



THAILAND
INVESTMENT CLIMATE STATEMENT
2015

Table of Contents

Executive Summary

1. Openness To, and Restrictions Upon, Foreign Investment

- 1.1. Attitude Toward FDI*
- 1.2. Other Investment Policy Reviews*
- 1.3. Laws/Regulations of FDI*
- 1.4. Industrial Strategy*
- 1.5. Limits on Foreign Control*
- 1.6. Privatization Program*
- 1.7. Screening of FDI*
- 1.8. Competition Law*
- 1.9. Investment Trends*
 - 1.9.1. Tables 1 and if applicable, Table 1B*

2. Conversion and Transfer Policies

- 2.1. Foreign Exchange*
 - 2.1.1. Remittance Policies*

3. Expropriation and Compensation

4. Dispute Settlement

- 4.1. Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts*
- 4.2. Bankruptcy*
- 4.3. Investment Disputes*
- 4.4. International Arbitration*
 - 4.4.1. ICSID Convention and New York Convention*
- 4.5. Duration of Dispute Resolution*

5. Performance Requirements and Investment Incentives

- 5.1. WTO/TRIMS*
- 5.2. Investment Incentives*
 - 5.2.1. Research and Development*
- 5.3. 5.3 Performance Requirements*
- 5.4. Data Storage*

6. Right to Private Ownership and Establishment

7. Protection of Property Rights

7.1. Real Property

7.2. Intellectual Property Rights

8. Transparency of the Regulatory System

9. Efficient Capital Markets and Portfolio Investment

9.1. Money and Banking System, Hostile Takeovers

10. Competition from State-Owned Enterprises (Please use DOC Key words, Industries in this section)

10.1. OECD Guidelines on Corporate Governance of SOEs

10.2. Sovereign Wealth Funds

11. Corporate Social Responsibility

11.1. OECD Guidelines for Multinational Enterprises

12. Political Violence

13. Corruption

13.1. UN Anticorruption Convention, OECD Convention on Combatting Bribery

14. Bilateral Investment Agreements

14.1. Bilateral Taxation Treaties

15. OPIC and Other Investment Insurance Programs

16. Labor

17. Foreign Trade Zones/Free Ports/Trade Facilitation

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

19. Contact Point at Post for Public Inquiries

Executive Summary

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

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

The Board of Investment (BOI) is Thailand's central investment promotion authority and offers investment incentives uniformly to both qualified domestic and foreign investors through clearly articulated application procedures. Effective January 1, 2015, the Board of Investment (BOI) launched a new investment incentive policy that gives preferential benefits to investment projects based on the level of technology involved in the activities. Firms employing a high level of advanced technologies qualify for the maximum incentive package, including an eight-year exemption from corporate income taxes, while activities that do not employ advanced technology, but are nevertheless still important to the supply chain, no longer receive any exemption. All companies may be eligible for other privileges if they engage in activities otherwise considered valuable, such as R&D, advanced technology training, or acquiring licenses to commercialize technology. For detailed information, visit www.boi.go.th.

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

payments can be placed at a competitive disadvantage when compared to other firms in the same field.

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

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

Despite the May 2014 coup and installation of an interim military-led government, Thailand continues to maintain an open market-oriented economy and encourages foreign direct investment as a means of promoting economic development, employment, and technology transfer. In recent decades, Thailand has been a major destination for foreign direct investment, and hundreds of U.S. companies have successfully invested in Thailand. Thailand continues to welcome investment from all countries and seeks to avoid dependence on any one country as a source of investment. Economic impacts to tourism and retail businesses resulting from months of political impasse leading up to the May 2014 coup eroded growth for the year, but public and private sector analysts forecast 2015 growth to be between 3-4%. Investors remain cautiously confident that the Thai economy will retain its well-known resiliency and resume growth; however, many companies are also carefully considering market factors, including the country's declining competitiveness, when making future investment decisions.

In the wake of the 1997-98 Asian Financial Crisis, Thailand embarked on an International Monetary Fund (IMF)-sponsored economic reform program designed to foster a more competitive and transparent climate for foreign investors. Legislation in 1999 established a new bankruptcy court, reformed bankruptcy and foreclosure procedures, and allowed creditors to pursue payment from loan guarantors. Other 1999 reforms include amendments to the Land Code, Condominium Act, and the Property Leasing Act, all of which liberalized restrictions on property ownership by non-Thais. The Foreign Business Act (FBA) of 1999 continues to govern most investment activity by non-Thai nationals. The FBA opened some additional business sectors to foreign investment; however, foreign investment in most service sectors is limited to 49 percent ownership. Other key laws governing foreign investment are the Alien Employment Act B.E. 2521 (1978) and the Investment Promotion Act B.E. 2520 (1977).

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

Other Investment Policy Reviews

None within the last three years.

Laws/Regulations of Foreign Direct Investment

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

U.S. Investment: Many U.S. businesses enjoy investment benefits through the U.S.-Thailand Treaty of Amity and Economic Relations (AER), originally signed in 1833. The 1966 iteration of the Treaty allows U.S. citizens and businesses incorporated in the United States, or in Thailand that are majority-owned by U.S. citizens, to engage in business on the same basis as Thai companies (national treatment), exempting them from most restrictions on foreign investment imposed by the Foreign Business Act.

Banking: The Financial Institutions Business Act, passed at the end of 2007, unified the legal framework and strengthened the Bank of Thailand's (the country's central bank) supervision and enforcement powers. The Act gave power to the Bank of Thailand to raise foreign ownership limits for local banks from 25 percent to 49 percent on a case-by-case basis. The Act also allows the Minister of Finance to authorize foreign ownership above 49 percent if recommended by the central bank.

Insurance: The 2008 Life Insurance Act and the 2008 Non-Life Insurance Act apply a 25 percent cap on foreign ownership of insurance companies and on foreign boards of directors. However, the Office of the Insurance Commission (OIC) may, at its discretion, permit foreign equity ownership up to 49 percent and foreign directorship up to 50 percent.

Business Registration: Any entity wishing to do business in Thailand must register with the Department of Business Development at the Ministry of Commerce, which generally takes three to six months to complete. Firms engaging in production activities need to register with the Ministries of Industry and Labor and Social Welfare. If the entity falls under the definition of non-Thai national, as defined by the Foreign Business Act, it must obtain a foreign business license, which must be approved by the Council of Ministers (Cabinet) or Director-General of Department of Business Development at the Ministry of Commerce, depending on the applicable category of restricted business.

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

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

Industrial Promotion

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

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

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

Limits on Foreign Control

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

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

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

- Newspaper or radio broadcasting stations and radio and television station businesses
- Rice farming and growing plantations or crops
- Livestock farming
- Forestry and timber processing from a natural forest
- Fishery in Thai territorial waters and specific economic zones
- Extraction of Thai medicinal herbs
- Trading and auctioning of antique objects or objects of historical value from Thailand
- Making or casting of Buddha images and monk alms bowls
- Land trading

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

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

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

Exceptions are those which receive:

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

List 3. This contains activities in which there are economic protections for Thai nationals.

Among other things, they include:

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

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

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

Further restrictions on foreign ownership in specific sectors, such as telecommunications, banking, or insurance, are regulated in specific laws pertaining to these sectors, such as the

Telecommunications Business Act (2006), the Financial Institution Business Act (2008), the Life Insurance Act (1992), and the Non-Life Insurance Act (1992).

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

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

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

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

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

Privatization Program

With the aim of encouraging capital inflows and relieving resource constraints in many key sectors of the economy, the government of Thaksin Shinawatra embarked on a privatization program for state-owned economic enterprises (SOEs) and state monopolies. The interim government that followed the September 2006 coup, as well as the former government of Abhisit Vejjajiva (Democrat party), considered privatization too controversial and put these plans on hold. Most privatization plans have remained on hold since 2006. Other than the Petroleum Authority of Thailand (PTT), the Airport Authority of Thailand (later renamed Airports of Thailand (AOT) and the Mass Communication Organization of Thailand (MCOT), few significant privatizations have occurred. The 1999 State Enterprise Corporatization Act provides the framework for the conversion of SOEs into stock companies, and corporatization is viewed as an intermediate step toward eventual privatization. (Note: "Corporatization" describes the process by which an SOE adjusts its internal structure to resemble a publicly-traded enterprise; "privatization" means that a majority of the SOE's shares is sold to the public, and "partial

privatization" refers to a situation in which less than half of a company's shares are sold to the public.) Foreign investors are allowed to participate in the privatization, but certain restrictions are applied in certain sectors, which are mostly regulated by the Foreign Business Act of 1999 and the Act on Standards Qualifications for Directors and Employees of State Enterprises of 1975 and its series of amendments.

The new State Enterprises Policy Commission, or "superboard," was established in 2014 to oversee reform of the country's 56 SOEs. In March 2015, the superboard approved, in principle, to establish a holding firm to supervise SOEs listed on the Stock Exchange of Thailand, while the State Enterprise Policy Office will be retained to supervise state enterprises that have been established by specific laws, including the Electricity Generating Authority of Thailand, the Metropolitan Electricity Authority, and the Provincial Electricity Authority.

Screening of FDI

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

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

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

The BOI also appointed a subcommittee, comprised of 15 members, including the BOI Secretary General as Chairman; BOI senior executives; and representatives from the public and private sectors, such as the Ministry of Finance, Ministry of Natural Resources and Environment, Office of Industrial Economics, Department of Industrial Works, National Science and Technology Development Agency, Bank of Thailand, Industrial Estate Authority of Thailand, Federation of Thai Industries, Thai Chamber of Commerce, and Board of Trade of Thailand. The subcommittee is responsible for approving investment projects with an investment value between 200 and 750 million baht (USD 6.1 and USD 23 million) and export-led projects with over 750 million baht (USD 23 million) in investment value. The sub-committee is also responsible for screening projects with an investment value of over 750 million baht (USD 23 million) and passes them on to the BOI Board for further consideration and approval.

Competition Law

The Thailand Trade Competition Act (hereafter called "the Competition Act") stems from the Price Fixing and Anti-Monopoly Act of 1979, which contains provisions regarding price fixing and monopolies. The monopolies section of the 1979 Act is aimed at promoting fair competition, and empowers the Central Committee to monitor business structures that may

create monopolies and conduct restrictive business practices. Due to subsequent issues in enforcement, the Department of Internal Trade then separated the Act into two separate laws: the Price of Goods and Services Act and the Competition Act. The Competition Act went into effect on April 30, 1999.

According to the new law, the “Competition Commission,” which consists of the Minister of Commerce as Chairman, the Permanent-Secretary of the Ministry of Commerce as Vice-Chairman, the Director-General of the Department of Internal Trade as Member and Secretary, and the Permanent-Secretary of the Ministry of Finance, and no more than twelve other qualified persons as members, shall be responsible for the enforcement of the Act. These qualified persons appointed as members must not be political members, holders of political positions, executive members, or holders of positions with the responsibilities in the administration of political parties. They shall hold office for a term of two years and not more than two consecutive terms in case they are re-appointed. The Commission shall have the powers and duties to consider complaints, to prescribe rules for dominant positions, to consider an application for permission to merge businesses, or to initiate the joint reduction or restriction of competition to give orders for suspension, cessation, correction, or variation of activities by business operations.

Anti-competitive behaviors under the Act have been defined and divided into categories as follows.

1. Section 25 prohibits businesses with dominant positions to abuse their market power by:
 - setting unfair prices for goods and services;
 - setting unfair trading conditions, directly or indirectly, to customers in order to restrict customers' normal business practices;
 - limiting supply of goods and services to create a shortage of supply; and
 - intervening in other businesses without proper reasons.

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

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

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

4. Section 28 of the Act deals with agreements between domestic and overseas business operators performing an activity that will restrict the freedom or opportunity of a person residing

in the Kingdom from purchasing goods or services for his/her own use directly from business operators outside the Kingdom.

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

Penalties:

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

Investment Trends

Foreign direct investment has been an important element of Thailand's economic development process and the country is an important FDI destination. In terms of investment, the country offers an attractive and modern legal framework and its economy benefits from regional dynamism. According to the UNCTAD World Investment Report 2014, since 2012, Thailand has been among the eight priority destinations for foreign investment for the period 2014-2016. It is the 7th largest FDI recipient in East and South-East Asia. After having slowed due to unfavorable international conditions, FDI flows have again been rising, despite a series of natural disasters and political instability. In anticipation of the new investment policy and after political stability had been restored in the second half of 2014, demands recorded by the Board of Investment reached record levels: the number of registered projects increased by 73%, with an increase in value of 117% over 2013 levels. In 2015, the government's new seven-year strategy to stimulate investment should further encourage FDI.

Japanese firms remained at the top of the list among foreign investors applying for tax relief, followed by those from the United States and the European Union. Thailand's Board of Investment (BOI) is the government agency responsible for providing incentives to stimulate investment in Thailand and investment-related services to both foreign and Thai investors. Companies, foundations, or co-operatives established under Thai law (including those established by foreign investors) are eligible for BOI promotion. When examining some of the individual investment projects endorsed by BOI, it is interesting to see that eco-friendly activities dominated. In December 2014, BOI approved 13 investment projects worth 20 billion baht (USD 614.3 million) in investment value. Most of the approved projects were alternative energy businesses, including a power plant that generates energy from waste and biomass.

BOI has laid out a new strategy to promote foreign direct investment over a seven-year period commencing in January 2015. The strategy is intended to improve Thailand's competitiveness, reduce its reliance on low cost labor, and will focus on high technology to support the government's efforts to build a digital economy. The new strategy awards privileges based on

types of projects, emphasizing those that support the digital economy, such as high technology, research and development, design, and other specific industries in the same designated sectors.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	85 of 175	transparency.org/cpi2014/results
World Bank’s Doing Business Report “Ease of Doing Business”	2014	26 of 189	doingbusiness.org/rankings
Global Innovation Index	2014	48 of 143	globalinnovationindex.org/content.aspx?page=data-analysis
World Bank GNI per capita	2013	USD 5,340	data.worldbank.org/indicator/NY.GNP.PCAP.CD

2. Conversion and Transfer Policies

Foreign Exchange

There are no limitations placed on foreign investors for converting, transferring, or repatriating funds associated with an investment. Repatriation of investment funds and repayments of overseas loans can be remitted freely, but only upon submission of supporting documents to commercial banks, including evidence of sale or transfer in the case of investment funds and evidence of inward remittances supporting the loan agreement. Foreign currency must be converted to Thai baht or deposited with authorized banks within 360 days after the date of bringing the money into the country. There are some exceptions for foreigners staying in Thailand for less than three months and those working for foreign embassies and international organizations. In addition, any person who brings foreign currency into or out of Thailand exceeding USD 20,000 or the equivalent must declare the amount at a Customs checkpoint. Investment funds are allowed to be freely converted into any currency. The exchange rate is determined by the managed float system, with the central bank's intervention to smooth any abrupt fluctuations.

Remittance Policies

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

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

prevent extreme movements in the currency and to reduce the duration and extent of the exchange rate's deviation from the equilibrium.

The BOT normally uses both verbal and actual intervention when the Thai baht does not move in line with BOT foreign exchange policy, as determined by the Monetary Policy Committee. The actual interventions are outright spot or outright forward USD/Baht transactions executed by selling or buying USD against the Thai Baht. The BOT intervenes in the interbank foreign exchange market, both onshore and offshore, using designated agent banks in order to maintain anonymity. In practice, the BOT generally intervenes during the Asian time zone of high market liquidity.

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

Thailand was publicly identified by the Financial Action Task Force (FATF) in 2010 for its strategic AML/CFT deficiencies, for which it developed an action plan. In February 2013, the FATF removed Thailand from its Public Statement after concluding that Thailand had made significant progress and had completed all items in its action plan.

3. Expropriation and Compensation

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

4. Dispute Settlement

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

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

In addition, companies may establish their own arbitration agreements. Thailand signed the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States in 1985, but has not yet ratified the Convention. Thailand is a member of the New York Convention and enacted its own rules on conciliation and arbitration in the Arbitration Act of

2002. The 2002 Arbitration Act adopted the principles under the United Nations Commission on International Trade Law (UNCITRAL). The Arbitration Office of the Ministry of Justice administers these procedures.

Bankruptcy

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

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

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

Investment Disputes

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

International Arbitration

Thailand's national Arbitration Act of 2002, which was modeled in part after the UNCITRAL Model law, governs domestic and international arbitration proceedings and states that "in cases where an arbitral award was made in a foreign country, the award shall be enforced by the competent court only if it is subject to an international convention, treaty, or agreement to which Thailand is a party." The Thai Arbitration Institute of the Alternative Dispute Resolution Office, Office of the Judiciary, and the Office of the Arbitration Tribunal of the Board of Trade of Thailand provide arbitration services to proceedings held within Thailand. There are only very limited circumstances under which a court can set aside an arbitration award. Thailand does not have a Bilateral Investment Treaty (BIT) or a Free Trade Agreement (FTA) with the United States.

ICSID Convention and New York Convention

Thailand is a signatory to the New York Convention. Thailand also signed, but did not ratify, the 1985 ICSID Convention.

Duration of Dispute Resolution

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

5. Performance Requirements and Investment Incentives**WTO/TRIMS**

Thailand committed to implement all World Trade Organization (WTO) agreements, including Trade-Related Investment Measures (TRIMS). In its latest Trade Policy Review in November 2011, the WTO noted, "Thailand did not take any new measures to restrict trade since the 2008 global financial crisis. Indeed, it has made some important improvements to trading conditions in some areas, such as its adoption of paperless import procedures and its intention to move to a single [customs] window. Furthermore, an appeals system has been introduced by the Customs Department to cover many aspects of import procedures. As a member of ASEAN, Thailand has adopted the Association's harmonized tariff nomenclature which has also helped facilitate trade by standardizing the customs codes used to identify products."

The report also said that Thailand has committed to liberalize the regulatory regime with legislation governing key sectors such as transport, distribution, and telecommunications under review. However, the report observed that there are some areas of Thailand's import and domestic policies that could hamper trading opportunities and impede its development, including agriculture policies, such as domestic support and tariff quota administration, complex tariff structure, technical barriers to trade, Sanitary Phyto Sanitary (SPS) measures, and intellectual property. The report also underlined that despite progress in the liberalization of trade in some service sectors, there remain concerns over foreign ownership and market access restrictions in financial services (particularly the insurance sector), telecommunications, maritime, and professional services. The report noted that Thailand has yet to modify its General Agreement on Trade in Services (GATS) schedule following the negotiations on telecommunications in 1997.

Investment Incentives

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

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

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

Research and Development

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

Performance Requirements

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

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

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

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

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

Work Permits: Thai law requires foreign workers to have a work permit issued by the Ministry of Labor in order to work legally in Thailand; Thai law also reserves 39 occupations for Thai

workers and will not grant work permits for foreigners to engage in these occupations, including lawyers, architects, and civil engineers. Foreigners found to be working without work permits could be imprisoned up to five years and/or fined between 2,000 and 100,000 Thai baht (approximately USD 60 to USD 3,000). Exceptions to the requirement for a work permit include officially recognized diplomatic and consular delegations, representatives of member countries and officials of the United Nations and specialized institutions, personal servants working for the above persons, and those who are performing duties or missions otherwise exempted by the Royal Thai Government. Volunteer or charity work can be considered work under Thai law, requiring a work permit.

Factors that influence the granting of work permits include the degree of specialization required by the position, the size of the firm in terms of number of employees and registered capitalization, and the ratio of Thai nationals to foreigners employed by the firm. Foreigners working for the Thai government or working on projects promoted by the Board of Investment (BOI) usually have little difficulty obtaining work permits and typically receive their permits within seven days of application. Work permits in other areas are sometimes difficult to obtain. The duration of work permits is generally tied to the length of stay permitted by the person's visa.

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

Despite the fact that Thailand generally welcomes foreign investment, some sectors are subject to foreign equity restrictions.

While these restrictions are imposed through a variety of different rules, regulations, and cabinet policies, the main governing law for such restrictions is the Foreign Business Act 1999 (FBA). Under the FBA, there are 43 categories of business, divided into three lists, which are subject to different levels of restrictions for foreigners, unless the foreigner is able to obtain a Foreign Business License. A company is considered foreign under the FBA if half or more than half of its shares are held by non-Thai natural or juristic persons.

Foreigners are prohibited from operating a business from any of the nine business categories mentioned in List 1 of the FBA, and therefore, such businesses cannot obtain a Foreign Business License under any circumstances. This includes businesses such as operating newspapers, radio or television stations, rice farming, fishery, forestry, and land trading.

For activities under List 2 of the FBA, a foreigner would require a license from the Minister of

Commerce and approval from the Thai Cabinet. Additionally, the company would have to be at least 40% owned by Thais (only 25% if the Minister of Commerce and the Cabinet have given special approval) and at least two-fifths of its managing directors would have to be Thai nationals. Business categories under List 2 of the FBA are businesses in national safety or security, including domestic aviation businesses, businesses affecting arts, culture, traditional customs, and folk handicrafts, and businesses affecting natural resources or the environment.

For activities under List 3 of the FBA, a foreigner would require a license from the Director General of the Commercial Registration Department of the Ministry of Commerce and approval from the Foreign Business Committee. List 3 includes all service businesses (accounting, legal, architecture, engineering, and any other category of service business), as well as retail (unless the company's registered capital is 100 million baht or more (approximately USD 3 million or more), hotel businesses, advertising, selling food and beverages, construction (with some exceptions), and others.

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

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

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

Under the laws regulating the exceptions (such as promotional privileges by the BOI or IEAT, Foreign Business Licenses) from foreign investment restrictions, the authorities issuing such exceptions have been provided with bureaucratic discretion as to whether the exception will be granted.

Data Storage

The Thai government does not currently have any specific statutory law governing "forced localization" policy in which foreign investors must use domestic content in goods or technology.

6. Right to Private Ownership and Establishment

Private entities may establish and own business enterprises. The principal forms of business organization under Thai law are sole proprietorships, partnerships, limited companies, and public limited companies. In addition, branches of foreign corporations are recognized, and a "representative" or "liaison" office of a foreign company may receive special recognition. Regardless of the form of business organization, most businesses must apply for business registration. Establishment of a business in certain sectors by a foreign entity may be restricted by the Foreign Business Act. U.S. investors may benefit from the Treaty of Amity and Economic Relations (AER), as discussed above.

A Thai public limited company is similar to a corporation in the United States, and may be wholly owned by a foreigner, unless the corporation is involved in a business activity reserved for Thai nationals. A public limited company is allowed to offer its shares to the public. Eight laws pertaining to individual industries limit foreign ownership of companies listed on the Stock Exchange of Thailand.

7. Protection of Property Rights

Real Property

Property rights are guaranteed by the Constitution against condemnation or nationalization without fair compensation. Secured interests in property are recognized and enforced. Thailand has a civil law system under which all laws are embodied in statutes or codes promulgated by the government. This practice is in contrast to the common law system in many Western countries, where court interpretations of statutes serve as governing legal precedent. There is an independent judiciary that provides a forum for settlement of disputes. Agencies of the government, as parties to commercial contracts, may be sued in the courts, and cannot raise a defense of sovereign immunity. However, state property is not subject to execution. There are four basic codes: Civil and Commercial Code, Criminal Code, Civil Procedure Code, and the Criminal Procedure Code. When adopting these codes early in the twentieth century, Thailand selected features of the two major Western legal systems (common law and civil law), and adapted provisions drawn from Great Britain, Germany, Switzerland, France, Japan, Italy, India, and other foreign systems, to circumstances in Thailand. Decisions and rulings of the judiciary and civil service can have considerable force as precedents.

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

Intellectual Property Rights

Widespread counterfeiting and piracy continue to plague intellectual property (IP) rights owners in Thailand. Particular areas of concern include counterfeiting of pharmaceuticals, cosmetics,

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

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

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

Currently, Thailand is considering an amendment to the Trademark Act to streamline the trademark registration process and enable Thailand to accede to the Madrid Protocol, as well as clarify the application of the Trademark Act to illegal refilling practices.

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

On the enforcement side, IPR infringement is commonly treated as a criminal offense in

Thailand. The police unit tasked with IPR infringement cases is the Economic and Cyber Crime Division (ECD) of the Royal Thai Police. Larger cases are generally brought to the Department of Special Investigation. Penalties for IPR infringement can range from fines to imprisonment.

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

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

Resources for Rights Holders

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

Resources for Rights Holders: Peter N. Fowler, Regional Intellectual Property Attaché for Southeast Asia, U.S. Embassy Bangkok, Peter.Fowler@trade.gov. The American Chamber of Commerce in Thailand, <http://www.amchamthailand.com>.

8. Transparency of the Regulatory System

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

The government continues to have the authority to control the price of specific products under the Price of Goods and Services Act. The Department of Internal Trade under the Ministry of Commerce administers this law and interacts with the affected companies, though only the Committee on Prices of Goods and Services makes the final decision on what products to add or remove from price controls. As of January 2015, out of 41 controlled commodities and services, only sugar is subject to a price ceiling. Besides the 41 controlled commodities, practically any producer of consumer products is prohibited from raising prices without first notifying the Committee of its intention to do so. The government also uses its controlling stakes in major suppliers of products and services such as Thai Airways and PTT to influence prices in the market. Thailand has extensive legislation aimed at the protection of the environment, including the National Environmental Quality Act, the Hazardous Substances Act, and the Factories Act. Food purity and drug efficacy are controlled and regulated by a Food and Drug Administration with authority similar to its U.S. counterpart. Likewise, labor and employment standards are set

and administered by the Ministry of Labor.

U.S. businesses have repeatedly expressed concern about the lack of transparency of the Thai customs regime and the significant discretionary authority exercised by Customs Department officials. The U.S. government and private sector have also expressed concern about the inconsistent application of Thailand's transaction valuation methodology and repeated use of arbitrary values by the Customs Department. Since the May 2014 coup, the interim government has made an effort to speed up passage of legislation that was stalled by the political gridlock of the previous administration. Several amendments of laws and regulations were passed in late 2014, including: Authorization of Customs Officials on Examination, Search and Seizure of Goods in Transit and Transshipment; Advance Ruling on Customs Valuation; Advance Ruling on Tariff Classification; Advance Ruling on the Origin of Goods; and Use of Electronic System for Customs Documents. Thailand is also currently revising other laws and regulations in preparation for the launch of the ASEAN Economic Community (AEC) at the end of 2015 and for Thailand's acceptance of the protocol for the WTO Trade Facilitation Agreement, also expected by the end of the year. These developments may lead to improvements in the challenging customs environment that many companies cite as one of their main concerns with doing business in Thailand.

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

9. Efficient Capital Markets and Portfolio Investment

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

Money and Banking System, Hostile Takeovers

In general, Thailand's banking sector, with 14 commercial banks, is healthy with low rates of non-performing loans (around 2.35%) and a high ratio of capital funds/risk assets (capital adequacy) of 16.67% in Q4 2014 (compared to 8.5% set by the Bank of International Settlements' Basel Committee). Thailand's largest commercial bank is Krung Thai Bank, with

assets totaling USD 85.2 billion as of January 2015. For the five largest commercial banks, their combined assets totaled USD 362.7 billion.

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

Non-residents can open and maintain foreign currency accounts without deposit and withdrawal ceilings with authorized banks in Thailand. However, such accounts must use funds that originate abroad. Meanwhile, any deposits in the Thai Baht currency must be derived from one of the following sources: conversion of foreign currencies, payment of goods and services, or a capital transfer of which BOT approval is not required. Any withdrawals are permitted, except the withdrawal of funds for credit to another non-resident person or purchase of foreign currency involving an overdraft.

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

10. Competition from State-Owned Enterprises

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

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

SOEs purchase or supply goods or services from private sector/foreign firms. Some SOEs have established rules and regulations on procurement, but most are still under the Government Procurement Agreement. In general, SOEs, like government agencies, reserve the right to accept or reject any or all bids at any time and may also modify the technical requirements

during the bidding process, if, according to regulations, corruption is suspected. The latter provision allows considerable leeway to SOEs in managing procurements. Private enterprises can compete with SOEs under the same terms and conditions with respect to market share, products/services, and incentives in most sectors, but there are some exceptions, such as the fixed line operation in the telecommunications sector.

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

The tax burden of SOEs depends on the type of SOE. SOEs established by special laws (e.g. 100% owned by the Ministry of Finance) that are not listed on the stock market are not subject to corporate income tax. SOEs in the form of limited companies/public limited companies/listed companies are subject to corporate income tax. Each year, all SOEs, regardless of type, must return a certain percentage (ranging from 35% to 88%) of their net profits back to the Ministry of Finance.

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

OECD Guidelines on Corporate Governance of SOEs

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

According to the officials at the SEPO, SOEs do adhere to the OECD Guidelines on corporate governance, including the state acting as an owner. The current guidelines are not yet sufficient to ensure a level playing field between SOEs and private sector enterprises, but the

subcommittee of corporate governance has realized the important of the issue, which is now under the process of consideration and review.

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

Third-party analysts view the SOEs as tools of the government to deliver policies. For example, the Bank of Agriculture and Agricultural Cooperatives (BAAC) was the core agency to execute the rice pledging scheme under the Yingluck Administration.

Sovereign Wealth Funds

Thailand currently does not have a sovereign wealth fund. However, the Bank of Thailand is studying a plan to use its surplus foreign reserves to establish what would be called a New Opportunity Fund, aimed at increasing returns as part of an effort to improve the central bank's balance sheet. The establishment of this fund is likely to be postponed from its current 2015 timeframe.

11. Corporate Social Responsibility

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

Many business associations, including the American Chamber of Commerce, are actively supporting the development of CSR programs in Thailand. Since 2007, the American Chamber of Commerce Corporate Social Responsibility Excellence Awards have encouraged the expansion of CSR programs by identifying best practices of companies in Thailand. Many CSR programs incorporate the Embassy's Thai-U.S. Creative Partnership to work directly with local partner organizations on long-term projects training and promoting opportunities in innovative sectors, such as renewable energy, IT, and microfinance. The AMCHAM ACE program also tracks continuous improvement.

Both the Thai Chamber of Commerce (TCC) and the Federation of Thai Industries (FTI) have undertaken several CSR projects over the past years. The FTI, in particular, incorporated CSR focused on health, safety and environment as part of their mission statement. The Joint Standing Committee on Commerce, Industry, and Banking of Thailand (JSCCIB) has also established a CSR committee that consolidates reports on activities from both TCC and FTI members.

In February 2015, a bill was proposed by the National Reform Council (NRC) Committee on Social Enterprise. The purpose of the social enterprise bill is to create a regulatory framework to

encourage the development of social enterprises, promote participation of the private sector through CSR in social development, and provide tax incentives to private enterprises to encourage spending a percentage of their profits on addressing social problems. The bill establishes a new independent regulating body, the Office of the National Social Enterprise Promotion (ONSEP), to be formed under the Prime Minister's Office; a National Social Enterprise Promotion Commission to coordinate policy and supervise ONSEP; and a new Social Enterprise Fund designed to provide loans to social enterprises and subsidize state or private agencies to achieve social enterprise goals. The draft bill is currently with the Cabinet pending review.

OECD Guidelines for Multinational Enterprises

See above.

12. Political Violence

Thailand continues to experience political volatility. In May 2014, the Thai armed forces seized power in a bloodless coup d'état. The military intervention followed nearly nine months of sometimes violent anti-government protests, a dissolved parliament, and aborted national elections. Following the coup, the military government restricted freedoms of the press, speech, and assembly, and has to date briefly detained over 1,000 political leaders, academics, journalists, and others. Despite some pockets of resistance, protests against the coup have been rare, due in part to continuing significant security measures and the prohibition of political assemblies.

There has been very limited political violence since the military coup. On February 1, 2015, one person was injured after two bombs exploded near a train station and a shopping mall in downtown Bangkok. On March 7, 2015, suspects threw a hand grenade at the Bangkok Criminal Court and were apprehended at the scene. Authorities have arrested 16 persons for the Criminal Court bombing.

Ongoing violence related to an 11-year Malay-Muslim insurgency in Thailand's southernmost provinces continues. Efforts to end the ethno-nationalist insurgency, which has claimed over 6,000 lives and caused over 10,000 injuries – mostly civilians – since 2004, have so far been unsuccessful.

Thailand and Cambodia have disputed sections of their common border, which resulted in sporadic clashes in 2008-2011 that killed over 20 military personnel. In November 2013, the International Court of Justice (ICJ) ruled that land surrounding the 11th century temples at Preah Vihear belonged to Cambodia, and instructed Thailand to withdraw its troops from the area. Cambodia had sought clarification of a 1962 ICJ ruling that awarded sovereignty of the temples to Cambodia but left ambiguous the sovereignty over the surrounding land. The border has remained generally calm since the latest ruling, and both governments meet regularly to discuss border issues, including overlapping claims in the Gulf of Thailand that contain hydrocarbon reserves.

13. Corruption

Thailand has several laws to combat corruption. The independent National Anti-Corruption Commission (NACC), together with the Office of the Public Sector Anti-Corruption Commission (PACC), coordinates official efforts against corruption and hold broad investigatory authority. In addition to these two agencies, the Office of the Ombudsman, the Constitutional Court, the Election Commission, the Office of the Auditor General, and the National Human Rights Commission have anti-corruption responsibilities. In December 2003, Thailand became a signatory to the UN Convention Against Corruption ratifying the convention in March 2011. In April 2005, Thailand endorsed the ADB-OECD Anticorruption Action Plan for Asia and the Pacific and assigned the Ministry of Justice to implement the Action Plan. The Office of Public Sector Anti-Corruption Commission, under the Ministry of Justice, was established to assist the NACC by investigating cases of lower ranking government officials.

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

Recent Thai administrations have publicly stated their intention to improve transparency in the evaluation of bids and the awarding of contracts. In 2013, the Public-Private Partnership (PPP) Act passed, replacing the Public Participation in State Undertaking Act of 1992. Effective April 4, 2003, the PPP Act requires public projects over USD 1 billion to be awarded through a multi-agency committee instead of a single administrating agency, a practice which may help reduce corrupt practices. Despite recent improvements, both foreign and Thai companies continue to complain about irregularities in the Thai Customs Department. Increasing media scrutiny of public figures has raised political pressure to curtail favoritism and corruption. However, convictions against public officials on corruption-related charges are rare, and the legal system offers inadequate deterrence against corruption. According to the most recent Transparency International's annual Corruption Perceptions Index, Thailand ranked 85th out of 175 countries in 2014.

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

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

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

Corruption, including bribery, raises the costs and risks of doing business. Corruption has a corrosive impact on both market opportunities overseas for U.S. companies and the broader business climate. It also deters international investment, stifles economic growth and development, distorts prices, and undermines the rule of law. It is important for U.S. companies, irrespective of their size, to assess the business climate in the relevant market in which they will be operating or investing, and to have an effective compliance program or measures to prevent and detect corruption, including foreign bribery. U.S. individuals and firms operating or investing in foreign markets should take the time to become familiar with the relevant anticorruption laws of both the foreign country and the United States in order to properly comply with them, and where appropriate, they should seek the advice of legal counsel.

The U.S. Government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize their own companies' acts of corruption, including bribery of foreign public officials, by requiring them to uphold their obligations under relevant international conventions. A U.S. firm that believes a competitor is seeking to use bribery of a foreign public official to secure a contract should bring this to the attention of appropriate U.S. agencies, as noted below.

U.S. Foreign Corrupt Practices Act: In 1977, the United States enacted the Foreign Corrupt Practices Act (FCPA), which makes it unlawful for a U.S. person, and certain foreign issuers of securities, to make a corrupt payment to foreign public officials for the purpose of obtaining or retaining business for or with, or directing business to, any person. The FCPA also applies to foreign firms and persons who take any act in furtherance of such a corrupt payment while in the United States.

The U.S. Department of Justice (DOJ) and the Securities and Exchange Commission released a Resource Guide to the U.S. Foreign Corrupt Practices Act. The Guide is an excellent resource on the FCPA for U.S. companies with questions about the statute and its enforcement. The

Guide explains the statute in detail and contains hypothetical examples of actual enforcement actions, and summaries of FCPA case law and DOJ opinion releases. For this and other useful resources, visit the DOJ Webpage: <http://www.justice.gov/criminal/fraud/fcpa/guidance/>.

Guidance on the U.S. FCPA: The Department of Justice's (DOJ) FCPA Opinion Procedure enables U.S. firms and individuals to request a statement of the Justice Department's present enforcement intentions under the anti-bribery provisions of the FCPA regarding any proposed business conduct. The details of the opinion procedure are available on DOJ's Fraud Section Website at www.justice.gov/criminal/fraud/fcpa. Although the Department of Commerce has no enforcement role with respect to the FCPA, it supplies general guidance to U.S. exporters who have questions about the FCPA and about international developments concerning the FCPA. For further information on the FCPA, transparency, and anti-bribery initiatives, see the Office of the Chief Counsel for International Counsel, U.S. Department of Commerce website, at <http://www.commerce.gov/os/ogc/transparency-and-anti-bribery-initiatives>. More general information on the FCPA is available on the websites listed below. Exporters and investors should be aware that generally all countries prohibit the bribery of their public officials, and prohibit their officials from soliciting bribes under domestic laws. Most countries are required to criminalize such bribery and other acts of corruption by virtue of being parties to various international conventions discussed above.

Other Instruments: It is U.S. Government policy to promote good governance, including host country implementation and enforcement of anti-corruption laws and policies pursuant to their obligations under international agreements. Since enactment of the FCPA, the United States has been instrumental to the expansion of the international framework to fight corruption. Several significant components of this framework are the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Anti-bribery Convention), the United Nations Convention against Corruption (UN Convention), the Inter-American Convention against Corruption (OAS Convention), the Council of Europe Criminal and Civil Law Conventions, and a growing list of U.S. free trade agreements. Thailand is party to the UN Anticorruption Convention; Thailand is also a member of the Asia/Pacific Group against Money Laundering (APG).

OECD Anti-bribery Convention: Thailand is not a party to the OECD Convention (see <http://www.oecd.org/dataoecd/59/13/40272933.pdf>).

UN Convention: Thailand is a party to the UN Convention (see <http://www.unodc.org/unodc/en/treaties/CAC/signatories.html>).

OAS Convention: Thailand is not a party to the OAS Convention (see <http://www.oas.org/juridico/english/Sigs/b-58.html>).

Council of Europe Criminal Law and Civil Law Conventions: Thailand is not a member of the Council of Europe Conventions (see www.coe.int/greco).

Free Trade Agreements: The United States does not have an FTA with Thailand.

Local Laws: U.S. firms should familiarize themselves with local anticorruption laws, and, where appropriate, seek legal counsel. While the U.S. Department of Commerce cannot provide legal advice on local laws, the Department's U.S. and Foreign Commercial Service can provide assistance with navigating the host country's legal system and obtaining a list of local legal counsel.

Assistance for U.S. Businesses: The U.S. Department of Commerce offers several services to aid U.S. businesses seeking to address business-related corruption issues. For example, the U.S. and Foreign Commercial Service can provide services that may assist U.S. companies in conducting their due diligence as part of the company's overarching compliance program when choosing business partners or agents overseas. The U.S. Foreign and Commercial Service can be reached directly through its offices in every major U.S. and foreign city, or through its Website at www.trade.gov/cs. The Departments of Commerce and State provide worldwide support for qualified U.S. companies bidding on foreign government contracts through the Commerce Department's Advocacy Center and State's Office of Commercial and Business Affairs. Problems, including alleged corruption by foreign governments or competitors, encountered by U.S. companies in seeking such foreign business opportunities, can be brought to the attention of appropriate U.S. government officials, including local embassy personnel and through the Department of Commerce Trade Compliance Center "Report a Trade Barrier" website at http://www.tcc.export.gov/Report_a_Barrier/index.asp.

Anti-Corruption Resources: Some useful resources for individuals and companies on combating corruption in global markets include the following:

Information about the U.S. Foreign Corrupt Practices Act (FCPA), including a "Lay- Person's Guide to the FCPA" is available at the U.S. Department of Justice's Website at: <http://www.justice.gov/criminal/fraud/fcpa/guidance/>.

Information about the OECD Anti-bribery Convention, including links to national implementation legislation and country monitoring reports, is available at: http://www.oecd.org/department/0,3355,en_2649_34859_1_1_1_1_1,00.html.

See also new Anti-bribery Recommendation and Good Practice Guidance Annex for companies: <http://www.oecd.org/dataoecd/11/40/44176910.pdf>

General information about anticorruption initiatives, such as the OECD Convention and the FCPA, including translations of the statute into several languages, is available at the Department of Commerce Office of the Chief Counsel for International Commerce Website: http://www.ogc.doc.gov/trans_anti_bribery.html.

Transparency International (TI) publishes an annual Corruption Perceptions Index (CPI). The CPI measures the perceived level of public-sector corruption in 180 countries and territories around the world. The CPI is available at: <http://cpi.transparency.org/cpi2012>. TI also publishes an annual Global Corruption Report which provides a systematic evaluation of the state of corruption around the world. It includes an in-depth analysis of a focal theme, a series of country reports that documents major corruption-related events and developments from all

continents, and an overview of the latest research findings on anti-corruption diagnostics and tools. See <http://www.transparency.org/publications/gcr>.

The World Bank Institute publishes Worldwide Governance Indicators (WGI). These indicators assess six dimensions of governance in 212 countries, including Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law, and Control of Corruption. See http://info.worldbank.org/governance/wgi/sc_country.asp.

The World Bank Business Environment and Enterprise Performance Surveys may also be of interest and are available at: <http://go.worldbank.org/RQQXYJ6210>.

The World Economic Forum publishes the Global Enabling Trade Report, which presents the rankings of the Enabling Trade Index, and includes an assessment of the transparency of border administration (focused on bribe payments and corruption) and a separate segment on corruption and the regulatory environment. See <http://www.weforum.org/en/initiatives/gcp/GlobalEnablingTradeReport/index.htm>.

Additional country information related to corruption can be found in the U.S. State Department's annual Human Rights Report, available at <http://www.state.gov/g/drl/rls/hrrpt/>.

Global Integrity, a nonprofit organization, publishes its annual Global Integrity Report, which provides indicators for 92 countries with respect to governance and anti-corruption. The report highlights the strengths and weaknesses of national level anti-corruption systems. The report is available at: <http://report.globalintegrity.org/>.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

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

Resources to Report Corruption

Government Contact for combating corruption:

- International Affairs Strategy Specialist
- Office of the National Anti-Corruption Commission
- 361 Nonthaburi Road, Thasaai District, Amphur Muang Nonthaburi 11000, Thailand
- +662-528-4930
- Email: TACC@nacc.go.th

Civil Society Contact on corruption:

- Dr. Juree Vadakan
- Secretary General
- Transparency Thailand
- Center for Philanthropy and Civil Society, NIDA, 118 SeriThai Road, Klong Jan, Ket Bang Kapi 10240, Thailand
- +662-377-7206
- Email: juree@cpcnida.com

14. Bilateral Investment Agreements

The 1966 iteration of the U.S.-Thai Treaty of Amity and Economic Relations (AER), discussed above, allows U.S. citizens and businesses incorporated in the United States or in Thailand that are majority-owned by U.S. citizens, to engage in business on the same basis as Thai nationals. Under the AER, Thailand is permitted to apply restrictions to American investment only in the fields of communications, transport, banking, the exploitation of land or other natural resources, and domestic trade in agricultural products.

In October 2002, the United States and Thailand signed a bilateral Trade and Investment Framework Agreement (TIFA). The TIFA establishes a Trade and Investment Joint Council (TIJC), which serves as a forum for discussion of bilateral trade and investment issues such as intellectual property rights, customs, investment, biotechnology, and other areas of mutual concern.

Thailand also has bilateral investment agreements with 39 countries, including China, India, Taiwan, South Korea, United Kingdom, and members of the Association of Southeast Asian Nations (ASEAN). These agreements establish guidelines for expropriation compensation and the repatriation of capital, but do not include national treatment provisions.

Bilateral Taxation Treaties

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

15. OPIC and Other Investment Insurance Programs

The Overseas Private Investment Corporation (OPIC) provides political risk insurance, debt financing, and private equity capital to support U.S. investors and their investments. OPIC can provide political risk insurance for currency inconvertibility, expropriation, and political violence for U.S. investments including equity, loans and loan guarantees, technical assistance, leases, and consigned inventory or equipment. OPIC debt financing in the form of direct loans and loan guarantees of up to USD 250 million per project are also available for business investments in Thailand, covering sectors as diverse as tourism, transportation, manufacturing, franchising, power, infrastructure, and others. In addition, OPIC supports eight private equity funds that are eligible to invest in projects in Thailand. OPIC is currently providing political risk insurance two U.S. organizations involved in humanitarian services and economic development in Thailand. In case of an inconvertibility claim, the estimated annual U.S. dollar value of Thai baht likely to be used by the Mission in Thailand is approximately USD 112 million.

16. Labor

According to the National Statistical Office (NSO), in 2014, Thailand's labor force stood at 38.4 million. Official unemployment rates remained very low at 0.8%. Despite being a middle income country, 57% of the labor force worked in the informal sector, including agriculture, forestry, and fishing, with limited protection under labor laws and the social security system. Thailand's fertility rate has been very low in recent years, averaging 1.4 in the years 2010 - 2015, the second lowest among ASEAN countries after Singapore. Thailand could experience negative

population growth by 2025 and it has faced labor shortages in many sectors, especially those requiring low-skilled labor. The 2013 NSO labor demand survey reported that employers used various means to cope with labor shortages, including: increased working hours and overtime (26%), increased wages and benefits (24.5%), increased use of outsourcing or subcontracting (11.7%), increased use of migrant workers (10.7%), and increased use of machinery (8.7%). Thailand has had inflows of irregular migrant workers from neighboring countries such as Burma, Laos, and Cambodia since the 1980s, primarily for unskilled work. The United Nations (UN) estimated that as of 2013, approximately 3.7 million international migrants resided in Thailand, the highest in Southeast Asia, followed by Malaysia (2.4 million) and Singapore (2.3 million). International migrants account for 5.6% of the total population, a significant increase from 2% in 2000. In Southeast Asia, Thailand has the fourth highest share of international migrants in its total population, following Brunei (49.3%), Singapore (42.9%), and Malaysia (8.3%). Most migrant workers came to Thailand through unauthorized channels without any documentation. Some were granted temporary legal status to stay and work in Thailand through regularization programs, with collaboration from neighboring country governments to verify nationalities and issue passports.

A survey done by the World Bank found that firms report acute shortages for technical skills, especially at the vocational school level, as well as language and IT skills and soft skills such as leadership and creativity. This technical skill shortage is attributed in large part to a mismatch between market demands and educational preparation. Many multinational firms continue to bring in expatriate professionals because qualified local personnel are not available, even at high salaries. Finding, training, and retaining qualified employees to work in the manufacturing facilities being developed in industrial estates, such as those along the Eastern Seaboard, will continue to be a challenging government priority.

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

Employers may dismiss workers for any reason, provided the employer pays severance.

Workers in Thailand are protected under the Labor Protection Act. The laws allow private sector workers to form and join trade unions of their choosing without prior authorization, bargain collectively, and conduct legal strikes with a number of restrictions. The law prohibits antiunion discrimination. Though the law does not require reinstatement of workers fired for involvement in trade union activity, a court decision may grant employee reinstatement and compensation of salary for losses while absent from work for various types of unfair termination, including antiunion discrimination. Noncitizen migrant workers do not have the right to form unions or serve as union officials. Registered migrants may be members of unions organized and led by Thai citizens.

Separate laws allow state-owned enterprise workers to form unions. The law does not allow civil servants, including public and private schoolteachers and university professors, soldiers, and police, to form or register a union. Civil servants may form and register associations, but these associations do not have the right to bargain collectively.

The law restricts affiliations between state-owned enterprise unions and private sector unions as they are governed under two separate laws. The law allows only employees “working for the same employer” or “in the same description of work” to form a union, which limits the ability of contract workers to join unions formed by regular employees. In addition, the law allows employees in private enterprise with more than 50 workers to establish “employee committees” to represent workers’ collective requests and to negotiate with employers and “welfare committees” to represent workers’ collective request on welfare issues.

The law requires employers to begin negotiating within three days from the time a union submits its demands. If an agreement cannot be reached, the government considers it a labor dispute and begins reconciliation. The law permits workers to strike after an employee has submitted a demand resulting in a deadlock between the employer and employee. Workers must submit a letter of notification at least 24 hours in advance of strike action. The government has the authority to restrict private sector strikes that would affect national security or cause severe negative repercussions for the population at large, but it did not invoke this provision during the year. Employers can charge union leaders with libel for statements made during collective bargaining and strike action if they harm the employer’s reputation.

During 2013, the latest year for which such data were available, the Department of Labor Protection and Welfare reported 146 informal conflicts between employers and employees involving 68,715 employees, a decline from 2012 (177 informal conflicts involving 94,124 employees). Of these, 124 conflicts were resolved without walkouts, 10 were referred to a labor court, and nine continued under the Department’s process. Most cases referred to a labor court fell under the categories of violations of labor protection laws, breaches of working-condition agreements, and wrongful acts by employers and employees.

The Ministry of Labor is responsible for ensuring that employers adhere to minimum wage requirements in the formal sector, as well as inspecting for working hours, rest time, holiday and sick leave, overtime payment, etc. The ministry also enforces laws related to occupational safety and health. In 2013, the latest year for which such data are available, the ministry employed approximately 600 inspectors for an estimated 356,919 workplaces. It inspected 48,749 workplaces employing 2.1 million workers during 2013, according to ministry statistics, and found 465 workplaces that failed to comply with labor protection laws. By law, employers are subject to fines up to 100,000 baht (USD 3,100) and/or imprisonment up to six months for minimum wage noncompliance, but effective enforcement has varied. The maximum sentence for violations of occupational safety and health regulations is one year’s imprisonment and fines not exceeding 400,000 baht (USD 12,000). Labor inspectors’ limited resources, practice of interviewing employees at workplace locations that lacked privacy, reliance on document-based inspection, and lack of interpreters to accompany inspection teams resulted in ineffective inspections. There are also reports of significant abuses of the rights of migrant workers in seafood and agricultural supply chains which are difficult to inspect.

On occupational health and safety, the ministry in 2013 inspected 17,672 workplaces employing 1.5 million workers and found 974 workplaces (6 percent) that failed to comply with health and safety regulations. Most of these involved machines; cranes and boilers; health checkups; fire accidents; failure to establish safety committees; and inappropriate levels of heat, light, and noise. According to the Department of Labor Protection and Welfare, the incidence of violations regarding workers' safety was highest in manufacturing, wholesale and retail trade, construction, mining, electricity gas and water supply, and agriculture. While the majority of violations were resolved after the department issued orders to companies to make amends, there were at least 220 legal actions filed by labor inspectors after the employer failed to make amends or pay the required fines.

17. Foreign Trade Zones/Free Ports/Trade Facilitation

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

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

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

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

Economic Data	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (\$M USD)	2014	373,755	2013	387,300	www.worldbank.org/en/country
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (\$M USD, stock positions)	2014	17,125	2013	14,428	BEA data available 3/19/14 at http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm
Host country's FDI in the United States (\$M USD, stock positions)	2014	3,812	Not available		BEA data available 3/19/14 at http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm
Total inbound stock of FDI as % host GDP	2014	207,318	N/A		55.5%

* The National Economic and Social Development Board for GDP, and the Bank of Thailand for investment data

Table 3: Sources and Destination of FDI

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations (US Dollars, Millions)					
Inward Direct Investment			Outward Direct Investment		
Total Inward	178,221	100%	Total Outward	56,602	100%
Japan	63,028	35%	Cayman Islands	6,741	12%
Singapore	26,629	15%	Mauritius	5,153	9%
United States	13,847	8%	China, Hong Kong	4,480	8%
Netherlands	11,412	6%	Singapore	4,332	8%
China, Hong Kong	7,861	4%	China, Mainland	4,073	7%

"0" reflects amounts rounded to +/- USD 500,000.
Source: IMF Coordinated Direct investment Survey

Table 4: Sources of Portfolio Investment

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			Equity Securities			Total Debt Securities		
All Countries	35,137	100%	All Countries	9,982	100%	All Countries	25,155	100%
China, Hong Kong	5,460	16%	United States	4,125	41%	China, Hong Kong	4,985	20%
United States	5,012	14%	Luxembourg	2,243	22%	China, Mainland	2,848	11%
China, Mainland	3,118	9%	Australia	506	5%	Turkey	2,592	10%
Korea, Republic of	2,633	7%	China, Hong Kong	475	5%	Korea, Republic of	2,577	10%
Turkey	2,593	7%	Cayman Islands	459	5%	Brazil	2,498	10%

Source: IMF Coordinated Portfolio Investment Survey

19. Contact for More Information

Dean Matlack
Commercial Attaché
U.S. Embassy Bangkok
+662 205-5263
Dean.Matlack@trade.gov