

WHY INVEST IN THAILAND

Gateway to Asia

Thailand enjoys a strategic location and serves as a gateway into the heart of Asia – home to what is today the largest growing economic market.

The country also offers convenient trade with China, India and the countries of the Association of Southeast Asian Nations (ASEAN), and easy access into the Greater Mekong sub-region, where newly emerging markets offer great business potential.

Hub of ASEAN

Thailand was one of the founding members of ASEAN and has been instrumental in the formation and development of the ASEAN Free Trade Area (AFTA). AFTA entered into force on 1 January 2010 for the six original ASEAN (ASEAN-6) members (Thailand, Singapore, Malaysia, Indonesia, Philippines, and Brunei) thereby reducing import duties to zero; the so-called CLMV countries (Cambodia, Laos, Myanmar and Vietnam) will follow suit in 2015.

Thailand is ideally located at the crossroads of Asia, with easy access to the region's dynamic markets, including its own booming domestic consumer market of 67 million people. Thailand has long been a proponent of free and fair trade and its attractiveness as a production base for leading international companies is enhanced by a number of free trade agreements, and Thailand is certain to be a beneficiary of the ASEAN Economic Community (AEC), which will enter into force in 2015.

Social and political stability

Thailand is a foreigner friendly and welcoming Buddhist country. The country's form of government is a constitutional monarchy, with a high reverence for the Thai Monarchy, and devotion to the teachings of Buddhism. And although the vast majority of the people in Thailand are Buddhist, all religions are welcome, and His Majesty the King is the patron of all religions.

Growing economy

Economically, this country of 67 million people is characterized by steady growth, strong exports and a vibrant domestic consumer market. Abundant natural resources and a skilled and cost-effective work force help attract foreign investors, and enable them to prosper and develop industry in Thailand.

World-class infrastructure

In addition to a growing highway system that now connects not only every province in Thailand, but also to neighboring countries of Laos, Cambodia and Vietnam, Thailand also offers:

- 7 international airports
- Modern city-wide mass transit
- 3G/WiFi and broadband access
- 6 deep sea ports and 2 international river ports, including containers, tank farms and liquid jetties

Thailand's development plans for 2012 – 2022 include a high speed rail network that will connect north, south, east and west of Thailand, as well as to southern China. The mass transit system is being expanded into the suburbs and air and marine transportation will be further strengthened to meet the pace of growing demand.

FDI policies

The country's well-defined investment policies focus on liberalization and encourage free trade. Foreign investments, especially those that contribute to the development of skills, technology and innovation are actively promoted by the government. Thailand consistently ranks among the most attractive investment locations in international surveys, and the World Bank's 2012 Ease of Doing Business report places Thailand as the 17th easiest country in the world (and second-ranked country in Southeast Asia) in which to do business.

Likewise, the United Nations Conference on Trade and development (UNCTAD) ranks Thailand as the 10th most attractive host economy in the world.

Government support and incentives

Numerous government agencies support investors. Through the Board of Investment, the government offers a range of tax incentives, support services and import duty exemptions or reductions to an extensive list of promoted activities.

Companies receiving investment promotion privileges from the Board of Investment are not subject to foreign equity restrictions in the manufacturing sector, and there are no local content requirements nor export requirements, as Thailand's investment regime is in total compliance with WTO regulations.

The Board of Investment also coordinates the activity of the One-Stop Service Center for Visas and Work Permits, which enables foreign staff of BOI-promoted companies to obtain work permits and long-term visas within three hours or less.

The BOI also administers the One Start One Stop Investment Center, which opened in November 2009 to facilitate a full range of services and streamline investment procedures by bringing representatives from more than 20 government agencies under one roof.

In addition to the activities of the BOI, other government organizations, such as the Department of Export Promotion and international chambers of commerce, provide invaluable support and a host of other important services.

Long-established and newly emerging industries

With steady economic development and strong support industries, the country's industrial production has grown and diversified rapidly both in long-established and newly emerging industries.

The government has emphasized attracting investment in six sectors that have been determined to be key to the country's developmental objectives. These six target industries include: agriculture and agro-industry, alternative energy, automotive, electronics and ICT, fashion, and value-added services including entertainment, healthcare and tourism.

Friendly and rich culture

Thailand has gained a well-deserved reputation throughout the world for its gracious hospitality. The friendliness of its people and the diverse nature of Thai culture make visitors feel safe and at home in Thailand.

Education and healthcare services

The education standards in Thailand are accepted by many international examining bodies, and a great number of international schools and colleges offer world-class education, while its universities are outstanding.

In terms of healthcare, the country has developed an excellent reputation globally, due to its internationally-certified doctors and medical staff, and modern facilities and equipment. It is so good that one of the fastest-rising tourism sectors is medical tourism, with international patients visiting Thailand to take advantage of Thailand's world-class and extremely affordable health care system. ***SOURCE BOI : JUNE 2012***

RANKING IN THE WORLD

For years, Thailand has been among the most successful countries in Asia for attracting Foreign Direct Investment (FDI). In the ever-competitive investment environment that characterizes the 21st, Thailand has continued to remain attractive to foreign investors.

For more than three decades, successive Thai governments have recognized that the private sector in Thailand has been the main facilitator of growth and the government has actively played a promoting and supporting role. The Thai government has taken a consistently favorable stance towards foreign investors, recognizing their importance to Thailand's economic and technological development.

In fact, government approval to invest in Thailand is not even needed unless the special incentives offered by the Board of Investment are being applied for, and most sectors of the Thai economy are open to foreign investors.

The combination of factors and the continued efforts of government agencies to reduce 'red-tape' and facilitate investors has led to Thailand being among the highest-ranked countries for FDI by independent observers, as well as by foreign investors.

World Bank Ease of Doing Business 2012

Every year, the World Bank conducts a study of Ease of Doing Business in countries around the world. The Doing Business report, which looks at domestic and medium-sized enterprises and quantitatively measures regulations affecting them, covers nine indicators for 183 economies. Ease of Doing Business 2012 ranked Thailand #17 in the world, placing in 4th in Asia.

| Country 2012 | Ranking |
|--------------|---------|
| Singapore | 1 |
| Thailand | 17 |
| Malaysia | 18 |
| Vietnam | 98 |
| China | 91 |
| Brunei | 83 |
| Indonesia | 129 |
| Cambodia | 138 |
| Philippines | 136 |
| Laos | 165 |

2011 World's Best Cities

Bangkok has retained the No. 1 spot as World's Best City in Travel + Leisure's magazine's 16th annual World's Best Awards readers' poll for the second year. Bangkok is home to the legendary Mandarin Oriental, Bangkok (rising from No. 57 to No. 23 this year). North of Bangkok in Chiang Mai, the Mandarin Oriental Dhara Dhevi surged to No. 7 on the list, up from No. 45 in 2010. This resort was designed to re-create the experience of staying within a historic Thai village; farmers and wood-carvers work on-site.

SOURCE BOI : MAY 2012

The Eleventh National Economic and Social Development Plan (2012-2016)

Summary of the Eleventh National Economic and Social

Development Plan (2012-2016)

1 Introduction

From the First to the Tenth of Thailand's national development plans, the development paradigm of national development plans has evolved in the context of global and domestic changes. A significant shift in the country's development planning has taken place since the Eighth Plan (1997-2001) from a growth-oriented approach to the new model of holistic "people-centered development". In order to ensure a more balanced development, priority was given to broad-based participation, and to actively engaging civil society, the private sector and academia, in the formulation the national development plan. Furthermore, economic mismanagement, which led to the 1997 Asian crisis, prompted the adoption of the Philosophy of Sufficiency Economy as a main guiding principle in the Ninth Plan (2002-2006), with its practical applications becoming evident during the Tenth Plan (2006-2011). In order to achieve sustainable development with a people-centered approach, it is necessary to enhance the country's self-resilience by strengthening Thailand's economic and social capital and improving risk management in order to effectively handle internal and external uncertainties. This will lead the country toward sustainable development and a "Happiness Society". During the Tenth Plan, the Philosophy of Sufficiency Economy was applied

Extensively in Thailand's development, resulting in greater resilience in various aspects of Thai society, enabling Thailand to cope effectively with the impacts of the 2008 global economic crisis. This achievement was well reflected in the Green and Happiness Index (GHI) of 65-67 percent, with contribution from strong economic performance, high employment, strong communities and

family ties. However, major obstacles remain, such as political unrest, environmental and ecological degradation, low quality of education, and severe drug problems. The evaluation of the Tenth Plan also indicated improved economic foundations for development and increasing quality of growth. Quality of life has improved with better access to various economic and social security measures and gains in poverty reduction. It is, however, essential to emphasize the development of human capital and human security, promotion of good governance and fair competition, and distribution of development benefits in order to reduce social inequality. During the Eleventh Plan (2012-2016), Thailand will encounter more complicated domestic and external changes and fluctuations which present both opportunities and threats to national development. Thus, it is necessary to utilize the existing resilience of Thai society and economy, and to prepare both individuals and society as a whole to manage the impacts of such changes and pave the way toward well-balanced development under the Philosophy of Sufficiency Economy.

2 Situation, Risk and Resilience

2.1 Significant changes

Thailand has continued to face major global and internal changes which may either pose threats to or provide opportunities for the country's development.

2.1.1 Major global changes

1) Changes in global rules and regulations have influenced the direction of future development.

The 2008 world economic crisis has led to adjustments in global rules and regulations in the areas of trade, investment, finance, and environmental and social matters. Reformed rules and regulations in trade and investment have focused mostly on transparency, climate change, intellectual property rights and international cooperation. At the same time, the financial sector has been under close surveillance with tightened supervision. There is also a growing concern about obligations and agreements on climate change, and trade measures regarding global warming issues. In addition, there is increasing emphasis on social rules and regulations, particularly on human rights in line with human dignity. These rules and regulations including international environmental agreements, human rights and good governance, however, could also be used as non-tariff barriers. Therefore Thai entrepreneurs have to improve production processes and business practices in order to enhance their competitiveness. In line with this, corporate social responsibility (CSR) and fair competition must also be incorporated.

2) Multi-polar world economy in the new world order is increasingly important in shaping development.

Adjustment to a multi-polar world economy, in which Asia has become an important engine of global growth, is imperative for Thailand. Meanwhile, the BRICs and ASEAN are becoming new economic centers. In particular, open trade policies of China and Russia, dynamic growth of Brazil and India, and the growing middle-class in Asia will contribute toward the expansion of global purchasing power. In addition, various economic cooperation initiatives in the region such as ASEAN China- Japan-India Free Trade Agreement, ASEAN Economic Community (AEC) in 2015, and Asia-Pacific Economic Cooperation have affected various aspects of economic and social development in Thailand, such as the development of human resources.

3) Many countries are moving toward an ageing society.

During the period of the Eleventh Plan, the number of older persons around the world is expected to increase by 81.9 million. Changing demographic structure toward an ageing society in many countries will affect international migration and the diversification of cultures. Meanwhile, the structure of production will change drastically from being labor-intensive to knowledge and technology-intensive. Responses to this trend will focus on development of appropriate knowledge and skills of human resources to meet emerging challenges, together with development of necessary technology to replace the shortage of labor supply. In addition, public health expenditures will increase at the expense of other investments.

4) Global warming has some effects on climate change all over the world.

Global temperature has increased on average of 0.2 degree Celsius per decade over the past 30 years, and has caused unpredictable climate changes as well as frequent and severe natural disasters such as earthquakes, landslides, volcanic eruptions, floods, storms, droughts, and forest fires. Ecosystems in many areas have become vulnerable, resulting in the loss of flora and fauna. The earth's surface has undergone physical changes, including coastal erosion and sea level rise that are resulting in forced migration of coastal communities, and damages to infrastructure, tourist areas, and high-investment coastal industrial zones . In addition, epidemics of many diseases and insect pests will cause harm to human life and damage agricultural products, threatening world food security. Moreover, poverty, migration and fights for resources have occurred.

5) Global security of food and energy under severe threat.

Rising demand for food and energy is due to significant increase in the world's population, whereas the supply of raw materials has been constrained by limited arable lands, technology, and climate change. This situation is likely to lead to increasing conflicts over food and energy in the future. Consequently, the supply of food on the world market will decline and cause high prices, especially in the poor countries, likely leading to a world food crisis.

6) Vital role of advanced technology in economic and social development.

Advanced technology, including information and communication technology (ICT), biotechnology, nanotechnology as well as cognitive science can be regarded both as opportunities in reducing inequality and enhancing Thailand's competitive edge, and threats to the country's development. Relying primarily on technology imports the country will be unable to compete in the world market and achieve sustainable development. In addition, unequal access to technology by various groups in society will exacerbate economic and social disparities. Thailand, as a net technology importer, needs to shift its position toward that of a technology creator.

7) International terrorism has been a threat to the world community.

Transnational terrorism and crimes tend to spread across the world and are increasingly violent. In addition, their patterns and networks are more complicated and have affected security at the national level. It is imperative that Thailand bring the critical factors influencing terrorism under control, and cooperate with the international community to protect its national interests.

2.1.2 Major internal changes

1) Economic aspect

Over the past decade, the Thai economy has experienced moderate growth with stability. While the industrial sector has played a major role in production, the agricultural sector remains a key source of income and a base for value added activities. Very recently, the service sector has emerged as an additional engine of growth, while the linkages between the domestic and international economies have resulted in many economic activities, especially in trade and investment. Foreign direct investment has remained critical factor for economic expansion. However, the world economic depression and a decline in the country's competitiveness have affected domestic investment. In addition, some critical enabling factors, in particular, science and technology, quality of infrastructure, and rules and regulations are weak and have become obstacles to economic restructuring.

2) Social aspect

Thailand is becoming an ageing society due to changes in population structure, characterized by the increase of older persons while the size of younger population and workforce decrease. Although potential development opportunities are provided for all Thai people, issues related to education quality, child intelligence, risk behaviors for health, and low labor productivity have remained major concerns. Various types of social protection and social welfare have covered increasing numbers of people. However, some disadvantaged groups have lacked access to social services. Income inequality and access to resources are continuing challenges. Thai society has confronted a

crisis of declining ethical and moral values and greater cultural diversity in society, as well as a widespread use of drugs and gambling, particularly by young and adolescent groups. At the same time, Thai people are increasingly active in politics and pay more attention to social responsibility and governance.

3) Natural resource and environmental aspect

Natural resources have been depleted; and the environment degraded. Moreover, climate change has exacerbated the problems of natural resources and the environment, which have affected agricultural production and poverty. Management of natural resources and the environment has not been effective, and has revealed the conflict between environmental conservation and economic development. Nonetheless, Thailand's food security remains favorable despite facing challenges from climate change and increasing demand for fuel crops.

4) Administration aspect

Thai people are more active in politics and ready to express different opinions. At the same time, political conflicts and unrest in the southernmost provinces have continued. These have impacts on daily life, including declining happiness, and confidence in Thai society. The overall performance of the government sector has improved, but the capacity for addressing corruption needs to be strengthened. Even though decentralization is in progress and local government has more tax revenue, the allocation of responsibilities between the local and central governments have remained unclear.

2.2 Risk assessment

Thailand will encounter risks and has to enhance societal resilience in order to effectively meet challenges in the following six areas.

2.2.1 Public administration is ineffective.

Government sector is unable to effectively carry out policies and missions. Administrative authority is occasionally distorted while the gap between government agencies and the public in general in some areas has widened. Some segments of the government sector are inefficient, and law enforcement is ineffective. Though public forums have involved a high level of participation, people have less opportunity to participate in policy decision-making. The implementation of policies, to some extent is perceived not to be transparent, leading to inequality and lack of fairness in the economic, social and political areas. These undermine trust and confidence of the country.

2.2.2 Economic structure remains vulnerable.

Thai economy is subject to the uncertainty in the world economy. In the past, the economy relied mainly on foreign investment and exports based on financial capital and low-wage labor, which then became constraints for increasing competitiveness. Rate of return for employees in the agricultural sector is relatively low. Most of the farmers are poor and in debt. While demand for energy is increasing, the country has depended heavily on imported energy.

2.2.3 Demographic structure has changed with older persons increasing, while the younger and working populations have decreased.

Thailand will be an ageing society in 2025. Proportion of young and working age population has continuously declined and will affect the supply of labor in the future. Shortage of skilled labor is a critical concern. Moreover, health expenditure will increase and become a burden on the public finance, household expenditure and social security.

2.2.4 Social values and traditions have deteriorated.

Economic growth and globalization have led to increased materialism and consumerism. This weakened Thai values and traditional patterns of behavior. Public consciousness and hospitality have declined causing problems of discipline, social-cohesion, respect for others' rights and civic mindedness.

2.2.5 Natural resources have been depleted, and the environment degraded.

The severe problems are resulting from geographical changes and overutilization. Climate change has intensified both the current situation and future challenges, especially shortage of water. Moreover, the exploitation and inefficient use of natural resources as well as increasing waste have led to the risk of biodiversity loss and continuing coastal erosion. Natural disasters tend to occur frequently, threatening agricultural production, food and energy security, health and quality of life.

2.2.6 National security is still critical.

Various problems of national security have been increasing at an alarming rate due to political unrest, terrorism, economic crisis and international competitions. Moreover, severe natural and man-made disasters are likely to have greater impacts in the future. These are challenges for the country's risk management, emergency preparedness, and the capacity to strengthen competitiveness in the global arena.

2.3 Enhancement of resilience

The country must absorb the impacts of changes effectively by strengthening and utilizing resilience as follows:-

2.3.1 Thailand is a constitutional monarchy.

Thai monarchy has been considered the heart and soul of the nation. His Majesty King Bhumibol Adulyadej is a role model for living under the Philosophy of Sufficiency Economy. His life reflects the middle path – avoiding extremes; it is "sufficient" in its demands on resources, and his work and example has led to benefits for all Thais.

2.3.2 Thailand is to base its future development on knowledge, technology and innovation.

Research and development of science and technology are major driving forces of the country's development. They have restructured the production system from a dependence on natural resources, and capital and labor with low productivity, to a focus on knowledge, science and technology with high productivity.

2.3.3 Thai society maintains good values and culture.

These factors contribute toward social cohesion and reduce the negative influences of modernization and conflicts in Thai society. Thai people have applied the Philosophy of Sufficiency Economy to their daily lives. Thai families have raised the younger generations to recognize Thai values and identity.

2.3.4 Agriculture is the main source of income and food security.

It generates various benefits such as being the source of job creation and food security, preserving the traditional way of life, alleviating poverty and reducing global warming effects.

2.3.5 Local community is an effective mechanism for management and participation in better quality of life and welfare society.

It is the main force for developing the country's foundation. Self-reliant communities lessen local economic, social, natural resource and environmental problems.

3 Concept and Direction of development

3.1 Main concepts

The country's future development will be inevitably affected by many significant internal and external changes so that effective development strategies are required. However, past development experience has revealed structural problems in broad areas such as the economy, society, environment and administration, thus hindering sustainable development. Therefore Thailand's resilience must be enhanced under the Philosophy of Sufficiency Economy in order to successfully adapt to changes. The main concept of the Eleventh National Economic and Social Development Plan derives from the Eighth to the Tenth Plans' guiding principles. The Eleventh Plan has adhered to the Philosophy of Sufficiency Economy and that it should be applied to all parties at all levels. Development of people, society, economy, environment and politics are integrated holistically to increase Thailand's capacity for resilience and adaptation including at the level of the family, community and the nation. People-centered development and participation are applied throughout the national development process.

3.2 Direction of development

In order to set the direction of Thailand's development, situations and risks arising from domestic and global changes are to be analyzed. Rapid fluctuations and their impacts, in particular in the economic and energy sectors and climate change, have both positive and negative effects on the country's development. Therefore, the direction of development administration which adheres to the philosophy of Sufficiency Economy, is to optimize benefits from the country's strengths and its potential for long term sustainability. In order to both strengthen and stabilize the domestic economy, the agricultural base and SMEs will have key roles to play in the development process. Meanwhile, Thailand has to increase its connectivity to the regional and the global economies. To be more proactive with respect to the ASEAN Economy Community (AEC) in 2015, Thailand needs to comply with its commitments under various cooperation frameworks, and strengthen its resilience through development of its economic and social capital. In this context, infrastructure and logistic systems have to be further developed in tandem with the quality of human resources. In all aspects, knowledge, science and technology, innovation, and creativity will become powerhouse of the country's future development. Development is intended to generate resilience in each dimension of Thailand's development for balance and sustainability by strengthening and utilizing capital endowment.

First, **empowering of social capital** (human, social and cultural aspects) is concentrated on human and social development toward social quality. Resilience must be created at individual, family and community levels. People can adapt themselves to changes and have the opportunity to access resources and gain fair benefits from development.

Second, **strengthening of economic capital** (physical and financial aspects) concerns strengthening the domestic economy through application of wisdom, science, technology and creativity. Environmentally friendly production and cooperation in regions are promoted.

Lastly, **restoring natural resource and environmental capital** has focused on community, natural resource and environment security, as well as a low-carbon and environmentally friendly economy and society. National preparedness is intended to cope with effects of climate change and natural disasters. Thailand plays a greater role in global forums, while resilience in trade, subject to environmental obligations, is enhanced. Meanwhile, fairness in national administration is promoted through good governance with the emphasis on the improvement of public sector and the quality of government officials. Decentralization should be pursued more effectively in order to strengthen local administration. Anti-corruption mechanisms and preventive systems with people participation should be developed. People have fair access to the judicial process and public resources while democratic values and good governance have been promoted.

4 Vision, Missions, Objectives and Targets of the Eleventh Plan

(2012-2016)

The Eleventh Plan is an indicative medium-term strategic plan aimed at achieving the vision of the year 2027 which was set out by all parties in Thai society, that is “Thai people are proud of their national identity, in particular hospitality. They also follow the path of Sufficiency Economy with democratic values and good governance. Quality public services are provided throughout the country. Thai people live in a caring and sharing society in a safe and sound environment. Production process is environmentally friendly, and food and energy resources are secure. The economy is based on self-reliance and increasing linkages and competitiveness on the global market. Thailand actively contributes to the regional and world communities with dignity.”

4.1 Vision and missions

The Eleventh Plan is the first step toward the long term vision of 2027. For the next five years, vision and missions are set as follows:-

4.1.1 Vision “A happy society with equity, fairness and resilience.”

4.1.2 Missions

- 1) To promote a fair and quality society so as to provide social protection and security, to enjoy access to a fair judicial process and resources, and to participate in the development process under good governance.
- 2) To develop people with integrity, knowledge and skills appropriate to their ages, and to strengthen social institutions and local communities for positive adaptation to changes.
- 3) To enhance the efficiency of production and services based on local wisdom, knowledge, innovation and creativity by developing food and energy security, reforming the structure of the economy and consumption to be environmentally friendly, and strengthening relations with neighboring countries in the region for economic and social benefits.
- 4) To build a secure natural resource and environmental base by supporting community participation and improving resilience to cushion impacts from climate change and disasters.

4.2 Objectives and targets

4.2.1 Objectives

- 1) To promote a fair and peaceful society.
- 2) To increase the potential of all Thais based on a holistic approach with physical, mental, intelligence, emotional, ethical and moral development through social institutions.
- 3) To develop efficient and sustainable economy by upgrading production and services based on technology, innovation and creativity with effective regional linkages, improving food and energy security, upgrading eco-friendly production and consumption toward a low-carbon-society.
- 4) To preserve natural resources and environment to be sufficient for maintaining the ecology and a secure

4.2.2 Main targets

- 1) Thai society becomes a better place characterized by harmony and well-being of its people, inequality is decreased, the number of people under the poverty line is reduced, and the Corruption Perception Index is not lower than score of 5.0.
- 2) All citizens acquire lifelong learning; and better health, and social institutions are strengthened.

3) Thai economy is expected to provide inclusive growth with moderate pace based on its potential by upgrading total factor productivity (TFP) not lower than 3 percent per annum, improving Thailand's competitiveness rank, and increasing the SME's contribution to be not lower than 40 percent of GDP.

4) Environmental quality is improved to meet international standards, reduction of green house gas emission is more efficient, and forest areas have been expanded for a more balanced ecological system.

4.2.3 Key indicators

1) Overall national development: Main indicators are Green and Happiness Index, the Peace Index, the proportion between income groups of the highest 10 percent and the lowest 10 percent, the poverty line, ratio of workers in informal sector have access to social protection, and the Corruption Perception Index.

2) Social Aspects: Many indicators are applied, such as average years of schooling, the proportion of population with access to communication networks and high speed internet, ratio of R&D personnel per 10,000 persons, rate of non-communicable diseases, and the Warm Family Index.

3) Economic Aspects: Important indicators are growth rate, inflation rate, TFP, national competitiveness, and the proportion of SME's production (output) to GDP.

4) Natural resource and environmental aspects: Various indicators are quality of water and air, the proportion of conservation forest areas to total land area, and ratio of green house gas emissions per capita to GDP.

5 Development Strategies

Thailand will promote a peaceful society, with quality growth and sustainability. In dealing with a fast-changing, complicated and unpredictable environment, a set of development strategies are designed for better risk management and improved resilience in utilizing the country's economic and social capital. Together with this, the quality of human resources will be developed through better access to resources and through a fair distribution of development benefits. To create and utilize economic opportunities, knowledge, technology and creative ideas will be crucial factors for environmentally friendly production and consumption, leading to sustainable development. Key development strategies are as follows:-

5.1 Creation of the just society. Development guidelines include:-

5.1.1 Enhance socio-economic security for all citizens to be capable of managing risks and creating opportunities in life.

The economy will be restructured toward a more inclusive and sustainable development while a more diversified and robust grass-roots economy will be developed. A fair allocation of resources will be promoted by restructuring the tax system to improve income distribution and to serve as a tool for a fair allocation of resources and ownership of property. Information technology will be utilized in parallel with improving access to information for career development. Private sector will play a greater role in enhancing socio-economic security for all citizens, and social protection will be upgraded and cover all people.

5.1.2 Provide social services for all in accordance with basic rights, emphasize self-resilience of individuals, and encourage participatory decision-making in the country's development process.

The quality of public services will be improved, and access to such services increased, particularly to housing and public utilities for low income groups. Social welfare will be developed to have high quality and efficiency. At the community level, grass-roots finance and various types of savings will be improved for mobilizing resources. Positive attitudes toward gender equality will be encouraged for increasing participation in decision making. A database system will be developed to ensure the coverage and effectiveness of social protection in accordance with basic rights.

5.1.3 Empower all sectors to be capable of having choices in living and participating in social, economic and political activities with dignity.

People will have freedom to think and act creatively. Capacities of communities will be strengthened to efficiently manage their own problems, while the formation of occupational groups will be promoted and based on communities' potentials. Roles of the private sector, civil society, and local government will be synergized in social development. Consumer protection will be improved to meet high standards, along with increasing access to information and knowledge about rights and the protection of consumer's rights. Women will be promoted to managerial and decision-making positions at local and national levels for greater contribution to the country's development.

5.1.4 Enhance social interaction among people in society for having shared values and public benefits, and reinforce effective, transparent, and accountable public administration.

Mutually recognized new values will be created and based on trust and social cohesion. Good governance in politics will be promoted to embrace genuine democracy together with reforming the entire political system to pioneer genuine democracy. Efficient public administration has to be enhanced with a thorough system of checks and balances, while professionally capable, ethical, and responsible government officials will be developed. Judicial system will ensure impartiality, providing more access to submit complaints and allow for remedies for affected victims. In addition, use of social media both at local and national levels will be supported to reinforce development.

5.2 Development of the lifelong learning society. Development guidelines include:-

5.2.1 Adjust the population structure with appropriate population distribution.

Fertility at the current rate should be maintained and the distribution of population, as well as housing and resettlement will be supported in accordance with the carrying capacity and opportunity of areas and natural resources in the region.

5.2.2 Develop human resources aimed at increasing resilience for change.

Quality of Thais at all ages will be increased. Skills for lifelong learning will be developed focusing on knowledge, innovation, and creativity, and based on the development of five minds—disciplined mind, synthesized mind, creative mind, respectful mind and ethical mind in order to be capable of working in various jobs over a lifetime, relevant to the changing labor market. People will be instilled with the values of social responsibility, respect for the law, human rights, environmentally friendly production and consumption, and learn to cope appropriately with climate change and disasters.

5.2.3 Promote the reduction of risk factors in health.

People will have physical and mental well-being, as well as knowledge and skills in health care at the individual, family and community levels. They will participate in formulating public policies for health care. Public health services will be improved for better quality and coverage, together with the promotion of alternative medicines. Supply of health personnel will be redistributed, while national health database will be developed. Monetary and fiscal measures for health care will be managed in efficient and sustainable manners.

5.2.4 Promote lifelong learning.

Learning habit will be instilled in all Thais from an early stage in life. Roles of development partners will be promoted as sources of creative learning. Alternative education relevant to needs will be encouraged with the promotion of a learning society and factors conducive to lifelong learning.

5.2.5 Reinforce roles of social institutions.

Social institutions will be strengthened to develop human resources. National pride and acceptance of cultural heterogeneity will be encouraged to reduce ideological conflicts and increase social cohesion. International cultural cooperation, especially in the ASEAN community, will be built to create cultural exchanges by sharing knowledge in order to promote mutual understanding in history and culture.

5.3 Strengthening of the agricultural sector and security of food and energy. Development guidelines include:-

5.3.1 Reinforce natural resources as the foundation for agricultural production base.

Productive arable lands will be conserved and small farmers will be supported to own or have rights to farmlands. Land will be redistributed equitably as well as using tax measures to increase efficiency of land utilization. Moreover, land management mechanism will be improved. Natural resources for agricultural production will be restored while good agricultural norms and practices will be promoted for supporting sustainable farming.

5.3.2 Increase agricultural productivity.

Research and development will be emphasized while agricultural production will be adjusted appropriate to socio-geographical conditions. Imported chemical fertilizers and pesticides will be controlled and their farm uses will be inspected to meet clear standards. Agricultural practices for preserving biodiversity will be encouraged to be suitable for the climate and the environment, while basic services for agricultural production will be improved. Science and technology for agriculture will be developed, including support for using technologies for production friendly to the environment.

5.3.3 Increase value of agricultural commodities along supply chains.

Local products and services will be supported to create added value including in agricultural products, food and energy. Collaboration between local educational institutes and the private sector will be encouraged for research and development while farmers and entrepreneurs will be supported to apply knowledge, technologies and innovations that are environmentally friendly. Quality and standards of food and farm products in line with production systems will be upgraded to meet international standards. Markets and future markets for agricultural commodities will be strengthened, and the participation of the private sector, community organizations and agricultural institutes will be encouraged in managing the commodity and food system. In addition, the efficiency of logistic management in the agricultural sector will be improved.

5.3.4 Create job and income security for farmers.

An income insurance system together with crop insurance will be developed to cover all farmers. Fairness for farmers and stakeholders in the contract farming system should be encouraged. Farmers should have better quality of life while the youth, new generations and skilled labor should be induced to engage in agriculture. Agricultural institutes and community enterprises will be major mechanisms for supporting self-reliance. At the same time, small farmers affected by free trade agreements will be empowered in order to maintain their living conditions.

5.3.5 Enhance food security and develop bio-energy at household and community levels.

People and communities will be encouraged to plant trees in households and public areas. Farmers will be encouraged to utilize sustainable agriculture following the Philosophy of Sufficiency Economy. Knowledge management in agriculture and food production will be widely and continuously disseminated. Appropriate consumption behavior at individual and community levels, and creation of production and consumption networks among communities nearby will be promoted. Application of zero waste approach in agriculture will be encouraged in order to utilize farm residues to produce renewable energy at the community level. Infrastructure will be developed in order to help systematically enhance food security for farmers and communities.

5.3.6 Establish bio-energy security to strengthen the agricultural sector and support the national development.

Management system for food and energy crops will be set up, while research and development for increasing

productivity of bio-energy production from energy crops will be promoted. Efficiency in bio-energy production and utilization related to manufacturing and service sectors will be increased. A mechanism for regulating price structure of bio-energy will be created and public awareness of efficient energy use will be raised.

5.3.7 Improve public management to enhance food and energy security.

Farmers, local scholars, the private sector and local communities will participate in agricultural development planning, while actions among government agencies both at central and local levels will be streamlined and integrated. Food and energy database systems will be developed ranging from production, marketing to consumption. Laws and regulations related to agricultural development will be improved. International cooperation at bilateral and multilateral levels, particularly in the ASEAN community, will be encouraged in order to secure food and energy.

5.4 Restructuring the economy toward quality growth and sustainability. Development guidelines include:-

5.4.1 Utilize science, technology, innovation and creativity as fundamental factors for economic restructuring.

This strategy will be achieved through an adjustment of trends in trade and investment to appropriately respond to emerging markets in Asia, Middle East and Africa as well as to the domestic market. The service sector will be restructured to allow for higher value creation and to become more environmentally friendly, based on innovation and creativity. Creative economy will be promoted with the focus on creative business, creative cities and creative industries. Moreover, it is necessary to improve productivity in the agricultural sector and to enhance value creation through innovation and green production processes. There is also a need to use science and technology, and creativity to promote quality and sustainability in the industrial sector and to move Thailand's development toward becoming increasingly knowledge-based and environmentally friendly.

5.4.2 Develop Science and Technology, Research, and Innovation as driving forces for sustained and inclusive growth.

Economic restructuring will emphasize research and development, technology transfer and applications to result in commercialization of innovation, and improvements in the quality of life. There will also be a focus on the development and application of creative thinking and local wisdom. The public and private sectors will cooperate to create an improved enabling environment to facilitate value creation through the provision of appropriate infrastructure and facilities, thus encouraging technology development and innovation.

5.4.3 Enhance the country's competitiveness with a freer and fairer competitive environment.

The country's competitive edge will be strengthened through the development of financial and capital markets, along with the improvement of the workforce, in order to facilitate the economic restructuring. It is essential that the development of science and technology, innovation and creativity is promoted to become key elements in economic restructuring. Moreover, the effective employment of intellectual properties and the development of an efficient intellectual property system will facilitate further research and development, knowledge transfer and application to commercial purposes, generating benefits for communities and for society as a whole. In addition, the development of high quality infrastructure and logistic systems will strengthen the efficiency of domestic and international connectivity consistent with international standards. The issue of energy security will be vital, requiring that more clean energy is used and alternative energy developed, leading to an overall improvement in energy efficiency. Reform of the business legal framework, relevant rules and regulations will also be essential in order to facilitate healthy competition and to enhance efficiency in a manner compatible with global changes and trends.

5.4.4 Achieve stability through sound macroeconomic management.

Priority will be given to financial management under appropriate and timely monetary policy. The role of the capital market will be promoted consistent with development in the global financial sector. A surveillance mechanism for

economic fluctuation, and a comprehensive warning system will be established. There is a need to improve efficiency in foreign capital management as well as fiscal management, through an improved public revenue collection system. More effective budget allocation and management will also be crucial in preventing fiscal risks and enhancing the operational efficiency of state-owned enterprises. Private sector will be encouraged to participate more in investment in infrastructure and public service provision. Fiscal capacity of local government will also be improved.

5.5 Create regional connectivity for social and economic stability. Development guidelines include:-

5.5.1 Develop connectivity in transport and logistic systems under regional cooperation frameworks.

This will be achieved through the development of efficient transport and logistic services meeting international standards. Improvement of relevant rules and regulations on transportation of goods and people will also be undertaken. Moreover, the capacity of human resources in transport and logistic businesses will be enhanced. Economic connectivity along the border areas/economic zones will be increased, while ensuring connectivity with domestic production bases.

5.5.2 Develop investment bases by improving competitiveness in the region.

This will be achieved through spatial development in Thailand to allow connectivity with neighboring countries and South-East Asia, based on integrated spatial development plan for mutual security and stability. It will lead to formation of the development basis in industry, agriculture, tourism, border economic zones, and border towns.

5.5.3 Prepare for ASEAN Economic Community.

Preparation will be made through strengthening public-private cooperation in developing human resources in all economic sectors. There will also be a need to enhance the capacity of public and private educational institutions to meet internationally recognized standards. Moreover, labor skill development, and minimum standards of goods and services are required in order to prevent the import of low-quality products into Thailand and neighboring countries.

5.5.4 Constructively engage in regional and international cooperation frameworks to provide alternatives in foreign policies in the international arena.

This will be achieved through maintaining an active role of Thailand in developing strategies of relevant cooperation frameworks. It is necessary for the country to seek a balance in relations with existing and emerging superpower economies.

5.5.5 Create regional economic partnership on human capital development, labor migration and support provision for Thai labor in foreign countries.

This will be pursued through accelerating the cooperation of international labor standards, and facilitating regional labor mobility. Support will be given to Thai entrepreneurs in undertaking investment abroad, especially in neighboring countries. In addition, protection of the rights and interests of Thai people and labor abroad will be provided.

5.5.6 Contribute to the international community's efforts in improving the quality of life and in the fight against terrorism, international crimes, drug trafficking, natural disasters and epidemics.

Improvement of capacity and preparedness for preventing and resolving international terrorism, drug trafficking, and illegal migration will be undertaken. There is also a need for capacity improvement and enhanced regional cooperation in coping with natural disasters, emergencies, and collaborating in the prevention of infection and spread of emerging and re-emerging diseases.

5.5.7 Promote constructive international cooperation to support economic growth in ethical and sustainable manner, including cooperation with nonprofit international organizations.

Agreements under regional environmental cooperation frameworks will be adhered to through the promotion of green production, consumption and services that will lead to a reduction of GHG emission. The role of non-profit international organizations will be promoted and facilitated, with Thailand as an operational base for development cooperation in this region.

5.5.8 Accelerate the utilization of currently effective free trade agreement.

Knowledge will be provided to the business sector, particularly those affected, both positively and negatively, in order to enhance their capacity and opportunity for benefiting from free trade agreements. In particular, support and assistance will be provided by the government to SMEs that are unable to adapt themselves and handle the aforementioned effects in a timely manner.

5.5.9 Support foreign investors' use of Thailand as a business base for the Asian region, and support of non-profit international organizations for regional development.

Benefits and facilitation shall be provided for Regional Operating Headquarters (ROHs) and for non-profit international organizations in order to increase Thailand's role as a business hub and cooperation base in the region.

5.5.10 Strengthen domestic development partners at the community level.

This will be pursued by empowering the capacity of communities and local governments in preparing for international and domestic changes. The development mechanism will be strengthened for formulating strategies at the provincial level and provincial clusters, especially in border provinces, for cross border cooperation. Support will also be provided for the enhancement of technical capacity and networks of Thai academic institutes in order to create close collaboration with other countries in this region.

5.6 Managing natural resources and environment toward sustainability.

Development guidelines include:-

5.6.1 Conserve, restore and create security of natural resource and environmental bases by safeguarding and restoring forest and conservation areas.

A database system and knowledge management will be developed to serve as tools for planning and management. Meanwhile, the management system of land ownership as well as marine and coastal resources will be reformed. Integrated water resource management will be also urgently pursued. In addition, effort will be made to improve and restore water resources to increase water supply. It is necessary to promote more efficient use of water, which will require a master plan of water infrastructure for systematic management of water consumption. Encouragement will be given to conservation and sustainable utilization of biodiversity.

5.6.2 Shift the development paradigm and direct the country to low carbon and environmentally friendly economy and society.

The country's production and consumption behavior will be restructured to prepare for a transition toward a low carbon and environmentally friendly economy. To this end, energy efficiency in transportation and logistic sector will need to be enhanced in order to reduce greenhouse gas emissions. Development of eco-cities will also be important, with emphasis on urban planning which integrates cultural, social and ecological aspects.

5.6.3 Upgrade capacity in adaptation to achieve climate-resilient society.

This will be achieved through enhancing knowledge and management tools for handling and responding to challenges from climate change. Improvement of community capacity and preparedness to cope with climate change will also be necessary.

5.6.4 Ensure preparedness for natural disaster response.

Maps and priority list of areas under risk will be prepared at the national, regional and provincial levels. Efficiency of disaster management will have to be improved. Furthermore, database system and telecommunication network will have to be developed. It is necessary to provide support for the development of science and technology in disaster management. The national volunteer work system will have to be developed to meet international standards. Moreover, encouragement will be given to private sector, enterprises, schools and local authorities to be well-prepared, and to develop action plan for disaster response.

5.6.5 Foster resilience toward trade related measures associated with environmental conditions and climate change impacts.

Efforts will be made for surveillance and monitoring measures related to environmental conservation that may have effects on international trade and investment. Measures will be introduced to cope with anticipated effects from trade measures and international agreements on environment and climate change. It will also be essential to conduct research on their effects, and to develop strategic plans along with alleviating measures for relevant products and businesses. Encouragement will be given to exporters to provide carbon footprint information. Together with this, incentives will also be provided for new industries to facilitate sustainable development.

5.6.6 Enhance role of Thailand in international arenas related to environmental framework agreements and international commitments.

There is a need to study these agreements in detail to ensure their thorough understanding and to monitor the status of negotiations and the positions of other countries. It is also significant that the negotiation skills and techniques for government officials are strengthened. Moreover, cooperation within ASEAN and with major trading partners will be enhanced. Support will be given to the implementation of international agreements and commitments on natural resources and the environment.

5.6.7 Control and reduce pollution.

It is necessary to reduce the amount of air pollutants. Efficiency of solid waste disposal and community waste water treatment will have to be improved. In addition, there is a need for a management system for hazardous, electronic and infected wastes. Development of warning system and response system for toxic accidents is needed.

5.6.8 Enhance the natural resource and environmental management system to be more efficient, transparent and equitable.

Support will be given to empower communities and to advocate their rights to gain access to and utilize natural resources. Amendment of relevant legislations to address inequality among communities in access to and utilization of natural resources and changes in government investment policies are needed to facilitate conservation and restoration. The collection of environmental tax will be encouraged to provide incentives for efficient use of natural resources and pollution reduction. Ways and means to generate revenue from biodiversity will be explored. Moreover, database as well as monitoring and evaluation systems will be developed. Support will also be given to research for establishing an efficient management system for natural resources and the environment.

6 Translating strategies to implementation

In order to achieve the vision, mission and targets, the implementation of the Eleventh plan will be designed in accordance with national, regional and local agendas. In this connection, the approach of Area, Function and Participation (AFP) has been upheld since its inception in the Eighth Plan. Apart from ministries and departments at

the central level, agencies at provincial level are also key actors in driving the six strategies. At the regional level, the province is playing critical role, synchronizing national agenda with area– based development and local agendas. In this regard, the provincial plan is expected to tackle problems and capitalize on potential at the area and local levels. In action, knowledge, technology, innovation and creativity are major tools in driving development plans at all levels and in all segments of the society. Together with this, all development partners will collaborate through the cluster approach, responsive to problem solving and area development. Implementation guidelines are as follows.

6.1 Promoting awareness among development partners of their roles in collaboration in the development process.

Communication will be emphasized to ensure a common understanding and commitment among all relevant partners, including the political segment. In this respect, a handbook for plan translation will be detailed for implementation.

6.2 Collaborating on the Eleventh Plan with government policies, national administration plan and other plans.

Significant development issues in the plan will be incorporated or integrated into government policies, national administration plan, specific plans and operational plans. Along this line, the Eleventh Plan will need to link closely to the budget allocation strategy and the annual budget plan. Furthermore, it is necessary to link development issues and guidelines addressed in the Eleventh Plan with community plans, local administration plans, provincial plans and provincial cluster plans. The provincial sector is also encouraged to take major development issues and guidelines into account, in particular in their investment plans.

6.3 Providing enabling environment to enhance stakeholders' capacity.

To increase overall productivity and improve quality of life, research and development will be an important tool for driving the country's development. Implementation of relevant rules and regulations will facilitate better management of the Plan. Moreover, information technology will be used for facilitating communication and developing database management in order to encourage public participation in the development process.

6.4 Enhancing efficiency of development mechanisms to improve effective plan implementation at local, regional and national levels for better management.

National committees and agencies are encouraged to address the Plan's development issues and guidelines in their agendas. Provincial organizations will serve to link, coordinate and act as clearing houses for top-down and bottom-up development issues for the private sector and other agencies to collaborate in the implementation process.

6.5 Strengthening the stakeholders' capacity to efficiently contribute to the development agenda at every level.

All stakeholders' potentials will be tapped and developed so as to take part effectively in the development process. In this connection, communities and local authority will be empowered in order to strengthen their resilience toward any changes. Academic institutes will play key roles in working with community, local government, and provincial authority while the role of the private sector will be enhanced for economic and social development. In all respects, government authorities need to adjust their mindset to play meaningful role as change agents for the country's development.

6.6 Developing efficient, transparent and participatory systems of monitoring and evaluation at all levels.

To allow for the effective adjustment of the planned development process, continuous monitoring and evaluation will focus on objectives and targets set in the overall and individual development strategies of the Plan. The monitoring and evaluation systems will be developed to monitor both overall results of the Plan and area based development issues. People will be encouraged to play a part in the public agenda with emphasis on efficiency and transparency. Databases at provincial and local levels will be developed and linked with central databases and other relevant databases

SOURCE OFFICE OF THE NATIONAL ECONOMIC AND SOCIAL DEVELOPMENT BOARD :

TAX BENEFIT AND RATE

The BOI offers incentives as follows;

| Tax and Duty Privileges | Zone 1 | | Zone 2 | | Zone 3 (36 provinces) | | Zone 3 (22 provinces) | |
|--|---|---------------|---|---------------|---|--------------------|---|------------------------------------|
| | Inside industrial estates/promoted industrial zones | Outside | Inside industrial estates/promoted industrial zones (Excluding Laem Chabang Industrial Estate and promoted industrial zones in Rayong Province) | Outside | Inside industrial estates/promoted industrial zones+Laem Chabang Industrial Estate and promoted industrial zones in Rayong Province)* | Outside | Inside industrial estates/promoted industrial zones | Outside |
| Import duties on machinery | 50% reduction | 50% reduction | Exemption** | 50% reduction | Exemption | Exemption | Exemption | Exemption |
| Corporate income tax exemption | 3 years | - | 7 years** | 3 years | 8 years | 8 years | 8 years | 8 years |
| 50 percent reduction of corporate income tax | - | - | - | - | 5 years after the exemption period | - | 5 years after the exemption period | 5 years after the exemption period |
| Import duty on raw or essential materials used in manufacturing of export products | Exemption | Exemption | Exemption | Exemption | Exemption | Exemption | Exemption | Exemption |
| Deduction of transportation, electricity and water costs | - | - | - | - | Double deduction for 10 years | - | Double deduction for 10 years | Double deduction for 10 years |
| Deduction of the project | - | - | - | - | 25% deduction from net profit | 25% deduction from | 25% deduction from net profit | 25% deduction from |

| | | | | | | | | |
|---|---|---|---|---|--|------------|--|------------|
| infrastructure installation construction costs | | | | | | net profit | | net profit |
| Import duties on raw or essential materials used in manufacturing products for domestic scale | - | - | - | - | 75% reduction for 5 years with yearly approval** Zexcluding Laem Chabang Industrial Estate and industrial estates/promoted industrial zones in Rayong Province) | - | 75% reduction for 5 years with yearly approval** | - |

Source : Thailand Board of Investment

The I-EA-T FREE ZONE offers incentives as follows;

Investment Privileges from I-EA-T

I-EA-T FREE ZONE: ENHANCED INVESTMENT POTENTIAL AND OPPORTUNITY IN AN INDUSTRIAL ESTATE

For over three decades, as a state enterprise established under the Industrial Estate Authority of Thailand Act B.E. 2522 [1979], the Industrial Estate Authority of Thailand (I-EA-T) has been carrying out its roles and responsibilities to develop ideal industrial estates perfectly equipped with an extensive range of infrastructure and facilities, coupled with a full-scale administrative system and numerous privileges. Based on such favorable attributes, each industrial estate is expected to be a production base that contributes to the competitiveness of all business operators.

To improve effectiveness and efficiency as a potential and performance-enhancing tool for investors and operators in industrial estates, the Industrial Estate Authority of Thailand Act B.E. 2522 [1979] was amended and re-enacted as the Industrial Estate Authority of Thailand Act (No.4) B.E. 2550 [2007] to meet the needs of today's dynamic marketplace and obligations under World Trade Organization (WTO) agreements.

Fundamentals of the Industrial Estate Authority of Thailand Act (No.4) B.E. 2550 [2007]

1. Industrial estates are divided into two zones: General Industrial Zone and I-EA-T Free Zone – in lieu of an Export Processing Zone, whereby no export conditions are imposed in accordance with WTO obligations.
2. The operation of service businesses are allowed in a General Industrial Zone, where service operators are granted the right to land ownership.
3. Operators in an I-EA-T Free Zone are entitled to additional tax privileges.
4. The administrative process was streamlined to facilitate business operations in an I-EA-T Free Zone.
5. The process of industrial estate establishment and land allocation was improved to ensure faster and more convenient implementation.

Enhanced Potential and Opportunity

An investors' potential in operating a business in an industrial estate – be it in a General Industrial Zone or an I-EA-T Free Zone – are augmented by a wider spectrum of privileges and facilities that make each estate an ideal strategic production and service base designed to heighten competitiveness for both business operators and industrial estate developers.

Investment in General Industrial Zone

Investors in a General Industrial Zone are eligible for following opportunities, options and privileges:

1. Permission to operate service businesses in the General Industrial Zone
- I-EA-T provides industrial operators in a General Industrial Zone with comprehensive services essential for industrial operation – such as transportation, warehouses, training centers and clinics – as well as permission to own land

required for their operations.

2. Non-Tax privileges for operators in a General Industrial Zone

- The right to own land in an industrial estate
- The right to bring in foreign skilled workers as well as their spouses or dependents
- The right to remit money abroad

Investment in I-EA-T Free Zone

Under the most recent Industrial Estate Authority of Thailand Act, investors in an I-EA-T Free Zone are entitled to additional tax privileges and other preferences:

1. Privileges

- Operators in an I-EA-T Free Zone are afforded the privilege of exporting products without any restrictions and with the added convenience of being able to bring merchandise or raw materials into an I-EA-T Free Zone.
- Supplies taken into an I-EA-T Free Zone are entitled to improved tax and duty privileges.
- Tax burden relief for products taken out of an I-EA-T Free Zone for domestic use or consumption. Contrary to the previous Act, content or raw material components, if produced domestically, are entitled to tax and duty exemptions.
- Operators in a I-EA-T Free Zone remain entitled to privileges indicated in the previous Industrial Estate Authority of Thailand Act:

♣ Tax privileges including import/export tax and duty exemptions; value-added tax (VAT) as well as excise tax on machinery, equipment, components, raw materials and supplies used for the production of goods and other merchandise

♣ General privileges consisting of the right to own land, bring in technicians, experts, their family members and dependents, as well as the ability to remit foreign currency to their home countries

2. Operational preferences

- Permission to import into Thailand or bring into an I-EA-T Free Zone, merchandise and raw materials for production, trade or service offering, without any restriction that importation of such material is limited to business operators.
- Permission, for export goods producers, to bring supplies or raw materials into an I-EA-T Free Zone for manufacturing, mixing, assembling, packing or any other operations, without requiring any import permits or particular seals or symbols and with exemptions from standard and quality control requirements contained in any other laws - except those found in the customs law.

Increased Competitiveness of Industrial Estate Developers

The amended Industrial Estate Authority of Thailand Act was rewritten to increase industrial estate developer competitiveness, through the following:

- The establishment of an I-EA-T Free Zone is now expedited through the issuance of I-EA-T Announcements – instead of Royal Decrees.
- The land allocation process is now facilitated by allowing the I-EA-T Governor to grant approval according to I-EA-T-specified criteria, methods and conditions.

Thailand's Competitive Potential on the Global Arena

The amended Act provides advantages to Thai operators on the global trade stage, through the following:

- o Thailand is to earn acceptance and recognition from member nations who also comply with WTO obligations resulting in a positive impact on trade and investment.
- o Operators will not encounter any retaliation on issues concerning government-subsidized export products by the WTO member nations, to which operators export their products.
- o Trade expansion can take place in accordance with free trade guidelines, propelling Thailand's economy to greater heights.
- o Operator and entrepreneur confidence is improved.
- o Special privileges such as tax breaks are granted by the 150 WTO member nations.
- o Operators are able to conduct business more effectively as they can select appropriate trade markets – whether to sell products domestically or internationally – based on competitive conditions and thereby enhancing their capabilities for global market expansion.

Source : I-E-A-T

The Income taxation

In Thailand, there are many kinds of business identities. The type of business you chose will affect your tax rates and tax benefits.

In general, the most common types of business are:

❖ Thai company

- A company registered under Thai law.

❖ Foreign company

- A company carrying on business in Thailand but registered under foreign law.
- A company not carrying on business in Thailand but deriving income from Thailand.

Thai Company

A Thai company generally pays tax at 30% of net profit. However, some types of company are entitled to a rate reduction.

Rates:

📄 Small business with paid-up capital less than 5 million baht

- 20% of net profit < 1million baht ,15% of net profit< 1 million baht starting from 1st January B.E.2547
- 25% of net profit 1-3 million baht

📄 Company registered in the Stock Exchange of Thailand (SET)

- 25% of net profit < 300 million baht for 5 consecutive accounting periods starting from 6th September B.E.2545.

📄 Newly registerd company in the Stock Exchange of Thailand (SET) and Market for Alternative Investment (MAI) within 3 years starting from 6th September B.E.2545

- 25% of net profit for newly registered company in SET for 5 consecutive accounting periods.
- 20% of net profit for newly registered company in MAI for 5 consecutive accounting periods.

📄 Bangkok International Banking Facility and Regional Operating Headquarters

- 10% of net profit from qualified income

📄 Association and foundation

- 2% or 10% on gross receipts

Foreign Company

A foreign company carrying on business in Thailand, whether it has a branch, an office, an employee or an agent in Thailand shall pay 30% tax only on profit deriving from business in Thailand. However, international transportation company shall pay tax at the rate of 3% on gross receipts.

Foreign Company Abroad

A foreign company that does not carry on business in Thailand will be subject to withholding tax on certain categories of income derived from Thailand. The withholding tax rates may be further reduced or exempted depending on types of income under the provision of Double Taxation Agreement.

Rates:

| | |
|---|-----|
| Remittance of profits | 10% |
| Dividends | 10% |
| Other income such as interests, royalties, capital gains, rents and professional fees | 15% |

Tax Registration

A foreign company carrying on business in Thailand, whether setting up a branch or an office must apply for tax identification number from the Revenue Department. An application form (Lor Por 10.3) together with other relevant documents i.e. a copy of a company's registration license, house registration, etc. shall be submitted to the Area Revenue Office within 60 days for the date of registration or operation.

Tax Treaties to Avoid Double Taxation

Currently, Thailand has concluded tax treaty agreements with 51 countries: Armenia, Australia, Austria, Bangladesh, Bahrain, Belgium, Bulgaria, Canada, China P.R., Cyprus, Czech Republic, Denmark, Finland, France, Germany, Hong Kong, Hungary, India, Indonesia, Israel, Italy, Japan, Korea, Laos, Luxembourg, Malaysia, Mauritius, Nepal, the Netherlands, New Zealand, Norway, Oman, Pakistan, the Philippines, Poland, Romania, Seychelles, Singapore, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Uzbekistan, and Vietnam

Tax Filing and Payments

Thai & Foreign Company Carrying on Business in Thailand

Any Thai or foreign company carrying on business in Thailand must submit their tax returns and payments twice a year.

- The semi-annual tax return must be submitted (CIT 51 form) within two months after the end of the first six months, the amount of tax due shall be half of the entire year projection of the company's annual net profit.
- The annual tax returns (CIT 50 form) must be submitted within 150 days after the closing date of its accounting period.

International Transportation Business

A company shall submit tax return (CIT 52 form) and payment within 150 days after the closing date of its accounting period.

Foreign Company Not Carrying on Business in Thailand

A taxpayer in Thailand shall withhold tax at source at the time of payment and submit it together with CIT 54 form to the Area Revenue Office within 7 days of the following month after the payment is made.

Electronic Filing and Payments

A company can easily submit income tax return (CIT 50, 51, 52, 54) and make tax payment via internet at <http://www.rd.go.th> The service opens daily from 6 am. – 10 pm.

Tax Benefits

A company that chooses to register under Thai law shall enjoy various tax benefit schemes such as;

- Income tax holiday from 3 to 8 years for business with Investment Promotion Privileges.
- Reduction or exemption of import duties on raw material and imported machinery for business with

Investment Promotion Privileges or industries setting up in Export Processing Zone and Free Trade Zone.

- Double deduction for the cost of transportation, electricity and water supply for industries with Investment Promotion Privileges.
- 200% deduction for the cost of hiring qualified researchers doing research and development project.
- 150% deduction for the cost of employee's training in order to improve human capital.
- Small and medium size company can choose to deduct special initial allowance on the date of acquisition for computer (40%), plant (25%) and machinery (40%).

Source : REVENUE DEPARTMENT

LABOUR PROTECTION ACT (NO. 2) B.E. 2551 (2008)

BHUMIBOL ADULYADEJ REX.

Given on the 15th Day of February B.E. 2551

Being the 63rd Year of the Present Reign

His Majesty the King Bhumibol Adulyadej is graciously pleased to proclaim that: Whereas it is expedient to amend the law governing labour protection. This Act contains certain provisions relating to the restrictions on the rights and liberties of an individual which Section 29 together with Section 41 and Section 43 of the Constitution of the Kingdom of Thailand prescribe to be permissible by virtue of law. Be it, therefore, enacted by H.M. the King with the advice and consent of the National Legislative Assembly as follows:

Section 1 This Act shall be cited as "The Labour Protection Act (No.2) B.E. 2551".

Section 2 This Act shall come into force after ninety days from the date of its publication in the Government Gazette.

Section 3 The definition of "Employer" in Section 5 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following:

"Employer" means a person who agrees to accept an employee for work by paying wages and includes

(1) a person entrusted to act on behalf of the Employer;

(2) in case where an Employer is a juristic person, the term also includes a person authorized to act on behalf of the juristic person and a person entrusted by an authorized person to act on his or her behalf.

Section 4 The provision of paragraph one of Section 9 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following: "Section 9 Where an Employer fails to pay back a security in money under Section 10 paragraph two, or fails to pay wages, overtime pay, holiday pay and holiday overtime pay within the period prescribed under Section 70, or severance pay under Section 118, special severance pay in lieu of advance notice, or special severance pay under Section 120, Section 121 and Section 122, the Employer shall pay interests to an Employee at the rate of fifteen percent per annum during the default period."

Section 5 The provisions of Section 10 and Section 11 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following: "Section 10 Under Section 51 paragraph one, an Employer shall be prohibited from demanding or receiving from an Employee a security deposit for work or a security deposit for damage to work regardless of money, other property or suretyship by person, unless the nature or conditions of work require the Employee be responsible for money or property belonging to the Employer, which may cause damage to the Employer. The nature or conditions of work which the Employer is allowed to demand or receive a security deposit from the Employee, as well as any type of the security, values of the security and means of keeping shall be in accordance with the rules and procedures as prescribed in the Notification by the Minister. Where the Employer demands or receives the security deposit or makes a guarantee contract with the employee to compensate for damage done by the Employee, when an employment is terminated by the Employer or the resignation is made by the Employee or the guarantee

contract is expired, the Employer shall pay back the security thereof plus interests, if any, to the Employee within seven days from the date of termination of employment, or from the date of resignation, or from the expiry date of the guarantee contract, as the case may be. Section 11 A debt owing by an Employer to be paid under this Act or money to be compensated by the Employer to the Employee Welfare Fund under Section 135, an employee or the Department of Labour Protection and Welfare, as the case may be, shall have a preferential right over all properties of the Employer who is a debtor in the same rank as the preferential rights of taxes and duties under the Civil and Commercial Code.”

Section 6 The following provisions shall be added as Section 11/1 of the Labour Protection Act B.E. 2541: “Section 11/1 Where an entrepreneur has entrusted any individual to recruit persons to work, which is not a business of employment services, and such work is any part of manufacturing process or business operation under the entrepreneur’s responsibility, and regardless of whether such person is the supervisor or takes the responsibility for paying wages to the persons who perform work, the entrepreneur shall be deemed as an Employer of such workers. The entrepreneur shall provide contract employees, who perform work in the same manner as employees under the employment contract, to enjoy fair benefits and welfare without discrimination.”

Section 7 The following provision shall be added as Section 14/1 of the Labour Protection Act B.E. 2541: “Section 14/1 A contract of employment between an Employer and an employee, work rule, regulation or order of an Employer result in the Employer being in exploitation of the Employee, the Court shall have a power to order such contract of employment, work rule, regulation or order being enforceable only to the extent as it is fair and reasonable.”

Section 8 The provisions of Section 16, Section 17 and Section 18 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following: “Section 16 An Employer, a chief, a supervisor, or a work inspector shall be prohibited from committing sexual abuse, harassment or nuisance against an employee. Section 17 A contract of employment shall expire upon the completion of the period specified in the contract of employment with no requirement for advance notice. Where the period is not specified in the contract of employment, an Employer or an employee may terminate the contract by giving advance notice in writing to the other party at or before any due date of wage payment in order to take effect on the following due date of wage payment, with no requirement for advance notice of more than three months. In addition, a probationary contract shall also be deemed as an indefinite period contract of employment. Upon the notice of contract of employment under paragraph two, the Employer may pay wages in an amount to be paid up to the due time of termination of the contract of employment as specified in the notice and may dismiss the Employee immediately. The advance notice under this Section shall not apply to the termination of employment under Section 119 of this Act and Section 583 of the Civil and Commercial Code. Section 18 Where this Act prescribes that an Employer is required to notify any act or submit any document to the Director-General or any person entrusted by the Director-General or the Labour Inspector, the Employer shall notify or submit it in person or by mail, telephone, facsimile, electronic communication or any other kinds of information technology in accordance with the rules and procedures as prescribed in the Notification by the Director-General.”

Section 9 The provision of Section 23 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following: “Section 23 An Employer shall notify a normal working time to an employee, by specifying the commencing and ending time of work in each day of the employee, which shall not exceed the working time for each type of work as prescribed in the Ministerial Regulations and not exceed eight hours per day. Where the working hours of any day are less than eight hours, the Employer and the employee may agree to make up the remaining working hours in other normal working days, but not exceed nine hours per day and the total working hours per week shall not exceed forty-eight hours. Except for the work which may be harmful to health and safety of the employees as prescribed in the Ministerial Regulations for which the normal working hours shall not exceed seven hours per day and the total working hours per week shall not exceed forty-two hours. Where the Employer and the employee agree to make up the remaining hours in other normal working days under paragraph one and the total working hours exceed eight hours per day, the Employer shall pay remuneration to the daily employee and the hourly employee at a rate of not less than one and a half times of the hourly wage rate on a working day for a number of exceeding working hours, or to the employee who receives wages on a piece rate basis at a rate of not less than one and a half times of the piece rate of wages of a working day for a number of piece work done in the exceeding working hours. Where the Employer may not notify the commencing and ending time of daily work due to the nature or conditions of work, the Employer and the employee shall agree to specify the

working hours in each day of not exceeding eight hours and the total working hours per week shall not exceed forty-eight hours.”

Section 10 The provisions of Section 38 and Section 39 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following: “Section 38 An Employer shall be prohibited to require a female Employee to perform any of the following work:

- (1) mining or construction work to be performed underground, underwater, in a cave, in a tunnel or mountain shaft, except where the conditions of work are not harmful to health or body of the Employee;
- (2) working on a scaffold of ten metres or more above the ground;
- (3) producing or transporting of explosive or inflammable materials, except where the conditions of work are not harmful to health or body of the Employee;

(4) any other work as prescribed in the Ministerial Regulations. Section 39 An Employer shall be prohibited to require a female Employee who is pregnant to perform any of the following work:

- (1) work involving vibrating machinery or engine;
- (2) work of driving or going on a vehicle;
- (3) work of lifting, carrying on the back, carrying on shoulder, carrying with a pole across shoulder, carrying on a head, pulling or pushing of loads in excess of fifteen kilograms;
- (4) work on a boat; or
- (5) any other work as prescribed in the Ministerial Regulations.”

Section 11 The following shall be added as Section 39/1 of the Labour Protection Act B.E. 2541: “Section 39/1 An Employer shall be prohibited to require a female employee who is pregnant to work between 10.00 p.m. and 06.00 a.m., to work overtime or to work on holidays. Where the female employee who is pregnant works in an executive position, academic work, clerical work or work relating to finance or accounting, the Employer may require the employee to work overtime in the working days as long as there is no effect on the health of pregnant employee and with prior consent of the pregnant employee on each occasion.”

Section 12 The provisions of Section 50 and Section 51 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following: “Section 50 An Employer shall be prohibited to require an Employee who is a youth under eighteen years of age to work in any of the following places:

- (1) a slaughterhouse;
- (2) a gambling place;
- (3) a recreation place in accordance with the law governing recreation places;
- (4) any other place as prescribed in the Ministerial Regulations. Section 51 An Employer shall be prohibited from demanding or receiving a security deposit for any purpose from a young employee. The Employer shall be prohibited to pay wages of the young employee to any other person. Where the Employer pays money and any other benefit to the young employee, the parent or guardian of the young employee or other persons before employment, at the commencement of employment, or before the due time of wage payment in each period, that payment shall not be deemed as the payment or receipt of wages for the young employee. The Employer shall be prohibited to deduct such money or such benefit from the wages to be paid to the young employee in the specified time.”

Section 13 The provision of Section 65 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following: “Section 65 An employee who is authorised or assigned by an Employer to perform any of the following work shall not be entitled to overtime pay under Section 61 and holiday overtime pay under Section 63, but the employee required by the Employer to perform work as provided in item (3), (4), (5), (6), (7), (8) or (9) below shall be entitled to receiving remuneration in money equivalent to the hourly wage rate of a working day for the number of hours of work done:

- (1) an employee who is authorised to act on behalf of the Employer in regard to the employment, granting of pension or termination of employment;
- (2) an itinerant vending or induce about the purchase of goods which the Employer pays a commission from the sale of goods to the employee.
- (3) railway service operation including work on a railway carriage and work for facilitating a railway transportation;
- (4) work of opening or closing of watergate or sluice gate;
- (5) work of indicating of water levels and measuring of water volume;
- (6) work on fire fighting or prevention of disaster;
- (7) work of which nature or condition has to be performed outside of the premise and the definite working time may not be fixed;

- (8) work on watchkeeping of the premise or property which is not a regular duty of the employee;
- (9) any other work as prescribed in the Ministerial Regulations The exception for the aforementioned is where any Employer agrees to pay overtime or holiday overtime payment to the employee.”

Section 14 The provision of Section 67 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following: “Section 67 Where an Employer terminates the employment of an employee upon any condition other than provided in Section 119, the Employer shall pay wages to the employee for annual holidays for the year of termination in proportion to a number of annual holidays to which the employee is entitled under Section 30. Where an employee is a party to terminate a contract of employment or the Employer is a party to terminate an employment regardless of any condition under Section 119, the Employer shall pay wages to the employee for accumulated annual holidays to which the employee is entitled under Section 30.”

Section 15 The provision of Section 75 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following: “Section 75 When it is necessary for an Employer for whatever cause other than a force majeure which affects his/her business and causes the Employer incapable to operate his or her business as normal so as to temporarily suspend the business in whole or in part, the Employer shall pay wages to an employee in amount of not less than seventy-five per cent of wages of working days received by the employee before the suspension of business for the entire period which the Employer does not require the employee to work. The Employer shall give written notice to the employee and the Labour Inspector in advance prior to the date of suspension of business under paragraph one for not less than 3 working days.”

Section 16 The provisions of Section 93 and Section 94 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following: “Section 93 The Labour Welfare Committee shall have powers and duties as follows:

- (1) to make comments to the Minister concerning policies, guidelines and measures on labour welfare;
- (2) to make comments to the Minister on the issue of Ministerial Regulations, Notifications or Rules concerning the provision of welfare in establishments;
- (3) to provide advices on the provision of labour welfare for different types of establishments;
- (4) to evaluate and report the performance results to the Minister;
- (5) to issue an order to an Employer to pay a special severance pay or a special severance pay in lieu of advance notice under Section 120;
- (6) to perform any other task as prescribed by this Act or by any other law to be the powers and duties of the Labour Welfare Committee or as assigned by the Minister. Section 94 Section 78 paragraph two, Section 80, Section 81, Section 82 paragraph one, Section 83, Section 84, Section 85 and Section 86 shall apply mutatis mutandis to the Labour Welfare Committee.”

Section 17 The following shall be added as Section 115/1 of the Labour Protection Act B.E. 2541: “Section 115/1 For the purpose of performing duties of the Labour Inspector under Section 139, an Employer who employs 10 employees or more shall submit a report form on conditions of employment and working conditions to the Director-General or a person entrusted by the Director-General within every January. The Labour Inspector shall provide the form as prescribed by the Director-General to the employer within every December. Where there is any change in the facts on conditions of employment and working conditions submitted under paragraph one, the Employer shall inform the Director-General or a person entrusted by the Director-General in writing of the change within the following month after the existence of such change.”

Section 18 The provisions of Section 119 and Section 120 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following: “Section 119 An employer may not pay severance pay to an employee when employment is terminated upon any of the following conditions:

- (1) performing his/her duty dishonestly or intentionally committing a criminal offence against the Employer;
- (2) willfully causing damage to the Employer;
- (3) committing negligent acts causing serious damage to the Employer;
- (4) violating work rule, regulation or order of the Employer which is lawful and just, and after written warning having been given by the Employer, except for a serious case with no requirement for the Employer to give warning. The written warning shall be valid of not exceeding one year from the date when the employee commits the offence;
- (5) absenting himself/herself from duty without justifiable reason for three consecutive working days regardless of whether there is holiday in between;
- (6) being sentenced to imprisonment by a final court judgment. In item (6), if the imprisonment is for offences committed by negligence or a petty offense, it shall be the offense causing damage to the

Employer. Upon termination of employment without severance pay under paragraph one, when the Employer fails to specify the fact which is a cause of termination in a letter of termination of employment or fails to inform the cause of termination to the employee at a time of termination of employment, the Employer cannot afterwards claim for such cause. Section 120 Where an Employer relocates an establishment to another place and the relocation significantly affects the ordinary way of living of an employee or his/her family, the Employer shall inform the employee in advance of not less than thirty days before the date of relocation. For this purpose, if any employee refuses to work at the new location, the employee is entitled to terminate a contract of employment within thirty days from the date of being informed by the Employer or the date of relocation as the case may be. In this regard, the employee is entitled to a special severance pay of not less than the rate of severance pay for which he/she is eligible under Section 118. Where the Employer fails to inform an employee in advance under paragraph one, the Employer shall pay a special severance pay in lieu of advance notice in an amount equivalent to thirty days pay at the latest wage rate, or equivalent to the wages of the last thirty days for the employee who receives wage based on a piece rate. The Employer shall pay special severance pay or special severance pay in lieu of advance notice to the employee within seven days from the date when the employee terminates the contract. Where the Employer fails to pay special severance pay or special severance Pay in lieu of advance notice under paragraph three, the employee is entitled to lodge a complaint to the Labour Welfare Committee within thirty days from the due date of payment of special severance pay or special severance pay in lieu of advance notice. The Labour Welfare Committee shall consider and issue an order within sixty days from the date of receiving the complaint. When it is determined by the Labour Welfare Committee that the employee is entitled to special severance pay or special severance pay in lieu of advance notice, the Labour Welfare Committee shall issue an order in writing to the Employer to pay special severance pay or special severance pay in lieu of advance notice to the employee within thirty days from the date when the Employer has acknowledged or deemed to acknowledge such order. When it is determined by the Labour Welfare Committee that the employee is not entitled to special severance pay or special severance pay in lieu of advance notice as the case may be, the Labour Welfare Committee shall issue a written order and communicate to the Employer and the employee. The order of the Labour Welfare Committee shall be final, unless the Employer or the employee appeals against the order to the court within thirty days from the date of acknowledgement of the order. Where the Employer is a party who brings the case before the court, the Employer shall deposit a security with the court in equal to an amount to be paid by the order so as to further the proceeding of the case.”

Section 19 The provision of paragraph three of Section 124 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following: “When it appears from an investigation by the Labour Inspector that the employee is entitled to any sum of money which the Employer is liable to pay under this Act, the Labour Inspector shall order the Employer to pay such money to the employee or to a statutory heir of the deceased employee in the form provided by the Director- General within thirty days from the date of acknowledgment or the date deemed to be acknowledged of the order.”

Section 20 The following shall be added as Section 124/1 of the Labour Protection Act B.E. 2541: “Section 124/1 Where an Employer has complied with an order of the Labour Inspector under Section 124 within a specified period or complied with a court judgment or an order of the court, the criminal proceedings against the Employer shall be extinguished.”

Section 21 The provision of paragraph four of Section 125 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following: “Where the case is final and the Employer is liable to pay any sum of money to the employee or to the statutory heir of the deceased employee, the Court shall have the power to pay the money deposited with the Court by the Employer to the employee or the statutory heir of the deceased employee or the Employee Welfare Fund upon the payment under Section 134 as the case may be.”

Section 22 The provision of Section 135 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following: “Section 135 Where the Department of Labour Protection and Welfare has paid money from the Employee Welfare Fund, either in whole or in part to employee under Section 134, the Department of Labour Protection and Welfare shall have the right of recourse against a person liable to pay such money to the employee including interests at the rate of fifteen per cent per annum from the date when the Department of Labour Protection and Welfare has paid money from the Employee Welfare Fund to the employee, regardless of whether the liable person already paid such money to the Employee or not. The

prescription of the right of recourse under paragraph one shall be ten years from the date of payment from the Employee Welfare Fund is made.”

Section 23 The provision of Section 141 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following: “Section 141 An appeal against an order of the Labour Inspector under Section 139 (3) shall be made to the Director-General or any person entrusted by the Director-General within a specified period as provided in the order. The Director-General or any person entrusted by the Director-General shall determine the appeal and notify the appellant without delay, but no longer than thirty days from the date of receiving the appeal. The decision of the Director-General or any person entrusted by the Director-General shall be final. The appeal under paragraph one shall not relieve the Employer’s obligation to take any action in compliance with the order of the Labour Inspector, unless the Director-General or the person entrusted by the Director-General issues an order otherwise or a security as provided by the Director-General or the person entrusted by the Director-General is deposited. Where the Employer or the employee has complied with the order of the Labour Inspector under Section 139(3) or has complied with the decision of the Director-General or the person entrusted by the Director-General under paragraph one within the specified period, the criminal prosecution against the Employer or the employee shall be extinguished.”

Section 24 The provision of Section 144 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following: “Section 144 Any Employer who violates or fails to comply with Section 10, Section 22, Section 24, Section 25, Section 26, Section 37, Section 38, Section 39, Section 39/1, Section 40, Section 42, Section 43, Section 46, Section 47, Section 48, Section 49, Section 50, Section 51, Section 61, Section 62, Section 63, Section 64, Section 67, Section 70, Section 71, Section 72, Section 76, Section 90 paragraph one, or the Ministerial Regulations issued under Section 95, Section 107 or Section 118 paragraph one, or fails to pay special severance pay in lieu of an advance notice or special severance pay under Section 120, Section 121 or Section 122 shall be penalised with imprisonment of not more than six months, or a fine not exceeding one hundred thousand baht, or both. Where an Employer violates or fails to comply with Section 37, Section 38, Section 39, Section 39/1, Section 42, Section 47, Section 48, Section 49 or Section 50 thereby causing physical or mental harm to an employee, or causing the death of employee, the Employer shall be penalised with imprisonment of not more than one year or a fine not exceeding two hundred thousand baht, or both.”

Section 25 The following shall be added as Section 144/1 of the Labour Protection Act B.E. 2541: “Section 144/1 Any entrepreneur who fails to comply with Section 11/1 shall be penalised with a fine not exceeding one hundred thousand baht.”

Section 26 The provisions of Section 150 and Section 151 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following: “Section 150 Any person who fails to render any convenience, give a statement, or submit document or object as required by a summons of the Wage Committee, the Labour Welfare Committee, Sub-committee under the Committees thereof or a person entrusted by the Committee or Sub-committees thereof as a case may be, or fails to render convenience to the Labour Inspector, a physician, a social welfare officer or an expert under Section 142 shall be penalised with imprisonment of not more than one month, or a fine not exceeding two thousand baht, or both. Section 151 Any person who obstructs the performance of any duty of the Wage Committee, the Labour Welfare Committee, Sub-committee under the Committees thereof, a person entrusted by the Committee or Sub-committee thereof as a case may be, or obstructs the performance of any duty of a Labour Inspector, a physician, a social welfare officer or an expert under Section 142 shall be penalised with imprisonment of not more than one year, or a fine not exceeding twenty thousand baht, or both. Any person who fails to comply with an order of the Labour Welfare Committee issued under Section 120 or an order of the Labour Inspector issued under Section 104, Section 105 or Section 124 shall be penalised with imprisonment of not more than one year, or a fine not exceeding twenty thousand baht, or both.”

Section 27 The following shall be added as Section 155/1 of the Labour Protection Act B.E. 2541: “Section 155/1 Any Employer who fails to submit or provide a report form on conditions of employment and working conditions under Section 115/1 and, after receiving a warning letter of the Labour Inspector, fails to submit or provide the report form within fifteen days from the date of receiving the warning letter shall be penalised with a fine not exceeding twenty thousand baht.”

Source : DEPARTMENT OF LABOUR PROTECTION AND WELFARE

FOREIGN BUSINESS ACT,

BHUMIBOL ADULYADEJ, REX;

Given on the 24th Day of November B.E. 2542;

Being the 54th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to revise the law on foreign businesses;

Whereas it is aware that this Act contains certain provisions in relation to the restriction of rights and liberties of persons, in respect of which section 29, in conjunction with section 35 and section 50 of the Constitution of the Kingdom of Thailand so permits by virtue of provisions of law; Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows.

Section 1. This Act is called the "Foreign Business Act, B.E. 2542 (1999)".

Section 2. This Act shall come into force after ninety days as from the date of its publication in the Government Gazette.

Section 3. There shall be repealed:

(1) Notification of the National Executive Council No. 281, dated 24th November B.E. 2515 (1972);

(2) Act Amending the Notification of the National Executive Council No. 281, dated 24th November B.E. 2515 (1972), B.E. 2521 (1978);

(3) Act Amending the Notification of the National Executive Council No. 281, dated 24th November B.E. 2515 (1972) (No. 2), B.E. 2535 (1992).

Section 4. In this Act,

"foreigner" means:

(1) a natural person who is not of Thai nationality;

(2) a juristic person not registered in Thailand;

(3) a juristic person registered in Thailand, being of the following descriptions:

(a) being a juristic person at least one half of capital shares of which are held by persons under (1) or (2) or a juristic person in which investment has been placed by the persons under (1) or (2) in the amount at least equivalent to one half of the total capital thereof;

(b) being a limited partnership or a registered ordinary partnership the managing partner or the manager of which is the person under (1);

(4) a juristic person registered in Thailand at least one half of the capital shares of which are held by persons under (1), (2) or (3) or a juristic person in which investment has been placed by the persons under (1), (2) or (3) in the amount at least equivalent to one half of the total capital thereof; For the purpose of this definition, shares of a limited company represented by share certificates issued to bearers are deemed as shares held by foreigners, unless otherwise provided by the Ministerial Regulation.

"capital" means a registered capital of a limited company or a paid-up capital of a public limited company or money invested in a partnership or a juristic person by partners or members thereof;

"minimum capital" means, in the case where the foreigner is a juristic person registered in Thailand, a capital of a foreigner; and means, in the case where a foreigner is a juristic person not registered in Thailand or is a natural person, foreign currencies brought and used by foreigners at the commencement of the operation of businesses in Thailand;

"business" means the operation of an undertaking in the field of agriculture, industry, handicraft, commerce, services or any other undertaking for the purpose of trade;

"licence" means a business operation licence;

"licence grantee" means a foreigner to whom a licence has been granted;

"certificate" means a business operation certificate;

“certificate grantee” means a foreigner to whom a certificate has been granted;

“Commission” means the Foreign Business Commission;

“competent official” means a person appointed by the Minister to perform activities under this Act;

“Registrar” means the person appointed by the Minister as the Foreign Business Registrar; “Director-General” means Director-General of the Department of Business Development;

“Minister” means the Minister having charge and control of the execution of this Act.

Section 5. In granting permission to foreigners for the operation of businesses under this Act, regard shall be had to advantageous and disadvantageous effects on national safety and security, economic and social development of the country, public order or good morals, national values in arts, culture, traditions and customs, natural resources conservation, energy, environmental preservation, consumer protection, sizes of undertakings, employment, technology transfer and research and development.

Section 6. The following foreigners may not operate any business within the Kingdom:

- (1) a foreigner who has been deported or whose deportation is pending;
- (2) a foreigner entering and staying in the Kingdom without permission under the law on immigration or other laws.

Section 7. The following foreigners may operate businesses upon obtaining a licence from the Director-General and may operate only such businesses, and in such localities, as prescribed in the Notification issued by the Minister with the approval of the Council of Ministers and published in the Government Gazette, provided that in such Notification the Minister may prescribe any conditions as the Minister deems appropriate:

- (1) a foreigner born in the Kingdom without having Thai nationality under the law on nationality or other laws;
- (2) a foreigner becoming a foreigner in consequence of the revocation of nationality under the law on nationality or other laws. The application for a licence, issuance of a licence and a term of a licence shall be in accordance with rules and procedures as prescribed in the Ministerial Regulation. In the case where the Director-General refuses to grant permission to the foreigner under paragraph one for the operation of businesses, such foreigner has the right to lodge an appeal with the Minister and the provisions of section 20 paragraph one and paragraph three shall apply *mutatis mutandis*.

Section 8. Subject to section 6, section 7, section 10 and section 12:

- (1) no foreigner may operate such businesses *stricto sensu* not permissible to foreigners by special reason, as prescribed in List One;
- (2) no foreigner may operate such businesses related to national safety or security, businesses having impacts on arts, culture, traditions, customs and folklore handicrafts or businesses having impacts on natural resources or the environment, as prescribed in List Two, unless upon obtaining permission from the Minister with the approval of the Council of Ministers;
- (3) no foreigner may operate such businesses in respect of which Thai nationals are not yet ready to compete with foreigners, as prescribed in List Three, unless upon obtaining permission from the Director-General with the approval of the Commission.

Section 9. Any amendment or revision of categories of businesses in the Lists annexed hereto shall be by a Royal Decree, save for the businesses in List One or in List Two,

Chapter 1, where such amendment or revision shall be by an Act. The Commission shall consider and review categories of businesses in the Lists annexed hereto at least once every duration of one year as from the date of the entry into force of this Act and shall prepare an opinion for submission to the Minister. Foreigners operating businesses not prescribed in the Lists annexed hereto prior to the amendment or revision of categories of businesses under paragraph one shall, where such businesses are thereafter specified as the businesses the operation of which requires permission under this Act and such foreigners intend to continue the operation thereof, notify the Director-General in order to obtain a certificate in accordance with the rules and procedures prescribed in section 11. During the period in which action is taken under paragraph three and a certificate has not yet been obtained, such foreigner shall not be deemed as operating the business without permission under this Act.

Section 10. The provisions of section 5, section 8, section 15, section 17 and section 18 shall not apply to foreigners operating businesses specified in the Lists annexed hereto upon permission granted *pro tempore* by the Government of the Kingdom of Thailand. Foreigners operating businesses specified in the Lists annexed hereto by virtue of a treaty to which Thailand becomes a party or by which Thailand is bound in consequence of obligations therefrom shall be exempt from the application of the provisions of the sections specified in paragraph one and shall be governed by the provisions of and conditions set forth in such treaty, which may, *inter alia*, confer upon Thai nationals or Thai enterprises the right to operate businesses in the countries of nationality of such foreigners as a matter of reciprocity.

Section 11. Foreigners under section 10 who intend to operate businesses specified in the Lists annexed hereto shall notify the Director-General in accordance with the rules and procedures prescribed in the Ministerial Regulation in order to obtain certificates, and the Director-General shall issue certificates to such foreigners without delay but no later than thirty days as from the date of receipt of their written notification, unless the Director-General considers that the notification is not in accordance with the rules and procedures prescribed in the Ministerial Regulation or that it is not in accordance with section 10, in which case the Director-General shall notify such foreigners thereof without delay but no later than thirty days as from the date of receipt of their written notification. The certificates shall also indicate conditions prescribed by the Government or prescribed in the treaty.

Section 12. In the case where the business of the foreigner who is promoted under the law on investment promotion or granted written permission for the operation of the industry or the operation of trade for export under the law on the Industrial Estate of Thailand or under other laws is the business specified in List Two or List Three annexed hereto, such foreigner shall notify the Director-General in order to obtain a certificate. When the Director-General or the entrusted competent official has examined validity of the investment promotion certificate or written permit, the Director-General shall issue a certificate without delay but no later than thirty days as from the date of receipt of the notification of the acquisition of the investment promotion certificate or written permit, as the case may be. In this case, such foreigner shall be exempt from the application of this Act, with the exception of section 21, section 22, section 39, section 40 and section 42, throughout the period in which the business in question is under investment promotion or under permission for the operation of the industry or the operation of trade for export, as the case may be. The issuance of the certificate under paragraph one shall be in accordance with the rules and procedures as prescribed by the Director-General.

Section 13. In the case where there exist other laws which govern shareholding, partnership or investment of foreigners, permission or prohibition of the operation of certain businesses vis-à-vis foreigners or which prescribe rules in connection with the operation of businesses of foreigners, such laws shall prevail and the provisions of this Act shall not apply to matters insofar as they are specifically provided by other laws.

Section 14. The minimum capital to be used by a foreigner for the commencement of the operation of a business in Thailand shall not be less than that prescribed in the Ministerial Regulation, provided that it shall not be less than two million Baht. In the case where the business of the foreigner under paragraph one is the business requiring permission as specified in the Lists annexed hereto, the minimum capital as prescribed in the Ministerial Regulation for each business shall not be less than three million Baht. The Ministerial Regulation issued under the provisions of this section may also prescribe the time within which the minimum capital must be brought or remitted into Thailand. The provisions of this section shall not apply to the case where the foreigner uses money or property derived as revenues from the original business already in operation in Thailand for commencement of another business or for subscribing to shares or investing in any other undertaking or in any other juristic person.

Section 15. A foreigner which is a juristic person may operate any business specified in List Two only where not less than forty percent of its shares are held by Thai nationals or juristic persons which are not foreigners under this Act, save that, where there is a reasonable cause, the Minister with the approval of the Council of Ministers may reduce the proportion in this matter, provided that the required shareholding must not be less than twenty five percent and that not less than two-fifths of the total number of its directors must be Thai nationals.

Section 16. A foreigner intending to apply for a licence must have the qualifications and must not be under prohibitions as follows:

(1) being of not less than twenty years of age;

- (2) having a residence in the Kingdom or having been permitted to enter the Kingdom temporarily under the law on immigration;
- (3) not being an incompetent or a quasi-incompetent person;
- (4) not being a bankrupt;
- (5) not having been punished by a court judgment or ordered to pay a fine in settlement of any offence under this Act or under the Notification of the National Executive Council No. 281, dated 24th November B.E. 2515 (1972), unless having been discharged for a period of not less than five years prior to the date of the application for the licence;
- (6) not having been imprisoned by a court judgment for offences of cheating, cheating creditors, misappropriation or offences related to trade under the Penal Code or the offences related to loans fraudulent to the public or the offences under the law on immigration, unless having been discharged for a period of not less than five years prior to the date of the application for the licence;
- (7) not having had a licence issued under this Act or under the Notification of the National Executive Council No. 281, dated 24th November B.E. 2515 (1972) revoked within the period of five years prior to the date of the application for the licence. In the case where a juristic person is an applicant, foreign directors, managers or persons responsible for the operation of such juristic person must also have the qualifications and must not be of any prohibition specified in paragraph one.

Section 17. In applying for permission for the operation of a business, the foreigner shall file an application to the Minister or the Director-General in accordance with the rules and procedures prescribed in the Ministerial Regulation; and the Council of Ministers, in the case of businesses in List Two, or the Director-General, in the case of businesses in List Three, shall complete the consideration as to whether to give approval or grant permission, as the case may be, within the period of sixty days as from the date of the filing of the application. In the case where, with respect to the consideration by the Council of Ministers as to whether to give approval, there exists an inevitable cause preventing the Council of Ministers from completing its consideration within such period of time, that period may be extended as is necessary, provided that the extension shall not be in excess of sixty days as from the expiration thereof. When the Council of Ministers has given approval or the Director-General has granted permission under paragraph one, the Minister or the Director-General shall issue a licence within fifteen days as from the date of the approval by the Council of Ministers or the permission by the Director-General. In granting permission, the Minister may, with respect to the businesses in List Two, prescribe conditions as prescribed by the Council of Ministers or as prescribed in the Ministerial Regulation issued by virtue of section 18, or the Director-General may, with respect to the businesses in List Three, prescribe conditions as prescribed in the Ministerial Regulation issued by virtue of section 18. In the case where the Council of Ministers refuses to give approval to a foreigner for the operation of businesses in List Two, the Minister shall, in writing and within thirty days, notify such foreigner of the refusal to give approval and shall also make a clear indication of the reason for such refusal to give approval. In the case where the Director-General refuses to grant permission to a foreigner for the operation of businesses in List Three, the Director-General shall, in writing and within fifteen days, notify such foreigner of the refusal to grant permission and shall also make a clear indication of the reason for such refusal to grant permission. Such foreigner has the right to lodge with the Minister an appeal against the order refusing to grant permission, and the provisions of section 20 shall apply *mutatis mutandis*.

Section 18. The Minister, with the recommendation of the Commission, has the power to issue Ministerial Regulations prescribing any of the following conditions to be observed by foreigners who are licence grantees:

- (1) the ratio of the capital to loans for the operation of permitted businesses;
- (2) the number of foreign directors who must have a domicile or residence in the Kingdom;
- (3) the amount of, and the period of time for maintaining, the minimum capital in the country;
- (4) technology or property;
- (5) other necessary conditions.

Section 19. When it appears that any licence grantee or certificate grantee:

- (1) violates any conditions prescribed by the Ministers under section 7 paragraph one;
- (2) fails to comply with any conditions prescribed under section 11 paragraph two or section 17 paragraph three;
- (3) violates section 15;
- (4) becomes disqualified or is under any prohibitions under section 16;

(5) commits the offence under section 35, then, in the case of circumstances under (1), (2) and (3), the Director-General shall serve on the licence grantee or certificate grantee a written notification instructing such person to comply with the conditions under section 7 paragraph one, section 11 paragraph two or section 17 paragraph three or to perform in compliance with section 15, as the case may be, within such time as the Director-General deems appropriate. If the licence grantee or certificate grantee fails to take action as instructed by the Director-General in the written notification without any reasonable cause, the Director-General has the power to give an order suspending the licence temporarily or compelling temporary cessation of the business for a period of time as the Director-General deems appropriate which must not be in excess of sixty days as from the date of the order. If, upon the lapse of such period, the foreigner has not accomplished the action as instructed, the Director-General shall consider giving an order revoking the licence or making a recommendation to the Minister for considering giving an order revoking the licence, as the case may be. In the case of circumstances under (4) and (5), the Director-General shall consider giving an order revoking the licence or making a recommendation to the Minister for considering giving an order revoking the licence, as the case may be.

Section 20. In the case where the Director-General gives an order suspending the licence temporarily or compelling temporary cessation of the business or gives an order revoking the licence or certificate under section 19 paragraph two, the licence grantee or the certificate grantee has the right to lodge with the Minister an appeal in writing within thirty days as from the date of receipt of the notification of the order. The appeal does not stay the execution of the order given by the Director-General, unless such stay is granted by the Minister with the recommendation of the Commission. The Minister shall decide on the appeal within thirty days as from the date of the filing of the appeal. The decision of the Minister shall become final.

Section 21. Subject to section 7, section 19 and section 20, a licence shall be valid for an indefinite period until cessation by the licence grantee of the permitted business. A certificate shall be valid for such period as permitted by the Government of the Kingdom of Thailand or as prescribed by the treaty permitting the operation of the business in question or throughout the period in which the business in question is under investment promotion or under permission for the operation of the industry or the operation of trade for export, as the case may be, unless the certificate grantee ceases to operate the permitted business prior to the expiration of such period, in which case the certificate shall be valid until such cessation. The licence grantee or the certificate grantee shall display the licence or certificate at an overt location at his place of business. If the licence or certificate is damaged or lost, an application for a substitute shall be submitted to the Registrar within fifteen days as from the date of the knowledge of the damage or loss. The application for, and issuance of, licence or certificate substitutes shall be in accordance with the forms and procedures prescribed by the Minister, provided that the time within which substitutes are issued shall not be in excess of thirty days as from the date of receipt of the applications, and such substitutes shall be deemed as valid documents in substitution for the licences or certificates until new licences or certificates are granted.

Section 22. When a licence grantee or a certificate grantee ceases to operate the business or relocates an office or a place of business, notification of such cessation or relocation shall be made to the Registrar within fifteen days as from the date of such cessation or relocation in accordance with the form and procedures prescribed in the Ministerial Regulation.

Section 23. There shall be a Foreign Business Commission consisting of the Permanent Secretary for Commerce as Chairperson, a representative of the Office of the National Economic and Social Development Board, a representative of the Office of the Board of Investment, a representative of the Ministry of Defence, a representative of the Ministry of Finance, a representative of the Ministry of Foreign Affairs, a representative of the Ministry of Agriculture and Co-operatives, a representative of the Ministry of Transportation, a representative of the Ministry of Interior, a representative of the Ministry of Labour, a representative of the Ministry of Science and Technology, a representative of the Ministry of Industry, a representative of the Ministry of Education, a representative of the Ministry of Public Health, a representative of the Office of the Consumer Protection Board, a representative of the Royal Thai Police, a representative of the Thai Chamber of Commerce, a representative of the Federation of Thai Industries, a representative of the Thai Bankers' Association and not more than five qualified persons appointed by the Minister as members, and the Director-General of the Department of Business Development shall be a member and secretary. The qualified persons must possess the knowledge and expertise in economics, law, commerce, science, technology, environment, trade, investment, business administration or industry and must not be advisors to any political party or hold political positions. The representative under paragraph one, in the case of representing a State

agency, must hold office not lower than Director-General or the equivalent and, in case of representing the Thai Chamber of Commerce, the Federation of Thai Industries or the Thai Bankers' Association, must hold office not lower than Director of such Chamber, Federation or Association.

Section 24. A qualified member shall hold office for a term of two years. In the case where a member vacates office before the expiration of the term or in the case where the Minister appoints any additional member during the remaining term of the members already appointed, the replacing or additional appointee shall hold office for the remaining term of the members already appointed. An outgoing qualified member may be re-appointed but may not serve for more than two consecutive terms.

Section 25. In addition to vacating office at the expiration of the term under section 24, a qualified member vacates office upon:

- (1) death;
- (2) resignation;
- (3) being removed by the Minister on the ground of a disgraceful behaviour, lack of integrity, neglect of duties or deficient capability;
- (4) being a bankrupt;
- (5) being an incompetent or a quasi-incompetent person;
- (6) being imprisoned by a final judgment except for an offence committed through negligence or a petty offence;
- (7) being disqualified or being under any prohibition under section 23 paragraph two.

Section 26. The Commission has the powers and duties as prescribed in this Act and shall have the following powers and duties:

- (1) to give advice, make recommendations or give opinions to the Minister on the issuance of Royal Decrees and Ministerial Regulations under this Act or the prescription of categories of businesses and localities for businesses to be operated by foreigners under section 7 or requests for the Council of Ministers' approval under section 8 (2);
- (2) to study, gather and prepare reports on the operation of businesses by foreigners in the Kingdom, including impacts and appropriateness of such matter, for submission to the Minister from time to time but at the frequency of not less than once a year;
- (3) to give advice, make recommendations or give opinions to the Minister on other matters as entrusted by the Minister.

Section 27. At a meeting of the Commission, the presence of not less than one half of the total number of the members is required to constitute a quorum. If the Chairperson is not present at the meeting or is unable to perform the duty, the members present shall elect one amongst themselves to preside over the meeting. A decision of a meeting shall be by a majority of votes. In casting votes, each member shall have one vote. In the case of an equality of votes, the person presiding over the meeting shall have an additional vote as a casting vote.

Section 28. The Commission has the power to appoint a sub-committee for considering or performing any particular act entrusted by the Commission, and section 27 shall apply to a meeting of a sub-committee *mutatis mutandis*.

Section 29. The Department of Business Development, Ministry of Commerce, shall serve as the secretariat of the Commission and shall have the following powers and duties:

- (1) to perform tasks in accordance with resolutions of the Commission or as entrusted by the Commission;
- (2) to consider proposing opinions to the Commission in connection with the operation of foreign businesses in the Kingdom for educational purposes and to gather information and prepare reports for submission to the Minister;
- (3) to perform general administrative work of the Commission.

Section 30. The Registrar and competent officials have the following powers:

- (1) to address in writing enquiries or summons requiring any person to give explanations on any facts and furnish documents or evidence necessary for factual examination;
- (2) to enter premises where foreigners operate businesses during office hours for examining and ensuring the compliance with this Act, provided that written consent of the Director-General shall first be obtained, save in the case of utmost emergency; in the performance of such duties, the Registrar and competent officials shall have the power to inquire into any facts or summon any document or evidence particularly essential for factual

examination from persons staying at such premises. In the performance of duties under (2), the owner or occupier of the premises shall provide the Registrar or competent officials with reasonable assistance. The Registrar or competent officials must not carry out any act which is, in essence, tantamount to the exertion of a threat or a search under the Criminal Procedure Code and must serve not less than three working-day prior written notice on the owner or occupier of the premises, save in the case of utmost emergency and shall, upon completion of the performance of duties, furnish to the Minister a written report on the outcome thereof without delay.

Section 31. When any person makes a request for an examination or reproduction of documents or requests the Registrar to reproduce or make photocopies of documents together with certification thereof or issue certification of statements retained by the Registrar, the Registrar shall grant permission without delay, save that such documents are in essence subject to the requirement of non-disclosure under the law on official information or other laws, provided that the requester must make payment of fees as prescribed in the Ministerial Regulation.

Section 32. The competent official must have an identification card in accordance with the form prescribed in the Ministerial Regulation. In the performance of duties, the competent official must show the identification card to persons concerned.

Section 33. In the performance of duties under this Act, members, the Director-General, the Registrar and competent officials shall be officials under the Penal Code.

Section 34. Any foreigner, to whom a licence or a certificate has been granted, who continues to operate the business after the licence has been suspended or revoked or after the operation of the business to which the certificate relates has been ordered to be ceased without right to appeal or with the Minister giving a final decision mandating the suspension or revocation of the licence or the cessation of the operation of the business, shall be liable to imprisonment for a term not exceeding three years or to a fine of one hundred thousand Baht to one million Baht or to both and to an additional fine at the daily rate of ten thousand Baht throughout the period of the violation.

Section 35. Any foreigner, to whom a licence has been granted for the operation of any business under this Act, who participates in the operation of the business of another foreigner not permitted to operate the business under this Act or operates the business of which such other foreigner is a co-owner in the manner holding it out as the former's sole business with a view to enabling such other foreigner to circumvent or violate provisions of this Act shall be liable to imprisonment for a term not exceeding three years or to a fine of one hundred thousand Baht to one million Baht or to both, and the Court shall order the cessation of such business participation or operation. In the case of violation of the order of the Court, the violator shall be liable to a fine at the daily rate of ten thousand Baht to fifty thousand Baht throughout the period of the violation.

Section 36. A Thai national or a juristic person, not being a foreigner under this Act, who assists in or aids and abets or participates in the operation of a foreigner's business specified in the Lists annexed hereto where such foreigner is not permitted to operate that business or who operates the business jointly with a foreigner in the manner holding it out as the former's sole business or who acts as a foreigner's nominee in holding shares in a partnership or a limited company or any juristic person with a view to enabling the foreigner to operate the business in circumvention or violation of the provisions of this Act, or a foreigner who allows such act to be committed by a Thai national or a juristic person that is not a foreigner under this Act, shall be liable to imprisonment for a term not exceeding three years or to a fine of one hundred thousand Baht to one million Baht or to both, and the Court shall order the cessation of the assistance or the aiding and abetting or order the cessation of the joint operation of the business or order the cessation of shareholding or partnership, as the case may be. In the case of violation of the order of the Court, the violator shall be liable to a fine at the daily rate of ten thousand Baht to fifty thousand Baht throughout the period of the violation.

Section 37. Any foreigner who operates a business in violation of section 6, section 7 or section 8 shall be liable to imprisonment for a term not exceeding three years or to a fine of one hundred thousand Baht to one million Baht or to both, and the Court shall order the cessation of the business operation or the cessation of the undertaking or order the cessation of shareholding or partnership, as the case may be. In the case of violation of the order of the Court, the violator shall be liable to a fine at the daily rate of ten thousand Baht to fifty thousand Baht throughout the period of the violation.

Section 38. Any foreigner who operates a business in violation of section 14 or violates the conditions under section 18 (3) shall be liable to a fine of one hundred thousand Baht to one million Baht and to an additional fine at the daily rate of ten thousand Baht to fifty thousand Baht throughout the period of the violation.

Section 39. Any licence grantee or certificate grantee who fails to comply with section 21 paragraph two or paragraph three or violates section 22 shall be liable to a fine not exceeding five thousand Baht.

Section 40. Any person who fails to comply with a written enquiry or a written summons of the Registrar or the competent official or fails to provide facts or to furnish documents or evidence when so enquired or summoned by the Registrar or the competent official for the purpose of examination or fails to provide assistance to the Registrar or the competent official under section 30 without any reasonable cause shall be liable to a fine not exceeding five thousand Baht.

Section 41. In the case where a juristic person commits offences under section 34, section 35, section 36 or section 37, directors, partners or persons with the authority to represent the juristic person, who connive at the commission of such offences or fail to take reasonable action in preventing such offences shall be liable to imprisonment for a term not exceeding three years or to a fine of one hundred thousand Baht to one million Baht or to both.

Section 42. In the case of the offences under section 39 and section 40, the Director-General or the person entrusted by the Director-General shall have the power to settle the offences by way of payment of a fine. Upon payment by the alleged offender of a fine in the amount ordered by the Director-General or the person entrusted by the Director-General within thirty days as from the date of the settlement, the case shall be deemed as terminated by way of such settlement.

Section 43. All Royal Decrees, Ministerial Regulations, Notifications and Orders which are in force on the date of the entry into force of this Act shall remain in force insofar as they are not contrary to or inconsistent with the provisions of this Act until Royal Decrees, Ministerial Regulations, Notifications and Orders issued under this Act are in force.

Section 44. Foreigners who have acquired the right or have been permitted to operate businesses under the Notification of the National Executive Council No. 281, dated 24th November B.E. 2515 (1972) prior to the date of the entry into force of this Act shall continue to enjoy the right or be permitted to operate such businesses in accordance with the conditions and the term of the rights or permission so acquired.

Section 45. Foreigners who, on the date of the entry into force of this Act, have operated businesses specified in the Lists annexed hereto but not specified in the Lists annexed to the Notification of the National Executive Council No. 281, dated 24th November B.E. 2515 (1972) shall, in the event of intending to continue the operation of such businesses, notify the Director-General for obtaining a certificate in accordance with the rules and procedures prescribed in section 11 within one year as from the date of the entry into force of this Act and, during the period in which the certificate has not yet been obtained, such foreigners shall not be deemed as operating the businesses without permission under this Act.

Section 46. The Minister of Commerce shall have charge and control of the execution of this Act and shall have the power to appoint the Registrar and competent officials and issue Ministerial Regulations prescribing fees not in excess of the rate annexed hereto, exempting fees and prescribing other acts for the execution of this Act. Such Ministerial Regulations shall come into force upon their publication in the Government Gazette.

Countersigned by:
Chuan Leekpai
Prime Minister

LISTS ANNEXED TO THE FOREIGN BUSINESS ACT, B.E. 2542 (1999)

LIST ONE

BUSINESSES *STRICTO SENSU* NOT PERMISSIBLE TO FOREIGNERS BY SPECIAL REASON

- (1) The Press, radio broadcasting station or radio and television station business
- (2) Rice farming, plantation or crop growing
- (3) Livestock farming
- (4) Forestry and timber processing from a natural forest
- (5) Fishery, only in respect of the catchment of aquatic animals in Thai waters and specific economic zones of Thailand
- (6) Extraction of Thai medicinal herbs
- (7) Trading and auction sale of antique objects of Thailand or objects of historical value of the country
- (8) Making or casting Buddha Images and monk alms-bowls
- (9) Land trading

LIST TWO

BUSINESSES RELATED TO NATIONAL SAFETY OR SECURITY OR HAVING IMPACTS ON ARTS, CULTURE, TRADITIONS, CUSTOMS AND FOLKLORE HANDICRAFTS OR NATURAL RESOURCES AND THE ENVIRONMENT

Chapter 1: Businesses related to National Safety or Security

- (1) Production, distribution and maintenance of:
 - (a) firearms, ammunition, gun powders and explosives;
 - (b) components of firearms, ammunition and explosives;
 - (c) armaments, ships, aircraft or vehicles for military use;
 - (d) equipment or components of all types of war materials
- (2) Domestic transportation by land, water or air, including domestic aviation

Chapter 2: Businesses Having Impacts on Arts, Culture, Traditions, Customs and Folklore Handicrafts

- (1) Trading of antiques or artistic objects that are artistic works or handicrafts of Thailand
- (2) Production of wood carvings
- (3) Silkworm raising, production of Thai silk yarn, weaving of Thai silk or printing of Thai silk patterns
- (4) Production of Thai musical instruments
- (5) Production of goldware, silverware, nielloware, bronzeware or lacquerware
- (6) Production of crockery or porcelains representing Thai arts and culture

Chapter 3: Businesses Having Impacts on Natural Resources or the Environment

- (1) Production of sugar from sugar cane
- (2) Salt farming, including non-sea salt farming
- (3) Production of rock salt
- (4) Mining, including rock blasting or rock crushing
- (5) Timber processing for production of furniture and utensils

LIST THREE

BUSINESSES IN RESPECT OF WHICH THAI NATIONALS ARE NOT READY TO COMPETE WITH FOREIGNERS

- (1) Rice milling and production of flour from rice and economic plants
- (2) Fishery only in respect of the hatching and raising of aquatic animals
- (3) Forestry from a grown forest
- (4) Production of plywood, veneer wood, chipboards or hardboards
- (5) Production of lime
- (6) Provision of accounting services
- (7) Provision of legal services
- (8) Provision of architectural services
- (9) Provision of engineering services
- (10) Construction, with the exception of:
 - (a) Construction of structures for delivery of infrastructure public services in the sphere of public utilities or transportation requiring the use of special apparatuses, machines, technology or expertise, with the minimum capital of five hundred million Baht or upwards from foreigners;
 - (b) Construction of other types as prescribed in the Ministerial Regulation
- (11) Brokerage or agency businesses, with the exception of:
 - (a) being a broker or an agent in the sale or purchase of securities or in services related to futures trading of agricultural commodities or financing instruments or securities;

(b) being a broker or an agent in the sale, purchase or procurement of goods or services necessary for the production or the provision of services amongst affiliated enterprises;

(c) being a broker or an agent in the sale or purchase, procurement, distribution or acquisition of domestic and foreign markets for the distribution of domestically manufactured or imported goods, which is in character the operation of international trade, with the minimum capital of one hundred million Baht or upwards from foreigners

(d) being a broker or an agent of other types as prescribed in the Ministerial Regulation

(12) Sale by auction, with the exception of:

(a) a sale by auction which, in character, involves international bidding of items other than antiques, objects of antiquity or artistic objects that are artistic works or handicrafts or objects of antiquity of Thailand or of historical value of the country;

(b) sales by auction of other types as prescribed in the Ministerial Regulation

(13) Internal trade related to traditional agricultural products or produce not yet prohibited by law

(14) Retail sale of goods of all types with the total minimum capital in the amount lower than one hundred million Baht or with the minimum capital of each store in the amount lower than twenty million Baht

(15) Wholesale of all types with the minimum capital of each store in the amount lower than one hundred million Baht

(16) Advertising business

(17) Hotel business, with the exception of the hotel management service

(18) Guided touring

(19) Sale of food and beverages

(20) Cultivation, propagation or development of plant varieties

(21) Other service businesses, with the exception of service businesses as prescribed in the Ministerial Regulation