 2020, TOT Public Company Limited accounted for nearly 80% of the market share, followed by TRUE Internet Corporation Company Limited with 17%; the rest occupied some 4%.

Table 4.15 HHI of the telecommunications sector, 2013-19

	2013	2014	2015	2016	2017	2018	2019
Fixed telephone services	4,603	4,677	4,751	4,939	8,238	..	..
Mobile telephone services	3,444	3,508	3,457	3,420	3,399	3,407	3,472
Fixed broadband Internet services	2,991	2,935	3,059	2,962	2,927	2,847	2,793
Wireless broadband Internet services	..	..	..	3,482	3,530	3,393	3,417

.. Not available.

Source: Information provided by the authorities.

4.144. Each Type III operator must treat all licensed operators connecting to its network on a fair, reasonable, and non-discriminatory basis. The operator is required to submit its reference interconnection offer (RIO) to the NBTC for approval. Subsequently, the NBTC publishes its guidance reference interconnection rates, for RIO's guidance and dispute settlement; the latest guidance rates were published in 2019.

4.145. With regard to connecting to the national backbone network, Thailand adopts a policy of "open access network". Conditional on the service providers offering a fair and affordable last-mile price, any licensed operator may connect to the network free of charge, upon a request made to the MDES. If a licensed operator owning its network denies an access request from another operator, this operator's connection to the backbone network will be charged.

4.146. Regarding radio frequency allocation for telecommunications services, the NBTC holds auctions of spectrum bands for Type III operators. After the expiry of concession agreements, the spectrum under the concession was reallocated through auction. Former concessionaires did not possess the right to continuously use the spectrum, and had to compete with other private operators in the auction. In 2019, the NBTC published the NBTC Spectrum Management Masterplan No. 4 B.E. 2562 (2019). In December 2019, the Government held spectrum auctions for mobile telecommunications services licences, including spectrum for 5G services. These licences are valid for 15-20 years.

4.147. Telecommunications numbers are considered a public resource.⁹⁰ Numbers are portable across operators. The NBTC's regulatory regime determines that end-users have the right to keep their mobile phone number if they wish to change services providers, location, and/or type of services.

4.148. As per the Trade Competition Act, maintaining competition in the broadcasting and telecommunications sectors falls within the purview of the NBTC, the sectoral regulator.⁹¹ According to the authorities, no significant market power was identified in the mobile phone service market segment at the time of writing this report.

4.149. With regard to consumer protection, the Telecommunications Consumer Protection Bureau (TCP) of the NBTC is responsible for consumer protection. Standard contracts for products are subject to TCP approval before the products are introduced to the market; there are maximum prices for each type of service that licensed operators may charge to their customers. Prices of telephone installation are subject to monitoring, and are listed as sensitive (Section 3.3.6).

4.150. Pursuant to the Telecommunications Business Act, universal services include telephony services (both fixed and mobile cellular), broadband services, telecentres, and services for schools, health centres, and impaired or elderly people. Providers of universal services are selected through tendering/bidding among licensed operators; the universal service providers are not required to offer

⁹⁰ See the NBTC Notification on Telecommunication Numbering Plan B.E. 2563, and the NBTC Notification on the Criteria for Allocation and Management of Telecommunications Numbers B.E. 2563.

⁹¹ The regulatory regime includes: the NBTC Notification on Measures to Prevent Monopoly or Unfair Actions in the Telecommunications Business B.E. 2549, the NBTC Notification on Criteria and Procedures to Identify the Significant Market Power in the Telecommunications Business B.E. 2557, the NBTC Notification on Definitions and Scopes of Relevant Telecommunications Market (Vol. 2) B.E. 2561, and the NBTC Notification on Merger and Acquisitions Regulation in Broadcasting and Television Business B.E. 2561.

below-cost prices for their products. Universal services are financed through the Broadcasting and Telecommunications Research and Development Fund for the Public Interest (BTFRP), managed by the NBTC; all licensed telecommunications operators are required to contribute to the Fund at a rate of 2.5% of their gross annual revenue.

4.151. The NBTC implemented several universal service projects in rural and remote areas to develop digital infrastructure. The projects are expected to install free public Wi-Fi services in 18,565 villages, and free high-speed Internet in 4,289 schools and in 193 hospitals; establish 981 universal service Net Centres; and expand mobile signal coverage to about 4,900 areas. These universal service projects were expected to be fully operational by mid-2020.

4.152. In order to embrace the country's transition toward a digital economy, in 2019, Thailand passed several new laws and amended existing ones, to foster a supportive environment. The Cybersecurity Act established new authorities responsible for cracking down on cybercrimes and protecting the national critical information infrastructure; the Personal Data Protection Act provides rules and mechanisms for personal data protection. In addition, the Electronic Transaction Act was amended twice to respond to the latest technology developments.

4.153. The authorities noted that laws in Thailand do not have provisions concerning data localization⁹², or international data traffic restrictions.

4.5.2.2 Postal and courier services

4.154. Thailand Post Company Ltd., an SOE, is the sole provider of universal postal services in Thailand. It is also engaged in the delivery service of goods and packages nationwide. It has a statutory monopoly on letters and postcards up to 2 kg.

4.155. Courier services in Thailand were first developed from an on-board courier service, carrying documents and small parcels on commercial flights and operating at the airport. Gradually, the services expanded the types of shipments to include industrial packages and freight. As e-commerce in Thailand rapidly developed over the past years, the courier services developed further.⁹³

4.156. Currently there are 31 licensed courier services operators for the delivery of express consignments, 27 of which are local operators⁹⁴; the other 4 are large courier operators with an international presence (DHL, FedEx, TNT and UPS). There is no single regulatory entity for courier services. Restrictions remain in place for foreign companies to participate in courier services: foreign equity is capped at 60% (up to 75% in some cases), and at least two fifths of the board of directors must be Thai nationals; and foreign investors must obtain prior approval from the Cabinet and a licence from the Minister of Commerce.

4.157. Under the Act on Prices of Goods and Services B.E. 2542 (1999), prices of "product delivery for online business" are controlled (Section 3.3.6). Also, prices of delivery services (of goods, documents, and packages) are listed as "sensitive", and subject to monitoring (Section 3.3.6). The authorities are of the view that delivery is a necessity service whose prices must be closely monitored for consumer protection purposes; they further state that the price control measures for delivery services have never been applied.

4.5.3 Transport

4.5.3.1 Civil aviation

4.158. During the period under review, the legal and institutional framework for aviation transport was modernized. The main legislation concerning the sector is the Air Navigation Act, which was amended in 2019. According to the authorities, the amendment is expected to match Thailand's civil

⁹² Thailand is a contracting party to the ASEAN Agreement on Electronic Commerce, in which the provisions related to location and computing facilities stipulate no requirement for data localization.

⁹³ According to the Electronic Transactions Development Agency, the sector of wholesale and retail business accounted for 32% of total revenue derived from e-commerce in 2016, with B2B (business-to-business) and B2C (business-to-consumer) contributing to half that revenue. It is expected that e-commerce revenues in the wholesale and retail sector will grow by 25% in the coming years.

⁹⁴ Thai Express Courier Association (TEXCA), *Member*. Viewed at: <http://www.texca.org/member.php>.

aviation to modern international standards; the amendment contains provisions related to civil aviation safety, security, facilitation, and economy.

4.159. In response to the International Civil Aviation Organization (ICAO)'s downgrading of Thailand's aviation safety, in 2015, the Department of Civil Aviation was split into four entities: the Civil Aviation Authority of Thailand (CAAT), the Department of Airports (DOA), the Search and Rescue Group, and the Aircraft Accident Investigation Group.⁹⁵ The CAAT became an independent sectoral regulator, responsible for developing an international-standard-consistent regulatory system, performing regulatory oversight functions, and providing policy recommendations on aviation matters to the Government.⁹⁶ The DOA is in charge of the operation of government-owned airports.⁹⁷ The institutional framework for aviation also includes the Aeronautical Radio of Thailand Limited (AEROTHAI), an SOE, which provides air navigation services⁹⁸; and the Civil Aviation Board (CAB), which is the advisory body to the Minister of Transport on civil aviation matters.⁹⁹

4.160. During the review period, the aviation industry experienced buoyant growth due to a strong domestic economy and a thriving tourism sector. This was evident by increases in passenger flows and aircraft movements, both for international and domestic flights (Table 4.16). Facing the COVID-19 pandemic, the CAAT imposed a temporary ban on all international flights in and out of Thailand from 1 April to 30 June 2020. Consequently, the air passenger numbers dropped by almost 100%, compared to the same period in the previous year.

Table 4.16 Selected indicators of aviation transport, 2015-19

	2015	2016	2017	2018	2019
International scheduled flights					
Aircraft movements	375,988	410,792	450,065	478,599	496,562
Passengers ('000)	61,921	65,328	75,331	79,629	86,198
Pax in	..	32,652	37,650	40,152	43,404
Pax out	..	32,676	37,681	39,477	42,794
Transit	1,042,936	1,713,263	1,612,189	1,318,386	577,832
Freight ('000 kg)	1,230,440	1,318,856	1,456,872	1,515,098	1,363,023
Transfer ('000 kg)	95,797	93,833	95,224	89,938	38,772
Mail ('000 kg)	618	948	2,806	4,528	7,166
Domestic scheduled flights					
Aircraft movements	464,400	516,676	560,032	565,686	541,317
Passengers ('000)	61,384	69,487	76,393	77,835	75,793
Transit	16,583	41,563	77,990	25,491	16,437
Freight ('000 kg)	114,297	119,522	112,741	96,108	75,076
Transfers ('000 kg)	44,065	37	2,086	26	479
Mail ('000 kg)	723	2,531	1,928	158	78

.. Not available.

Source: Information provided by the authorities.

4.161. An important development in Thailand's aviation sector in recent years has been the rapid expansion of low-cost carriers/airlines (LCCs). There are currently six LCCs in Thailand, four of which began operations in the last five years. Consequently, the size of the LCC fleet grew from 42 in 2013 to more than 150 in 2019. In terms of market share among Thai national carriers, LCCs dominate

⁹⁵ The Search and Rescue Group is responsible for rendering search and rescue procedures for the survivors from aircraft and vessels in distress. The Aircraft Accident Investigation Group is responsible for investigating air accidents, incidents, and safety hazards. Both groups report to the Permanent Secretary of the Ministry of Transport.

⁹⁶ *Emergency Decree on Civil Aviation Authority of Thailand B.E. 2558 (2015)*. Viewed (in Thai) at: <http://web.krisdika.go.th/data/law/law2/%a1155/%a1155-20-2558-a0001.pdf>.

⁹⁷ *Ministerial Regulations on Structuring of Department of Airport, Ministry of Transport, B.E. 2558 (2015)*. Viewed (in Thai) at: <http://web.krisdika.go.th/data/law/law2/%c338/%c338-2b-2558-a0024.pdf>.

⁹⁸ AEROTHAI is an SOE under the Ministry of Transport, which holds 91% of its shares. The remaining 9% are held by member airlines that have scheduled flights to Thailand. AEROTHAI's investments are approved by the Ministry of Transport and the Cabinet, and all budgets are approved by the Board of Directors, which mostly consists of representatives from the Ministry of Finance, the Ministry of Transport, and the Royal Thai Air Force. The Government appoints 9 of the 11 board members, and 2 members are representatives from airline shareholders. Air navigation service charges are regulated by the Government through the CAB.

⁹⁹ The CAB is housed in the CAAT, and is chaired by the Minister of Transport. The Board approves, with the consent of the Minister, the rates of fares and freight, and the rates of air navigation facilities service charges.

the domestic market, and they are gradually increasing their share in the international market. Regarding capacity on domestic routes, LCCs transported 55 million passengers in 2019 (up from approximately 35 million in 2016), accounting for 73% of the market. On international routes, the LCC market share remained stable in recent years; LCCs transported 18 million passengers in 2019, accounting for 48%. The majority of LCC international routes are medium-haul, for destinations in the Asian region. In 2019, LCCs accounted for nearly 65% of national carrier traffic in Thailand.

4.162. Thailand has continued its policy of gradual liberalization in international air transport, at a pace and in a manner appropriate to the needs and circumstances, according to the authorities. It maintains 105 air services agreements (ASAs) with its trading partners¹⁰⁰, most of which cover up to fourth freedom of rights, with various restrictions in destination, designation, and capacity, with due regard to the interests of all stakeholders, the changing business environment, and infrastructure requirements. As part of the ASEAN Multilateral Agreement on Air Services, Thailand offers and enjoys up to the fifth freedom of unlimited traffic of passengers and freight between any cities with international airports in the ASEAN region; multiple designated carriers are allowed, as long as they satisfied the criteria on either substantial ownership and effective control or on principal place of business and effective control.¹⁰¹

4.163. In Thailand, cabotage is not allowed.

4.164. Anyone wishing to provide air transport services as a "domestic airline" (i.e. a Thai national carrier) must obtain two separate authorizations from the CAAT: an Air Operating Licence (AOL) for business authorization¹⁰² and an Air Operator Certificate (AOC)¹⁰³ for safety authorization. To apply for an AOL (i.e. to be considered a Thai national carrier), the carrier's foreign equity may not exceed 49%, and at least 51% of the board of directors must be Thai citizens. As at June 2020, there were 42 AOL licensees, approximately 10 of which have foreign capital participation.

4.165. The authorities noted that there are no policies requiring government-financed transport of passengers and freight by national carriers.

4.166. Slots of aircrafts' arrival and departure at congested airports are managed by the slot coordinator at the CAAT. The CAAT rule for slot management entered into force on 1 January 2020, and is based on the International Air Transport Association (IATA) Worldwide Slot Guideline.¹⁰⁴ Under the rule, slot allocation must be conducted in a neutral and non-discriminatory manner. Historic precedence is taken into account when allocating slots, though priority (i.e. 50% of the slot pool) is reserved for airlines with new-entrant status.¹⁰⁵ Slots, except those allocated to a new entrant, may be transferred within the same airline (or between the parent and subsidiaries companies), and be swapped and shared between airlines. The unused slots must be returned to the slot pool.¹⁰⁶ The busiest airports (i.e. Level 3 airports) are subject to mandatory slot allocation; that is, carriers must acquire a slot prior to their operation at such airports. Currently, five airports are categorized as Level-3 airports, all of which are international airports.¹⁰⁷

¹⁰⁰ CAAT (2018), *Bilateral Air Services Agreement*. Viewed at: <https://www.caat.or.th/en/archives/30471>.

¹⁰¹ CAAT (2017), *ASEAN Air Services Agreement*. Viewed at: <https://www.caat.or.th/en/archives/30473>; and Table 4.20, WTO document WT/TPR/S/326/Rev.1, 10 February 2016.

¹⁰² *Regulation of Civil Aviation Board No. 97 on Granting Licence to Civil Aviation Business: Commercial Air Transport and Aerial Work*. Viewed at: <https://www.caat.or.th/wp-content/uploads/2019/08/CAOL.pdf>.

¹⁰³ *Regulation of Civil Aviation Board Number 85 on the Air Operator Certificate*. Viewed at: <https://www.caat.or.th/wp-content/uploads/2016/11/3.4RCAB85.pdf>.

¹⁰⁴ *Rules of the Civil Aviation Authority of Thailand on Criteria for Slot Allocation for Airport Arrival and Departure of Aircraft*, B.E. 2562 (2019). Viewed at: <https://www.caat.or.th/wp-content/uploads/2019/12/CAAT-Rules-on-Slot-allocation-2019-1.pdf>.

¹⁰⁵ "New entrant" means an airline requesting a series of slots at an airport on any day where, if the airline's request were accepted, it would hold fewer than five slots in total at that airport on that day.

¹⁰⁶ Slots which are used less than 80% during the previous allocating period are considered unused. The authorities are of the view that airport arrival slots are national resources, which no carrier may permanently own, and that the slot's non-transferability between airlines enhances the efficiency of slot usage and slot allocation.

¹⁰⁷ *Notification of the Civil Aviation Authority of Thailand Re: Determination of Level of Airport Congestion of Level 2 Airport and Level 3 Airport* B.E. 2562 (2019). Viewed at: <https://www.caat.or.th/wp-content/uploads/2019/12/CAAT-Notification-Determination-of-Level-of-Airport-2019-1.pdf>.

4.167. According to the authorities, Thailand does not have any restrictions, conditions, or requirements on CRS and online booking services.

4.168. As at end-2019, there were 38 airports for public use throughout the country, including 11 international airports. The Airports of Thailand (AOT) manages six major international airports with scheduled international traffic¹⁰⁸, and the DOA operates three other international airports and 25 provincial airports. U-Tapao-Rayong-Pattaya International Airport is under the sole responsibility of the Royal Thai Navy. Three airports serving scheduled flights are privately-owned and -operated by Bangkok Airways, a privately owned national airline.¹⁰⁹

4.169. Foreign participation in airport operation and management is restricted. An airport operator must not have more than 49% foreign equity, and the business management must be controlled by Thai nationals. Currently, there is no foreign participation in airport operation and management.

4.170. No foreign equity limits are applied to ground-handling services as long as all legal and regulatory requirements are met. Foreign companies wanting to provide ground-handling services are required to obtain approval from the Foreign Business Committee, and a business permit from the Department of Business Development under the Ministry of Commerce, then they will need the CAAT to certify their operation.

4.171. Airport charges are regulated by the Government.¹¹⁰ As part of the government assistance package to respond to the COVID-19 pandemic, the CAAT offers carriers (international and/or domestic, depending on the situation) temporary exemptions or reductions of fees and charges, such as international arrival and departure fees, and charges for landing, parking, and air navigation.

4.172. Improving infrastructure and connectivity is a core objective of EEC plan, aimed at transforming the eastern provinces into a leading ASEAN economic hub. To improve connectivity by air, Thailand is expanding the U-Tapao international airport in the Rayong province. The objective is to construct a new passenger terminal and a second runway to increase the airport's passenger capacity to 3 million people.¹¹¹

4.173. Civil aviation and aerospace are also featured among the target industries under the EEC plan. Accordingly, the Aerospace Industrial Estate Development Plan (2016–45) for the U-Tapao International Airport aims to develop the domestic aviation and aerospace industries, with special priority given to the further development of maintenance repair and overhaul (MRO) services; tax and non-tax incentives are granted to eligible activities.¹¹² Thailand also relaxed the cap on foreign ownership for entities operating in the EEC Investment Promoted Zones; the 49% foreign capital ceiling may be waived when applying for CAAT certificates for aircraft production, major aircraft component production, or repair stations, if the conditions set by the EEC Secretary-General are met, and if the CAAT Director-General approves.

4.174. Infrastructure and basic facilities are in place for aircraft repair and engine overhaul services, as the major airlines in the country (e.g. Thai Airways, Bangkok Airways, and Thai Lion Air) have established MRO facilities, providing services for their own fleets and for aircraft of other airlines that service Thailand. THAI Technical, the MRO division of Thai Airways, leads the Government's MRO Centre development project at U-Tapao International Airport. Airbus signed a Memorandum of

¹⁰⁸ These international airports include: Suvarnabhumi Airport, Don Mueang International Airport, Phuket International Airport, Chiang Mai International Airport, Mae Fah Luang-Chiang Rai International Airport, and Hat Yai International Airport.

¹⁰⁹ The private-owned airports are: Samui International Airport, Sukhothai Airport, and Trat Airport.

¹¹⁰ CAAT, *Aviation Fees and Charges*. Viewed at: <https://www.caat.or.th/en/archives/category/aviation-en/airport-charge-en>.

¹¹¹ ASEAN Briefing, *Thailand's Eastern Economic Corridor – What You Need to Know*. Viewed at: <https://www.aseanbriefing.com/news/thailand-eastern-economic-corridor/>.

¹¹² The activities under MRO services eligible for investment promotion include: i) repair of aircraft or aircraft parts; and ii) repair of onboard devices or equipment (except disposable and reusable aircraft utilities and supplies).

Understanding with Thai Airways to evaluate the development of a new regional MRO facility, which is expected to provide MRO services for LCC fleets in the ASEAN region.¹¹³

4.175. There are no regulations requiring national airlines to have their aircraft repaired and maintained in domestic facilities, as long as this is done with any CAAT-certified station.¹¹⁴ Effective from 19 May 2019, the amended Air Navigation Act provides applicants for a Repair Station Type I Certificate (maintenance of aircrafts) for aircraft of a maximum take-off-mass exceeding 5,700 kg with exemptions to the foreign participation restriction that no less than 51% of total capital owned by Thai nationals and their business management power must be controlled by Thai nationals¹¹⁵; the restriction remains for applicants for repair station certificates for small aircraft. No foreign restrictions apply to applications for Repair Station Type II Certificates (maintenance of major aircraft appliances) and Type III certificates (maintenance of technical standard order articles and aircraft parts).¹¹⁶

4.5.3.2 Terrestrial transport

4.5.3.2.1 Road transport

4.176. Road is the dominant mode of transport within the country, for freight and passengers. Heavy investment in road assets over the past 30 years has resulted in a strong primary and secondary highway network. The highways are owned and maintained by the Department of Highways, or the Department of Rural Roads. The expressways serve the Greater Bangkok region, and are different from the national motorway system. All motorways and expressways are tolled. The Expressway Authority of Thailand owns most of the expressways, and is responsible for their maintenance. Private-sector participation in the road infrastructure is allowed in the form of concessions under public private partnerships.

4.177. The Department of Land Transport (DLT), under the Ministry of Transport, is the regulator for the sector. It is also responsible for formulating policies for the sector's development, and for maintaining standards for road safety.

4.178. Bus services (with fixed routes) must obtain a licence from the DLT. Each route is licensed as a franchise, to maintain the monopoly rent as an economic incentive. The application for a licence must be submitted to the DLT, and is scored according to the criteria set out in Ministerial Regulation No. 4 (B.E. 2524). A licence is valid for seven years, renewable. The licenced franchisee is allowed to sub-contract a part of the licensed services to other operators without competitive tendering.¹¹⁷

4.179. Under the franchise system, a bus service provider operating city, inter-city, and regional routes may have 100% private equity.¹¹⁸ Foreign capital may not exceed 49% of the equity of a private carrier providing passenger transport in Thailand. While the inter-city services between Bangkok and provincial cities remained exclusively reserved for the Transport Company Ltd., the Bangkok Mass Transit Authority (BMTA) lost its exclusive rights of operating intra-Bangkok bus routes in 2016. Both the BMTA and the Transport Company Ltd. are SOEs with 51% of government shares; both are allowed to subcontract their franchised services to private operators, the majority of which are small and family-owned firms. As at end-May 2020, 1,504 operators (and 2,951 vehicles) were licensed to provide fixed-route bus services in Thailand.

¹¹³ Airbus, *Airbus and THAI sign agreement to proceed with joint venture MRO*. Viewed at: <https://www.airbus.com/newsroom/press-releases/en/2018/06/airbus-and-thai-sign-agreement-to-proceed-with-joint-venture-mro.html>.

¹¹⁴ As at end-2019, the CAAT certified 254 repair stations worldwide, 29 of which are located in Thailand and 225 located outside it.

¹¹⁵ *Air Navigation Act (No. 13) B.E. 2562 (2019), Section 3*. Viewed at: <https://www.caat.or.th/wp-content/uploads/2019/06/Translation-of-the-Act.pdf>.

¹¹⁶ CAAT, *Announcement of the Department of Civil Aviation on Repair Station Approval*. Viewed at: https://www.caat.or.th/wp-content/uploads/2020/01/CAAT_Doc_ADCA_145RepairStationApproval.pdf.

¹¹⁷ APEC, *The Impacts and Benefits of Structural Reforms in Transport, Energy and Telecommunications Sectors*. Viewed at: <http://publications.apec.org/Publications/2011/01/The-Impacts-and-Benefits-of-Structural-Reforms-in-Transport-Energy-and-Telecommunications-Sectors>.

¹¹⁸ Pomlaktong, Jongwilaiwan, Theerawattanakul, and Pholpanich (2011), *Characteristics of the passenger transport industry*. See Table 12.5, *Road Transport in Thailand*, part of APEC (2011), *The Impacts and Benefits of Structural Reforms in Transport, Energy and Telecommunications Sectors*.

4.180. Bus fares are regulated, and are subject to approval by the central or provincial authorities, depending on the jurisdiction.

4.181. Licences for non-fixed-route passenger services (e.g. van services, tourist buses, and taxis) are valid for five years, renewable.¹¹⁹ As at end-May 2020, 41,871 non-fixed-route bus service providers (and 41,781 vehicles) were licensed. The authorities noted that there is no regulatory framework pertaining to ride-hailing services.

4.182. Freight transporters must obtain a licence from the DLT; the licensing conditions are simple requirements for vehicle safety standards. A licence of freight transporter is valid for five years, renewable. A new domestic entrant must submit a contract of carriage to the DLT when applying for a licence. Freight transport licences are not route-specific.

4.183. Hundred per cent private ownership is allowed regarding providing freight transport, but foreign participation may not exceed 49% of the equity. The freight transport market is dominated by private operators. The top five carriers in terms of revenue are private companies. The price of freight transport is not regulated.

4.184. International road transport services are allowed for licensed operators under several conditions set out in the corresponding international land transport agreements. Cross-border transport between Thailand and neighbouring economies is allowed on designated routes under the agreements. Cross-border transport must be operated under a bilateral or plurilateral agreement. Under such agreements, an international road transport operator must be a Thai national and reside in Thailand. Foreign participation may not exceed 49% of the equity. Currently, agreements are in force with countries in the Greater Mekong Subregion¹²⁰, and with Malaysia.

4.185. Cabotage of road transport is not allowed.

4.5.3.2.2 Rail transport

4.186. The rail transport system developed at a slower pace, compared to other modes of transport in the country, in terms of infrastructure, operational efficiency, and governance structure.¹²¹ In April 2019, the Department of Rail Transport, under the Ministry of Transport, was created as the sectoral regulator; it is also responsible for formulating policies, and infrastructure development plans related to the rail sector.¹²²

4.187. The State Railway of Thailand (SRT), an agency under the Ministry of Transport, owns the national network, and acts as the sole carrier for inter-city/inter-regional traffic, and as the network infrastructure manager. The SRT's main business is passenger transport. Under the Public Service Obligation, an agreement with the Government, 90% of passenger loads are price-capped (i.e. transported in third-class carriages), which occupy 70% of track capacity.¹²³ Freight is not considered a priority for the SRT; it operates, on average, 62 freight trains per day, carrying fuel, construction materials, containers, and general goods. In 2015, rail freight accounted for 1.4% of total freight transport.¹²⁴

¹¹⁹ A licence for a taxi is valid for three years, as opposed to five years for other non-fixed-route passenger services.

¹²⁰ The countries in the Greater Mekong Subregion are Cambodia, the People's Republic of China (specifically, Yunnan Province and the Guangxi Zhuang Autonomous Region), Lao PDR, Myanmar, Thailand, and Viet Nam. Asian Development Bank, *Greater Mekong Subregion (GMS)*. Viewed at: <https://www.adb.org/countries/gms/main>.

¹²¹ Asian Development Bank, *Thailand: Supporting Railway Sector Reform*. Viewed at: <https://www.adb.org/sites/default/files/project-document/75722/46246-001-tha-tacr-01.pdf>.

¹²² Bangkok Post, *Rail Department established after royal endorsement*. Viewed at: <https://www.bangkokpost.com/thailand/general/1661960/rail-department-established-after-royal-endorsement>.

¹²³ Asian Development Bank, *Thailand: Supporting Railway Sector Reform*. Viewed at: <https://www.adb.org/sites/default/files/project-document/75722/46246-001-tha-tacr-01.pdf>.

¹²⁴ Nikkei Asian Review, *Thailand's expanding state 'threatens future growth'*. Viewed at: <https://asia.nikkei.com/Politics-Economy/Economy/Thailand-s-expanding-state-threatens-future-growth>.

4.188. The national rail network comprises 4,044 km of metre-gauge tracks, most of which are single tracks. The network is connected to the meter-gauge tracks of neighbouring countries: Cambodia, Lao PDR, and Malaysia.

4.189. Thailand also formulated a high-speed rail (HSR) project plan, which comprises two projects. The first is the High-Speed Rail Linking Three Airports Project. As part of the EEC, the Government is focusing on the creation of faster and more comprehensive routes connecting airports, ports, industrial clusters and cities, aiming to accommodate 110 million passengers annually. It has committed THB 224.5 billion for construction, and will be operated by the Eastern High-Speed Rail Linking Three Airports Company Limited, a special-purpose vehicle by the consortium of Charoen Pokphand Holding and partners, under a concession agreement for 50 years. The other HSR project is the North-eastern HSR, connecting Bangkok and Nakhon Ratchasima. For this project, Thailand and China signed an MOU in late-2014 on joint railway construction, furthering Thailand's eight-year strategy on the development of transportation from 2015-22. Both projects are expected to be completed by 2023.

4.190. The mass rapid rail transit system for the Bangkok Metropolitan Region¹²⁵ consists of the BTS Skytrain (elevated trains), the Airport Rail Link (ARL), and the Metropolitan Rapid Transit (the underground, MRT). These are heavy rails and standard-gauged tracks. The BTS is operated by the Bangkok Mass Transit System Public Company Limited, a private company under concession of the Bangkok Metropolitan Administration. The ARL is owned by the SRT, and is operated by the SRT Electrified Train Company Limited. The MRT¹²⁶ is owned by the Mass Rapid Transit Authority of Thailand (MRTA), an SOE under the Ministry of Transport; a private company, the Bangkok Expressway and Metro Public Company Limited, operates the MRT under a 30-year concession granted by the MRTA. Foreign participation in urban mass transport is restricted, with a 49% cap on foreign ownership. The authorities noted that, considering the cost for most mass transport projects exceeds THB 1 billion, provisions under the Public-Private Partnership Act B.E. 2562 (2019) must be observed.

4.5.3.3 Maritime transport

4.191. During the period under review, the legal and institutional framework for maritime transport remained unchanged. The main legislation concerning the sector includes the Navigation in Thai Waters Act, the Thai Vessels Act, and the Mercantile Marine Promotion Act.¹²⁷ The Marine Department, under the Ministry of Transport, continues to be the sectoral regulator. It is 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. It is also responsible for the promotion and development of maritime transport, including infrastructure development.

4.192. As at end-2019, Thailand's merchant fleet comprised 508 vessels (with a capacity of over 500 gross tonnes), with a total carrying capacity of just over 6.6 million deadweight tonnes (DWT), an increase of 21% compared to the capacity in 2015. According to the authorities, around 10%-12% of Thailand's merchandise trade is transported on national-flagged vessels. The Government maintains a 30% equity stake in the TMN Co., Ltd., a joint venture between the Ministry of Finance and 16 other private maritime companies. The TMN Co., Ltd. runs two ocean-going vessels.

4.193. 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.

4.194. Restrictions on foreign ownership remain in place. In order to be registered as a Thai-flagged vessel providing international shipping services, an operator must be at least 51% Thai-owned, and at least 50% of the crew must be Thai nationals. If the vessel is to operate on domestic routes, the

¹²⁵ In 2016, the Mass Rapid Transit plan in Bangkok (M-Map) was approved by the Cabinet. The plan includes 14 lines, with a total distance of 553.41 km. Currently, 5 lines (149.80 km) are fully operational.

¹²⁶ Currently, the MRT consists of two lines, the blue line (Chaloem Ratchamongkhon Line) and the purple line (Chalong Ratchadham Line).

¹²⁷ According to the authorities, all three Acts are currently being amended. The amendments aim to modernize the legislation and align the provisions with international standards. The draft amendment to the Mercantile Marine Promotion Act was completed and is awaiting approval from the Cabinet.

Thai-ownership requirement increases to 70%, and all crew members must be Thai nationals. Hence, cabotage is not permitted. However, international relay is allowed for foreign ships calling at Thai ports.

4.195. 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) in Thai waters for one year, if domestic vessels are not available.

4.196. In 2020, there are 195 international ports throughout the country, most of which are small- or medium-sized privately-owned and -operated ports. Thailand's main ports are Laem Chabang Port, Bangkok Port, Map Taput Port, Songkhla Port, Ranong Port, Chiang Saen Commercial Port, and Chiang Khong Port. All these (except Map Taput Port and Songkhla Port)¹²⁸ are owned by the Port Authority of Thailand (PAT), an SOE under the supervision of the Ministry of Transport. Operators from the private sector are allowed to operate port terminals under concessions. Private sector participation in port operation may take the form of either a leasehold agreement or a BOT agreement. Private terminal operators are usually granted 25-30 years concessions to manage terminals and other port facilities. A terminal operator must be either a Thai person or a legal person with at least 51% Thai equity.

4.197. Ships calling at Thailand's ports, regardless of their nationality, receive MFN treatment, and port access on a first-come-first-served basis. All port tariff and service fees are subject to 7% VAT. VAT on maritime services is zero-rated. In general, 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. According to the authorities, this is a measure to enhance the competitiveness of export cargo by lowering certain logistics costs.

4.198. 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, the PAT launched two projects at Laem Chabang Port: the Coastal Berth Project at Bangkok Port, and the Single Rail Transfer Operator (SRTTO) and Coastal Terminal A Project. The coastal terminal berth began official operations in April 2018, the SRTTO in October 2019, and the coastal terminal A in March 2020. The Laem Chabang Port's rail transport mode is expected to increase from the current 7% to 30% in the near future, and more coastal vessels are expected to berth at the new designated location, thereby reducing waiting time for coastal vessels and easing congestion within the Port. The Marine Department is also planning to develop a second Songkhla Deep Sea Port, as well as a new cruise terminal in Southern Thailand.

4.5.4 Tourism

4.199. Tourism plays an important role in Thailand's economy. Hotels and restaurants alone accounted for 5.9% of GDP and 7.6% of employment in 2019 (Table 1.3). Tourism is the country's main foreign exchange earner. In 2019, travel services generated USD 60.5 billion, or 73.8% of total services exports (Table 1.6).

4.200. More than 38 million international tourists arrived in Thailand in 2018, an increase of 53.9% compared to the 24.8 million in 2014. Two thirds of them were from East Asia (particularly China, accounting for 27.8% of the total, and Malaysia 10.6%), followed by Europe, with 17.3% (in particular, the Russian Federation, with 3.8%, and the United Kingdom, with 2.5%), and the Americas, with 4%.

4.201. Thailand launched an e-visa system on 15 February 2019 to facilitate foreign visitors requiring entry visas. The system was introduced to visa applicants in China, France, and the United Kingdom. The authorities noted that the Government plans to extend the e-visa service globally to all its diplomatic missions; it aims to provide an effective and convenient channel for foreign nationals to apply for visas to enter Thailand.

4.202. As with the aviation industry, the COVID-19 pandemic struck the tourism sector. From January to May 2020, 6.69 million international tourists arrived in Thailand (an almost 60% decrease

¹²⁸ Map Taput Port, mainly serving the petrochemical industry, is owned by the Industrial Estate Authority of Thailand, and is managed by private-sector operators. Songkhla Port is managed by private port operators.

from the same period last year); and tourism receipts were USD 11.1 billion, compared to USD 27.4 billion in the same period last year. The authorities noted that the subsectors having the most adverse impact were hotels, and recreation activities industries.

4.203. To mitigate the adverse impact on the tourism sector by the COVID-19 pandemic, the Government adopted various measures. Firstly, it provided relief to support the liquidity of tourism operators, in particular the micro, small and medium-sized operators. This type of support includes the Soft Loan Program for Tour Operators from COVID-19 and the Small Loans for Extra Cash programme. Moreover, the authorities give 70% of the company registration deposit back to tour companies that were registered with the Department of Tourism.

4.204. Secondly, the authorities took steps to boost the sector's readiness, including the launch of a safety-and-health administration certification scheme. The certification aims to enhance service standards, bringing them in line with the latest international sanitary guidelines concerning COVID-19. Furthermore, in June 2020, the Cabinet approved the concept of three tourism packages to boost domestic tourism; these packages will provide financial support for domestic tourists spending in the domestic market.

4.205. The legal and institutional framework for the tourism sector remained largely unchanged during the period under review. The Department of Tourism, under the Ministry of Tourism and Sport, is responsible for implementing sectoral policies, including those to develop tourism sites, to enhance tourism services, and to facilitate tourism professionals in the country to work in ASEAN countries according to the ASEAN Mutual Recognition Arrangement on Tourism Professionals. In addition, the Department is the sectoral regulator, responsible for licensing tourism businesses (travel agencies and tour operators), and tourist guides. The Tourism Authority of Thailand, a tourism promotion agency under the Ministry of Tourism and Sports, continues to be responsible for the tourism marketing, and creating tourism products. The main law governing this sector is the Tourism Business and Guide Act B.E. 2551 (2008), which was amended in 2016. According to the authorities, the amendment aimed to improve service quality assurance, and hence to enhance the tourism sector's competitiveness.

4.206. Any person who intends to operate a tourism business must obtain a Tourism Business Licence from the Department of Tourism. Foreign investment restrictions remain in place. Foreign capital participation in hotels, travel agencies, and travel operators, may not be more than 49% of a company's total equity, unless prior approval is granted. According to the authorities, there is no regulatory regime for virtual travel agencies; they must operate under the Tourism Business and Guide Act.

4.207. Incentives are provided to a number of economic activities in the tourism sector, such as hotels, convention halls, tour boating, cruise terminals, amusement parks, Thai cultural centres, and Thai art and craft centres.¹²⁹ Some of these activities (e.g. hotels, and amusement parks) must meet the relevant requirement of minimum investment threshold to be eligible for incentives (Section 3.3.1).

4.208. Prices of hotels and other types of accommodation are subject to monitoring (Section 3.3.6). According to the authorities, price surveillance/monitoring is a customer protection measure, with the aim of avoiding predating pricing by operators.

4.209. According to the authorities, there are no restrictions on foreign investment in the culinary subsector, including in indigenous culinary.

4.210. According to the authorities, e-commerce in the tourism sector developed at a rapid pace during the period under review. In 2016, about 30% of the national e-commerce value was attributed to the tourism sector, including the hospitality business (26%) and the recreation business (4%).¹³⁰

¹²⁹ BOI, *A Guide to the Board of Investment 2019*. Viewed at: https://www.boi.go.th/upload/content/BOI-A%20Guide_EN.pdf.

¹³⁰ Electronic Transactions Development Agency, *The Value of e-Commerce Survey in Thailand 2017*. Viewed at: <https://www.etda.or.th/download-publishing/83/>.

5 APPENDIX TABLES

Table A1.1 Merchandise exports by group of products, 2015-19

	2015	2016	2017	2018	2019
Total exports (USD billion)	214.3	215.4	236.6	253.0	246.2
	(% of total)				
Total primary products	21.9	20.9	23.5	23.5	22.6
Agriculture	16.8	16.8	18.5	17.7	17.5
Food	13.1	12.9	13.6	13.6	13.8
0423 - Rice, semi-milled or wholly milled	2.1	2.0	2.2	2.2	1.7
0371 - Fish, prepared or preserved, n.e.s.; caviar and caviar substitutes	1.2	1.2	1.1	1.2	1.2
0174 - Meat and offal (other than liver) of poultry	1.0	1.0	1.0	1.0	1.1
0579 - Fruit, fresh or dried, n.e.s.	0.5	0.6	0.9	0.9	1.3
0989 - Food preparations, n.e.s.	0.8	0.8	0.8	0.8	0.9
Agricultural raw materials	3.7	3.8	4.9	4.0	3.7
2312 - Natural rubber (other than latex)	1.8	1.5	1.9	1.3	1.2
2321 - Synthetic rubber and factice derived from oils (...)	0.3	0.6	1.1	1.0	0.9
Mining	5.1	4.1	5.0	5.8	5.1
Ores and other minerals	0.5	0.5	0.5	0.6	0.5
Non-ferrous metals	0.6	0.7	0.9	1.0	1.1
Fuels	3.9	2.9	3.5	4.2	3.4
Manufactures	75.2	74.5	74.1	74.7	73.3
Iron and steel	0.6	0.6	0.8	0.9	0.7
Chemicals	9.3	8.8	9.3	10.5	9.8
5711 - Polyethylene	1.3	1.1	0.9	1.1	0.9
5112 - Cyclic hydrocarbons	0.5	0.5	0.5	0.8	0.5
Other semi-manufactures	9.5	9.2	9.1	9.3	9.6
6251 - Tyres, pneumatic, new, of a kind used on motor cars	0.9	1.0	1.1	1.1	1.3
Machinery and transport equipment	44.7	45.1	44.7	44.1	42.9
Power-generating machines	0.9	0.9	0.8	0.7	0.6
Other non-electrical machinery	6.4	6.6	6.4	6.6	6.5
7415 - Air-conditioning machines (...)	2.1	2.3	2.0	2.1	2.2
Agricultural machinery and tractors	0.2	0.2	0.3	0.3	0.3
Office machines and telecommunication equipment	16.9	16.1	16.3	15.7	15.1
7527 - Storage units, whether or not presented with the rest of a system	5.2	4.6	4.8	4.9	4.5
7643 - Transmission apparatus for radio-telephony, radio-telegraphy, radio-broadcasting or television	0.7	0.7	1.4	1.4	1.2
7599 - Parts and accessories suitable for use solely or principally with the machines of subgroups 751.1, 751.2, 751.9 and group 752	1.7	1.7	1.4	1.2	1.1
Other electrical machines	5.4	5.6	5.8	5.7	5.7
Automotive products	12.6	13.0	12.2	12.2	11.8
7812 - Motor vehicles for the transport of persons, n.e.s.	4.5	5.5	4.6	4.4	4.2
7821 - Motor vehicles for the transport of goods	3.9	3.1	3.1	3.1	3.1
7843 - Other parts and accessories of the motor vehicles of groups 722, 781, 782 and 783	2.9	2.9	2.8	2.9	2.8
Other transport equipment	2.4	3.0	3.3	3.2	3.2
Textiles	1.6	1.6	1.5	1.5	1.5
Clothing	1.8	1.6	1.5	1.5	1.6
Other consumer goods	7.6	7.5	7.2	7.0	7.2
8973 - Jewellery of the gold, silver or platinum group metals (except watches and watch-cases) and goldsmiths' or silversmiths' wares	1.7	1.7	1.6	1.6	1.5
Other	1.8	3.4	2.5	1.8	4.2
9710 - Gold, non-monetary (excluding gold ores and concentrates)	1.8	3.4	2.5	1.8	3.4

Source: Ministry of Commerce; Customs Department; and UNSD (SITC Rev.3).

Table A1.2 Merchandise imports by group of products, 2015-19

	2015	2016	2017	2018	2019
Total imports (USD billion)	202.7	194.2	221.5	248.2	236.6
	(% of total)				
Total primary products	26.3	24.3	25.7	28.2	27.3
Agriculture	7.7	8.2	7.9	7.5	7.9
Food	6.2	6.7	6.3	6.0	6.4
0342 - Fish, frozen (excluding fillets and minced fish)	0.7	0.9	0.9	0.9	0.8
Agricultural raw material	1.5	1.5	1.7	1.5	1.5
Mining	18.6	16.1	17.7	20.7	19.4
Ores and other minerals	0.5	0.5	0.6	0.6	0.6
Non-ferrous metals	3.1	3.2	3.5	3.5	3.4
6821 - Copper; copper anodes for electrolytic refining; copper alloys, unwrought	0.8	0.9	1.1	1.0	1.1
Fuels	14.9	12.4	13.6	16.6	15.5
3330 - Petroleum oils and oils obtained from bituminous minerals, crude	9.6	7.6	8.5	10.8	9.1
334 - Petroleum oils, other than crude	1.5	1.8	1.9	2.1	2.6
3432 - Natural gas, in the gaseous state	1.6	1.0	0.8	0.9	1.0
3431 - Natural gas, liquefied	0.7	0.5	0.7	0.9	1.1
Manufactures	69.0	71.5	69.1	66.9	68.4
Iron and steel	5.3	5.4	5.0	5.4	5.4
6732 - Flat-rolled products of iron or non-alloy steel (...)	0.8	0.8	0.7	0.8	0.7
Chemicals	10.3	10.6	10.8	10.8	10.7
Other semi-manufactures	7.2	7.4	7.8	7.1	7.2
6996 - Articles of iron or steel, n.e.s.	1.7	1.8	1.7	1.4	1.3
6672 - Diamonds (other than sorted industrial diamonds)	0.4	0.4	0.8	0.9	0.8
Machinery and transport equipment	37.6	38.9	36.9	34.9	35.6
Power-generating machines	1.9	2.1	1.6	1.6	1.5
Other non-electrical machinery	7.7	7.8	7.0	6.7	7.4
Agricultural machinery and tractors	0.1	0.1	0.2	0.2	0.2
Office machines and telecommunication equipment	13.8	13.9	14.0	13.3	13.2
7643 - Transmission apparatus for radio-telephony, radio-telegraphy, radio-broadcasting or television	2.7	2.9	2.8	2.5	2.5
7768 - Piezoelectric crystals, mounted; parts, n.e.s., of the electronic components of group 776	1.6	1.7	1.7	1.6	1.5
7599 - Parts and accessories suitable for use solely or principally with the machines of subgroups 751.1, 751.2, 751.9 and group 752	1.7	1.5	1.3	1.3	1.2
7527 - Storage units, whether or not presented with the rest of a system	0.7	0.6	0.7	0.8	0.6
Other electrical machines	6.3	6.6	6.0	6.0	6.0
7725 - Electrical apparatus for switching or protecting electrical circuits, (...) for a voltage not exceeding 1,000	0.9	0.9	0.9	0.8	0.9
7787 - Electrical machines and apparatus, having individual functions, n.e.s.; parts thereof	0.7	1.0	0.9	0.8	0.8
7726 - Boards, panels, consoles, etc. (...) for electrical control or the distribution of electricity	0.8	0.8	0.7	0.8	0.7
7731 - Insulated electric conductors; optical fibre cables (...)	0.8	0.8	0.7	0.8	0.8
Automotive products	4.1	4.7	4.2	4.3	4.7
7843 - Other parts and accessories of the motor vehicles of groups 722, 781, 782 and 783	1.6	1.8	1.7	1.8	1.8
Other transport equipment	3.8	3.8	4.1	3.0	2.9
7924 - Aeroplanes and other aircraft, mechanically propelled (other than helicopters), of an unladen weight exceeding 15,000 kg	1.4	0.8	1.1	0.7	0.5
Textiles	1.4	1.5	1.4	1.4	1.4
Clothing	0.5	0.6	0.5	0.6	0.6
Other consumer goods	6.8	7.2	6.7	6.8	7.4
Other	3.7	3.3	5.2	4.8	4.3
9710 - Gold, non-monetary (excluding gold ores and concentrates)	3.6	3.1	5.0	4.6	3.2

Source: Ministry of Commerce; Customs Department; and UNSD (SITC Rev.3).

Table A1.3 Merchandise exports by destination, 2015-19

	2015	2016	2017	2018	2019
Total exports (USD billion)	214.3	215.4	236.6	253.0	246.2
	(% of total)				
Americas	15.5	15.7	15.2	15.0	16.5
United States	11.2	11.4	11.2	11.1	12.7
Other America	4.3	4.3	4.0	3.9	3.8
Mexico	1.3	1.3	1.3	1.1	1.2
Europe	11.5	12.7	12.1	11.0	11.9
EU-28	10.2	10.2	10.1	9.9	9.6
Netherlands	2.0	2.0	2.0	2.1	1.9
Germany	2.0	2.1	2.1	2.0	1.8
United Kingdom	1.8	1.8	1.7	1.6	1.6
EFTA	1.3	2.4	2.0	1.1	2.3
Switzerland	1.1	2.3	1.7	1.0	2.2
Other Europe	0.01	0.004	0.002	0.01	0.01
Commonwealth of independent states (CIS)	0.4	0.4	0.5	0.6	0.5
Africa	3.2	2.9	2.9	3.0	2.8
South Africa	0.9	1.0	1.0	1.1	1.1
Middle East	4.8	4.2	3.8	3.3	3.4
United Arab Emirates	1.4	1.3	1.2	1.0	1.0
Asia	63.4	63.2	64.5	66.0	64.0
China	11.1	11.0	12.5	12.0	11.8
Japan	9.4	9.5	9.3	9.9	10.0
Other Asia	43.0	42.6	42.7	44.2	42.1
Viet Nam	4.2	4.4	4.9	5.1	4.9
Hong Kong, China	5.5	5.3	5.2	5.0	4.8
Malaysia	4.8	4.5	4.4	4.6	4.2
Australia	4.6	4.8	4.4	4.3	4.2
Indonesia	3.7	3.8	3.7	4.1	3.7
Singapore	4.1	3.8	3.5	3.7	3.6
Philippines	2.8	3.0	2.9	3.1	2.8
Cambodia	2.3	2.2	2.2	3.0	2.9
India	2.5	2.4	2.7	3.0	3.0
Korea, Republic of	1.9	1.9	2.0	2.0	1.9
Myanmar	1.9	1.9	1.8	1.8	1.8
Lao PDR	2.0	1.9	1.7	1.6	1.6
Chinese Taipei	1.6	1.6	1.7	1.6	1.6
Other	1.1	1.0	1.1	1.1	1.0
<i>Memorandum:</i>					
ASEAN	25.7	25.4	25.2	27.1	25.5
APEC	68.2	68.3	69.3	69.7	69.6

Source: Ministry of Commerce; Customs Department; and UNSD (SITC Rev.3).

Table A1.4 Merchandise imports by origin, 2015-19

	2015	2016	2017	2018	2019
Total imports (USD billion)	202.7	194.2	221.5	248.2	236.6
	(% of total)				
Americas	9.3	8.8	9.0	8.2	9.7
United States	6.8	6.2	6.7	6.0	7.3
Other America	2.4	2.6	2.3	2.2	2.4
Europe	11.4	12.3	13.6	12.8	11.5
EU-28	8.9	9.3	9.3	9.0	8.8
Germany	2.7	3.0	2.7	2.7	2.7
France	1.3	1.4	1.6	1.5	1.3
United Kingdom	1.3	1.0	1.3	1.2	1.0
EFTA	2.4	2.3	3.4	2.9	1.7
Switzerland	2.3	2.1	3.2	2.7	1.5
Other Europe	0.01	0.7	0.9	0.9	0.9
Commonwealth of independent states (CIS)	1.2	1.2	1.2	1.2	1.3
Africa	1.0	1.0	1.3	1.7	1.5
Middle East	9.1	7.6	8.2	9.7	8.3
United Arab Emirates	4.0	3.1	3.3	4.2	3.1
Saudi Arabia, Kingdom of	2.4	2.5	2.7	2.9	2.4
Qatar	1.5	1.3	1.1	1.4	1.4
Asia	66.1	67.7	65.5	65.3	66.6
China	20.3	21.6	20.0	20.1	21.3
Japan	15.4	15.8	14.5	14.2	14.0
Other Asia	30.4	30.3	31.1	31.0	31.3
Malaysia	5.9	5.6	5.2	5.3	5.4
Korea, Republic of	3.5	3.8	3.6	3.6	3.7
Chinese Taipei	3.7	3.7	3.7	3.5	3.4
Indonesia	3.2	3.3	3.3	3.2	3.1
Singapore	3.5	3.4	3.6	3.1	3.2
Australia	2.1	1.8	2.0	2.4	1.7
Viet Nam	2.0	2.3	2.2	2.3	2.3
India	1.3	1.3	1.8	2.0	2.0
Philippines	1.2	1.4	1.5	1.4	1.4
Thailand	1.3	1.5	1.5	1.3	1.6
Myanmar	1.8	1.2	1.1	1.2	1.4
Hong Kong, China	0.8	0.8	1.3	1.2	1.3
Lao PDR	0.7	1.0	1.0	1.1	1.1
<i>Memorandum:</i>					
ASEAN	19.0	18.8	18.6	18.2	19.0
APEC	70.9	71.9	69.9	68.8	70.5

Source: Ministry of Commerce; Customs Department; and UNSD (SITC Rev.3).

Table A2.1 Thailand's preferential tariff utilization rate under RTAs, 2015-19

(USD million)

Partners	2015			2016			2017			2018			2019		
	Exports of eligible goods	Exports under RTAs	Utilization rate (%)	Exports of eligible goods	Exports under RTAs	Utilization rate (%)	Exports of eligible goods	Exports under RTAs	Utilization rate (%)	Exports of eligible goods	Exports under RTAs	Utilization rate (%)	Exports of eligible goods	Exports under RTAs	Utilization rate (%)
ASEAN	30,911.6	19,460.8	62.96	35,906.5	21,498.9	59.87	37,763.8	23,804.7	63.04	38,259.1	26,890.3	70.28	38,403.9	24,553.4	63.93
China	14,381.0	11,370.6	79.07	15,111.3	11,148.3	73.77	18,643.6	14,136.9	75.83	19,910.6	17,633.9	88.57	20,015.4	18,021.3	90.04
India ^a	5,185.4	3,027.2	58.38	5,154.2	3,012.3	58.44	6,341.0	3,680.7	58.05	7,452.5	4,466.4	59.93	5,879.4	4,270.9	72.64
Australia ^b	8,384.8	8,164.9	97.38	8,578.8	7,717.5	89.96	9,072.7	8,510.7	93.81	9,266.4	9,121.2	98.43	8,025.6	7,745.9	96.51
Japan ^c	7,556.0	6,501.0	86.04	7,547.1	6,354.7	84.20	7,715.4	6,939.6	89.94	8,205.4	7,565.8	92.20	8,114.0	7,456.3	91.90
Korea, Rep. of	2,400.4	1,913.7	79.72	2,794.6	2,102.2	75.22	3,134.6	2,537.6	80.95	3,492.4	3,045.1	87.19	3,468.3	2,841.3	81.92
New Zealand ^d	1,049.2	73.4	6.99	1,168.3	84.7	7.25	1,324.5	132.7	10.01	1,333.5	120.9	9.07	1,242.4	121.7	9.80
Peru	18.6	15.1	81.51	12.7	7.6	59.62	13.6	10.2	74.67	16.3	14.0	85.97	20.1	18.4	91.65
Chile ^e	93.5	8.4	8.97	540.9	539.6	99.77	733.7	688.6	93.85	753.3	744.6	98.85	524.6	530.7	101.15 ^f

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

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

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

d Includes only the AANZFTA, as the Thailand-New Zealand Closer Economic Partnership (TNZCEP) uses self-declaration.

e The Thailand-Chile Free Trade Agreement (TCFTA) entered into force on 5 November 2015.

f The utilization rate of over 100% could be due to: (i) a retroactive certificate of origin; or (ii) the application of certificates of origin by exporters in the month prior to the actual exportation.

Note: This information does not include preference utilization under the ASEAN-Hong Kong, China FTA, as it entered into force on 11 June 2019.

Source: Information provided by the authorities.

Table A3. 1 State involvement in the economy, 2019

SOE*	Function
Financial institutions	
Krung Thai Bank Public Company Ltd.	Provide universal banking and financial services as a normal commercial bank
Government Savings Bank	Promote savings, and provide various banking services
Government Housing Bank	Provide housing loans, especially for low- and medium-income borrowers
Bank for Agriculture and Agricultural Cooperatives	Provide financial assistance for farmers and their institutions to increase productivity and incomes, and offer deposit services to farmers throughout the country
Export-Import Bank of Thailand	Provide financial support to Thai businesses, particularly SMEs, involved in international trade, to improve their access to financial resources, and to Thai investors, to enhance competitiveness
Small and Medium Enterprise Development Bank of Thailand	Support government policy for helping and promoting SMEs by financing and providing other services according to SME needs, and encourage and develop Thai SMEs' capacity enhancement
Secondary Mortgage Corporation	Develop the secondary market for housing mortgage loans by using asset securitization for fund-raising to expand housing mortgage financing
Thai Credit Guarantee Corporation	Assist SMEs to access financial institutions, and strengthen confidence of financial institutions in providing credit to SMEs
Islamic Bank of Thailand	Provide financial services complying with Shariah banking codes
Office of the Government Pawnshop	Provide access to financial resources for low-income people with relatively low interest rates
Islamic Bank Asset Management Company Ltd.	Manage non-performing loans, particularly for the Islamic Bank of Thailand
Energy	
Electricity Generating Authority of Thailand	Own and operate power plants and the transmission network, and be the single buyer for electricity in Thailand
Metropolitan Electricity Authority	Conduct business in the power distribution system in Bangkok, Nonthaburi and Samutprakarn
Provincial Electricity Authority	Conduct business in the power distribution system in provincial areas besides Bangkok, Nonthaburi and Samutprakarn
PTT Public Company Ltd.	Conduct integrated energy and petrochemical businesses as the nation's energy company
Telecommunications	
MCOT Public Company Ltd.	Mass communication businesses, including TV, radio broadcasting, news services, and other joint operations with private parties
TOT Public Company Ltd.	Provide telecommunications and other related services to ensure public access to information and communication services
CAT Telecom Public Company Ltd.	Operate and deliver telecommunications and other related services to customers, domestically and overseas
Thailand Post Company Ltd.	Provide delivery of goods and packages nationwide, with exclusive rights for postal services (letters and postcards)
Transport	
Airports of Thailand Public Company Ltd.	Manage and operate international airports, and provide related services
Port Authority of Thailand	Manage and supervise both central and regional ports
State Railway of Thailand	Manage and operate railways 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 Ltd.	Air carrier and related services
Transport Company Ltd.	Intercity bus operator
Civil Aviation Training Center	Responsible for training-related aviation services
Mass Rapid Transit Authority of Thailand	Operate mass rapid transit systems in metropolitan areas
Expressway Authority of Thailand	Provide expressways (toll roads)
Social and technology	
Tourism Authority of Thailand	Promote tourism and the tourist industry
Sports Authority of Thailand	Supervise and promote sport, and act as the centre for sports coordination, domestically and internationally
Thailand Institute of Scientific and Technological Research	Conduct science and technology R&D, and promote knowledge in science and technology

SOE*	Function
National Science Museum	Provide museums for promoting knowledge in science and technology to the public
Government Pharmaceutical Organization	Medical drug and supply, manufacturing and procurement organization
Industry and commerce	
Government Lottery Office	Sole lottery operator in Thailand
Marketing Organization	Manage distribution centres for agricultural products, to promote marketing networks among producers and buyers
Tobacco Authority of Thailand	Produce cigarettes
Playing Card Factory	Produce playing cards
Liquor Distillery Organization	Produce alcohol for commercial use
Police Printing Bureau	Responsible for security printing, especially for the Royal Thai Police
Bangkok Dock Company Ltd.	Build and repair ships, especially for the Royal Thai Navy
Syndicate of Thai Hotels and Tourists Enterprises Ltd.	Operate hotels with private operators
Agriculture	
Dairy Farming Promotion Organization of Thailand	Produce dairy products under the Thai-Denmark brand
Rubber Authority of Thailand	Encourage a sustainable rubber planting method, and develop rubber product processing to meet high quality with value added
Marketing Organization for Farmers	Market agricultural products
Fish Marketing Organization	Operate fish markets
Public Warehouse Organization	Provide warehouse space and storage for rice and agricultural products
Natural resources	
Forest Industry Organization	Responsible for lumber plantation, and produce lumber products
Botanical Garden Organization	Responsible for state botanical centres and museums, and for plant conservation
Zoological Park Organization	Operate zoos, cater for endangered species, participate in animal breeding programmes, facilitate visitors and community education and wildlife conservation
Public utility	
National Housing Authority	Provide housing for people with low to medium income, in order to provide better quality of life
Metropolitan Waterworks Authority	Provide a good quality supply of water in Bangkok, Nonthaburi and Samutprakarn
Provincial Waterworks Authority	Provide a good quality supply of water outside Bangkok, Nonthaburi and Samutprakarn
Wastewater Management Authority	Manage wastewater management systems
Dhanarak Asset Development Company Ltd.	Develop government project (The Government Complex)
Industrial Estate Authority of Thailand	Develop industrial estates, and provide services necessary in them

Source: Information provided by the authorities.