

Annex 4.1 Thailand's Schedule on Investment

Market access and national treatment measures listed in the limitations column condition all the sector - specific commitments.

Sector or Sub-sector Limitations

Horizontal Commitments:

Under Thailand's Foreign Business Act B.E. 2542 (1999), the advantages and disadvantages to the nation's safety and security, economic and social development, public order or good moral, art, culture and tradition of the country, natural resource conservation, energy and environment, consumer protection, size of enterprises, employment, technology transfer, and research and development shall be taken into account in permitting the foreigners to operate the business.

Foreigners shall be prohibited from operating any business prescribed in List One under the Foreign Business Act.

Foreigners shall be prohibited from operating any business prescribed in List Two under the Foreign Business Act unless permitted by Minister of Commerce with the approval of the Cabinet.

All New Zealand Citizens

Foreigners shall be prohibited from operating any business prescribed in List Three unless permitted by the Director General of the Department of Business Development with the approval of the Foreign Business Committee.

Foreign Direct Investment in Non - Service

Business operations are permitted only through entities which are registered in Thailand with a minimum capital brought or remitted into Thailand for commencing business operations of 3 million Baht for each of businesses.

Sector All Sectors

For a business characterised as a limited partnership or a registered ordinary partnership, the managing partner or manager must be a Thai national.

inscribed in this schedule

In compliance with the Ministry of Commerce Announcement No.4 B.E. 2546 (10 March 2003), registration with Department of Business Development is required for a natural person (sole proprietorship), a non – registered ordinary partnership, a group of persons and a juridical person (registered ordinary partnership, limited partnership, limited company, public company, and branch) engaging in selling and purchasing goods or services by electronic media via the Internet System namely e – commerce, an Internet Service Provider (ISP), web hosting and e - marketplace.

Foreign investment in manufacturing distilled liquor is restricted. A manufacturer of distilled liquor must be a limited company under Thai laws with foreign equity participation less than 49 percent.

Thailand reserves its policy discretion in the acquisition of land and real

estate.

Unless otherwise specified in this schedule, equity participation of less than 50 percent by New Zealand investors is allowed subject to criteria contained in the limitations column and non - discriminatory domestic regulation. Furthermore,

1. the investor which is a juridical person owned and controlled by a person of New Zealand must be registered as a registered ordinary partnership, limited partnership or limited company in Thailand; and
2. a debt to equity ratio of 3:1 or lower shall be maintained.

Thailand reserves the right to adopt or maintain any measure administered at the local government level unless that measure is applied on a discriminatory basis with the intention of nullifying or impairing the benefit accruing to New Zealand under the terms of the Agreement.

Sector or Sub-sector
Non-Service Sectors

Limitations

Manufacturing in the following

Equity participation of up to 100 percent by New Zealand investor is allowed[2].

- activitieselectronic industry and electrical appliances
- softwareindustry*
- machinery and mechanical appliances
- manufacturing of pulp, paper, paper containers and articles made from fibre, pulp, paper or paperboard[1]
- food processing using modern technology
- manufacturing of basic chemicals, given that the production must have chemical process
- manufacturing of furniture (except carved wood and wood fabrication from natural forest)
- manufacturing of natural rubber
- manufacturing of textile products (except products related to Thai silk)
- manufacturing of vehicle parts (except those related to natural safety and security)

Total number of New Zealand director up to 100% of total number of board of directs is allowed.

A foreign director applying for a business operation certificate or responsible for business operation must have the following qualification:

1. over 20 years old
2. being neither incompetent nor quasi – incompetent
3. not being a bankrupt
4. never having been punished by a court judgment
5. never having been imprisoned
6. never having a license issued under Thailand’s Foreign Business Act revoked during the five year period prior to the date of the license application

* Must be approved by relevant government agencies if the Board of Investment privilege is sought.

[1] Raw materials must not be derived from natural forests in Thailand.

[2] The remaining equity shares must be owned by Thai investors.