

Structural Reform in Thailand to Promote Trade and Investment

Narongchai Akrasanee, Ph.D.

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Outline

- ◆ **Defining structural reform**
- ◆ **Areas covered under reform**
- ◆ **Structural reform in Thailand**

Defining Structural Reform

Changing “**behind border**”
commercial rules and
regulations

Areas Covered under Reform

- When foreign trade is freer, imports are subject to **“competition”** rules and regulations, and intellectual property rights system.

Areas Covered (cont.)

- **When trade in services is freer, foreign participation in services depend on:**
 - ❖ **Financial services**
 - **Barriers to entry**
 - **Prudential rules & regulations**
 - **Investors protection system**
 - ❖ **Transportation & telecommunications**
 - **Barriers to entry**
 - ❖ **Professional services**
 - **Barriers to entry**

Structural Reform in Thailand

- 1. Competition Regime**
- 2. Intellectual Property Rights Protection**
- 3. Financial Sector Reform**
- 4. Investment Regime**
- 5. Professional Services Reform**

Competition Regime

- **1947 --- The Anti - Profiteering Act**
 - **Aimed at consumer protection from excessive product prices**
- **1979 --- The Price Fixing and Anti-Monopoly Act**
 - **Replaced the 1947 Act**
 - **Added the element of anti – monopoly**
 - **No specific measures to deal with competitive playing field for business activities**

Competition Regime (cont.)

- **1997 --- The turning point of competition regime in Thailand**
 - **Stated in the 1997 Constitution that the government must support an economic system under free market mechanism**
- **1999 --- Approval of the Competition Act and the Price of Goods and Services Act to replace the Price Fixing and Anti-Monopoly Act of 1979**

Competition Regime (cont.)

■ The Competition Act

- To encourage & promote free and fair business practices by preventing the abuse of market domination, merger control and anti- competitive conduct
- Set up the Trade Competition Commission in Nov- 99 to take charge of the Act
- Set up the Appellate Committee to check and balance role of the Commission

Competition Regime (cont.)

- **The Price of Goods and Services Act**
 - **To monitor price of goods and services**
 - **The Central Competition Commission (CCP) on Price of Goods and Service has been established since July 1999**
 - **The CCP declares and monitors price of goods and services in the control list**

Intellectual Property Rights Protection

■ Party and Membership

- **WIPO**
 - **Party to the WIPO Convention (Convention establishing the World Intellectual Property Organization) since 1989**
 - **Party to the Berne Convention for the Protection of Literary & Artistic Works since 1995**
- **WTO : TRIPS Agreement since 1995**
- **APEC since 1989**
- **ASEAN since 1967**

Intellectual Property Rights Protection (Cont.)

- **Commitment under WTO's TRIPS has been set as the major policy framework for Thai IPRs**
- **Progress under TRIPS --- major related Acts have been implemented;**
 - **The Copyright Act --- 1995**
 - **The Patent Act --- Sep 1999**
 - **The Protection of Plant Varieties Act --- Dec 1999**
 - **The Trademark Act --- June 2000**
 - **The Protection of Integrated Circuits Act --- Aug 2000**
 - **The Trade Secret Act --- 2002**
 - **The Protection of Geographical Indications --- 2003**

Financial Sector Reform

■ Commitments

- GATS

- An Interim Agreement to the WTO in 1995
- No further commitments submitted under the Doha Round

- AFAS

- Dec-95 --- Framework Agreement to achieve the free flow of services among ASEAN member countries within 2020.
- 4 Roadmaps;

- 1) Capital account liberalization
- 2) Financial services liberalization
- 3) ASEAN currency co-operation
- 4) Capital market development

Financial Sector Reform (cont.)

- **Both commitments under GATS & AFAS do not involve commitments much beyond Thailand's current regulations.**



Minimum bound on policies in Thai financial sector

- **Domestic regulations and the Financial Master Plan are major framework and guidelines for direction and reform.**

Financial Sector Reform (cont.)

■ Domestic regulations

- **Banking** --- Supervised and regulated by BOT and MOF through the Commercial Banking Act 1962, the Undertaking Finance Business, Securities Business, and Credit Foncier Business ACT 1979
- **Securities** --- Supervised by SEC through the Enactment of Securities and Exchange Act 1992
- **Insurance** --- Supervised by MOC through the Life Insurance Act 1967 and Non-Life Insurance Act 1967
- **Non-bank services** --- Fall under the regulation of different agencies depending on the nature of the financial activities

Financial Sector Reform (cont.)

■ Major changes in domestic regulations

- **1990 --- Signed Article 8 of IMF, Freer flows of capital**
- **1992 --- Set up the SEC, Opened up the stocks market for foreign participation**
- **1993 --- BIBFs, Opened up “Offshore” banking and allowed more foreign participation**
- **1997 --- Relaxed foreign participation in insurance services**
- **1998 --- More liberalized after crisis**
- **2004 --- Financial Master Plan**

Financial Sector Reform (cont.)

■ **Financial Master Plan**

- **Lay down foundation and set direction for Thailand financial sector**
- **3 objectives**
 - 1) **Increase comprehensiveness of financial services to all potential users with no significant difference in the level and quality of services**
 - 2) **Increase the efficiency and competitiveness**
 - 3) **Increase fairness and protection for consumers**

Financial Sector Reform (cont.)

■ Financial sector outlook

- **Consolidated financial businesses**
 - Commercial bank
 - Retail bank
- **Increased international competition**
 - Subsidiaries of foreign bank
 - Full branch of foreign bank
- **A wider range of financial services**
- **Conglomerate supervision**
- **Limitation on the number of foreign directors and senior management still remain**

Investment Regime

- **1972 --- the Alien Business Law**
 - Entities with at least 50% foreign holding are aliens and subject to this law
 - Limit foreign participation in Thai businesses
- **1977 --- Investment Promotion Act**
 - Encourage FDI
 - Set out the types of rights and benefits offered to foreign investment
 - Office of the Board of Investment has been established to promote FDI to Thailand

Investment Regime (cont.)

- **1999 --- the Foreign Business Act replaced the Alien Business Law of 1972**
 - **Relaxed and broaden foreign participation in Thai business**
 - **Controlled business are divided into 3 lists;**
 - 1) Businesses that foreigners are not permitted due to special reason
 - 2) Businesses related to national safety, security or affecting arts & culture, tradition, folk handicraft or natural resources & environment
 - 3) Businesses in which Thai nationals are not ready to compete
 - **List 2 and 3, certain approvals are required.**

Investment Regime (cont.)

- **2002 --- Encourage Investor protection**
 - **Set up the National Good Corporate Governance Committee to promote good corporate governance in the Thai capital market**
 - **Working on the 3 areas;**
 - 1) **regulatory discipline**
 - 2) **market discipline**
 - 3) **self-discipline**

Investment Regime (cont.)

- In addition, SEC has participated in the assessment project under “Corporate Governance - Report on the Observance of Standards and Codes” (CG-ROSCs), conducted by the IMF and the World Bank.
- This will enable foreign investors to obtain more clear and accurate information on Thailand’s good corporate governance.

Professional Services Reform

- **Alien Occupation Act of 1979**
 - **Requires all aliens working in Thailand to obtain a Work Permit prior to starting work in the Kingdom**
 - **39 occupations and professions are prohibited to aliens.**
- **Under the Investment Promotion Act, promoted companies are allowed to bring in foreign skilled technicians and experts**
- **No concrete reform has been made**