

Executive Summary

Thailand, the second largest economy in ASEAN after Indonesia, is an upper middle-income country with pro-investment policies and a well-developed and growing infrastructure platform. In May 2014, Thailand's democratically elected government was overthrown in a bloodless military coup, and the military continues to rule over an interim government, interim legislature, and other entities tasked with developing and implementing reforms. Despite the upheaval, Thailand continues to maintain an open, market-oriented economy and encourages foreign direct investment as a means of promoting economic development, employment, and technology transfer. In recent decades, Thailand has been a major destination for foreign direct investment, and hundreds of U.S. companies have invested in Thailand successfully. Thailand continues to welcome investment from all countries and seeks to avoid dependence on any one country as a source of investment. Economic recovery and growth will be important to maintaining investor confidence. Delays in infrastructure spending and increased concerns about Thailand's regional competitiveness continue to weigh on growth forecasts, but investors remain cautiously optimistic that the Thai economy will retain its well-known resiliency and resume more robust growth.

Reforms implemented after the 1997-98 Asian Financial Crisis were designed to foster a more competitive and transparent climate for foreign investors. The Foreign Business Act (FBA) of 1999 continues to govern most investment activity by non-Thai nationals. Many U.S. businesses also enjoy investment benefits through the U.S.-Thailand Treaty of Amity and Economic Relations (AER), originally signed in 1833. The Treaty allows U.S. citizens and businesses incorporated in the United States or in Thailand that are majority-owned by U.S. citizens to engage in business on the same basis as Thai companies (national treatment) and exempts them from most restrictions on foreign investment imposed by the Foreign Business Act, although some types of business remain excluded under the Treaty. Notwithstanding their Treaty rights, many U.S. investors also choose to form joint ventures with Thai partners who hold a majority stake in the company, leveraging their partner's knowledge of the Thai economy and local regulations.

Consistent and predictable enforcement of government regulations remains problematic for investors in Thailand. Gratuity payments to civil servants responsible for regulatory oversight and enforcement remain a common and inefficient practice.

The Thai government maintains a regulatory framework that broadly encourages investment and largely avoids market-distorting support for specific sectors. Government policies generally do not restrict the free flow of financial resources to support product and factor markets, and credit is generally allocated on market terms rather than by "directed lending." Legal, regulatory, and accounting systems are largely transparent, with the Thai government investing considerable effort to bring these systems in line with international norms and achieving significant progress.

The Board of Investment (BOI) is Thailand's central investment promotion authority and offers investment incentives uniformly to both qualified domestic and foreign investors through clearly articulated application procedures. BOI in 2014 announced a new strategy to promote foreign

direct investment over a seven-year period from 2015-2022. The strategy is intended to improve Thailand's competitiveness, reduce its reliance on low cost labor, and focus on high technology to support the government's efforts to build a digital economy. The new strategy awards privileges based on types of projects, emphasizing those that support the digital economy, such as high technology, research and development, design, and other specific industries in the same designated sectors. As part of its strategic development plan, the government is developing ten Special Economic Zones, which will offer additional tax and non-tax benefits to investors, and building industrial clusters around the country to attract investment, decentralize development, and create opportunities for Small- and Medium-sized Enterprises (SMEs). The industrial clusters will also offer incentives and privileges for investors in the following sectors:

- Automotive and Parts;
- Electrical Appliances, Electronics and Telecommunication Equipment;
- Petrochemical and Eco-Friendly Chemical Product;
- Agro-processing;
- Textile and Garment.

Detailed information on these incentives can be found on the website of the Board of Investment: www.boi.go.th

Table 1

Measure	Year	Index or	Website Address
TI Corruption Perceptions index	2015	76 of 175	http://www.transparency.org/cpi2015#results-table
World Bank's Doing Business Report	2015	49 of 189	http://www.doingbusiness.org/rankings
Global Innovation Index	2015	55 of 143	http://www.globalinnovationindex.org/content/page/data-analysis
U.S. FDI in partner country (\$M USD, World Bank GNI per capita	2014	\$11,729	http://www.BEA.gov http://www.data.worldbank.org/indicator/NY.GNP.PCAP.CD
	2014	\$5,780	

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

Despite the May 2014 coup and continued rule by an interim military-led government, Thailand continues to maintain an open market-oriented economy and encourages foreign direct investment as a means of promoting economic development, employment, and technology transfer. In recent decades, Thailand has been a major destination for foreign direct investment, and hundreds of U.S. companies have successfully invested in Thailand. Thailand continues to welcome investment from all countries and seeks to avoid dependence on any one country as a source of investment. Economic growth has been slow over the past couple years, but investors remain cautiously optimistic that the Thai economy will retain its well-known resiliency and resume growth. Many companies, however, are also carefully considering market factors, including the country's declining competitiveness, when making future investment decisions.

In the wake of the 1997-98 Asian Financial Crisis, Thailand embarked on an International Monetary Fund (IMF)-sponsored economic reform program designed to foster a more competitive and transparent climate for foreign investors. Legislation in 1999 established a new bankruptcy court, reformed bankruptcy and foreclosure procedures, and allowed creditors to pursue payment from loan guarantors. Other 1999 reforms include amendments to the Land Code, Condominium Act, and the Property Leasing Act, all of which liberalized restrictions on property ownership by non-Thais, and passage of the Foreign Business Act (FBA).

Foreign companies are free to open and maintain bank accounts in foreign currency. However, Thailand retains, to some extent, investment control, as under certain circumstances, foreign investors that were previously granted national treatment are subject to some reservations, particularly in the service sector.

Other Investment Policy Reviews

The World Trade Organization conducted a Trade Policy Review of Thailand in November 2015. Information is available on the WTO website:

https://www.wto.org/english/tratop_e/tpr_e/tp426_e.htm

Laws/Regulations on Foreign Direct Investment

The Foreign Business Act (FBA) of 1999 continues to govern most investment activity by non-Thai nationals. The FBA opened some additional business sectors to foreign investment; however, foreign investment in most service sectors is limited to 49 percent ownership. Other key laws governing foreign investment are the Alien Employment Act B.E. 2521 (1978) and the Investment Promotion Act B.E. 2520 (1977).

Many U.S. businesses enjoy investment benefits through the U.S.-Thailand Treaty of Amity and Economic Relations (AER), originally signed in 1833. The 1966 iteration of the Treaty allows U.S. citizens and businesses incorporated in the United States, or in Thailand that are majority-owned by U.S. citizens, to engage in business on the same basis as Thai companies (national

treatment), exempting them from most restrictions on foreign investment imposed by the Foreign Business Act.

The Financial Institutions Business Act, passed at the end of 2007, unified the legal framework and strengthened the Bank of Thailand's (the country's central bank) supervision and enforcement powers. The Act gave power to the Bank of Thailand to raise foreign ownership limits for existing local banks from 25 percent to 49 percent on a case-by-case basis. The Act also allows the Minister of Finance to authorize foreign ownership above 49 percent if recommended by the central bank. Further details are available on the Bank of Thailand website: https://www.bot.or.th/English/AboutBOT/LawsAndRegulations/SiteAssets/Law_E24_Institution_Sep2011.pdf.

Apart from acquiring shares of existing local banks, foreign banks can enter the Thai banking system by obtaining new licenses (from the central bank and the Ministry of Finance).

The 2008 Life Insurance Act and the 2008 Non-Life Insurance Act apply a 25 percent cap on foreign ownership of insurance companies and on foreign boards of directors. However, in January 2016 the Office of the Insurance Commission (OIC, the primary regulator) provided notification that any Thai insurance company wishing to have one or more foreigners holding more than 25 percent (but no more than 49 percent) of its total voting shares, or to have foreigners comprising more than a quarter (but less than half) of its total directors, may apply for approval by the OIC for both life and non-life insurance companies. Meanwhile, any foreign national who wishes to hold more than 10 percent of the voting shares in an insurance company must seek approval from the OIC. With approval of the OIC, a foreign national can acquire up to 49 percent of the voting shares. Any foreign shareholder holding more than ten percent of the voting shares prior to the effective date of the notification is grandfathered in and may maintain their current shareholding, but must obtain OIC approval to further increase shareholding. The OIC's latest notification (in Thai language only) is posted on the OIC's website: <http://www1.oic.or.th/upload/lifeinsurance/download/1980-6453.pdf>.

In addition, the Finance Minister, on the recommendation of the OIC, has discretion to permit greater than 49 percent foreign ownership and a majority of foreign directors, only where the operation of the insurance company may cause loss to insured parties or to the public.

Business Registration

Any entity wishing to do business in Thailand must register with the Department of Business Development at the Ministry of Commerce, which generally takes three to six months to complete. Online business registration is only minimally functional and the forms are in Thai; therefore, foreigners typically hire a law firm or consulting firm to handle their applications. Firms engaging in production activities need to register with the Ministries of Industry and Labor and Social Welfare. If the entity falls under the definition of non-Thai national, as defined by the Foreign Business Act, it must obtain a foreign business license, which must be approved by the Council of Ministers (Cabinet) or Director-General of Department of Business Development at the Ministry of Commerce, depending on the applicable category of restricted business.

Effective February 11, 2016, the Department Business Development (DBD) of the Ministry of Commerce removed four categories from the Annex 3 list of the Foreign Business Act: commercial banking, bank representative offices, life insurance, and property and casualty insurance. Businesses in these sectors will no longer have to seek operating licenses from the DBD, as they are subject to specific banking laws and regulations of the Bank of Thailand and the Office of Insurance Commission, respectively. The aim is to reduce the number of redundant laws and regulations and to promote foreign businesses in Thailand.

Americans planning to invest in Thailand are advised to obtain qualified legal advice. Such advice is particularly important given that Thai business regulations are governed predominantly by criminal, not civil, law. While foreigners are rarely jailed for improper business activities, violation of Thai business regulations can carry heavy criminal penalties. Thailand has an independent judiciary and government authorities are generally not permitted to interfere in the court system once a case is in process.

For more information, visit: <http://export.gov/thailand/index.asp>

Below are the main types of business structures that are set up by American companies in Thailand:

Partnership: Thai and Western concepts of partnership are broadly similar. Thailand provides for three general types of partnerships: unregistered ordinary partnerships, registered ordinary partnerships and limited partnerships.

Limited companies: There are two types of limited companies. Private companies are governed by the Civil and Commercial Code, while public companies are governed by the Public Company Act.

Private Limited Companies in Thailand are similar to those of Western corporations. A private limited company is formed through a process which leads to the registration of a Memorandum of Association (Articles of Incorporation) and Articles of Association (By-laws), as its constitutive documents. A minimum of seven shareholders is required at all times. A private limited company may be wholly owned by aliens; however, in those activities reserved for Thai nationals, foreign participation is generally allowed up to a maximum of 49 percent. The registration fee for a private limited company is 5,500 baht per million baht of capital.

Public Limited Companies registered in Thailand may, subject to compliance with the prospectus, approval, and other requirements, offer shares, debentures and warrants to the public, and may apply to have their securities listed on the Stock Exchange of Thailand (SET). A minimum of 15 promoters is required for the formation and registration of the memorandum of association of a public limited company, and the promoters must hold their shares for a minimum of two years before they can be transferred. The Board of Directors of a public limited company must have a minimum of five members, at least half of whom are Thai nationals. The registration fee is 2,000 baht per million baht of capital for a public limited company.

Joint Venture: A joint venture may be described in accordance with general practice as a group of persons (natural and/or juristic) entering into an agreement in order to carry on a business together. It has not yet been recognized as a legal entity under the Civil and Commercial Code. However, income from the joint venture is subject to corporate taxation under the Revenue Code, which classifies it as a single entity.

Representative Office: A representative office is limited to engaging in non-profit activities. In order to form a representative office, at least one of the following purposes would need to be sought for the purposes of limited “non-trading” activities:

- To search for a source of goods or services in Thailand for the headquarters overseas
- To check the quality and quantity of a product ordered by the headquarters overseas
- To give advice to headquarters about goods to order
- To supply information about headquarters’ products to customers in Thailand
- To report economic movement in Thailand to headquarters

Steps to Establishing a Company

- **Step 1: Corporate Name Reservation**

The name must be reserved, and must not be the same as or similar to that of other companies. Certain names are not allowed, as detailed in the name reservation guidelines issued by the Business Development Office of the Ministry of Commerce. The approved corporate name is valid for 30 days. No extension is allowed.

- **Step 2: Filing of Memorandum of Association**

A Memorandum of Association to be filed with the Business Development Office must include the name of the company that has been successfully reserved, the province where the company will be located, its business objectives, the capital to be registered, and the names of the seven promoters. The capital information must include the number of shares and the par value. Although there are no minimum capital requirements, the amount of capital should be respectable and adequate for the intended business operation.

- **Step 3: Convene a Statutory Meeting**

Once the share structure has been defined, a statutory meeting is called, during which the articles of incorporation and bylaws are approved, the Board of Directors is elected, and an auditor appointed. A minimum of 25 percent of the par value of each subscribed share must be paid.

- **Step 4: Registration**

Within three months of the date of the Statutory Meeting, the directors must submit an application to establish the company. Company registration fees are 500 baht per 100,000 baht of registered capital. The minimum fee is 5,000 baht; the maximum is 250,000 baht.

- **Step 5: Tax Registration**

Businesses liable for income tax must obtain a tax I.D. card and number for the company from the Revenue Department within 60 days of incorporation or the start of operations.

Business operators earning more than 600,000 baht per annum must register for VAT within 30 days of the date they reach 600,000 baht in sales.

For a private or public limited company, if 50 percent or more of the company's shares are owned by a foreigner, the company will be considered foreign and subject to the Foreign Business Act, which prohibits the operation of certain business activities unless approvals are obtained from the Ministry of Commerce (MOC). Foreign investors usually carry on business through a limited company, branch or representative office.

The most frequently utilized type of legal entity in Thailand is the limited-company, which is similar in structure to the Limited Liability Company (LLC) in the United States. A limited-company is owned by a minimum of three shareholders and managed by at least one director. It has the advantage of being a stand-alone company under Thai law.

As for company registration in Thailand, it is important to be aware that at least 51 percent of a company's shares must be held by Thai citizens. The remaining shares may be held by foreigners. In spite of this, it is still possible for a foreigner to maintain controlling interest in a company by issuing two separate classes of shares: ordinary and preferred. Shareholders with ordinary shares have more voting rights in the company. At least one director is chosen by the shareholders. Only the director(s) is authorized to sign anything on behalf of the company, and individual shareholders are only liable for their percentage of shares.

A company is required to have registered capital of two million Thai baht per foreign employee in order to obtain work permits. For example, a company with two non-Thai employees is required to have a registered capital of at least four million Thai baht. Foreign employees must enter on a non-immigrant visa and then submit work permit applications directly to the Department of Labor. Application processing takes approximately one week.

For more information on Thailand visas, please refer to the website of Ministry of Foreign Affairs: [http://www.mfa.go.th/main/en/services/4908/15388-Non-Immigrant-Visa-%22B%22-\(for-Business-and.html](http://www.mfa.go.th/main/en/services/4908/15388-Non-Immigrant-Visa-%22B%22-(for-Business-and.html)

According to the Institute for Small and Medium Enterprises Development of the Ministry of Industry, small and medium enterprises are defined as follows:

- Production and Service Sectors:
 - Medium: fixed assets not over 200 million Thai Baht; fewer than 200 employees
 - Small: fixed assets not over 50 million Thai Baht; fewer than 200 employees

- Trading Sector:
 - Medium:
 - Wholesale: fixed assets not over 100 million Thai Baht; fewer than 50 employees
 - Retail: value of fixed assets not over 60 million Thai Baht; fewer than 50 employees
 - Small:

Wholesale: fixed assets not over 50 million Thai Baht; fewer than 25 employees
Retail: fixed assets not over 30 million Thai Baht; fewer than 15 employees

Thai government agencies have incentives to only promote SMEs with Thai majority shareholding.

Industrial Promotion

The Thailand Board of Investment (BOI) introduced a new seven-year investment promotion policy beginning in 2015. The new BOI policy no longer supports activities that have low added value, are labor intensive, or involve low technology and/or uncomplicated production processes. The new BOI strategy focuses on 1) investment that helps enhance national competitiveness by encouraging research and development (R&D), innovation, and value creation in the agricultural, industrial, and services sectors, and SMEs; 2) activities that are environmentally friendly, save energy, or use alternative energy; 3) industrial clusters to create investment concentration in accordance with regional potential and strengthen value chains; 4) investment in border provinces in southern Thailand to help develop the local economy, supporting efforts to enhance security in the area; 5) the development of planned special economic zones, especially in border areas, to create economic connectivity with neighboring countries, and to prepare for entry into the ASEAN Economic Community; and 6) the promotion of Thai overseas investment.

Activity-based incentives vary and are categorized from A1 to B2. The activities in the A1 field are those that the country wants to promote the most, and will receive the highest incentives, such as an eight-year corporate income tax exemption without a cap, exemption of import duty on machinery and raw materials, and other non-tax incentives.

A1 activities include electricity generation, creative product design, electronics design, and R&D. Merit-based incentives are meant to encourage investment that benefits the country. A 200 percent additional cap on corporate income tax incentives will be granted to a company that has a high ratio of expenditure on R&D.

Limits on Foreign Control and Right to Private Ownership and Establishment

According to the Foreign Business Act 1999 (FBA), certain types of business activities are reserved for Thai nationals only. Foreign investment in those businesses must comprise less than 50 percent of share capital, unless specially permitted or otherwise exempt.

The following three lists, attached as annexes to the FBA, detail restricted businesses for foreigners:

List 1. This contains activities prohibited to non-nationals, including:

- Newspaper or radio broadcasting stations and radio and television station businesses
- Rice farming and growing plantations or crops
- Livestock farming
- Forestry and timber processing from a natural forest
- Fishery in Thai territorial waters and specific economic zones
- Extraction of Thai medicinal herbs

- Trading and auctioning of antique objects or objects of historical value from Thailand
- Making or casting of Buddha images and monk alms bowls
- Land trading

List 2. This contains activities related to national safety or security, or those which affect arts and culture, tradition, folk handicrafts, or natural resources and the environment. Among other things, they include:

- The production, sale and maintenance of firearms and armaments.
- Domestic transportation by land, water, and air.
- Trading of Thai antiques or art objects.
- Mining, including rock blasting and rock crushing.
- Timber processing for production of furniture and utensils.

Remark: A foreign majority-owned company can engage in List 2 activities if Thai nationals or legal persons hold not less than 40 percent of the total shares and the number of Thai directors is not less than two-fifths of the total number of directors.

Exceptions are those which receive:

- Permission from the Minister of Commerce with approval by the Cabinet (if there is a reasonable cause, the Minister, with the approval of the Cabinet, may reduce the Thai shareholding requirement, which cannot be less than 25 percent of the total shares)
- Investment promotion from the Board of Investment
- Authorization by the Industrial Estate Authority of Thailand
- Permission under a treaty to which Thailand is bound

List 3. This contains activities in which there are economic protections for Thai nationals. Among other things, they include:

- Accounting, legal, architectural, or engineering services
- Retail and wholesale
- Advertising businesses
- Hotels
- Guided touring
- Selling food or beverages
- Any kind of service business

There are exceptions to List 3 for those which receive the following:

- Permission from the Director-General of the Department of Business Development at the Ministry of Commerce, with approval by the Foreign Business Committee, on obtaining a Foreign Business License.
- Investment promotion from the Board of Investment or from the Industrial Estate Authority of Thailand, on obtaining a Foreign Business Certificate from the Director-General of the Department of Business Development at the Ministry of Commerce.
- Protection under a treaty or obligation to which Thailand is bound, including: US Treaty of Amity and Economic Relations; Thai-Australia Free Trade Agreement (TAFTA); Japan-Thailand Economic Partnership Agreement (JTEPA); and ASEAN Framework

Agreement on Services (AFAS), on obtaining a Foreign Business Certificate from the Director-General of the Department of Business Development at the Ministry of Commerce.

Further restrictions on foreign ownership in specific sectors, such as telecommunications, banking, or insurance, are regulated in specific laws pertaining to these sectors, such as the Telecommunications Business Act (2006), the Financial Institution Business Act (2008), the Life Insurance Act (1992), and the Non-Life Insurance Act (1992).

The U.S.-Thai Treaty of Amity and Economic Relations of 1833, commonly referred to as the Treaty of Amity, is a special economic relationship between the United States of America and the Kingdom of Thailand that gives special rights and benefits to U.S. citizens who wish to establish their businesses in Thailand. The Treaty of Amity was amended in 1966 and provides two major benefits:

- American companies are permitted to maintain a majority shareholding or to wholly own its company, branch office, or representative office located in Thailand.
- American companies receive national treatment, meaning U.S. firms may engage in business on the same basis as Thai companies, and are exempt from most of the restrictions on foreign investment imposed by the Alien Business Law of 1972.

Despite the Treaty of Amity, there are still certain restrictions on U.S. investment as follows:

- Owning land
- Engaging in inland transportation and communication industries
- Engaging in fiduciary functions
- Engaging in banking involving depository functions
- Engaging in domestic trade in indigenous agricultural products
- Exploiting land or other natural resources

The U.S. Commercial Service, U.S. Embassy Bangkok, is responsible for issuing a certification letter to confirm that the applicant is qualified to apply for protection under the Treaty of Amity. The applicant must first obtain documents verifying that the company has been registered in compliance with Thai Law. Upon receipt of the required documents, the U.S. Commercial Service office will then certify to the Thai Department of Commercial Registration in the Ministry of Commerce that the applicant is seeking to register an American-owned and managed company or that the applicant is an American citizen and is therefore entitled to national treatment under the provisions of the Treaty. For more information on how to apply for protection under the Treaty of Amity, please e-mail: ktantisa@trade.gov

Privatization Program

With the aim of encouraging capital inflows and relieving resource constraints in many key sectors of the economy, the government of Thaksin Shinawatra embarked on a privatization program for state-owned economic enterprises (SOEs) and state monopolies. However, most privatization plans have remained on hold since 2006. Other than the Petroleum Authority of Thailand (PTT), the Airport Authority of Thailand (later renamed Airports of Thailand (AOT)), and the Mass Communication Organization of Thailand (MCOT), few significant privatizations have occurred. The 1999 State Enterprise Corporatization Act provides the framework for the conversion of SOEs into stock companies, and corporatization is viewed as an intermediate step

toward eventual privatization. (Note: "Corporatization" describes the process by which an SOE adjusts its internal structure to resemble a publicly-traded enterprise; "privatization" means that a majority of the SOE's shares is sold to the public, and "partial privatization" refers to a situation in which less than half of a company's shares are sold to the public.) Foreign investors are allowed to participate in privatization, but restrictions are applied in certain sectors, regulated by the FBA and the Act on Standards Qualifications for Directors and Employees of State Enterprises of 1975 and its series of amendments.

The new 15-member State Enterprises Policy Commission, or "superboard," was established in 2014 to oversee reform of the country's 55 SOEs. In March 2015, the superboard approved, in principle, the establishment of a holding firm to supervise 12 SOEs, which have been partially equitized and listed on the Stock Exchange of Thailand, while the State Enterprise Policy Office will be retained to supervise SOEs that have been established by specific laws, including the Electricity Generating Authority of Thailand, the Metropolitan Electricity Authority, and the Provincial Electricity Authority. The superboard is now in the process of pushing through a new law that will reform these SOEs and ensure transparent management decisions; however, privatization is not part of the process.

Screening of FDI

Thailand does not have any government agency to screen, review, or approve foreign direct investment. The Board of Investment (BOI), which operates under the Ministry of Industry, is the principal government agency for encouraging investment in the country. Foreign investment in Thailand does not require approval from the BOI, provided the necessary operating permits have been obtained.

The BOI appoints a subcommittee, comprised of 15 members, including the BOI Secretary General as Chairman; BOI senior executives; and representatives from the public and private sectors. The subcommittee is responsible for approving investment projects with an investment value between 200 and 750 million baht (USD 6.1 and USD 23 million) and export-led projects with over 750 million baht (USD 23 million) in investment value. The sub-committee is also responsible for screening projects with an investment value of over 750 million baht (USD 23 million) and passes them on to the BOI Board for further consideration and approval.

Competition Law

The Thailand Trade Competition Act (hereafter called "the Competition Act") contains provisions regarding price fixing and monopolies. According to the law, the "Competition Commission," which includes the Minister of Commerce as Chairman, other Government officials, and no more than twelve other qualified persons as members, is responsible for the enforcement of the Act. They hold office for a term of two years and not more than two consecutive terms in case they are re-appointed. The Commission has the power to consider complaints, to prescribe rules related to dominant positions, to consider applications for permission to merge businesses, or to initiate the joint reduction or restriction of competition to give orders for suspension, cessation, correction, or variation of activities by business operations.

Anti-competitive behaviors under the Act have been defined and divided into specific categories. Section 25 prohibits businesses with dominant positions to abuse their market power. A business

operator with market domination is defined under the Competition Act as one or more business operators in the market of any goods or services who have the market share and sales volume above the level that is prescribed by the Commission.

Section 26 prohibits any merger that may create monopolistic power or reduce competition, unless it obtains authorization from the Commission granting that it is a business necessity and beneficial to the economy.

Section 27 prohibits a business operator from conspiring, colluding, or collaborating with another business operator in order to create monopolistic power or reduce competition. In the case where it is reasonably necessary in the business and does no serious harm to the economy, the business operators shall submit an application for permission to the Commission. The Commission has already approved forms, rules, and procedures to apply for permission for any kind of anti-competitive agreement.

Section 28 deals with agreements between domestic and overseas business operators performing an activity that will restrict the freedom or opportunity of a person residing in the Kingdom from purchasing goods or services for his/her own use directly from business operators outside the Kingdom.

Section 29 of the Act also prohibits a business operator from performing any act which is not free and fair competition and which results in destroying, impairing, obstructing, impeding, or restricting business operations of other business operators, preventing other persons from carrying out business, or causing the cessation of business.

Failure to abide by the above provisions of the Competition Act could result in jail terms between one to three years and/or fines ranging from two to six million baht (USD 61,427 to USD 184,281). Note that under the Act, such penalties may be applied not only to the enterprises, but also to their managing partners or persons in charge of operations, unless the offense at stake was committed without his/her knowledge or consent and/or reasonable measures were taken to prevent such offense.

2. Conversion and Transfer Policies

Foreign Exchange

There are no limitations placed on foreign investors for converting, transferring, or repatriating funds associated with an investment. Repatriation of investment funds and repayments of overseas loans can be remitted freely, but only upon submission of supporting documents to commercial banks, including evidence of sale or transfer in the case of investment funds and evidence of inward remittances supporting the loan agreement. Foreign currency must be converted to Thai baht or deposited with authorized banks within 360 days after the date of bringing the money into the country. There are some exceptions for foreigners staying in Thailand for less than three months and those working for foreign embassies and international organizations. A foreigner could also open a Foreign Currency Deposit (FCD) Account at domestic commercial banks with no restrictions on maximum values if the fund originated from overseas. If the fund originated in Thailand, there are also no restrictions on maximum values, but a depositor needs to provide supporting documents to commercial banks. In addition, any

person who brings foreign currency into or out of Thailand exceeding USD 20,000 or the equivalent must declare the amount at a Customs checkpoint. Investment funds are allowed to be freely converted into any currency. The exchange rate is determined by a managed float system.

Remittance Policies

There are no time limitations on remittances. There are no limitations on the inflow or outflow of funds for remittances of profits or revenue.

Since Thailand, like most Asian countries, is the recipient of capital inflows, the Bank of Thailand (BOT, the country's central bank) has maintained a managed-float exchange rate regime, which focuses on curbing short-term volatility and maintaining regional competitiveness. The exchange rate movements have also been determined by market fundamentals; however, during the period of excessive capital inflows (i.e. exchange rate speculation), the central bank has stepped in to prevent extreme movements in the currency and to reduce the duration and extent of the exchange rate's deviation from the equilibrium.

The BOT normally uses both verbal and actual intervention when the Thai baht does not move in line with BOT foreign exchange policy, as determined by the Monetary Policy Committee. In practice, the BOT generally intervenes during the Asian time zone of high market liquidity.

In some cases, where the capital inflows were huge but underlying Thai economic fundamentals were still sound, the BOT adjusted its intervention strategy accordingly, allowing the Thai Baht to strengthen gradually. Since 2010, the central bank has started relaxing regulations by encouraging capital outflows (promoting outward investment of Thai investors overseas) in order to restore the balance between capital inflows and outflows in the market.

Thailand was publicly identified by the Financial Action Task Force (FATF) in 2010 for its strategic AML/CFT deficiencies, for which it developed an action plan. In February 2013, the FATF removed Thailand from its Public Statement after concluding that Thailand had made significant progress and had completed all items in its action plan. Thailand is a member of the Asia/Pacific Group on Money Laundering (APG), a FATF-style regional body.

3. Expropriation and Compensation

Private property can be expropriated for public purposes in accordance with Thai law, which provides for due process and compensation. In practice, this process is seldom used and has been principally confined to real estate owned by Thai nationals and needed for public works projects. U.S. firms have not reported any problems with property appropriation in Thailand; however, the Embassy has received reports of conflicts over land title authenticity in areas that the government has designated as national park land.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

Thailand has a civil code, commercial code, and a bankruptcy law. Monetary judgments are calculated at the market exchange rate. Decisions of foreign courts are not accepted or enforceable in Thai courts. Disputes such as the enforcement of property or contract rights have generally been resolved through the Thai courts. Thailand has an independent judiciary that is generally effective in enforcing property and contractual rights. The legal process is slow in practice, however, and litigants or third parties sometimes affect judgments through extra-legal means.

In addition, companies may establish their own arbitration agreements (see International Arbitration.)

Bankruptcy

Under Thailand's Bankruptcy Act, once the court approves a petition for liquidation, an official receiver will be appointed. The receiver will gather all of the debtor's assets, fix all of the creditors' claims, and submit a report to the court for final judgment. Until the final judgment for bankruptcy is rendered, a creditor can request the following ex parte applications from the court:

- Request an examination by the receiver of all assets of the debtor and/or request the debtor attend questioning on the existence of assets;
- Require that the debtor provide satisfactory security to the court;
- Request the court to take immediate custody of the debtor's assets and/or seize evidence in order to prevent the loss or destruction of such items.

The liability of the investor, who is a shareholder, is limited up to the amount, if any, unpaid on the shares respectively held by them. If the investor already made full payments for the shares they hold, no further liability will be charged to the investor.

Investment Disputes

There have been a couple notable cases of investor-state disputes in recent years. In 2003, the Civil Court of Thailand upheld a 6.2 billion baht (USD 190.4 million) international arbitration award against the Expressway and Rapid Transit Authority of Thailand (ETA, a Thai government agency), in favor of Bangkok Expressway, PLC (a Thai-foreign joint venture company). In 2009, Walter Bau AG (a foreign contractor) was awarded approximately 30 million Euros in an international arbitration case regarding construction of the Don Muang tollway. Subsequently, the Thai Cabinet issued a resolution prohibiting the inclusion of arbitration in public-private contracts without prior approval by the Cabinet. Since then, the Cabinet has granted approval in several cases for an arbitration clause to be included in contracts. Local law firms allege that Thai courts have refused, in some instances, to enforce international arbitration awards based on interpretations which are not in keeping with international norms.

International Arbitration

Thailand's national Arbitration Act of 2002, which was modeled in part after the UNCITRAL Model law, governs domestic and international arbitration proceedings and states that "in cases where an arbitral award was made in a foreign country, the award shall be enforced by the competent court only if it is subject to an international convention, treaty, or agreement to which Thailand is a party." The Thai Arbitration Institute of the Alternative Dispute Resolution Office, Office of the Judiciary, and the Office of the Arbitration Tribunal of the Board of Trade of

Thailand provide arbitration services to proceedings held within Thailand. In addition, the newly-established, semi-public Thailand Arbitration Center offers mediation and arbitration for civil and commercial disputes. There are only very limited circumstances under which a court can set aside an arbitration award. Thailand does not have a Bilateral Investment Treaty (BIT) or a Free Trade Agreement (FTA) with the United States.

ICSID Convention and New York Convention

Thailand is a signatory to the New York Convention, and enacted its own rules on conciliation and arbitration in the Arbitration Act of 2002. Thailand signed the Convention on the Settlement of Investment Disputes in 1985, but has not yet ratified the Convention.

Duration of Dispute Resolution – Local Courts

Disputes settled through arbitration can be settled within 12-18 months; while disputes that are litigated in domestic court can take considerably longer (up to several years) and are subject to appeal. Since the official language in all domestic court proceedings is Thai, this can present a challenge for foreigners who do not speak the language. Domestic court rulings are not enforceable outside of Thailand. It is not customary for local judges to specialize in hearing only cases involving one type of law; therefore it is not uncommon for there not to be sufficient understanding regarding the legal nature of the dispute. The Thai legal system allows the application of the international long-arm statute in the service of process regarding defendants located outside of Thailand. Nevertheless, since Thailand's legal system is based on Civil law, in order for there to be proper service, it requires that the notice be taken to the Thai Ministry of Foreign Affairs, where it undergoes a bureaucratic process in order to validate its service abroad.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Thailand committed to implement all WTO agreements, including Trade-Related Investment Measures (TRIMS); however, concerns remain over areas of import and domestic policy in sectors such as agriculture, financial services, intellectual property, telecommunications, and professional services.

Investment Incentives

The Board of Investment (BOI), established by the Investment Promotion Act of 1977, is Thailand's central investment promotion authority. The BOI offers investment incentives uniformly to both qualified domestic and foreign investors with a clear articulation of the application procedures. Good governance is one of the key factors to manage and supervise the application for tax and duty privileges. Complete information on BOI's updated policies, programs, incentives, and application procedures can be found on the BOI website at: www.boi.go.th.

Effective January 1, 2015, the BOI launched a new investment incentive policy that gives preferential benefits to investment projects based on the level of technology involved in the activities. Firms employing a high level of advanced technologies qualify for the maximum incentive package, including an eight-year exemption from corporate income taxes, while activities that do not employ advanced technology, but are nevertheless still important to the

supply chain, no longer receive any exemption. All companies may be eligible for other privileges if they engage in activities otherwise considered valuable, such as R&D, advanced technology training, or acquiring licenses to commercialize technology.

Two of the most significant privileges offered by the BOI for promoted projects are:

- Tax privileges, such as corporate income tax exemption, tariff exemption, reduction on import machinery and tariff exemption, or reduction on imported raw material
- Non-tax privileges, such as permission to own land, permission to bring foreign experts to work on the promoted projects, exemption on foreign ownership of companies, and exemption from work permits and visa rules.

Research and Development

Foreign firms, including U.S. firms, are able to benefit from the Board of Investment's promotion incentives for investment projects that employ a high level of technology and R&D.

Performance Requirements

The employment of foreigners is governed by the Foreign Employment Act and the Foreign Business Act. Both laws set employment preferences in favor of Thai nationals. Though requirements may vary, generally, employers must hire four Thais for every one foreign employee. Without exception, foreign private sector employees require work permits, which are granted by the Ministry of Labor. When considering whether to grant a work permit, the Ministry considers:

- Whether the job could be done by a Thai employee
- Whether the foreigner is qualified for the job
- Whether the job fits the present economic needs of the Kingdom

Different requirements apply to companies promoted by the BOI, which typically result in greater flexibility and ease in obtaining work permits for foreign nationals.

Such schemes apply equally to senior management and boards of directors. According to the Foreign Business Act, if a foreigner is the managing partner or the manager, the company is subject to the restrictions applicable to foreign businesses and the Foreign Business License application.

There are no excessively onerous visa, residence, work permit, or similar requirements inhibiting mobility of foreign investors and their employees.

Thai law requires foreign workers to have a work permit issued by the Ministry of Labor in order to work legally in Thailand; Thai law also reserves 39 occupations for Thai workers and will not grant work permits for foreigners to engage in these occupations, including lawyers, architects, and civil engineers. Foreigners found to be working without work permits could be imprisoned up to five years and/or fined between 2,000 and 100,000 Thai baht (approximately USD 60 to USD 3,000).

Factors that influence the granting of work permits include the degree of specialization required by the position, the size of the firm in terms of number of employees and registered

capitalization, and the ratio of Thai nationals to foreigners employed by the firm. Foreigners working for the Thai government or working on projects promoted by the BOI usually have little difficulty obtaining work permits and typically receive their permits within seven days of application. Work permits in other areas are sometimes difficult to obtain. The duration of work permits is generally tied to the length of stay permitted by the person's visa.

U.S. citizens can enter Thailand without a visa for visits of up to thirty days. In order to apply for a work permit, a foreigner must enter Thailand on a non-immigrant visa (issued at Thai embassies and consulates) for a stay of three months or, for foreigners with well-defined work or business plans, for a stay of one year. Issuance of the three-month visa is usually completed within two or three days; the one-year visa requires approval from the Immigration Bureau of the Royal Thai Police in Bangkok. Upon obtaining a work permit, a holder of a three-month visa may apply for a one-year visa, which generally can be extended every year. Foreigners holding nonimmigrant visas who have lived in Thailand for at least three consecutive years may apply for permanent residence in Thailand if they meet strict criteria regarding investment or professional skills.

Despite the fact that Thailand generally welcomes foreign investment, some sectors are subject to foreign equity restrictions. (See Limits on Foreign Ownership)

Foreign businesses falling under List 1 of the FBA cannot obtain a Foreign Business License under any circumstances. For activities under List 2 of the FBA, a foreigner would require a license from the Minister of Commerce and approval from the Thai Cabinet. Additionally, the company would have to be at least 40 percent owned by Thais (only 25 percent if the Minister of Commerce and the Cabinet have given special approval) and at least two-fifths of its managing directors would have to be Thai nationals. For activities under List 3 of the FBA, a foreigner would require a license from the Director General of the Commercial Registration Department of the Ministry of Commerce and approval from the Foreign Business Committee.

Further restrictions on foreign ownership in specific sectors, such as telecommunications, banking, or insurance, are regulated in specific laws pertaining to these sectors, such as the Telecommunications Business Act of 2006, the Financial Institution Business Act of 2008, the Life Insurance Act of 1992, or the Non-Life Insurance Act of 1992.

Exceptions from the restrictions of the FBA can be granted as promotional privileges by the BOI or IEAT, or, as a temporary measure, in the form of government approval issued by the Thai government.

Exceptions can also be provided based on international treaties Thailand has entered into. U.S. companies or nationals under the Treaty of Amity and Economic Relations between Thailand and the United States (Treaty of Amity) can be eligible for “national treatment,” where, with some exceptions, they are treated in the same way as Thai nationals. Other international treaties, such as the Thai-Australia Free Trade Agreement (TAFTA), the Japanese Thai Economic Partnership Agreement (JTEPA) or the ASEAN Comprehensive Investment Agreement (ACIA), also provide for exceptions, but these have mostly not yet been implemented under Thai laws.

Under the laws regulating exceptions from foreign investment restrictions, the authorities issuing such exceptions have been provided with bureaucratic discretion as to whether the exception will be granted.

Data Storage

The Thai government does not currently have any specific statutory law governing “forced localization” policy in which foreign investors must use domestic content in goods or technology. There are no requirements for foreign IT providers to turn over source code and/or provide access to surveillance.

6. Protection of Property Rights

Real Property

Property rights are guaranteed by the Constitution against being condemned or nationalized without fair compensation. Secured interests in property are recognized and enforced. Thailand has a civil law system under which all laws are embodied in statutes or codes promulgated by the government. This practice is in contrast to the common law system in many Western countries, where court interpretations of statutes serve as governing legal precedent. There is an independent judiciary that provides a forum for settlement of disputes. Agencies of the government, as parties to commercial contracts, may be sued in the courts, and cannot raise a defense of sovereign immunity. However, state property is not subject to execution. There are four basic codes: Civil and Commercial Code, Criminal Code, Civil Procedure Code, and the Criminal Procedure Code. Decisions and rulings of the judiciary and civil service can have considerable force as precedents.

There are three levels to the judicial system in Thailand: the Court of First Instance, which handles most matters at inception, the Court of Appeals, and the Supreme Court. There are specialized courts such as the Labor Court, Family Court, Tax Court, the Central Intellectual Property and International Trade Court, and the Bankruptcy Court. However, real property rights are uncertain because the interim constitution does not state a deadline for the enactment of the new constitution, which may define and/or protect real property rights differently.

Intellectual Property Rights

Widespread counterfeiting and piracy continue to plague intellectual property (IP) rights owners in Thailand. Particular areas of concern include counterfeiting of pharmaceuticals, cosmetics, apparel, and accessories. Piracy rates are also high for motion pictures, music, business, and entertainment software. The lack of sustained and coordinated enforcement, and, in particular, the failure to prosecute and penalize high level offenders, remains a substantial problem. The vast majority of criminal IP cases in Thailand are brought against retailers caught with relatively little infringing product. In addition to problems with counterfeiting and piracy, rights holders cite concerns about long delays in the patent process due to the large backlog of unexamined patent applications. Due to these concerns, Thailand has been on the Special 301 Priority Watch List since 2007 and on the Notorious Markets List. The government continues to develop measures to improve protection and enforcement of intellectual property rights.

Thailand amended its legal regime to comply with the WTO Agreement on Trade Related

Aspects of Intellectual Property (TRIPs) in the mid-1990s, but questions remain about Thailand's implementation of obligations to protect pharmaceutical and agricultural test data from unfair commercial use, treatment of conflicting trademarks, and geographical indications. Since that time, Thailand has not kept pace with international IP legal developments in areas such as broadcasting and digital copyright. Thailand is a signatory to long-standing IP agreements such as the Berne and Paris Conventions, but not the World Intellectual Property Organization Copyright Treaty (WCT) or the Performances and Phonograms Treaty (WPPT). Thailand acceded to the Patent Cooperation Treaty in 2009.

Under the current military-run government, Thailand recently enacted legislative amendments to the Trade Secret Act and the Copyright Act. The amendment to the Trade Secret Act changes the composition of the Trade Secret Board and substantially reduced the penalties for a trade secret disclosure by its officers. The amendments to the Copyright Act were enacted by the National Legislative Assembly as two separate amendments dealing with anti-camcording and right management information. The Anti-Camcording amendment criminalizes the unauthorized camcording in cinemas by making the act of recording an offence by itself with no exception as a fair use, as provided under the Copyright Act. The other amendment dealt with technological protection measures, right management information, exceptions, performers' rights, and ISP liability.

Thailand recently passed an amendment to the Trademark Act to streamline the trademark registration process and enable Thailand to accede to the Madrid Protocol, as well as clarify the application of the Trademark Act to illegal refilling practices. The amendment is currently pending signature into law by the King.

According to the Royal Thai Government, the latest enforcement statistics collected in 2013 shows that Thai's enforcement authorities have conducted 10,515 enforcement actions with 2,981,427 infringing items seized. The Royal Thai Government is responsible for paying for the storage and destruction of these goods. While Royal Thai Customs has ex officio authority to seize counterfeit goods, without rightholder confirmation on product identification, it is reluctant to pursue cases. The Department of Intellectual Property (DIP) is the agency responsible for registration of most intellectual property, including trademarks, patents and designs. However, due to limited resources, rightholders complain that they experience substantial delays in the registration process.

On the enforcement side, IPR infringement is commonly treated as a criminal offense in Thailand. The police unit tasked with IPR infringement cases is the Economic and Cyber Crime Division (ECD) of the Royal Thai Police. Larger cases are generally brought to the Department of Special Investigation. Penalties for IPR infringement can range from fines to imprisonment.

An IP owner may also pursue a civil case for IPR infringement. Civil enforcement of IP infringement can yield compensation, an interim injunction, or a permanent injunction. However, the burden of proof for the actual damages in a civil action is considerably higher than in the United States, and attorney's fees and litigation costs are rarely recoverable.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at <http://www.wipo.int/directory/en/>

Resources for Rights Holders:

Peter N. Fowler, Regional Intellectual Property Attaché for Southeast Asia, U.S. Embassy Bangkok, Peter.Fowler@trade.gov

The American Chamber of Commerce in Thailand, <http://www.amchamthailand.com>

7. Transparency of the Regulatory System

In 1999, Thailand enacted the Trade Competition Act, together with the Price of Goods and Services Act, to strengthen the government's ability to regulate market monopolies and price fixing. The Trade Competition Act applies to all business activities with the exception of state-owned enterprises, cooperatives, agricultural and cooperative groups, government agencies, and certain enterprises exempted by the law. The law established a Trade Competition Commission with the authority to place limitations on market share and revenues of firms with substantial control of individual market sectors, to block mergers, and other forms of business combinations, and to levy fines for price fixing and other proscribed activities. Since the law's implementation, several foreign motorcycle distributors were found guilty of violating the law by forcing sales agencies to sell only their brands.

The government continues to have the authority to control the price of specific products under the Price of Goods and Services Act. The Department of Internal Trade under the Ministry of Commerce administers this law and interacts with the affected companies, though only the Committee on Prices of Goods and Services makes the final decision on what products to add or remove from price controls. As of January 2016, out of 45 controlled commodities and services, only sugar is subject to a price ceiling. Besides the 45 controlled commodities, practically any producer of consumer products is prohibited from raising prices without first notifying the Committee of its intention to do so. The government also uses its controlling stakes in major suppliers of products and services such as Thai Airways and PTT to influence prices in the market. Thailand has extensive legislation aimed at the protection of the environment, including the National Environmental Quality Act, the Hazardous Substances Act, and the Factories Act. Food purity and drug efficacy are controlled and regulated by a Food and Drug Administration with authority similar to its U.S. counterpart. Likewise, labor and employment standards are set and administered by the Ministry of Labor.

U.S. businesses have repeatedly expressed concern about the lack of transparency of the Thai customs regime and the significant discretionary authority exercised by Customs Department officials. The U.S. government and private sector have also expressed concern about the inconsistent application of Thailand's transaction valuation methodology and repeated use of arbitrary values by the Customs Department. Since the May 2014 coup, the interim government has made an effort to speed up passage of legislation that was stalled by the political gridlock of the previous administration. Several amendments of laws and regulations were passed in late 2014, including: Authorization of Customs Officials on Examination, Search and Seizure of

Goods in Transit and Transshipment; Advance Ruling on Customs Valuation; Advance Ruling on Tariff Classification; Advance Ruling on the Origin of Goods; and Use of Electronic System for Customs Documents. Thailand submitted its acceptance of the protocol for the WTO Trade Facilitation Agreement in October 2015.

Consistent and predictable enforcement of government regulations remains problematic for investment in Thailand. Gratuity payments to civil servants responsible for regulatory oversight and enforcement remain a common practice. Firms that refuse to make such payments can be placed at a competitive disadvantage when compared to other firms in the same field.

8. Efficient Capital Markets and Portfolio Investment

The Thai government maintains a regulatory framework that broadly encourages investment and largely avoids market-distorting support for specific sectors. Thailand's regulatory system has encouraged and facilitated portfolio investment. There is sufficient liquidity in the markets to enter and exit sizeable positions. Government policies generally do not restrict the free flow of financial resources to support product and factor markets. The Bank of Thailand has respected IMF Article VIII by refraining from restrictions on payments and transfers for current international transactions. Credit is generally allocated on market terms rather than by "direct lending." Foreign investors are not restricted from borrowing on the local market, but there are a number of regulations that affect foreign portfolio investment. In theory, the private sector has access to a wide variety of credit instruments, ranging from fixed term lending to overdraft protection to bills of exchange and bonds. However, the private debt market is not well-developed, and most corporate financing, whether for short-term working capital needs, trade financing, or project financing, requires borrowing from commercial banks or other financial institutions.

Money and Banking System, Hostile Takeovers

In general, Thailand's banking sector, with 14 domestic commercial banks, is healthy with low rates of non-performing loans (around 2.55 percent in Q4 2015) and a high ratio of capital funds/risk assets (capital adequacy) of 16.98 percent in Q4 2015. Thailand's largest commercial bank is Krung Thai Bank, with assets totaling USD 80.24 billion as of December 2015. For the five largest commercial banks, their combined assets totaled USD 348.8 billion, or 76.6 percent of the total assets of the Thai banking system.

Thailand's central bank is the Bank of Thailand (BOT), which was established in 1942 and is governed by an appointed Governor with a five-year term. The BOT has the following roles and responsibilities: print and issue banknotes and other security documents (i.e. the Bank of Thailand bonds), promote monetary stability and formulate monetary policies, manage the BOT's assets, provide banking facilities to the government, act as the registrar of government bonds, and provide banking facilities for financial institutions.

Non-residents can open and maintain foreign currency accounts without deposit and withdrawal ceilings with authorized banks in Thailand. Meanwhile, any deposits in the Thai Baht currency must be derived from one of the following sources: conversion of foreign currencies, payment of goods and services, or a capital transfer for which BOT approval is not required. Any

withdrawals are permitted, except the withdrawal of funds for credit to another non-resident person or purchase of foreign currency involving an overdraft.

The Thai banking industry does not have a history of hostile takeovers, and the BOT does not have clear rules governing hostile takeovers. The Financial Institutions Business Act, passed at the end of 2007, unified the legal framework and strengthened BOT supervision and enforcement powers. The Act gave powers to the BOT to raise the foreign ownership limit in a local bank from 25 percent to 49 percent on a case-by-case basis. The Act also allows the Ministry of Finance to authorize foreign ownership above 49 percent only if recommended by the central bank. These past practices by the BOT have suggested that it applies rules on a non-discriminatory basis.

9. Competition from State-Owned Enterprises

There are 55 state-owned enterprises (SOEs) in Thailand with total assets of around USD393.4 billion and 270,000 employees (or around 0.7 percent of the Thai labor force). In Q3 2015 (latest available data), their combined income was USD 99.4 billion gross (USD 4.4 billion net). Of the 55 total SOEs, 12 are in the form of limited companies, and five of them are publicly listed companies in the Stock Exchange of Thailand, including Thai Airways International Public Company Limited, Airport of Thailand Public Company Limited, PTT Public Company Limited, MCOT Public Company Limited, and Krung Thai Bank Public Company Limited.

SOEs operate primarily in service delivery, in particular the energy, telecommunications, transportation, and financial sectors. The full list of SOEs list is published under the website of the State Enterprise Policy Office under the Ministry of Finance: (www.sepo.go.th). Although precise definitions of SOEs vary slightly according to different pieces of legislation, in general, the government defines SOEs as special agencies established by precise laws for a particular purpose and 100 percent owned by the government (through the Ministry of Finance as a shareholder) or limited company/public company limited that is 50 percent or more owned by the government.

The government does not specify R&D allocations for SOEs in percentages, but has encouraged all SOEs to set aside some portion of their budgets for it. In general, SOEs do not receive a larger percentage of government contracts/business than their private sector competitors. However, in some industries, such the telecommunications sector, the government has assigned all 'fixed line' operations in the country to SOEs, as the private sector competitors are reluctant to conduct such unprofitable business.

SOEs purchase or supply goods or services from private sector/foreign firms. Some SOEs have established rules and regulations on procurement, but most are still under the WTO's Government Procurement Agreement. While Thailand is not a member of the WTO GPA, it officially became an observer in June 2015. In general, SOEs, like government agencies, reserve the right to accept or reject any or all bids at any time and may also modify the technical requirements during the bidding process, if, according to regulations, corruption is suspected. The latter provision allows considerable leeway to SOEs in managing procurements. Private enterprises can compete with SOEs under the same terms and conditions with respect to market

share, products/services, and incentives in most sectors, but there are some exceptions, such as the fixed line operation in the telecommunications sector.

According to the government regulations, all SOEs must deposit money or purchase securities (bonds) from only state-owned banks or private banks that have been approved by the Ministry of Finance. Therefore, SOEs tend to receive better loan conditions from these financial institutions than private enterprises. The Ministry of Finance usually guarantee loans made by SOEs, resulting in lower interest rate charged from lower risk of loan default.

The tax burden of SOEs depends on the type of SOE. SOEs established by special laws that are not listed on the stock market are not subject to corporate income tax. SOEs in the form of limited companies/public limited companies/listed companies are subject to corporate income tax. Each year, all SOEs, regardless of type, must return a certain percentage (ranging from 35-88 percent) of their net profits back to the Ministry of Finance.

SOEs are not afforded material advantages such as preferential access to land and raw materials. Each year, the government regularly allocates three to four percent of its annual budget expenditures to fund SOEs. All SOEs can also borrow directly with a guarantee from the Ministry of Finance, or can request that the Ministry of Finance grant an on-lending loan for them. Depending on the size of the loan, either the board of the SOE or the Cabinet has to approve such loans. In general, combined borrowing of all (non-bank) SOEs cannot be higher than 20 percent of the government's annual budget expenditures.

OECD Guidelines on Corporate Governance of SOEs

Thailand is one of the leaders in corporate governance in private enterprises among Asian economies and emerging economies. However, corporate governance within SOEs, except for publicly listed SOEs, is viewed as lagging behind the private sector. In June 2014, the government established "the State Enterprise Policy Committee" or "Superboard," chaired by the Prime Minister, as a new central body to supervise and regulate all SOEs. The Committee also established a subcommittee on corporate governance, chaired by the Bank of Thailand's Former Governor, with the Ministry of Finance's State Enterprise Policy Office (SEPO) as a secretariat. The subcommittee is now the core body promoting corporate governance within SOEs and has responsibility for studying, analyzing, and laying plans to prevent corruption by promoting transparency and disclosure. The Ministry of Finance's SEPO also established guidelines for SOE board members, including rules on board member nomination process, roles and duties, responsibilities, and good governance. In addition, all SOEs are required by law to submit annual financial reports to the Office of the Auditor General. Meanwhile publicly listed SOEs, such as Thai Airways and PTT, are required to publish their financial reports.

According to officials at the SEPO, SOEs adhere to the OECD Guidelines on corporate governance, including the state acting as an owner. The current guidelines are not yet sufficient to ensure a level playing field between SOEs and private sector enterprises, but the subcommittee of corporate governance has realized the importance of the issue, which is now under the process of consideration and review.

In general, SOE senior management reports directly to a line minister and to the Superboard. Corporate board seats are typically allocated to senior government officials or other politically-affiliated individuals. The Superboard tries to eliminate political interference in board member appointments.

Sovereign Wealth Funds

Thailand currently does not have a sovereign wealth fund.

10. Responsible Business Conduct

There is wide recognition and awareness of responsible business conduct (RBC) primarily in the area of corporate social responsibility (CSR) initiatives among Thai producers and consumers, but many Thai companies still lack a full understanding of the generally accepted CSR principles under the OECD Guidelines for Multinational Enterprises. CSR is most often identified as individual philanthropic projects or community service of companies, rather than as an overall corporate strategy aimed to improve the community in which the companies operate. Companies that pursue CSR are viewed favorably by the public.

Many business associations, including the American Chamber of Commerce (AMCHAM), Thai Chamber of Commerce (TCC), the Federation of Thai Industries (FTI), Joint Standing Committee on Commerce, Industry, and Banking of Thailand (JSCCIB) actively support the development of CSR programs in Thailand. Since 2007, the AMCHAM CSR Excellence Awards (AMCHAM ACE) have encouraged the expansion of CSR programs by identifying best practices of companies in Thailand. Many CSR programs incorporate the U.S. Mission's Thai-U.S. Creative Partnership to work directly with local partner organizations on long-term projects training and promoting opportunities in innovative sectors, especially renewable energy, entrepreneurship, and health projects. The AMCHAM ACE program also tracks continuous improvement. Both the TCC and the FTI have undertaken several CSR projects over the past years. The JSCCIB has also established a CSR committee that consolidates reports on activities from both TCC and FTI members.

Although Thailand does not have a National Action Plan on RBC, nor does it currently maintain a National Contact Point (NCP) for OECD Guidelines for Multinational Enterprises, the Thai government through various ministries has taken several measures to encourage RBC that integrates sustainable business practices focused on respecting human rights, environmental protection, labor relations, and financial accountability. The Ministry of Industry under the Department of Industrial Works has encouraged the sector to implement their Corporate Social Responsibility (CSR-DIW) standards, giving them the potential to meet ISO 26000 standards (an international standard on Social Responsibility). In 2015, the Ministry of Industry issued awards to factories that have reached CSR-DIW standards. The Thai Labor Standard on Corporate Social Responsibility of Thai Business (TLS 8001-2010) implemented by the Ministry of Labor in 2003 was recently reprioritized as Thailand faces challenges in the areas of IUU fishing and trafficking. In 2015, the Ministry of Labor awarded TLS 8001-2010 certificates to organizations with consistently high labor standards. The Stock Exchange of Thailand (SET), under their sustainable stock exchange initiative, are encouraging listed companies to be conscious of social responsibility when conducting business by considering environmental, social, and corporate

governance factors in their investment decisions. SET houses an active Social Responsibility Center which was created to provide sustainability guidelines as well as raise awareness among listed companies the importance of balancing the economy, society, and environment, under the corporate governance principles. In terms of transparency in the natural resources sector, the Royal Thai Government announced that it intended to join the Extractive Industries Transparency Initiative and apply EITI standards in the energy sector.

There is also a burgeoning Social Enterprise movement in Thailand. A bill proposed by the National Reform Council (NRC) Committee on Social Enterprise was approved by the Cabinet in March 2016. The social enterprise bill will create a regulatory framework to encourage the development of social enterprises, promote participation of the private sector through CSR in social development, and provide tax incentives to private enterprises to encourage spending a percentage of their profits on addressing social problems. The bill establishes a new independent regulatory body, the Office of the National Social Enterprise Promotion (ONSEP), to be formed under the Prime Minister's Office; a National Social Enterprise Promotion Commission to coordinate policy and supervise ONSEP; and a new Social Enterprise Fund designed to provide loans to social enterprises and subsidize state or private agencies to achieve social enterprise goals.

There are several local NGOs that promote and monitor RBC and a majority operate freely, but a few face intimidation as a result of their work in monitoring civil rights issues.

11. Political Violence

Since the May 2014 military coup, incidents of political violence have decreased. The coup followed seven months of anti-government protests and sporadic incidents of violence. On February 1, 2015, one person was injured after two bombs exploded near a train station and a shopping mall in downtown Bangkok. On March 7, 2015, suspects threw a hand grenade at the Bangkok Criminal Court and were apprehended at the scene. Following the incidents, Thai police detained four suspects, and claimed the attacks were politically motivated and intended to undermine the government.

On August 17, 2015, an explosion in Bangkok killed 20 and injured over 120 at the Erawan Shrine, a downtown tourist destination popular with Thai and Chinese tourists. On August 18, a second explosion occurred near Saphan Taksin, a pier popular with tourists, but did not result in any damage or casualties. Thai authorities claimed the motive for the attacks was retaliation for the government crackdown on human trafficking. It is widely believed, however, that the attacks were related to Thailand's July 2015 forced deportation of a group of Uighur migrants to China.

Despite continued restrictions on freedoms of assembly and speech, political divisions remain. These rifts, together with ongoing concerns about a slowing economy – exacerbated by drought – could lead to the reemergence of public protests and/or violence.

Violence related to an ongoing Malay-Muslim insurgency in Thailand's southernmost provinces continues. Efforts to end the ethno-nationalist insurgency, which has claimed over 6,000 lives

and caused over 12,000 injuries – mostly civilians – since 2004, have so far been unsuccessful. Almost all attacks typically occur in the 3 southernmost provinces of the country.

On April 10, 2016 a car bomb exploded at a shopping mall parking garage on the tourist island of Koh Samui, injuring seven. Thai authorities detained two suspects, and a third was killed as the police were trying to detain him. All three suspects were associated with the insurgency.

12. Corruption

Thailand has several laws to combat corruption. The independent National Anti-Corruption Commission (NACC), together with the Office of the Public Sector Anti-Corruption Commission (PACC), coordinates official efforts against corruption and hold broad investigatory authority. In addition to these two agencies, the Office of the Ombudsman, the Constitutional Court, the Election Commission, the Office of the Auditor General, and the National Human Rights Commission have anti-corruption responsibilities. Thailand ratified the UN Convention Against Corruption in March 2011. In April 2005, Thailand endorsed the ADB-OECD Anticorruption Action Plan for Asia and the Pacific and assigned the Ministry of Justice to implement the Action Plan. The Office of Public Sector Anti-Corruption Commission, under the Ministry of Justice, was established to assist the NACC by investigating cases of lower ranking government officials.

In July 2015, the revised Organic Act on Counter Corruption came into effect. Among the various substantive amendments are provisions to criminalize the bribery of foreign public officials and employees of public international organizations, establish criminal liability for legal persons when their employees or agents engage in the bribery of public officials, as well as to allow the National Anti-Corruption Commission to confiscate proceeds of corruption through non-conviction-based forfeiture. There is a positive trend of increased dialogue and collaboration between the anti-graft agency and business associations to advocate for the removal of red tape and promotion of transparency in public procurement procedures.

According to some studies, a cultural propensity to forgive bribes as a normal part of doing business and to equate cash payments with finders' fees or consultants' charges, coupled with the low salaries of civil servants, encourages officials to accept illegal inducements. U.S. executives with experience in Thailand often advise new-to market companies that it is far easier to avoid corrupt transactions from the beginning than to stop such practices once a company has been identified as willing to operate in this fashion. American firms that comply with the strict guidelines of the Foreign Corrupt Practices Act (FCPA) are able to compete successfully in Thailand. U.S. businessmen say that publicly affirming the need to comply with the FCPA helps to shield their companies from pressure to pay bribes. A U.S. firm that believes a competitor is seeking to use bribery of a foreign public official to secure a contract should bring this to the attention of appropriate U.S. agencies, as noted below.

Recent Thai administrations have publicly stated their intention to improve transparency in the evaluation of bids and the awarding of contracts. In 2013, the Public-Private Partnership (PPP) Act passed. Effective April 4, 2003, the PPP Act requires public projects over USD 1 billion to be awarded through a multi-agency committee instead of a single administering agency.

Despite recent improvements, both foreign and Thai companies continue to complain about irregularities in the Thai Customs Department. Increasing media scrutiny of public figures has raised political pressure to curtail favoritism and corruption. However, convictions against public officials on corruption-related charges are rare, and the legal system offers inadequate deterrence against corruption. According to the most recent Transparency International's annual Corruption Perceptions Index, Thailand ranked 76th out of 168 countries in 2015.

The press features frequent allegations of irregularities in public contracts, most notably over the use of public lands, procurement favoritism (e.g., revising requirements so that a preferred company wins over its competitors), and police complicity in a variety of illegal activities. In January 2010, the Thai press widely reported news of the U.S. Department of Justice indictment of a former Thai tourism minister accused of taking bribes from an American couple seeking to do business in Bangkok. In November 2011, the Permanent Secretary in the Ministry of Transportation resigned over allegations of corruption and bribery after large sums of cash were discovered in his home, allegedly from transportation contract kickbacks. In 2012, the Deputy Prime Minister and Interior Minister resigned after it was determined that he was involved in an improper land deal.

In recent years, the private sector has attempted to take the lead in fighting corruption through education and advocacy. Since 2010, the Thai Institute of Directors (IOD) has built an anti-corruption coalition of Thailand's largest businesses. Coalition members sign the Collective Action Against Corruption Declaration and pledge to take tangible, measurable steps to proactively reduce corruption-related risks that are verified by third party certification. CIPE equipped IOD and its coalition partners with an array of tools for training and collective action, based on examples from CIPE's programs around the world. More than 130 companies have been certified under the declaration, and member companies now represent over 15 percent of the Thai economy and more than 1 million employees.

Founded in 2011, the Anti-Corruption Organization of Thailand (ACT) was established with the intent to pressure the government to create laws that can reduce levels of corruption. ACT has 47 member organizations drawn from the private, public and academic sectors. Their signature program is the "integrity pact." Drafted by ACT and the Finance Ministry and based on a tool promoted by Transparency International, the pact forbids bribes from signatory members in bidding for government contracts. Member agencies and companies must adhere to strict transparency rules by disclosing bidding information--such as the terms of reference and the cost of the project--easily available to the public.

The United States does not have an FTA with Thailand.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Thailand is a party to the UN Convention, but not the OECD Convention.

Resources to Report Corruption

Government Contact for combating corruption:

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13. Bilateral Investment Agreements

Bilateral Taxation Treaties

The 1966 iteration of the U.S.-Thai Treaty of Amity and Economic Relations (AER) allows U.S. citizens and businesses incorporated in the United States or in Thailand that are majority-owned by U.S. citizens, to engage in business on the same basis as Thai nationals. Under the AER, Thailand is permitted to apply restrictions to American investment only in the fields of communications, transport, banking, the exploitation of land or other natural resources, and domestic trade in agricultural products. In October 2002, the United States and Thailand signed a bilateral Trade and Investment Framework Agreement (TIFA). The TIFA establishes a Trade and Investment Joint Council (TIJC), which serves as a forum for discussion of bilateral trade and investment issues such as intellectual property rights, customs, investment, biotechnology, and other areas of mutual concern. Thailand also has bilateral investment agreements with 40 countries, including China, India, Taiwan, South Korea, United Kingdom, and members of the Association of Southeast Asian Nations (ASEAN). These agreements establish guidelines for expropriation compensation and the repatriation of capital, but do not include national treatment provisions.

Thailand has had a bilateral tax treaty with the United States since 1996.

14. OPIC and Other Investment Insurance Programs

The Overseas Private Investment Corporation (OPIC) provides political risk insurance, debt financing, and private equity capital to support U.S. investors and their investments. It does so under a bilateral agreement with Thailand. OPIC can provide political risk insurance for currency inconvertibility, expropriation, and political violence for U.S. investments including equity, loans and loan guarantees, technical assistance, leases, and consigned inventory or equipment. OPIC debt financing in the form of direct loans and loan guarantees of up to USD 250 million per project are also available for business investments in Thailand, covering sectors as diverse as tourism, transportation, manufacturing, franchising, power, infrastructure, and others. In addition, OPIC supports five private equity funds that are eligible to invest in projects in Thailand.

15. Labor

In 2015, Thailand's labor force stood at 38.5 million. Unemployment rates remained very low at 0.88 percent. Unemployment among youth (15-24 years old) stands at 2.5 percent, which is higher than for adults (> 25 years old) at 0.4 percent. Despite being a middle-income country, 55.9 percent of the labor force worked in the informal sector with limited protection under labor laws and the social security system. The number of workers in the informal sector has, however, gradually declined from 62.3 percent during 2010-2013 to 55.9 percent in 2015. This was partly due to the Thai government's policy to promote formal sector employment, an increase in the daily minimum wage, and a reduction in the numbers of workers with lower levels of education. The majority of those in the informal sector worked in agriculture (56.0 percent), trade and services (32.9 percent), and manufacturing (11.1 percent).

Thailand's fertility rate has been very low, averaging 1.4 in the years 2010 - 2015, which ranks as second lowest among ASEAN countries after Singapore. Thailand could experience negative population growth by 2025 and it has faced labor shortages in many sectors, especially those requiring low-skilled labor. The National Economic and Social Development Board (NESDB) reported that the country suffers from a skill mismatch between market demands and educational preparation. The share of newly graduated unemployed persons has continued to increase in the past few years, as they are unable to find jobs to match their education background.

The International Labor Organization (ILO) estimated that Thailand has approximately 4.5 million migrant workers (5.6 percent of total population). International migration has increased significantly, particularly among ASEAN countries, due to demographic factors, large economic and employment disparities between countries, expansion of regional trade and investment, as well as the expansion of migrant networks and communities. Thailand is among the top four receiving countries in this sub-region for migrant labor. The key sending countries in this sub-region are Cambodia, Indonesia, Laos, Burma, the Philippines, and Vietnam. Long, porous land borders with less developed countries mean a majority of migrant workers in Thailand migrated through unauthorized channels, often without any documents issued by the origin country. There are no official estimates on numbers of irregular migrants. IOs and NGOs report that numbers of irregular migrant workers are higher in the informal sector. There are growing reports that many migrant workers are no longer working only in low-skilled occupations. Academics reported that many migrants from neighboring countries are self-employed or open shops or stalls in Thailand.

Undocumented migrant workers in Thailand remain vulnerable to intimidation, threats, and being cheated by employers, brokers, labor traffickers, and corrupt officials. The Thai government continued to work with origin countries to legalize undocumented migrant workers and bring in more workers through formal channels. Some origin country governments, however, did not promptly issue identity documents for migrant workers who registered with Thai government in one-stop-service-centers during 2014-2015. Approximately 2.5 million registered workers hold work permits, visas and/or temporary stay permits, which allow them to live and work legally in Thailand. Out of these 2.5 million, however, some 1 million registered workers are awaiting passports/national identification documents issued by Burma and other origin countries.

Thailand's Department of Labor Protection and Welfare (DLPW), based on the labor force survey in the third quarter of 2015, found that approximately 292,631 children in Thailand ages 15-18 are working. The majority of them are male (72%). Nearly half (48%) of working children 15-18 years old have completed 8th grade, and children in this age group work in both non-agricultural (59.6%) and agricultural (40.4%) sectors. Of those working children in agriculture, the vast majority is either self-employed or working on family farms. The Social Security Office of the Ministry of Labor reported that 49,263 working children ages 15-17 were formally registered in the social security system in 2014.

Thailand's National Economic and Social Development Board (NESDB) reported that the country experienced labor shortages, particularly skilled labor and an increase in underemployment and disguised unemployment in 2015 due to reduced demand for export production. A survey done by the World Bank found that firms report acute shortages for technical skills, especially at the vocational school level, as well as language and information technology skills and soft skills such as leadership and creativity. This technical skill shortage is attributed in large part to a mismatch between market demands and educational preparation. Many multinational firms continue to bring in expatriate professionals because qualified local personnel are not available, even at high salaries. Finding, training, and retaining qualified employees to work in the manufacturing facilities being developed in industrial estates, such as those along the Eastern Seaboard, will continue to be a challenging government priority.

The 2008 Alien Employment Act requires all foreigners to obtain a work permit from the Ministry of Labor prior to starting work in Thailand. The term "work" is defined very broadly as "working by exerting one's physical energy or employing one's knowledge, whether or not for wages or other benefits." Therefore, volunteer or charity work also requires a work permit. A Royal Decree under the Act also restricted some occupations and professions which are closed to foreigners, such as laborer, goldsmith, farmer, accountant, auditor, engineer, architect, etc.

Employers may dismiss workers for any reason, provided the employer pays severance. In the case of a temporary shutdown of production due to fluctuating market demand or raw materials, the Labor Protection Act requires that employers must pay at least 75 percent of worker's daily wages on non-working days.

The Labor Protection Act provides equal protection to all Thai and foreign workers in Thailand. The Labor Protection Act also requires that sub-contract employees who perform the same work as direct-hire employees are given fair benefits and welfare, without discrimination. To attract investment in targeted industries, the Investment Promotion Act allows Board of Investment (BOI) approved applicants to bring in foreign nationals for the purpose studying investment opportunities and to bring in skilled workers and experts to work in BOI investment promoted activities. Since 2015, in order to promote investment along Thailand's border areas, foreign labor from neighboring countries are allowed to enter and work temporarily in Thailand for seven days in Special Economic Zones (SEZ) along borders. Both Thai and foreign laborers in SEZs are also eligible for training. BOI promoted projects in SEZs are also allowed to bring in legal foreign labor, both skilled and unskilled.

The Labor Relations Act allows private sector workers to form and join trade unions of their choosing without prior authorization, bargain collectively, and conduct legal strikes with a number of restrictions. In addition, the law allows employees in private enterprises with more than 50 workers to establish “employee committees” to represent workers’ collective requests and to negotiate with employers and “welfare committees” to represent workers’ collective requests on welfare problems. The law prohibits antiunion discrimination. The law provides protection to employees and labor unions and their members against criminal or civil charges for carrying out activities (such as negotiation with employers to settle a unions’ demand for rights and benefits; or organization of a rally or strike activities) for the benefit of its members. Noncitizen migrant workers, whether registered or undocumented, do not have the right to form unions or serve as union officials. Registered migrants may be members of unions organized and led by citizens. In a small number of cases, documented migrants joined unions run by citizens; however, language barriers, lack of understanding of their rights under the law, frequent changes in employment, restrictive labor union regulations, and the segregation of citizen workers from migrant workers by industry and by zones (particularly in border areas such as Mae Sot District) limited the impact of these unions on the migrant labor force.

The law requires employers to begin negotiating within three days from the time a union submits its demands. If the parties cannot reach agreement, the government considers it a labor dispute and begins conciliation. The law permits workers to strike if a deadlock develops between the employer and employees. Workers must submit a letter of notification at least 24 hours in advance of strike action. The government has authority to restrict private sector strikes that would affect national security or cause severe negative repercussions for the population at large, but it did not invoke this provision during the year. There were reports some employers chose to submit counter-demands instead of negotiating based on union demands, which further complicated the negotiation process.

During 2014, the latest year for which such data was available, the Department of Labor Protection and Welfare reported 149 informal conflicts between employers and employees involving 122,474 employees, a decline from 2013 (146 informal conflicts involving 68,715 employees). Of these, 125 conflicts were resolved without walkouts, eight were referred to a labor court, and ten continued under departmental processing. Most cases referred to a labor court fell under the categories of unfair dismissal, violations of labor protection laws, breaches of working condition agreements, and wrongful acts by employers and employees.

There were reports that employers used various techniques to stop workers’ strikes and weaken labor union collective bargaining efforts, including: replacing striking workers with subcontractors; threatening union leaders and striking workers; pressuring union leaders and striking workers to resign; prohibiting workers from demonstrating in workplace compounds or in industrial estate zones; and inciting violence in order to get a court warrant to prohibit protests. Some employers also transferred union leaders and striking workers to different, less desirable positions or inactive management positions (with no management authority) to prevent them from leading union activities. There were reports that some employers supported setting up competing unions to circumvent established unions that refused to accept the terms of agreement proposed by employers.

The law prohibits all forms of forced or compulsory labor, except in the case of national emergency, war, martial law, or imminent public calamity. Reports of abusive work

environments, including forced labor, continued in many sectors, including Thai-flagged seagoing trawlers, and labor-intensive industries such as food and seafood processing facilities, as well as in the informal sector and in domestic work, particularly in those sectors where foreign migrant labor was common. There continued to be reports of employers who confiscated registration and travel documents of both legal and undocumented migrant workers, which restricted their movement and contributed to their vulnerability to forced labor with little recourse under the law. Noncitizens were limited in their choice of occupation. In order to avoid deportation, migrants often paid additional fees or bribes to police and immigration officials if undocumented or caught without documentation.

Some formal sector workers nationwide received less than the minimum wage, particularly in rural provinces. The minimum wage and social security system does not apply to workers in the informal sector and seasonal types of work, such as agriculture. There remained a large income gap between formal and informal employment, with workers in the informal sector receiving lower wages compared to those in the formal sectors. Most noncompliant employers were small enterprises with fewer than 50 workers. Labor protections also apply to undocumented workers, but many employers did not provide minimum wage to unskilled and semiskilled undocumented migrant workers.

Some NGOs and international organizations commented that migrant workers have greater access to legal, health, and social protections because of the Thai government's policies to regularize undocumented migrant workers and increase regulations in the fishing sector in 2014-16. Migrant workers' organizations continued to report that many employers fail to comply with Thai labor laws when hiring migrant workers. Violations include non-compliance with minimum wage and overtime laws; long/irregular working hours; failure to provide sick leave or annual leave; illegal wage deductions; an absence of contributions to social security or accident compensation funds; and failure to fulfill other contractual benefits such as providing free uniforms and protective gear. Local and international labor unions continued to call for increased workers right, especially for migrant workers, and reforms to laws and inspection regime related to the Thai fishing industry.

In 2015, the government adopted various policy reforms, through the passage of the Anti-Human Trafficking Act No. 2 (2015); Criminal Laws Regarding Child Pornography No.24 (2015); Royal Ordinance on Fisheries (2015), Anti-Money Laundering Act No. 5 (2015); National Policy and Plan to Eliminate the Worst Forms of Child Labor (2015-2020), and began implementation. The government also passed updated regulations and guidelines, including an amendment to the regulation on criminal proceeding and comparison to offenders under the labor protection laws and occupational safety and health, and Environment Act No.2; Ministerial Regulation on Workplaces Prohibited to Employ Workers under 18 Years Old; and the Ministry of Labor Manual on Forced and Bonded Labor.

16. Foreign Trade Zones/Free Ports/Trade Facilitation

The Industrial Estate Authority of Thailand (IEAT), a state-enterprise under the Ministry of Industry, established the first industrial estates in Thailand, including Laem Chabang Industrial Estate in Chonburi Province (eastern) and Map Ta Phut Industrial Estate in Rayong Province

(eastern). The IEAT was established under the IEAT Act B.E. 2522 (1979). Foreign owned firms have the same investment opportunities as Thai entities, but the IEAT Act requires the IEAT Committee to consider and approve the amount of space/land a foreign owned firm plans to buy or lease in industrial estates. In practice, there is no record of disapproval for the requested amount of land. More recently, private developers have become heavily involved in the development of these estates. The IEAT currently operates 9 estates, plus 39 more in conjunction with the private sector in 15 provinces nationwide. Private sector developers operate over 50 industrial estates, most of which have received promotion privileges from the Board of Investment.

In addition, the IEAT established 12 special IEAT Free Zones (renamed from export processing zones or free trade zones), reserved for the location of industries manufacturing for export only, to which businesses may import raw materials and export finished products free of duty (including value added tax). These zones are located within industrial estates, and many have customs facilities to speed processing. The free trade zones are located in Chonburi, Lampun, Pichit, Songkhla, Samut Prakarn, Bangkok (at Lad Krabang), Ayuddhya, and Chachoengsao. In addition to these zones, factories may apply for permission to establish a bonded warehouse within their premises to which raw materials, used exclusively in the production of products for export, may be imported duty free.

17. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

Economic Data	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (\$M USD)	2015	\$395,216	2014	\$404,824	www.worldbank.org/en/country
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (\$M USD, stock positions)	2015	\$15,070	2014	\$11,729	

Host country's FDI in the United States (\$M USD, stock positions)	2015	\$3,300	Not available	BEA data available at http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm
Total inbound stock of FDI as % host GDP	2015	\$186,064	47.1%	

*National Economic and Social Development Board (GDP); Bank of Thailand (FDI)

Table 3: Sources and Destination of FDI

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations (US Dollars, Millions)					
Inward Direct Investment			Outward Direct Investment		
Total Inward	192,220	100%	Total Outward	62,500	100%
Japan	68,299	36%	Cambodia	38,738	62%
Singapore	28,567	15%	Cayman Islands	5,354	9%
United States	14,507	8%	Singapore	2,999	5%
Netherlands	14,127	7%	Mauritius	2,439	4%
China, P.R.: Hong Kong	10,730	6%	United States	1,341	2%

"0" reflects amounts rounded to +/- USD 500,000.

Table 4: Sources of Portfolio Investment

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			Equity Securities			Total Debt Securities		
All Countries	42,450	100%	All Countries	16,625	100%	All Countries	25,825	100%
United States	7,138	17%	United States	6,214	37%	China (Main)	6,513	25%
China (Main)	6,905	16%	Luxembourg	4,614	28%	Turkey	3,728	14%
Luxembourg	4,843	11%	Singapore	953	6%	Brazil	3,341	13%
Turkey	3,728	9%	Ireland	832	5%	China (HKG)	2,817	11%
China (HKG)	3,533	8%	China (HKG)	716	4%	Korea	1,525	6%

18. Contact for More Information

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