

Issues and Requests Relating to Foreign Trade and Investment - Thailand

Category	No	Issue	Issue Details	Requests	References
1 Restrictions on Entry of Foreign Capitals	(1)	Restricted FFEs' Entry into Service Sectors	<p>- Government of Thailand (GOT) restricts FFEs' entry into business, by <u>Business Licence acquisition requirement, particularly into service sector (including Contract Business), in which FFEs' equity ownership ratio is restricted.</u></p> <p>- FBA(Foreign Business Act)'s preclusion remains on MFOE's entry into the service sector.</p> <p>-- MFOE (whose majority shares are owned by foreigners or foreign funded enterprises (FFE)s) is prohibited from engaging in the business sector (for manufacture and sales of products, such as electric appliances and machineries) that also provides simultaneously fee-based services, such as maintenance service.</p> <p>-- In the electronics business sector, the crux of the competition lies in provision of quality customer service, in addition to the differentiated hardware. Customers' interest is eroded by the restrictions on the foreign capital ratio in the service sector.</p> <p>(Actions)</p> <p>- In May 2006, Ministry of Commerce (MOC) issued a new regulation that stringently compels Thai investors to disclose the source of operation capital fund in a joint venture company in which foreign capital owns certain share capital ratio. The regulation also compels disclosure of the source of operation fund to Thai investors and foreign directors investing into a joint venture company in which foreign investors own 40%-49% share capital. FBA prohibits Thai shareholders from acting as nominee shareholders on behalf of foreign shareholders, and violators are penalized by fine and imprisonment with labour. FBA also prohibits transfer of business concession and business license to foreign investors. FBA prohibits foreign investors from entering into cell-phones, TV stations, satellite communication, airway transport and security related or media related businesses. On the other hand, enterprises with less than 50% of foreign ownership are deemed as Thai enterprises exempt from the stated prohibitions. On 9 January 2007, Thai Cabinet approved in principle the Bill to amend FBA that defines foreign business entity as an entity in which foreign investors own more than 50% of the voting shares, in support of MOC's proposal.</p> <p>- On 10 April 2007, Thai Cabinet formally approved the Bill to amend FBA. This amendment plugs the loophole for foreign investors to conduct business in the restricted area, and removes ambiguity in the legal interpretation. The major amendments include redefining "foreign entity" in which foreign shareholders own the majority voting shares. What this means is that the Thai entity in which Thai nationals own 51% without voting right, or less than majority owned Thai industry is an alien entity. The amendment Bill includes the following exceptions under List 3:</p> <p>-- Telecom business</p> <p>-- Business relating to future trading</p> <p>-- Securities business</p> <p>-- Futures trading business</p>	<p>- It is requested that GOT deregulates restrictions on FFEs' entry into business.</p> <p>- It is requested that GOT repeals at once the restrictions on MFOE.</p>	Foreign Business Act - Alien Company Control Act, Article 8

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				<ul style="list-style-type: none"> -- Commercial banking business -- Financial business and credit foncier business -- Insurance against lost business -- Other service business prescribed in the Ministerial Regulations <p>- On 10 August 2007, Minister of Commerce announced the withdrawal of the Bill to amend FBA to effect further review for subsequent re-introduction.</p> <p>- The draft approved by the Cabinet introduces a range of transitional provisions. Entities that obtain a certificate that operate businesses restricted by "List 1" or "List 2" will be permitted to continue operating their business for two years from the date the amendments take effect. After the expiry of the two-year period, those entities must cease operations or restructure their voting rights so that Thai nationals hold the majority of voting rights.</p> <p>- On 27 March 2007, the Cabinet rejected the Retail and Wholesale Business Act, which was proposed by MOC. The Bill comprising of 60 items is drafted to develop a fair competition between the foreign and the traditional domestic retailers. After the Cabinet's decision was handed down, MOC called for a meeting attended by the drafting committee and representatives of both traditional domestic retailers and foreign retailers in order to redraft the Bill. When the new amended draft Bill is prepared, it will be resubmitted by MOC to the Cabinet. By means of zoning and other regulations, it will restrict a further expansion of large-scale outlet stores in the metropolitan areas.</p> <p>- Article 16 of the new Financial Institutions Business Act B.E. 2551, enforced on 3 August 2008 provides: "more than 75% of the total shares of a financial institution must be Thai shareholders, while more than three-fourth of the directors on the board must be Thai nationals also".</p> <p>- On 22 December 2009, Abhisit Cabinet approved the latest Bill on Retail Business submitted by Ministry of Commerce (MOC). The Bill is aimed at controlling retail business by classifying them into 4-categories, (1) Extra-large retail shop, (2) Large retail shop, (3) Medium retail shop, (4) Small retail shop (such as convenience shop). This Bill approved by the Cabinet will be sent to the National Council, where it receives legal scrutiny. As soon as the National Council scrutiny is over, it will be resubmitted to the Cabinet for its approval, after which the final Bill will be submitted to the Parliament for its approval. Then, the Bill will be sent back to the Parliament for deliberation. According to MOC, the bill is still in the initial stage and is subject to changes by Cabinet direction and the Parliament examination. Bill must go three the 3-Readings before it is approved by the Parliament. MOC aims at enforcement of the Bill within this year (2010) after the Parliament's approval. Since 2004, despite the demand from the domestic retailers to curb the rapidly growing large-scale super markets, the procedure has been procrastinated to get the Retail Business Bill approved, over the three generations of the past Administration.</p> <p>- On 14 January 2010, Mr. Alongkorn Ponlaboot, Deputy Minister of Commerce announced GOT's intention to review deregulation of The Foreign Business Act (FBA) to promote liberalisation of the Thai market to foreign capitals. This is the first step for GOT toward the execution of its obligations under FTAs, which are concluded between Thai and other parties to FTAs. The Fiscal Policy Office (FPO) of Ministry of Finance (MOF) in its latest Research Report recommends execution of deregulation over 13 business sectors included in List Three of the FBA within the forthcoming 3-6 years. List Three of FBA defines the business sectors in which foreign capital entry is prohibited. On the other hand, Deputy Minister Alongkorn cautions that prior to opening of the domestic service industry to foreign capitals, GOT needs to carefully consider the competitiveness and the readiness of the domestic enterprises. According to the personnel of MOF in charge, a draft Amended Bill for FBA will be submitted to the Cabinet by the end of March 2010.</p> <p>- Projects having received grant of BOI incentives are required to be engaged in the business specified in List Two and List Three of Foreign Business Act.</p>		

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			<p>(Improvement)</p> <ul style="list-style-type: none"> - Under the Japan-Thailand Economic Partnership Agreement signed on 3 April 2007. GOT and GOJ undertook to improve among others by raising the foreign capital ratio from the ongoing less than 50% to 60%, 70% in the 8 business sectors, namely, <table border="0"> <tr> <td>(1) wholesale and retail services,</td> <td>(2) maintenance and repair service,</td> </tr> <tr> <td>(3) logistics consulting,</td> <td>(4) public relations service,</td> </tr> <tr> <td>(5) hotel/lodging service,</td> <td>(6) restaurant service</td> </tr> <tr> <td>(7) marine transport agency service, and</td> <td>(8) cargo handling service.</td> </tr> </table> - In February GOT deregulated the cap on foreign capital contribution rate of less than 25% to less than 49% both in the bank and the insurance sectors. 	(1) wholesale and retail services,	(2) maintenance and repair service,	(3) logistics consulting,	(4) public relations service,	(5) hotel/lodging service,	(6) restaurant service	(7) marine transport agency service, and	(8) cargo handling service.		
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	(2)	Restrictions on Factory Expansion	- <u>The Zoning Act prohibits factory expansion even within the allotted land property (on the own premises of our member firm's subsidiary (MFS)), in the case where factory is located outside the Industrial Zone.</u>	- It is requested that GOT gets the Law reviewed.									
	(3)	Local Capital Majority Requirement	<p>- <u>Should Foreign Funded Enterprises (FFE) wish to establish a manufacturing and distribution company under OEM arrangement, list 3, No. 21 other services applies, whereby Thai majority share contribution applies.</u></p> <p>- <u>Except for the limited incentive zone, a foreign funded enterprise in manufacturing business with land ownership must face the demand for the Thai majority share ownership.</u></p>	<p>- It is requested that Government of Thailand (GOT) takes step to remove the Thailand majority requirement on establishment of manufacturing and distribution company under OEM arrangement.</p> <p>- It is requested that GOT removes the restrictions on the foreign share ownership ratio.</p>	<p>- Land Code Act</p> <p>- Foreign Business Act</p>								
	(4)	Expansion / Change made difficult by the Business Licence Requirement	- <u>It is necessary for aFFE to obtain Business Operation Licence (BOL) to operate the businesses (services business, retail trade, wholesale trade) subject to restrictions. Amendments or changes of the business categories under the lists (services, retails, and wholesale businesses) require acquisition of BOL. For each business category, increase in capital is also necessary, frustrating change or expansion of business lines at ease.</u>	<p>- It is requested that GOT takes step to:</p> <ul style="list-style-type: none"> -- narrow the scope of business lines subject to restrictions, and -- deregulate the requirements for foreigner's acquisition of BOL. 	- Foreign Business Act								
2	(1)	Grant of a Preferential Tariff Rates based on Increased Home Production, and/or Local Procurements	Local Contents Requirement is attached to the BOI's Investment Incentive	<p>- <u>To obtain International Procurement Office (IPO) approvals, Board of Investment (BOI) requires the made-in-Thailand products represent more than 10% of the FFE's total business. Moreover, products manufactured by an MFS's factory in Thailand EPZ do not count in the 10% Thailand transactions, since they are treated as overseas products. It takes a complicated import route by product. (Note: BOI's IPO is an incentive measure that exempts import tariffs on parts and products.)</u></p>	- It is requested that BOI deregulates the requirements for IPO approvals by repealing the 10% locally made products requirements, or includes products made in EPZ in the Thailand business.								

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6 Reduction and Elimination of Preferential Policies for Foreign Capital	(1)	Review of Dwindled Foreign Investment Incentive Measures	<p>At the end of November 2014, new investment incentive policy was abruptly released for enforcement from 1 January 2015. Apart from the brevity of the period from the policy release to its enforcement, incentives that are based on location were revoked. Consequently, no incentives could be expected on a member firm's effort for business expansion into local areas. In total, (especially on tax incentives), the grant of incentives to the member firm has dwindled.</p> <p>Promulgation of policies of this kind negatively impacts not only the member firm but it is much concerned that it could induce other foreign firms' loss of confidence in the Thai government, prompting them to withdraw their investments in Thailand.</p>	<p>It is requested that GOT:</p> <ul style="list-style-type: none"> -- reviews NIIP, and -- continues its previous grant of incentives by regions. 	<p><u>BOI's New Investment Promotion Policies (enforced on 1 January 2015)</u></p>
			<p>(Actions)</p> <ul style="list-style-type: none"> - In January 2013, BOI released the NIIP 2013-2017 that introduces incentive measures on specified industrial clusters, repealing the previous incentive measures based on geographical zoning. - In May 2013, BOI announced it would decide upon the details by December 2013 for the specified industrial clusters under NIIP, for enforcement from 1 January 2015. - Thailand National Council for Peace and Order (NCPO) approved set up of 5-special economic zones to boost border trade (destined to Malaysia, Myanmar, and Cambodia) by 20% up per annum. - On 19 August 2014, the Thailand Board of Investment (BOI) approved the NCPO's new investment promotion strategy (2015-2021) (NIPS) that focuses on the projects concerned with hi-tech research & development, and increased local contents, in the manner friendly to the environment. According to the BOI report, while discontinuing the BOI investment zones, BOI will develop new local industrial integration focused on enabling a long-term sustainable growth development on the 7-prioritised business sectors, including electric/electronic, metal, machinery, transport products and equipment, infrastructure and service business. - <u>On 25 November 2014, the Board of Investment of Thailand (BOI), headed by chairman general Prayut Chan-o-cha, premier, held a plenary meeting, approved the new investment policy for 7-years (2015-2021), and on 3 December 2015, promulgated announcement of BOI No. 2/2557 policies and criteria for investment promotion. Its Japanese translated version was uploaded at BOI home page on the same day. Major changes are:</u> <ol style="list-style-type: none"> <u>(1) Replacing the conventional zone scheme aimed at invigorating the local economy with the new policy focused on the shift of the Thai industrial structure (as above), which is focused on the high technology industry.</u> <u>(2) Under the new scheme, used machines over 5 years old are neither entitled to benefits, nor may be used in the project.</u> <u>(3) On plural non-manufacturing types of industry, incentives granted individually by BOI notification, etc. are now included in the industries entitled to incentives.</u> <p>(Improvement)</p> <ul style="list-style-type: none"> - <u>On 16 March 2016, premier Prayut at Thai special economic development policy committee meeting decided to expand the scope of the beneficiary under investment incentives to the 13 business sectors in the SEZs: (i) agriculture; (ii) fishery and related industries; (iii) ceramics; (iv) textiles, clothes and leather; (v) furniture; (vi) jewelry and ornaments; (vii) medical appliances; (viii) automotive, machinery and parts; (ix) electrical appliances and electronics; (x) plastics; (xi) pharmaceuticals; (xii) logistics; and (xiii) tourism-supporting industries.</u> 		

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			<p>- On 8 October 2015, Thai special economic zone committee determined 10-business sectors (dry/storage of agricultural produce.) subject to incentive measures at the SEZ to be located near the national border.</p> <p>- On 17 March 2016, Thai BOI designated "aeronautics, automation, robotic engineering" as target activities of "Super Cluster Incentives (SCI)" based on the Industrial cluster policy. SCI's main incentives include each sector in aviation, automation, and robotics. The main incentives under SCI includes exemption for 8-years of corporate income tax (CIT), 50% reduction of CIT for 5-years, exemption of import customs tariff on machines and raw materials, etc.</p>		
7 Procedures for the operation of the Foreign Investment Law	(1)	BOI's Ambiguous New Investment Scheme	<p>- While the criteria for investment promotion incentives have been shifted from "zone" to "activity" based incentives, in the absence of the precise implementing rules, Japanese affiliated enterprises get frustrated how to deal with the new policy.</p> <p>- Elucidation remains pending on the BOI's new investment incentive measures that began since 2015:</p> <ul style="list-style-type: none"> -- if extension of the incentive period is possible under the minimum qualifications by cluster, -- the tax exemption period for investment into machinery -- the terms and conditions that enable extension of import duty exemption of raw materials and other materials. <p>- Since 1 January 2015, enforcement on new investment promotion policy (NIPP) has begun from the newly filed applications.</p> <p>- Since 1 January 2015, enforcement has begun on NIPP. The incentive details and business criteria between the new and going policies differ respectively. While enterprises approved under the going (old) policy may enjoy the benefit until the termination date, some problems remain such as restricted business expansion, etc. The domestic economic deterioration is another concern due to the dwindling direct investment from overseas into Thailand, and exodus of business abroad.</p> <p>(Actions)</p> <p>- On 3 December 2014, Thai Board of Investment (BOI) promulgated announcement of BOI No. 2/2557 (new) policies and criteria for investment promotion applicable on the subsequent 7-years (2015~2021) (with its Japanese translation uploaded on the same day at BOI's home page).</p> <p>- On 9 March 2015, BOI promulgated "Announcement. No. Sor. 1/2558. Re: Additional Amendments of Eligible Activities for Investment Promotion in accordance with the BOI announcement No. 2/2558" with the view to enhance the practical beneficial effect of its investment promotion policy, as regards filing of complaint on BOI's decisions, tariff incentives, and new establishment of respective subcommittees.</p>	<p>- It is requested that BOI prepares (article by article) guideline for the policy that precisely elucidate implementing examples.</p> <p>- It is requested that GOT promulgates precise details of the new scheme.</p> <p>- It is requested that GOT:</p> <ul style="list-style-type: none"> -- discloses the substantive information on approval or disapproval, and -- clearly identifies the exact date of the renewal deadline. <p>- It is requested that BOI:</p> <ul style="list-style-type: none"> -- flexibly implements the NIPP, and -- expedites the information disclosure. 	<p>- Announcement of BOI No. 2/2557 Policies and Criteria for Investment Promotion</p> <p>- Foreign Business Act B.E. 2542</p>

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8 Investment Recipient Organization	(1)	Delayed Import Approval Procedures under BOI Incentives	<p>It takes too long (more than 30-business-days) from filing application to grant of approval on BOI incentives. As a result MFS must get equipment and parts first cleared through the customs, before the grant of approval on BOI incentives, by putting up bank guarantee or in cash, pay import duty and VAT, and later file request for refund. (as of 2014)By now, thanks to operation start of paperless system, the lead time has been abridged for certain imports (such as jigs and mold tools).</p> <p>(Actions)</p> <ul style="list-style-type: none"> - Due to the political instability began on 1 November 2013, such as political demonstrations, there was a delay in newly nominating some members of BOI, whose term had expired by the end of last year, delaying the BOI's issuance of approvals on new investments. - On 7 June 2014, Thailand National Council for Peace and Order (NCPO) nominated the 18-new BOI Members, directing Ministry of Industry to cut down from 90-days to 30-days the examination period for the approval (Ror Ngor 4) of the factory operation. - On 9 March 2015, BOI promulgated "<u>Announcement No. Sor. 1/2558 re: Additional Amendment of Eligible Activities for Investment Promotion in accordance with the BOI Announcement No. 2/2558</u>" with the view to enhance the practical beneficial effect of its investment promotion policy, as regards filing of complaint on BOI's decisions, tariff incentives, and new establishment of respective subcommittees. <p>(Improvement)</p> <ul style="list-style-type: none"> - On 7 June 2014, The Board of Investment of Thailand (BOT), at its First Meeting, approved the outstanding BOI' Project (relative to motor-vehicles, steel products, electronics industries, etc.) 	<p>It is requested that BOI:</p> <ul style="list-style-type: none"> -- streamlines and electronically process the BOI incentive procedures, and -- expedites the process to the point of BOI approval. (as of 2014) <p>=> Paperless system has been introduced. Its operation partially begun has been expedited.</p>	<p>- Board of Investment - <u>Import Procedures under Operation of BOI Incentives</u></p>
9 Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	High Import Tariffs	<p><u>GOT imposes 10% import tariffs on certain electronic parts, namely, ferrite bead chips, chip coils, sensors, buzzers, power supply, blue tooth module, saw filter and connector. The tariff rates are reduced to 0-1% on the other parts. The 10% import tariff materially weakens the international competitive edge of the Thai local manufacturers of finished products. Furthermore, the decision base for the tariff rate varies by customs personnel in charge. In one case, after production of a vast amount of materials, nevertheless, the tariff rate was raised without any precise explanation. There are cases where GOT levies high tariff rates on electronic parts not domestically manufactured in Thailand. This serves no meritorious purpose other than to debilitate the competitive edge of the manufacturers of finished products in Thailand. Reference: Japan-Thailand FTA Tariff Rates:</u></p> <ul style="list-style-type: none"> -- <u>Buzzer (HS: 8531.90), Category B: Reduced in stages and 0% in 2012.</u> -- <u>Power Supply (HS: 8529.90), Repealed immediately (provided, however, that, HS: 8529.902, being in Category B, is reduced in stages until reaching 0% in 2012.</u> 	<p><u>It is requested that GOT:</u></p> <ul style="list-style-type: none"> -- <u>repeals the import tariff, and</u> -- <u>elucidates the reasons for taxable or non-taxable items.</u> 	

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			<p>-- <u>Power Supply (HS: 8504.21, HS: 8504.31), Category B, reduced in stages to and finally repealed to 0% in 2012.</u></p> <p>- <u>The Duty on clocks is high at 20%.</u></p> <p>- <u>It is requested that GOT expands the scope of import countries to which zero Import Duty applies.</u></p> <p>- <u>While zero import duty applies to single function projector (for being an ITA product), high import duty is levied upon multi-function projectors.</u></p>	<p>- <u>It is requested that GOT reduces and repeals the duty on clocks.</u></p> <p>- <u>It is requested that GOT improves the investment environment by expanding the countries exporting to Thailand.</u></p> <p>- <u>It is requested that GOT takes step to:</u> <u>(1)work for solution of the problems</u> <u>(2)confirm and provide the latest information on ITA expansion, and</u> <u>(3)continue to furnish information on further movements on this issue.</u></p>	
			<p>(Actions)</p> <p>- On 10 January 2012, Thai Ministry of Finance (MOF) released officially (for implementation retroactive to 1 January 2012) Notification No. 15 (No. 0518/Wor 15), amending the previously released Notification, under Article 12 of Thai Customs Tariff Classification Act, concerning reduction or repeal of tariff rates.</p> <p>- On 18 November 2012, Thai Prime Minister notified the U.S. President that Thailand would participate in the TPP negotiations.</p> <p>(Improvement)</p> <p>- On 3 April 2007 The Japan-Thailand Economic Partnership Agreement (JTEPA) was signed and became effective on 1 November 2007.</p> <p>-- Steel: All tariffs are repealed in 10 years. Tariffs are repealed immediately on hot rolled steel sheet (HRSS) where no production facility is operated or not possible to operate in Thailand. Quota for certain tariff-exempted-items is made available and for all the rest of the items tariffs are repealed in ten years. Immediate repeal represents 25% of the total export volume of 3.64 million tons, while quota for tariff exemption for HRSS is 950,000 tons, and tariffs are removed for the rest of the items after 5, 6, 9 and 10 years.</p> <p>-- Automotive vehicles: Tariffs on 3000 cc or more - The going 80% will be reduced by 5% in stages from the first year until 60% is reached, and renegotiate in 2009. Renegotiation is due after 5 years on less than 3000 cc.</p> <p>-- automotive vehicles parts: Tariffs on all items with going rate of over 20% are reduced to 20% in the first year and repealed after five years. Tariffs on all items with going rate of less than 20% are repealed after five years. Tariffs on the sensitive five items (engines and engine parts) are repealed after seven years.</p> <p>-- Electric/electronic products: Tariffs are repealed within ten years without exception.</p> <p>-- Chemicals: Tariffs are repealed within ten years without exception.</p> <p>(Reference) For tariff rates, please refer to the website of MOF, Japan at: http://www.mofa.go.jp/region/asia-paci/thailand/epa0704/annex1.pdf</p>		

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				<ul style="list-style-type: none"> - According to the announcement of Minister of Ministry of Industry of 28 July 2008, BOI has exempted the import tariff on machinery and equipment imported for the express purpose of carrying out research and development at the Local General Headquarters (ROH). - On 1 June 2009, Japan-ASEAN Comprehensive Economic Partnership was enforced as to Thailand. - On 5 January 2012, for the purpose of relieving the enterprises that sustained damages from the severe flooding in October 2011, by Cabinet Decision, MOF published Notification to exempt import duty on replacement machineries, parts for repair of machineries, tools, automobiles and parts. For manufacture and assembly, etc. On 14 January Ministry of Industry (MOI) also released its Guideline for the basis and procedures for approving duty free import of replacement machineries, parts, accessories, and tools used for these machineries as a relief for the enterprises affected by the flooding. The Guideline was published in the Royal Gazette on 31 January. By virtue of this arrangement, during the period of 25 October 2011 through 30 June 2012, the subject goods may be imported duty free. - On 15 May 2012, MOF published Notification to repeal tariffs on 80-items (HS8-digits) including gearbox, clutch and seatbelt out of the 100-items of automotive parts for which tariffs are due for repeal subject to "Completion of AFTA" under "Japan-Thailand Economic Partnership Agreement (JTEPA)". - On 23 May 2012, Thai MOF released Notification No. 0518/Wor 351) concerning Amendment of the List of Tariffs (2012-2017) under the Japan/Thailand EPA (JTEPA) (entered into force retroactively on 1 April 2012). This Amendment (expedited reduction or repeal) mainly affects items classified under HS Code Chapters, 84, 85 and 87. - With effect from 24 May 2012, Thailand Customs Department has additionally applied import tariff reduction on machineries and electrical appliance (Chapter 84: 49-items, Chapter 85:29-items, Chapter 90: 9-items). 		
		(2)	Non-Observance of Duty Repeal Schedule under Japan-Thai EPA	Under Japan-Thai EPA, GOT has committed to reduce tariff rates on car (HS8702-8705) or car parts (HS8708) for assembling car parts from 30% base rate to 20% upon enforcement of EPA, and 6-years after the enforcement date to 0%, coupled with the AFTA tariff abolition schedule. Originally, car parts for passenger cars are also subject to preferential tariff rates. However, GOT irregularly implements EPA by applying the tariff reduction only to pickup truck car parts.	It is requested that GOT discontinues implementing its own rules and observes the EPA to the letter.	Japan-Thai Economic Partnership Agreement (EPA)
		(3)	Nebulous Rules applied to Domestically Procured Parts in Thailand	<p>Request filed with Office of Industrial Economics (OIE), Thai Ministry of Industry for renewal of the JTEPA application has come to a standstill, concerning products additionally processed and assembled at our member firm's subsidiary in Thai (MFS) from parts procured from Japan and domestically in Thai on the ground that the domestically procured Thai parts are not in conformity with the applicable rules under JTEPA. The products in concern have already been manufactured in Thai under application of JTEPA. MFS is unable to secure the projected P&L. [OIE's views]</p> <p>(1) Domestically procured parts in Thai (DPPT) are allowable only to primary parts processing enterprises in Thai (PPPE). (Supplementary Note) MFS procures the parts in concern from PPPE that consigns the processing work to another Thai enterprise.</p>	<p>It is requested that GOT:</p> <ul style="list-style-type: none"> -- discloses logical explanation of its rules, as well as rules for application of JTEPA, and in review of the applicable rules, -- provides FFEs with opportunities for exchange of dialogues, and ensures transparency by giving sufficient and reasonable explanation, and -- overhauls the rules in a simple and clear-cut manner, eliminating all possibility for 	

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			(2)In addition, unless DPPT conforms to the JTEPA rules, application of JTEPA is disallowed on parts procured from Japan. *NOTE: MFS required Disclosure of OIE Rules. However, it has not yet materialised.	misinterpretation.	
	(4)	Delayed Thai EU FTA Negotiation	- The removal of Thailand from the EU's GSP scheme has increased the EU tariff burden upon Thailand exporters to EU. Consequently, the tariff removal, in lieu of GSP is much hoped for by the Thailand exporters. Nevertheless, the Thailand-EU FTA negotiation lags behind. (Actions) - On 23 June 2014, Thailand National Council for Peace and Order (NCPO), following the European Council's adoption of "Conclusion relative to the Political Status Quo after the Coup D'Etat", requested EU to put aside the EU-Thailand FTA negotiation, in light of the political status quo in Thailand.	- It is requested that got ratifies EU/Thai FTA as soon as possible. - GOT expressed its intent of ratifying EU/Thai FTA by the end of 2014. If at all possible, it is requested that GOT expedites the negotiation so that ratification takes place in the 3rd quarter of 2014.	
	(5)	Incompatible Certificate of Origin Procedures between the 2-Countries under Thai/India FTA	- A member firm's subsidiary (MFS) is unable to benefit from the preferential tariff rates on imports of parts under ASEAN-India Agreement on Trade in Goods due to the differences in interpretation or understanding of individual customs officials, despite the fact that application form is nailed down. INDIA: Single application sheet may contain plural items to the extent they can be filled in that single sheet. Where the number of parts is numerous, these can be filled in as attachment to the single application sheet. Plural application sheets may not be used per invoice. THAILAND: Attachments will not be accepted as official documents. Plural application sheets must be used where items are too numerous. However, this requirement does not agree with GOI's instructions. In this fashion, understandings are diametrically opposed between the Customs Authorities of two countries. Consigning preparation of the application documents to outside sources is prohibitively expensive. Because of these circumstances, it is not possible to file application and benefit from tariff preferential measures. (Actions) - On 8 July 2014, Thailand National Council for Peace and Order (NCPO) approved signing the ASEAN-India FTA (AIFTA) Service Investment Agreement.	- It is requested that the Customs Authorities of India and Thailand will work together in producing a manual to share the common understanding. - Rather than individual applicants' wasting their time in visiting Ministries and Agencies to obtain approvals, it is requested that GOT streamlines and facilitates the application procedures through active use of web pages, allowing direct filing of application by individual applicants.	- ASEAN-India Free Trade Agreement (AIFTA)

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	(6)	Arbitrary and Nebulous Decision of Customs Duty	<p>WTO Agreement on Customs Valuation provides: "(1) The customs value of imported goods shall be the transaction value, (2) there shall be added to the price actually paid or payable for the imported goods royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable." However, despite the absence of the special elements that the buyer must pay, DOC adds these elements and levies tax on them. For example, our member firm, a manufacturer of machinery parts in Japan, holds a manufacturing subsidiary (MFS) in Thailand. Our member firm: (1) receives payment of royalty from MFS as consideration for provision of technology and (2) supplies MFS with knock-down parts (KD parts) for manufacturing machinery parts. DOC notified MFS that royalty paid for such KD parts is taxable. Much against its inclination, MFS filed amended tax return. Then, our member firm has confirmed: (a.1) the KD parts do not incorporate the intellectual property, which is the subject of the technical licencing agreement (TLA), and (a.2) the imported KD parts have not been manufactured using the licenced intellectual property right under TLA, and (b) In as much as TLA did include description on sale and purchase of imported KD parts, our member firm presumed that such description could be susceptible of interpretation as if payment of royalty comprises a condition for sales of imported KD parts. To avoid misinterpretation, our member firm amended the TLA with MFS. However, DOC would not accept the results of the TLA amendment, and has continued levying tax on royalty, deeming existence of royalty relative to KD parts. (Incidentally, since July 2012, similar amendment of TLA has resulted in non tax levied on deemed royalty upon KD parts by the PRC Customs).</p> <p><u>Depending upon the person in charge at customs, sometimes, their views vary on customs duty and accompanying incentive measures.</u></p>	<p>The state of affairs last reported continues without change so that Thai government continues its tax levy upon imported knock-down parts unrelated to royalty. It is requested that GOT strictly adheres to the WTO GATT agreement,</p> <p>-- adequately evaluates customs duty, and</p> <p>-- refrains from levying customs duty on royalty, which is outside the scope of, tax levy.</p> <p><u>It is requested that GOJ takes step to work out to have GOT establish customs duty scheme unaffected by individual personal views.</u></p>	<p>Customs Law</p> <p>IFDS is unpublished</p> <p>Internal Rules of Customs</p> <p>Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, Article 1.1. The customs value of imported goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the country of importation adjusted in accordance with the provisions of Article 8, provided. . . . (Ellipsis) Article 8.1. In determining the customs value under the provisions of Article 1, there shall be added to the price actually paid or payable for the imported goods: ... (Ellipsis) ... (c) royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, (to the extent that such royalties and fees are</p>

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			<p>(Actions)</p> <ul style="list-style-type: none"> - Thailand Ministry of Finance Decree No.132, Article 9(1) provides: "Transaction price can be calculated by adding to the sales price (actually paid or payable) the royalty and licence fees paid directly or indirectly as condition of sales for the imported goods in concern". Where a member firm's subsidiary (MFS) must make remittance to its parent (member firm) in payment of licence fees and royalties, MFS requests the importer for submission of contract. It is said, however, that the customs investigator demands addition of licence fees and Royalties to the taxable value for customs duty, if the subject of the payment for licence fees and royalties to the overseas' headquarters or its calculation method is insufficient or not clearly stipulated in the contract to the effect that the imported goods have no relation whatsoever to the imported goods. - <u>On 3 March 2015, by Notification 38/2558, Thailand Customs expanded the scope of the Advance Ruling Scheme (ARS) to include rules of origin, besides HTS classification, and customs valuation. ARS has been implemented retroactive to 4 March 2015.</u> - <u>On 19 October 2015, Thai ministry of finance promulgated notification on collection of service fees on the application procedures under the ARS concerning customs valuation, HTS classification and rules of origin.</u> 		<p>not included in the price actually paid or payable.)</p>
	(7)	<p>Ill-Effect From IFDS granted to Customs Employees by Distribution of Customs Penalties</p>	<ul style="list-style-type: none"> - <u>Should violation of customs act be found, 30% and 25% of the fines go, respectively, to the informant and the customs personnel in charge. If the importer refuses to sign the proposed settlement, customs service expands the scope of search and demands submission of various materials and information. Consequently, MFSs have to waste huge labor. In addition, due to the lengthy proceedings, these requirements can inflate the amount of additional tax and the accrued interest.</u> - <u>Should the importer choose settlement to avoid a lengthy proceeding, it means admission of ill wills (otherwise incentive payment gets denied) and damage to the importer inflates far above the settlement amount.</u> - A member firm of JBCTIF was compelled to pay substantial amount of interest on payment arrears, due to the customs employees' abnormally prolonging the examination period, (probably prompted by the incentive fund distribution system (IFDS)). <p>(Actions)</p> <ul style="list-style-type: none"> - Section 102 (3) of Thailand Customs Act sets forth "bribe and reward", 30% of the fine to an informer or 25% of the fine to an officer discovering customs act violations or arrest of offenders. In addition, Sections 27 and 99 of the Thailand Customs Act make technical or procedural errors constitute criminal offence, and for each offence there shall be a fine of four times the amount of price of the goods including duty or to imprisonment for a term of not exceeding ten years, or to both, which is false, incomplete, or misleading in any particular statement. 	<ul style="list-style-type: none"> - It is requested that GOT repeals the incentive. - It is requested that GOT repeals the incentive fund distribution system. 	<p>Rules and Regulations Relative to Customs Act</p> <ul style="list-style-type: none"> - <u>Thai Customs Act Article No. 102 (3)</u> - <u>Thai Customs Act, Articles Nos. 27 & 29 and if found guilty, Quadruple Damage on (CIF + VAT + Interest, etc.)</u>

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	(8)	Arbitrary application of HS Code Commodity Classification	<p>- <u>Since August 2013, GOT suddenly began collecting 10% deposit reserve upon import of Solar Cells . Concerning the issue whether Solar Cells are classifiable under HS8541 (Solar Cell Module) or HS8501 (Power Generator), most WCO Signatories continue to support adoption of HS8541 as has been the case in the past years. It does not stand to reason why Thailand alone collects 10% deposit reserve on SCBs.</u></p> <p>(Actions) - <u>On 19 October 2015, MOF promulgated notification concerning collection of service fees on the application procedures under advance approval scheme relative to customs valuation, customs classification/country of origin (enforced on the same day).</u></p>	<p>- <u>It is requested that GOT affirms HS8541 as applicable classification on Solar Cells and repeals the 10% deposit reserve requirement.</u></p>	
	(9)	Prolonged & Difficult Import Customs Clearance due to TISI Specification & Approval Requirement	<p>- <u>No import is possible pending completion of accreditation after on-site visit each mill by an accredited certification body, followed by a Third party authorised laboratory test in Thailand. Until the test results are in hand, there remain possibilities for delays in import customs clearance. These requirements get in the way of emergency start up of operation by imported materials or shifting operation to new mills, etc.</u></p>	<p>- <u>It is requested that GOT accommodates smooth import customs clearance, in the circumstances where import materials are in dire need.</u></p>	<p>- <u>TIS Announcement TISI-RPC-01(04)</u></p>
	(10)	Vexatiously Complex Import Procedures for Used Equipment	<p>- <u>Import procedures are complex for equipment not domestically available in Thailand.</u></p> <p>- <u>A Member Firm's Subsidiary (MFS) engaged in manufacturing business by imported used machines and equipment finds itself being unable to carry on its business due to promulgation of the new law that prohibits reuse of machines and equipment with more than 5-years of vintage.</u></p> <p>(Actions) - <u>In Thailand, for the sake of protecting the domestic industry and suppressing the environmental pollution, used vehicles of less than 3,500 kgs. In weight are subject to severe burdens of import licence requirement and compliance of the technical specifications.</u></p>	<p>- <u>It is requested that GOT streamlines the import procedures for equipment not domestically available.</u></p> <p>- <u>It is requested that GOT takes step to amend the Law to enable continued use of machines and equipment within 10-years of vintage.</u></p>	<p>- <u>Investment Promotion Act, Article 28 or 29</u></p>
	(11)	Complex Procedures for Acquisition of Certificate of Origin for Knock Down Export	<p>- <u>A member firm's subsidiary (MFS) incorporated in Thailand is unable to export knockdown parts to ASEAN Member States as a kit of knockdown parts. Thai customs requires certificate of origin for each single part of the knockdown kit, involving a vast amount of work. Some parts included in the know-down kit do not satisfy the local content requirement and are taxable. If the customs clearance is made for the entire parts kit, all parts become duty free.</u></p>	<p>- <u>It is requested that GOT approves export of knockdown parts by the kit of parts.</u></p>	<p>- <u>Export and Import of Goods Act, BE2522 (1979)</u></p>

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			<p>(Actions)</p> <p>- Under the Japan-Thailand Economic Partnership Agreement (JTEPA), Thai Department of Mineral Resources, Ministry of Economy, Trade and Industry and Customs Department have expressed their views that imported KD kit of parts for export models of automotive vehicles are outside the scope of JTEPA, creating problems with Japanese affiliated enterprises. (JETRO Daily Business News dated 25 July 2013).</p>		
	(12)	Abuse of Antidumping Measures	<p>- <u>In order to save domestic steel manufacturers, reckless shotgun attacks of anti-dumping/safeguard measures have aggravated member firms customers' P/L, while domestic manufacturers lag behind the imports in terms of quality, yield rate, etc. Tariff barriers do not seem to contributory to quality improvement of the domestic steel manufacturers.</u></p> <p>- On 10 March 2003, GOT imposed anti-dumping duty on cold-rolled stainless steel sheet (from Japan, ROK, ROC and all EU Member States).</p> <p>- On 27 May 2003, GOT imposed anti-dumping duty on hot-rolled steel sheet (from 14 countries including Japan, ROK, and ROC). GOT has excluded TF steel, tin mill black plate (TMBP), etc. while it establishes import quota in each year on steel products for reroll.</p> <p>- On 19 March 2004, anti-dumping duty on hot-rolled steel sheet was temporarily removed (for 6-months).</p> <p>- On 20 September 2004, GOT ended the temporary hiatus period and resumed imposition of anti-dumping duty.</p> <p>- On 13 March 2008, GOT started the sunset review of the antidumping measures on cold rolled stainless steel sheet.</p> <p>- On 27 May 2008, GOT started sunset review of the antidumping measures on hot rolled steel sheet.</p> <p>- On 26 May 2009, GOT decided to continue the antidumping measures on the abovementioned sunset review and simultaneously excluded rerolled steel plates for motor vehicles.</p> <p>- On 30 June 2010, Final determination on reviews on changed circumstances on hot rolled steel plate. Antidumping measures continue.</p> <p>(Actions)</p> <p>- BOI imposed for a period of 6 months from the end of January 2002 an import surcharge (of 25% on C.I.F. prices) with the purpose of protecting the domestic steel industry.</p>	<p>It is requested that GOT:</p> <p>-- <u>makes available opportunities for exchange of dialogues with consumers and gives them justifiable explanation in advance in effecting the tariff rates changes.</u></p> <p>-- <u>gives guidance to the domestic steel manufacturers for quality improvement of their products.</u></p> <p>It is requested that GOT repeals the antidumping measures.</p>	<p>- <u>anti-dumping duty invocation periods:</u></p> <p>-- <u>October 2008: H Steel Bar</u></p> <p>-- <u>February 2014: Cold Rolled Sheet</u></p> <p>-- <u>February 2013: Stainless Steel Sheet</u></p> <p>-- <u>December 2012, etc. : Hot-Rolled Sheet</u></p> <p>- <u>Safeguard Tax</u></p> <p>-- <u>September 2013: Hot Rolled Alloy Steel Sheet</u></p>

	Category	No	Issue	Issue Details	Requests	References
				<p>- In February 2002, 5 domestic steel manufacturers, such as Sahaviriya Steel Industries Public Company Limited ("SSI"), filed a petition to initiate an antidumping investigation against import of hot-rolled steel from 14 countries/territories. On 29 July 2002, Antidumping Investigation Commission, simultaneous with the initiation of investigation, started to collect a provisional antidumping bond equal to 30% of the CIF prices. In November, it was decided to impose provisional antidumping duties.</p> <p>- On 16 May 2003, the final determination was made to collect antidumping duties in the range of 5.98%-136.50% (36.25% against Japan) on imported hot-rolled steel. The final determination included "hot-rolled steel for use with cold-rolled steel", which cannot be supplied by the domestic Thai industry (hence, no injury to the domestic industry). Upon request of Japan Iron and Steel Federation and Japanese Chamber of Commerce, Bangkok ("JTC"), it was mutually agreed by and among the parties to exclude hot-rolled steel for use with cold-rolled steel from the scope of the antidumping finding.</p> <p>- On 27 May 2008, GOT started sunset review of the antidumping measures on hot rolled steel sheet.</p> <p>(Improvement)</p> <p>- Since May 2003, GOT has imposed for five years antidumping duty on hot-rolled steel from Japan. MOC Antidumping Investigation Commission decided to reduce antidumping duty from 36.25% to 3.22 in response to the claim filed by a Japanese respondent.</p> <p>- GOT reduced dumping margins after conducting the two Annual Reviews of September 2005 and September 2006 on hot-rolled steel sheet from Japan.</p>		
		(13)	Abuse of Safeguard Measures	<p>- On 27 November 2012, Department of Foreign Trade (DFT) initiated Safeguard Investigation on hot-rolled alloy steel from Japan. Notification on initiation of investigation fails to describe precisely the subject products (as to if the products are for use in fabricating automotive vehicles via distributors/processing enterprises, for re-export, etc.). While steel for cold-rolled processing/heat-treatment/automotive vehicles would probably be outside the scope of safeguard investigation, there has been no radical increase in import of the subject products from Japan. Instead of safeguard measures investigation, DFT should rather initiate antidumping investigation, if it wishes to take measures against import from a specific country.</p> <p>27 February 2013: Provisional duty levy of 33.11% published in Royal Gazette.</p> <p>12 September 2013: Final decision published in Royal Gazette, levying the following safeguard duty for 3-years from the invocation date of Provisional Duty Levy.</p> <p>-- 1st Year: 44.20%: 15 September 2013-26 February 2014</p> <p>-- 2nd Year: 43.57%: 27 February 2014-26 February 2015</p> <p>-- 3rd Year: 42.95%: 27 February 2015-26 February 2016</p> <p>In addition, application of the safeguard measures exclude cold rolled steel plate, heat treated or destined to car industrial consumption, and other steel specifications listed in the attachment to Royal Gazette.</p>	<p>It is requested that DFT:</p> <p>-- terminates safeguard investigation against Japan.</p> <p>-- clearly identifies the products excluded from the Subject Products of Safeguard Investigation.</p>	<p>Department of Foreign Trade, Ministry of Commerce Notification</p>

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			<p>(Actions)</p> <ul style="list-style-type: none"> - On 27 December 2013, Thai Department of Foreign Affairs and Trade published 2014 Steel Import Quota pursuant to Japan-Thailand Economic Partnership Agreement. - On 4 March 2014, Thai Ministry of Commerce promulgated Notification, implementing additional preferential measures on certain grade hot rolled steel products, which are being subject to the current safeguard measures <ul style="list-style-type: none"> -- Notification dated 4 March 2014 [in Thai] (http://www.ratchakitcha.soc.go.th/DATA/PDF/2557/E/041/17.PDF) - On 30 May 2014, Thai Ministry of Commerce implemented additional preferential measures on certain grade hot rolled steel products to certain importers, which are being subject to the current safeguard measures (entered into force from 31 May 2014.)-- Notification dated 30 May 2014 [in Thai] (http://www.ratchakitcha.soc.go.th/DATA/PDF/2557/E/091/45.PDF) - On 29 October, Department of Foreign Affairs and Trade (DFAT) released the 3rd steel import quota (the balance of quota for imported steel under the umbrella of steel related enterprises, namely, cars, electric, zinc plated steel industry, pursuant to Japan-Thailand Economic Partnership Agreement (JTEPA). - On 16 December 2015, Ministry of Commerce (MOC) excluded certain importers (limited to specific use) from the safeguard measures on hot rolled steel products of certain grade and products thereof (enforced from 17 December 2015). - On 3 February 2016, Department of Foreign Affairs and Trade (DFAT) announced initiation of safeguard measures investigation on H-steel (beam base material) for structural alloy steel (HS 7228.70.10000, 7228.70.90000) - On 3rd February 2016, DFAT announced "2016 steel import quota" under Japanese Thailand Economic Partnership Agreement (JTEPA) 		
	(14)	Nebulous Publication Contents for Changes in Customs Regulations	<p>- Notices of change in customs regulations are so nebulous that it is <u>difficult to file import licences timely and correctly. (Even customs brokers are unable to follow). Nevertheless, Customs imposes fines by pointing out the deficiencies.</u></p>	<p>- It is requested that GOT: -- <u>notifies changes in Customs legislations following the pre-determined methods (such as its web site or Bulletin), and</u> -- <u>makes direct announcement to the interested parties, such as Customs Brokers.</u></p>	
	(15)	Complex Product Registration Procedures	<p>Product registration procedures quite complex in import and distribution of medical equipment.</p> <p>(Actions)</p> <p>- On 24 March 2014, Thai Customs Department introduced a new registration system to smoothen the customs clearance procedures.</p>	<p>It is requested that GOT repeals product registration renewal procedures, so that once registered no subsequent renewal is necessary like Japan, et al.</p>	<p>the Thai Customs Act B.E. 2469 and the Tax Compensation on Exports Act B.E. 2524</p>
	(16)	Discriminated Excise Tax Levy between Domestic vs Import	<p>- While excise tax is levied upon shipment on locally manufactured products, import duty is levied upon import, domestic manufacturers, being in a position of separate their operation into manufacture and sales, and can save excise tax by reducing prices from factory to sales. In substance, it works as import tariff barriers.</p>	<p>- It is requested that GOT harmonises <u>the point of excise tax levy between imports and locally manufactured products (for example, upon shipment from factory.)</u></p>	

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	(17)	<u>Complex Relocation Procedures for Re-Export of Machines in Local Stock</u>	- (1) <u>It takes too much time for acquisition of export licence for machines in stock locally in Thailand.</u> - (2) <u>Since April 2014, has become necessary to install the Relocated Machine Security Function (RMSF) on the machine unit destined to Thailand. The cost of installation and operation of RMSF has been the issue for discussion.</u>	- <u>Now that RMSF with about the same accuracy has now become available in countries other than Japan, it is requested that GOT either deregulates restrictions or streamlines the procedures.</u>	
11	Restriction on Profits Remittance Abroad	(1) Complex Procedures for External Foreign Currency Remittance	- <u>External remittance procedures have become complicated by requesting commercial banks to perform external remittance together with import declaration at the time of import.</u>		
12	Exchange Controls	(1) Nebulous Implementation Rules for Practical Employment of Foreign Exchange Transactions	- <u>GOT has notified its approval concerning settlement of account in foreign exchange between the domestic enterprises, without however, providing the precise details of practical implementation rules. Differing interpretations have been returned to enquiries made to various customers of an MFS. The competent authorities give their replies only verbally, and would not reply in writing, including e-mail (that can be used as evidence). According to a person working for a Japanese affiliated financial institution, the settlement in foreign currency in less than 1% in that financial institution.</u>	- <u>It is requested that GOT promulgates precise implementing rules related to the domestic transactions in foreign currency.</u>	
		(2) Inconsistency between the Deregulation in The Foreign Exchange Control Measures and the Tax Administration	- Since the 2010 announcement of foreign currency restrictions deregulation, basically it is moving for the better. However, the deregulation does not work in substance for absence of consistency with the taxation administration.	- It is requested that BOT and revenue department work together on domestic settlement in foreign currency to eliminate the tax levy risks. - Further improvement is requested in regard to the following incidental conditions that could cripple operation: -- Repeal of the rules requiring individual bank account management by the underlying asset. -- Repeal of the following conditions for the domestic settlement of account in foreign currency:	- Ministry of Finance Order

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			- Despite the bank of Thailand's deregulation of foreign exchange control (FEC) and revenue department's promulgation of guidelines on tax implementation rules in October 2010, due to the paucity of dissemination within the ministries and agencies in concern, officers response vary. Taxpayers must continue to be on the alert concerning taxation.	<p>(1) Only enterprises with foreign currency gained from export are entitled to make the payment,</p> <p>(2) Submission to the bank of materials that show the real demand, and</p> <p>(3) Acquisition of revenue department approval on issuing foreign fund invoices.</p> <p>- It is requested that GOT provides staff education within the ministries and agencies in concern.</p>	
	(3)	<u>Operational Difficulty in the Thai Domestic Employment of Foreign Currency Transactions</u>	- While BOT allows domestic transactions in foreign currency, its employment is difficult in actual practice. It concerns the problem over treatment of the value added tax (VAT) exchange rate, which must be the rate in effect on a trading day. It is practicably impossible to convert by each day the vast numbers of tax invoices.	- It is requested that BOT and internal revenue service, by mutual collaboration, create an environment, which facilitates practical work.	- <u>The Exchange Control Act (B.E. 2485)</u> - <u>Value Added Tax Legislation</u>
	(4)	<u>Rapid Exchange Fluctuations</u>	- Radical exchange fluctuations prevail. As it stands, Member Firm's Subsidiary (MFS) benefits from exchange gain on a direct export transaction in yen. Nevertheless, negotiation for raise in price is difficult. In a transaction with its parent company, the prevailing Yen depreciation enables MFS to offer special prices to its customers. However, MFS runs on a thin margin, so that if the exchange rate swings toward appreciation of Yen, it will instantly show operational loss: such is the severity of the fluctuation band.	- It is requested that GOT will use its best efforts to: -- <u>stabilise the exchange rate fluctuations, and</u> -- <u>keep the fluctuation band within 6% in 6-months.</u>	
13	Finance	(1) <u>Short Term Borrowing Rate Control</u>	- The gearing rate (short term borrowing amount/capital amount) of less than "7" is enforced on locally incorporated legal entity in financial management business, MFS (member firm' subsidiary locally incorporated in Thailand). Along with the business expansion, the capital needs grow for MFS, necessitating, however, capital increase to the detriment of its funding efficiency.	- It is requested that department of revenue/BOT: -- <u>repeals funding restrictions to MFS to procure funds internally/externally, feeding funds to group enterprises domestically operating in Thailand</u>	

Category	No	Issue	Issue Details	Requests	References
				-- <u>allows practical implementation, such as funding by consolidated group companies, not singly by MFS alone, in the event repeal of control is unworkable.</u>	
14 Taxation Systems	(1)	Arbitrary Nature of The Corporate Tax Audit and Correction	- In a case where customs clearance procedure is consigned with the coil center, back taxes are imposed on a non-taxable enterprise so approved by Board of Investment (BOI). (This shows an arbitrary nature of interpretation of laws.)	- It is requested that GOT discontinues back tax levy.	
	(2)	Double Tax Levy on Payment of Technical Licence Fees in Japan and Thailand	- <u>Technical assistance fee (TAF) is differently interpreted between Thai and Japan so that in the case where TAF is paid by an enterprise in Thai to an enterprise in Japan, withholding tax on TAF is levied both in Thai and Japan, a case of double taxation results.</u>	- It is requested that GOJ and GOT <u>harmonise the Interpretative Rules on the Japan-Thailand Tax Treaty.</u>	
	(3)	<u>Double Taxation Risk due to International Non-Conformance of TPTS</u>	- <u>Especially as regards Transfer Price Taxation System (TPTS), rules are diversified by and between the States, so are their respective interpretations, so that a member firm as a group of companies faces a risk of double taxation.</u>	- It is requested that GOJ/GOT work together to: -- <u>prepare legal framework, (serving as Guideline, etc. to) the world standard transfer price taxation system, and</u> -- <u>complete advance pricing agreement system (APAs).</u>	
	(4)	Disunity in Interpretation of Revenue Code	- <u>Due to the differences in interpreting tax laws or by immature interpretation of the taxation personnel, the tax law is not properly implemented in some cases.</u> - <u>Tax Act is ambiguous so that the tax investigator in charge in his/her own interpretation may demand correction in the amount of tax return in the past fiscal years.</u>	- It is requested that GOT takes step to establish more refined precise tax law for homogeneous implementation unaffected by individual tax investigators.	
	(5)	Amendment of Corporate Income Tax	- <u>Corporate income tax reduction schedule:</u> -- <u>30% until the Fiscal Year 2011</u> -- <u>23% during the Fiscal Year 2012</u> -- <u>20% from the Fiscal Year 2013</u>		

Category	No	Issue	Issue Details	Requests	References
			<p>(Actions)</p> <p>- Since January 2013, GOT has reduced corporate income tax to 20%. If the judgement bases of the light tax state (or the trigger tax rate at 20% or less) in Japan remains at this level, the unitary tax upon foreign subsidiary, (which is equivalent to the anti-tax haven taxation in Japan) could apply to the member firm and its Thai operation.</p> <p>- <u>On 14 October 2015, Thai cabinet approved the ministry of finance proposal to make permanent the corporate income tax rate of 20%, (after reduction) by the interim measures.</u></p>		
	(6)	<u>Large Sum of Overdue Interest (Surcharge)</u>	- <u>The levy of 1.5% interest (surcharge) is payable for correction of tax payment arrears for the past years.</u>	- <u>It is requested that DOR sets up surcharge for overdue interest, commensurate with the contents of correction.</u>	- <u>Thailand Revenue Code, Tax Law, Section 27 Surcharge on Payment of Tax Arrears</u>
	(7)	<u>Nebulous Reason for Delay in Refund of Withholding Tax</u>	- <u>While MFS has paid withholding tax (corporate income tax) of 3%, without having received refund for the past three fiscal terms.</u>	- <u>It is requested that DOR provides a clear explanation for the delay in tax refund upon filing tax returns.</u>	
	(8)	<u>Disagreement between DOR and Customs over Vat Levy on Transactions via Free Zones</u>	- <u>MFS has been conducting transactions via free zone with 0% VAT, however, MFS not being an enterprise in free zone, Department of Revenue (DOR) contends MFS is responsible for payment of VAT 7%. MFS has been dealing business via free zone at 0% VAT levy, after having received confirmation from both the local office of DOR and the customs. However, on one of the occasions in dealing via free zone, the central DOR office pointed out that enterprises dealing via free zone were liable to pay VAT 7%. While customs maintains 0%, there is no official document to support its position. (DOR takes the position of granting 0% VAT pending customs issuance of Official Documents (ODT). However, its preparation is not yet ready at the customs.) As regards free zone within Bangkok airport, promulgation of ODT enabling 0% VAT transactions is due within 3-months, provided, however, that in other free zones the release date of such ODT remains undecided. Such differences in VAT levy depending upon areas can cause confusions not only inside MFS but between MFS and its customers, also.</u>	- <u>It is requested that GOT takes step to harmonise the differences between DOR and ODT as soon as possible over the VAT administration as the VAT rates vary by Free Zone, due to the differences in view between Central and Local Departments of Revenue, or by the delay in issuing ODT.</u>	
	(9)	<u>Luxury Tax Levy on Car Air-conditioner</u>	- <u>Due to the ambiguity in rules, such as varying payment methods by car manufacturers, tax payers run the risk of over payment.</u>	- <u>It is requested that GOT:</u> -- <u>repeals luxury tax levy, or</u> -- <u>clearly defines the applicable rules.</u>	

Category	No	Issue	Issue Details	Requests	References
15 Price Controls	(1)	<u>VAF Electric Wire designated under Price Control</u>	<p>- Department of Internal Trade (DIT) has designated 43 items, as being goods subject to price control, including electric wire that a member firm merchandises. This designation has crippled the member firm's ability to gain reasonable operational profit. Electric wire incorporates, as raw materials, copper, the price of which is highly susceptible of international market price. When the copper market price goes up, while there are ways to pass on the copper price increase to end products, it requires governmental approval to raise the price of the end products, acquisition of which requires onerous time consuming application procedures. There is no way to synchronise the cost increase of raw materials with the selling price of the end products.</p>	<p>- It is requested that DIT excludes electric wire from the goods subject to the price control, for protecting low income earners from the distortion compelled by the price control and its monitoring.</p>	<p>- Department of Internal Trade (DTI), DTI Law Article 16, Office of the Central Committee</p>
16 Employment	(1)	Stringent, Vexatiously Complex, and Delayed Work Permit Acquisition / Renewal.	<p>- About 80-days, maximum, are necessary to obtain the work permit. It is quite burdensome to expatriates who are exposed to the risk of illegal work charge, inability to open bank account, etc., pending work permit acquisition from the date of filing application.</p> <p>Simple application made available pending acquisition of work permit is valid only for 15-days, hardly sufficient to cover the period (maximum 80-days) necessary to acquire work permit.</p> <p>In addition, relative to the filing of application for work permit, GOT requires applicant's signature on all pages of numerous application documents, consuming much applicant's time.</p> <p>- It has become necessary hereafter for the accompanying family members to appear before immigration bureau.</p> <p>- GOT compels entry visa holder with business purpose to obtain after entry additionally work permit, which includes documents only available in Japan. Should exigency of business compel extension of short stay visa (within 15-days), necessitating acquisition of work permit, no responsive action is open. Simply, there are too many requisite documents.</p> <p>(Actions)</p> <p>- The normal procedure for foreigner's acquisition of Work Visa in Thailand is to enter Thailand with Non-Immigrant Visa Type B (Non-Immigrant Visa B) or Type O (valid for 90-days), and file request for extension of the Stay Visa upon entry into Thailand. Further, "when a Japanese natural person files application for Non-Immigrant Visa B, Proof of Application relative to Application for work permit under the provisions of this Chapter is not normally required" (Article 118, Japan-Thailand EPA).</p> <p>In addition, immediately following the entry, it is necessary for the applicant to acquire work permit apart from the Non-Immigrant Visa. In the event, the applicant repeats entry/exit during the Visa validity, the applicant must separately obtain Re-Entry Permit (valid for one year after the entry date).</p>	<p>- It is requested that GOT in regard to work permit Issuance:</p> <p>-- simplifies the application procedures,</p> <p>-- streamlines the application procedures by repealing the signature requirement on all pages of the application documents.</p> <p>- It is requested that GOT:</p> <p>-- excludes business visa holder from onus of obtaining work permit, and</p> <p>-- simplifies the documents necessary for work permit acquisition.</p>	<p>The Alien Occupation Law</p> <p>- Foreign Business Act B.E. 2542 (1999)</p>

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			<p>(Improvement)</p> <ul style="list-style-type: none"> - By virtue of the Japan-Thailand Economic Partnership Agreement enforced on 1 November 2007 (EPA), employers are no longer required to file applications for business visa or for work permit on behalf of its employees. Also, all Japanese intra-corporate transferees of a branch or affiliate importing foreign currencies into Thailand not less than Bh. 3 million are authorized to access One Stop Service Centre for Visa and work permit applications. - Under the Japan-Thailand Economic Partnership Agreement enforced since 1 November 2007: <ol style="list-style-type: none"> 1) GOT guarantees the procedure that begins with <ol style="list-style-type: none"> a) issuance of commercial visa (non-immigrant B-visa), followed by b) 90-days stay authorized upon entry into Thailand, c) issuance of work permit during the 90-days authorized stay, and d) extension of visa/work permit up to 1 year. 2) GOT will consider streamlining the application procedure for a business trip with a short stay (within 15 days) to see if filing of application by Facsimile can be accepted and will reach conclusion within one year. - Since 4 January 2010, GOT has integrated the window for stay permit and work permit applications at One-Start-One-Stop Investment Centre in Bangkok, facilitating the filing procedure for stay permit and work applications. - Japan-Thailand EPA under Article 118 "Requirements and Procedures Relating to the Movement of Natural Persons" specifically sets forth: "Proof of work permit application (WP3 Prior Application) under Section 8 of the Working of Aliens Act is not required when natural persons of Japan apply for a Non-Immigrant B visa in Japan". 		
	(2)	Complex / Delayed Procedures for Acquisition if Work Permit for Short Term Business Trip	<p><u>GOT requires, in principle, work permit for entry even for a single day business trip, provided, however, that work permit acquisition is excused for a stay within 15-days, restricted, however, only to work of "emergency" and "necessity." Its acquisition remains extremely difficult for reasons of attending conferences, market research, etc. Therefore, it is not much accommodating. The submission procedures have been deregulated, as it is now accepted by e-mail or by hand at Suvarnabhumi international airport.</u></p> <ul style="list-style-type: none"> - Urgent work permit (WP10) notification is no longer necessary for the purposes of attending conferences, provided, however, that its notification requirements continue as before at the window. While announcement was made to begin acceptance of e-mail notification, it has not yet materialised. Moreover, notification is not possible on certain days when governmental offices are closed, etc. Visitors on a 30-days short stay business trip, after filing application for work permit at BOI, in many cases, are already back in the home country by the time the work permit is finally issued. 	<p><u>It is requested that GOT further deregulates the procedural requirements by obviating the need for notification for a short term (within 30-days), low frequency (within 4-times a year) entries, etc.</u></p> <p>It is requested that bureau of immigration, ministry of labour expressly identifies whether or not work permit, visa are required, by giving sample cases.</p>	The Alien Occupation Law

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	(3)	Restrictions in the Alien / Thai Nationals Ratio	<p>- <u>A foreign funded enterprise is responsible to employ at the ratio of 4-Thai nationals to 1-Japanese employee.</u></p> <p>- The number is restricted for the alien workers in the local representative's office.</p> <p>- Work Visa for foreign workers are restricted to the ratio of 1 to 4 between foreign worker and indigenous Thai. In addition, minimum 2-million Bahts paid-up capital fund registration per foreign worker is necessary. Unless either of the following conditions is satisfied, the maximum number of work visa issued is 10:</p> <p>(a) The amount of income tax paid in the preceding year by the employer is more than 3 million bahts.</p> <p>(b) The employer is engaged in export business with foreign exchange revenue corresponding to minimum 30 million bahts in the preceding year.</p> <p>(c) The employer operates tourism business, with more than 5,000 foreign tourists invited to visit Thailand in the preceding year.</p> <p>(d) The employer employs minimum 100 Thai nationals.</p> <p>- Relative to foreign funded enterprises, work visas for foreign workers are restricted to the ratio of 1 to 4 between foreign workers and indigenous Thai. For SMEs (Small-to-Medium-sized Enterprises (SMEs)), it is not easy to increase the number of foreign workers.</p> <p>(Actions)</p> <p>- Aliens working in Thailand are governed by the Alien Work Permit Act of 1978, which in turn governs the issuance of work permits by the Department of Employment. The Department considers the economic needs of Thailand when deliberating the issuance of a work permit such as the alien's qualifications, whether or not the position could be filled by a Thai national, and the ratio of nationals to aliens employed in the firm.</p> <p>- Aliens employed under the Investment Promotion Act or other forms of government contracts typically have less difficulty procuring work permits. Aliens employed under the Investment Promotion Act are issued permits of a specific duration as governed by the certificate of promotion. Furthermore, if an alien is engaged in a seminar or meeting of less than a 30-day duration with the government or state-owned enterprises, that alien is exempt from complying with the Alien Work Permit Act ("AWP").</p> <p>- In 2001, the fees for issuance of AWP's were increased by 10 times.</p> <p>- According to the announcement made by Ministry of LSW on 30 September 2004:</p> <p>-- It is aiming at reducing to 30 days the period required from filing of the application to the issuance of AWP's;</p> <p>-- The period of AWP's shall be for one year, uniformly to all applicants;</p> <p>-- Conditions for AWP shall be:</p> <p>1) 1 AWP for Bh.2 million of capital, in regard to enterprises incorporated under the Thai laws,</p>	<p>- It is requested that GOT deregulates the restrictions.</p> <p>- It is requested that GOT deregulates by large margin regulation on foreign workers employment.</p> <p>- It is requested that GOT deregulates the restrictions.</p>	<p>- Foreign Business Act B.E. 2542 (1999)</p> <p>- Immigration Act</p> <p>- Department of Employment Regulation 14</p>

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			<p>2) 1 AWP for Bh.5 million of capital, in regard to enterprises incorporated under the Foreign Business Act (Minimum Capital)</p> <p>3) 1 AWP for Bh.3 million of foreign currency income.</p> <p>- Department of Export Administration has changed, since 1 October 2006, Immigration Visa Regulations, so that the pass port holder of 36 countries (including Japan) entering Thailand without visa may stay in Thailand for 90 days maximum in six months.</p> <p>(Improvement)</p> <p>- An alien business entity registered with BOI as Investment Promotion Industry or located in industrial zone controlled by Industrial Estates Authority of Thailand (IEAT) has relatively less difficulty in obtaining work permits. Otherwise, 4 local workers must be employed against 1 alien applicant for work permit as of now.</p> <p>- In an effort to simplify AWP procedures, GOT established a "One Stop Service Center" for visas and permits. For enterprises with assets in excess of Baht 30 million, the renewal, and even the application in some instance, may be processed in just one business day. Conversely, for a business with registered capital of between Baht 2 and 30 million, such a process will likely take 7 days, provided however that, the validity of the AWP remains the minimum of the visa validity and is no more than one year.</p> <p>- Under the Japan-Thailand Economic Partnership Agreement enforced since 1 November 2007, GOJ and GOT mutually agreed that parties would (1) decide on the quota for alien work permit and its cap within two years of its enforcement, (2)decide on the employment obligations of the Thai nationals within 3 years of its enforcement and (3)the minimum monthly remuneration of Thai nationals was relaxed from Bh.60,000 to Bh.50,000.</p>		
	(4)	Steep Spiraling of Minimum Wages	<p>- <u>Since April 2012, minimum wage of 300 bahts/day has been applied in Capital City Bangkok and in its Peripheral Provinces, spreading across the country since January 2013. It has been a factor pushing up the labour cost in Thailand.</u></p> <p>- <u>No control is exercised over the minimum wage.</u></p>	<p>- It is requested that GOT reviews the <u>Minimum Wage Act (such as set up of minimum wage per region).</u></p> <p>- <u>No control over minimum wage diminishes the competitive edge of Thai industries.</u></p>	<p>- Labor Protection Act BE 2541 (1998), Section 87</p> <p>- Articles 79(3) and 88 of Labour Protection Act B.E. 2551 (2008) as amended by Labour Protection Act No.3 (2008)</p> <p>- Labour Law</p> <p>- Minimum Wage Labour Law</p>
			<p>(Actions)</p> <p>- On 5 September 2012, Thai Central Wage Commission decided the minimum wage at 300 bahts/day across-the-board throughout the nation, applicable from 1 January 2013 and would be pegged at this level until 2015 While wages are higher than 300 bahts/day in the metropolitan areas of the 7-Provinces, Bangkok, Nakhon Pathom, Nonthaburi, Samut Prakan, Samut Sakhon, Pathum Thani and Phuket in the South, it means the wage increase in the rest of the 70-Provinces.</p> <p>- <u>The minimum wage (per day) will be fixed at 300 bahts per day at a uniform nationwide level, until June 2016.</u></p>		
	(5)	Chronic shortage of Human Resources Supply	<p>- <u>Chronic shortage prevails for human resources in managerial post, such as personnel, accounting, IT, and engineers with abilities and experience.</u></p> <p>- <u>In addition, it has become difficult to procure assembly-line workers.</u></p>	<p>- It is requested that GOT makes <u>all out effort countrywide for beefing up fostering of human resources.</u></p>	<p>- Order No.777/2551 of the Royal Thai Police dated November 25, 2008.</p>

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			- Chronic shortage prevails in managerial staff, while the same problem has spread to line workers. Domestic drop in unemployment ratio has brought about difficulty in employment of quality workforce, and aggravated retention rate.	- It is requested that GOT: -- makes all-out efforts in fostering human resources, and -- repeals the legislative requirement for employment of indigenous Thai, when employing foreign workers. -- deregulates the restrictions on job categories, which are closed to foreign workers.	- The Alien Occupation Law
	(6)	<u>Low Employees Retention Rate</u>	- <u>Low retention rate of staff employees in Thailand is a problem common to the industry. (While it is possible they have hopped to other industries) it remains as a task facing the local production.</u> - <u>High job turnover disables retention or new acquisition of human resources. While MFS had envisaged increased number of local workers in 3-years, it resulted in shrinkage. Professional skills declined across the board, from sales, service, to administration (accounting, general affairs, office work), while their wages have gone up by a large margin.</u>	- <u>Should GOT hit upon some bright idea for up keeping of Retention Rate, or be aware of case examples of other firms, its elucidation is appreciated.</u> - <u>It is desirable if large enterprises refrain from hunting human resources with attractive fringe benefits on top of high wages.</u>	
	(7)	<u>Difficulty in expanding the use of Foreign Workers in EAI</u>	- <u>From the need to adjust workforce numbers proportionate to slack or busy interval of operation, active use of short-term workers cannot be neglected. However, BOI's direction prohibits employment of foreign workers in Electric Appliance Industry (EAI).</u>	- <u>It is requested that GOT takes step to enable employment of foreign workers in EAI.</u>	- <u>Investment Promotion Act, B.E. 2520, amended by Investment Promotion Act (NO. 2), B.E. 2534, Article No.25 or No.26</u>
	(8)	<u>Restricted Term-Contract Workforce</u>	- <u>GOT approves term-contract only for work which is seasonal or temporary.</u>	- <u>It is requested that GOT establishes the system that guarantees flexible adjustment of workforce.</u>	- <u>Labour Protection Act, B.E. 2541</u>
	(9)	<u>Difficulties in Labour Management Negotiation</u>	- <u>Rough sledding in labour management negotiation takes place in each year as the wage hike rate tends to get higher in each year across the nation. Labour demands, devoid of rhymes and reasons, take no heed of ups and downs in production, so that refusal of overtime, union meetings, etc. readily results from employers' failure to meet the labour demand in full, impacting production schedule. This is the problem shared among the majority of Japanese affiliated enterprises.</u>	- <u>It is requested that GOT takes steps to foster a sound development of labour union activity.</u>	- <u>Labour Protection Act</u> - <u>Labour Relations Act</u>

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17 Implementation of Intellectual Property Rights ("IPRs")	(1)	Non-accession to IPR Protection Treaties	<p>- <u>GOT drags its feet in acceding to IPR Protection Treaties (PCT Patent Cooperation Treaty, Madrid Protocol, etc.).</u></p> <p>(Actions)</p> <p>- In 2008, Thailand acceded to The Paris Convention for the Protection of Industrial Property.</p> <p>- In December 2009, Thailand acceded to The Patent Cooperation Treaty (PCT).</p> <p>- The Parliament House of Thailand has already approved Thai's accession to Madrid Protocol, pending amendment of Trademark Law.</p> <p>- Under Yingluck Administration, the Trademark Amendment Bill submitted to the National Assembly got aborted by the political turmoil.</p>		
	(2)	Unspecified World Publicly Known and Used Provisions	- <u>Thai Patent Act stipulates as requirement for novelty as not domestically publicly known and not domestically publicly used prior to the filing of a patent application. For this reason, the problems exist that the patent is issued to the invention, regardless of the fact that it is publicly known outside Thailand.</u>	- <u>The adoption has become a global standard of the notion of world public knowledge and world public use (WPK and WPU), also in PRC recently. It is requested that GOT considers adoption of WPK and WPU.</u>	- Thai Patent Act, Articles 5 and 6.
	(3)	Disallowed Application for Voluntary Divisional Patents	- <u>Department of Intellectual Property (DIP) allows filing of divisional patent application, only when the examiner determines that the application involves plural distinct inventions, foreclosing the applicant's voluntary divisional applications.</u>	- It is requested that DIP: -- <u>accepts applicant's filing voluntary application for divisional patents, and</u> -- <u>allows applicant's filing voluntary application during both denial examination and patent examination periods.</u>	- Patent Act, Article 26
	(4)	Inadequate Provisions concerning the Period to file a Request for Laying Open of an Application	- <u>There is no clear definition for the laying open period of the application (LOPA), while the examination request period of application (ERPA) is defined as 5-years from the publication date of the laying open of the application. It makes it difficult to ascertain ERPA after filing of IPRs application.</u>	- <u>In most countries, LOPA is provided into rules, while ERPA falls on the date of filing application. It is requested that GOT gets the rules amended so that it clearly defines LOPA and makes ERPA the date of filing application.</u>	- Patent Act, Article 29
	(5)	Insufficient Clampdown upon Counterfeits	- <u>Piracy is rampant not just on hardware but also on software such as movie, music and game.</u>	- It is requested that GOT: -- <u>tightens its control on infringing goods at the point of sale, factory and Customs at border enforcement</u> -- <u>not just on hardware but on software such as movie, music and</u>	

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			<p><u>- GOT has hardly done anything about counterfeit goods.</u></p>	<p><u>game at the point of sale, factory, and</u> <u>-- penalize such conducts.</u></p>	
			<p>(Actions)</p> <ul style="list-style-type: none"> - Imports and exports of fake brand products are prohibited. - Patent legislation was amended in 1999 to comply with the TRIPS Agreement. - In June 2000, The Trademark Act was amended to comply with the TRIPS Agreement. - Responding to international pressure, the Thai Ministry of Commerce is aggressively removing the violating products from the market place. - In April 2002, Trade Secret Act was promulgated. - As of 2003, GOT promulgated intellectual property rights laws (namely, Patent Act, Copyright Act, Semiconductor Protection Act, Trade Secret Act, and Plant Variety Protection Act) and has acceded to international treaties, such as, TRIPS, WIPO and Berne Convention. - According to the joint research conducted in January 2003 by Japanese Chamber of Commerce, Bangkok ("JTC") and JETRO Bangkok, trademark represented 71.8%, while industrial design right represented 60.4% of all so called "dead copy" infringements. - On 1 January 2005, "The 2005 CD Production Act" was promulgated to control CD production. Under the Act, CD manufacturers must file to the authority a report (inclusive of the ownership of machinery & equipment and the volume of materials used for production). - Department of Intellectual Property, MOC plans to introduce during 2006 an electronic filing system to cut down the time required for registration of IPR. - On 3rd December 2006, MOC announced Department of Intellectual Property Strategy for 2006-2010 that includes among others the following: <ul style="list-style-type: none"> -- Preparation of IP Law Reform Plan -- Development of Electronic System for IP Registration -- Preparation of the requisite steps for ratification of several international agreements such as Paris Convention, Patent Cooperation Treaty and Madrid Protocol. - On 25 January 2007, Ministry of Public Health announced that it would invoke the right to issue compulsory licenses for two types of drugs for aids and heart-disease patented by overseas' industry and authorised own-production without licensing agreement. - USTR's "2007 Special 301 Report" moved up Thailand from "Watch List" to "Priority Watch List", in light of GOT's invocation of compulsory execution on medication drugs in which GOT owns certain patent rights, and insufficient clampdown on pirate editions and counterfeits. Thailand remained on the "Priority Watch List" in the "2008 Special 301 Report". Furthermore, in the "2011 Special 301 Report", Thailand continued to stay on the "Priority Watch List", because Thailand has not enacted amendments to the Copyright Act that, among other things, would implement the WIPO Internet Treaties, has failed to make substantial progress on several key pieces of legislation that remain pending, including legislation to address landlord liability, and unauthorized camcording of motion pictures in theaters, as well as legislation to provide Thai Customs officials with the authority to seize suspect goods, etc. - National IPRs Centre for Enforcement (NICE) started up 6-Working Groups, including Research and Regulatory Working Groups aimed at strengthening clampdown on the IPRs infringements. 		

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19 Industrial Standards, Approval of Safety Standards	(1)	Restrictions upon Steel Products by Compulsory Standards	<p>Ministry of Industry tightened its standards for steel products in response to the pressure from the domestic mill:</p> <ul style="list-style-type: none"> -- 1993.12 - Strict observance of bar steel (TIS Standard) -- 1998.05 - Strict observance of section steel (TIS Standard) -- 1998.12 - Strict observance of wire rod (TIS Standard) -- 1999.01 - Strict observance of hot rolled plate (TIS Standard) -- 2002.05 - Strict observance of cold rolled plate (TIS Standard) -- 2008.09 - TISI partially changed hot-rolled steel TIS528 (2548), voiding the old licence. -- 2008.12 - TISI started strict implementation of the compulsory standard approval (On 26 January 2009, New regulation was promulgated, enforced, and immediately repealed. After that, new product inspection standard (PIS) was promulgated.) -- 2009.03.04 - PIS entered into force. -- 2010.3-6 - Japanese blast furnace manufacturers (JBFMs) received factory audit under the 1st manufacturers' audit. TISI demanded production of an excessive amount of documents. Its inefficient inspection together has increased the burden to each manufacturer to respond to the TISI requests. -- 2011, 6-11 JBFMs received the continuation of Audit for the 2nd year, without reduction in the audit procedures. As a result burdens upon JBFMs continued. <p>(Actions)</p> <ul style="list-style-type: none"> - On 28 June 2011, TISI promulgated new Implementation Rules of Industrial Standards (IRIS) which entered into force retroactively from 17 June 2011). IRIS stipulates Application Form, and Certification (that the subject product is compatible with the TISI Standards). <p>(Improvement)</p> <ul style="list-style-type: none"> - In December 2012, an MFS, blast furnace manufacturer, received the 3rd continuous audit. The TISI inspector referred to the TISI's internal review now under way on simplifying the auditing for manufacturers with good standing and impeccable records in the past auditing. - In November 2013, Thai Industrial Standards Institute (TISI) started its study whether to conduct steel mill inspection at an interval of <u>once every 2-3 years.</u> 	<p>It is requested that GOT:</p> <ul style="list-style-type: none"> -- repeals the examination scheme, -- clarifies and streamlines the procedures (including the exclusion scheme), -- reduces auditing process, and -- reduces auditing frequency. 	<ul style="list-style-type: none"> - Industrial Standard Act - Each Compulsory Standard - Products Inspection Rules
	(2)	Long Waiting Period required for Acquisition of TISI Product Certification	<p><u>Standards auditing by TISI is required prior to introduction of new products into the Thailand market, such as audio/visual equipment, whether imported or domestically manufactured. It takes about 2-months from date of filing application to grant of approval.</u></p>	<p><u>It is requested that TISI shortens the audit period.</u></p>	<ul style="list-style-type: none"> - TISI Standards - Ministerial Regulation No. 13 (B.E. 2497) on Exchange Control - Detailed Regulation of Revenue Code

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			<p>- <u>Implementing Problems over the acquisition of TISI (Thai Industrial Standard), product certification are epitomised as follows:</u> <u>Requirements for filing of model-by-model application, ordeal of factory inspection, extraordinary lengthy examination of documents, etc., sometimes affect the production schedule and shipments.</u></p> <p>(Actions)</p> <p>- In November 2007, GOT and GOJ ratified Japan-Thailand Economic Partnership Agreement that includes the Chapter on Mutual Recognition and Standards and Conformity Assessment.</p> <p>- On 26 January 2009, Thai Industrial Standards Institute of Ministry of Industry promulgated new standard TISI-R-PC-01(03), tightening the standards of examination among others on factory auditing, notice of purchase order, application requirement for each delivery, and examination procedure.</p> <p>- In 2009, the Chairperson of Japanese Chamber of Commerce, Bangkok ("JTC") and the Chairperson of the Metal Division petitioned Mr. Charnchai Chairungrueng, Minister of Industry on the following issues:(1) A prompt attention to resolve the delay in the certification application,(2) Deferring the start for operating the new rule, and(3) Joint study for a rational change in operating the standard certification.In return the Minister of Industry responded as follows:(1) Instructions are given to the Ministry to resolve the delay in standard approval within 43 days, and (2) The Minister welcomes the proposal for the Joint study for a rational change in operating the standard certification.(TSUSHO KOHO, JETRO Daily e-mail news service, 22 May 2009).</p>	<p>- <u>It is requested that TISI simplifies the product certification procedures.</u></p>	
	(3)	Compulsory Factory Examination For Acquisition of Safety Standard	<p>- <u>Factory audit by TISI auditor is a compulsory requirement, including imported products in small amount of sales. The idea of such imports must be abandoned as the cost of TISI auditing does not warrant.</u></p>	<p>- <u>It is requested that GOT streamlines the certification procedures.</u></p>	
22	(1)	Environmental Pollution and Waste Disposal	<p>- <u>Both the level of environmental protection system and the public awareness are low on the environmental protection such as sorted collection of wastes.</u></p>		
23	(1)	Inefficient Administrative Procedures, Regimes and Practices	<p>- <u>GOT requires signature in the signer's own original handwriting on each sheet of application documents of all kinds. The requisite documents are in huge volume, requiring much expense, labour and paper resources. The signer is heavily burdened with the time-consuming task of signing by hand on each page of the voluminous documents.</u></p>	<p>- <u>It is requested that GOT streamlines the requisite documents by accepting electronic documents, company seal, etc.</u></p>	
	(2)	Delays in Issuance of "Ror Ngor 4" Factory Operation Permit	<p>- <u>The procedures are nebulous and time-consuming for issuance of Factory Licence (RorNgor4) , giving negative impact upon P/L of the business operation.RorNgor4: This licence is necessary for construction of a solar power generation plant. However, the uncertainty of the requisite time for acquisition of this licence severely impacts this project.</u></p>	<p>- <u>It is requested that GOT:</u> -- <u>cuts down the time necessary for licence acquisition, and</u> -- <u>clearly identifies the process on grant of the licence.</u></p>	

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			- <u>Factory Operation Permit (FOP) by Ministry of Industry (MOI) is necessary for starting construction of new plant. However, it is taking much time and work to obtain FOP, the acquisition procedures of which differ substantially between the official announcement and the actual practice.</u>	- <u>It is requested that MOI assures transparency in implementing the procedures from filing of application to grant of licence.</u>	
24 Indigested Legislation, Abrupt Changes	(1)	Nebulous Introduction of New	- <u>GOT announced in August 2014 new subsidy scheme for roof top solar panel power generation, and started accepting application, without, however, release of guidelines for licences and approvals requisite for composition of the application documents. On the other hand, under the Power Purchase Agreement (PPA), GOT envisages construction completion by 31 January 2015. It has caused confusions in the industries and the subsequent delays of the project. (Achievement of the end of January deadline is unlikely, etc.)</u>	- <u>It is requested that GOT clearly identifies the licences and approvals required for the roof top solar panel power generation project, the timing of acquisition period.</u>	- Factory Operation License (RorNgor4) - Plant Construction License - Controlled Energy Production Permit - Energy Operation License
	(2)	<u>Legitimacy or Illegitimacy under Foreign Business Act – Uncertain Rules for Violation Judgement</u>	- <u>In the event of billing the incurred cost to a third party (so called exchange of bill), it takes the form of selling goods other than the permitted business, amounting to violation of foreign business act. (For example, invoicing the cost of tools and dies, Personnel expenses of despatched workers employed for product selection between good and bad, etc.) No express rules are prepared either, such as "No violation results where actual cost incurred is verifiable". On the contingency that can arise in the course of business, absence of the express ruling exposes business operators to violation of laws.</u>	- <u>It is requested that GOT draws a clear line whether it amounts to lawful conducts or violation of law.</u>	- Foreign Business Act
26 Others	(1)	Inadequate Flood Control Measures	- A member firm's subsidiary (MFS) has been compelled to temporarily suspend its operation, due to its suppliers damage from the massive flood of 2011. It has experienced much difficulty in grasping the accurate status due to the mixed information reaching it in quality and accuracy. In 2013, in the floods in Bang Pakong river, another river, the same sort of phenomena arose.	- It is requested that GOT: -- strengthens the protective measures against flood and inundation as soon as possible, -- provides the flood related accurate information in multiple languages, and -- ensures speedy and widespread dissemination of information after the advent of flood, and -- takes adequate measures such as drainage.	

	Category	No	Issue	Issue Details	Requests	References
				<p>- <u>MFS sustained a severe damage directly and indirectly from the flood of unprecedented magnitude occurred in October 2011, due to the inadequacy of the GOT's measures prepared in advance.</u></p> <p>- In 2011, the large-scale floods also hit our member firm's subsidiary (MFS) plant in Ayutthaya. While GOT has expedited its effort in terms of both emergency measures and a long-term measures by inviting international competition, such efforts have not completely wiped out the risk of floods. Developers have improved the banks for protection from floods in the industrial estate near Bangkok. However, no improvement has taken place by way of requisite number of workforce and arterial road for distribution. The water damage risks remain for workers housings.</p>	<p>- It is requested that GOT: -- <u>draws up and implements fundamental measures for flood control, and</u> -- <u>provides adequate assistance to enterprises damaged by the flood.</u> - While GOT's flood control measures have made a fair progress, including management, it is requested earnestly that GOT continues its effort to enhance its flood control.</p> <p>- It is requested that GOT: -- accelerates the sweeping solution for protection from floods, -- analyses the total situation for continuation of business operation, including the risk of infrastructure hiatus, and traffic congestions, -- discloses more information, especially to foreign funded enterprises, and -- construct canals for protection from flood.</p>	
		(2)	Increased Insurance Premium against Great Natural Disasters	<p>- The 2011 flood has triggered the insurance premium to take a jump. Subscription to GOT authorised Catastrophe Insurance Policy (CIP) is a compulsory requirement for MFS to subscribe to voluntary insurance policy. However, insurance premium is sky-high. To enable FFEs to continue their business operation, improvement is prerequisite by way of increasing in cover rate of 30%, additional 1.25%, and the high threshold for triggering the total damage in excess of 5 billion bahts, etc. However, it is only when private insurance carrier can provide in excess of 20% less expensive insurance that MFS may be excluded from the CIP subscription obligations.</p>	<p>- It is requested that GOT flexibly adjusts the threshold for subscription to CIP, reviews the cover rate, and reduces insurance premium commensurate With reduced risks for the progress achieved from flood-control works.</p>	

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	(3)	Political Instability	<p>- Especially since 2006, confrontation has surfaced and has been intensified between the administration and anti-administration wings, frequently accompanying occupation of major facilities, road occupancy, lock-out, demonstration, coup d'etat etc., threatening safety in livelihood, and hindering business activity. Due to the continuing instability of this kind, the international status of Thailand has suffered down-grading to the extreme as a candidate country for investment and for manufacturing foothold.</p> <p>- Occurrences of coup d'etat in every plural years, accompanied by <u>monetary turmoil drive MFS into much difficulty in taking responsive action internally.</u></p> <p>(Actions)</p> <p>- In April 2009, the East Asia Summit in Batavia had to be aborted because of obstruction by the ex-PM Taksin faction and intrusion into the Diet House by a citizen group, The United Front for Democracy Against Dictatorship (UDD), while the capital Bangkok was driven into a mobbish state of affairs, which was followed by declaration of the state of emergency.</p> <p>- On 7 April 2010, Prime Minister Abhisit issued proclamation of the state of emergency in the entire Bangkok Capital City and the neighbouring 5-provinces. The commotion in the central Bangkok developed into Security Force's expulsion of the demonstrators, and the arson and brigandage into the metropolitan commercial facilities, which were finally calmed down while claiming numerous casualties, killed and injured.</p> <p>- The mobbish state of affairs in Bangkok drove an increasing numbers of Japanese affiliated retailers and fast-food chain industry into halting their operation. Japanese affiliated manufacturers likewise were forced to suspend temporarily operation of their distribution companies and sales offices. However, the application for inward direct investment into Thailand was 97% amount of the same period between January through June 2010, and the number of application showed an increase by 33%, while Japan's application represented about 40% of the total application amount of Bt98.3 billion. Most conspicuous were investments made into the motor vehicles, electric appliances, and renewable energy business sectors. According to the announcement of National Economic and Social Development Board (NESDB), the real GDP growth rate in the 1st quarter 2010 was 12.0% against the same period 2009, and 9% in the 2nd quarter 2010 against the same period 2009, showing high increase rate. NESDB Director estimates the demonstration caused the drop in the real growth rate in the 2nd quarter by 3 points.</p> <p>- On 20 May 2014, General Prayuth Chan-ocha, the Army Commander ordered nationwide Martial Law. On 22 May, Thailand National Council for Peace and Order (NCPO) (Chaired by Prayuth Army Commander) declared his grasp of the total sovereignty. On 30 May, NCPO announced "the Roadmap" toward resumption of the Civil Law Administration spread in excess of one year (Promulgation of provisional constitution during July, legislative conference and stopgap government in September, startup of reform conference in October, promulgation of new constitution targeted in July 2015, general election implemented 3-months after promulgation of new constitution, and resumption of civil administration during 2015.) With the approval of King Bhumibol, Mr. Prayuth formally took office as temporary premier, and on 1 September, formed the new Cabinet.</p>	<p>- It is requested that GOT stabilises the political climate in Thailand.</p> <p>- It is requested that GOT: -- <u>secures political stability, and</u> -- <u>makes all out efforts nationwide into upgrading education.</u></p>	

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	(4)	Corruptions	<p>- <u>When each year end comes, officers from tax office come around, acting like parasites, murmuring in chorus something like: "I want so many bahts."</u></p> <p>(Actions)</p> <p>- According to "Corruption Perceptions Index 2013"(Transparency International), in 2013, Thailand lost 2 points relative to the preceding year and its ranking slid back to the 102nd position, down by 14 positions.</p>	- <u>It is high time GOT takes step to annihilate bribery demands.</u>	
	(5)	Increased Harbour Charges	- <u>In 2014, collection started at the container depot for lift-on-charge, increasing the cost of export. On the other hand the terminal charge fee increase by large margin, although postponed until March 2015 is due anytime, debilitating the competitive edge of the export business from Thailand.</u>	- <u>It is requested that GOT endeavours to maintain status quo of export charges.</u>	
	(6)	Non or Delayed Payment	- <u>MFS, having experienced nonpayment/delayed payment of accounts receivables, due in part to differences in traditions in commerce, business ethics, balance of power, etc., has switched to advance payment in its terms of sale. However, on products with short life expectancy cycles (such as manufacturing equipment for smartphone parts), the delivery terms and the prices claim the top priority, so that even if collection is completed successfully, the delay in payment severely affects the profitability of the MFS operation.</u>	- <u>It is requested that GOI:</u> <u>-- extends its helping hands to the less powerful SMEs by provision of information, and</u> <u>-- facilitates collection of accounts receivables.</u>	