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U.S.-Thailand Free Trade Agreement Negotiations

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U.S.- Thailand Free Trade Agreement Negotiations

Summary

President Bush and Thai Prime Minister Thaskin on October 19, 2003, agreed to negotiate a bilateral free trade agreement (FTA). The Bush Administration notified Congress on February 12, 2004, that it intends to begin the negotiations, prompting a 90-day consultation period with Congress and the private sector. Five negotiating rounds have taken place to date, the most recent September 26- September 30, 2005, in Hawaii. U.S. trade officials hope to conclude the negotiations by early 2006.

In the notification letter sent to the congressional leadership, then-U.S. Trade Representative Robert Zoellick put forth an array of commercial and foreign policy gains that could be derived from the agreement. The letter states that an FTA would be particularly beneficial to U.S. agricultural producers who have urged the administration to move forward, as well as to U.S. companies exporting goods and services to Thailand and investing there. Mr. Zoellick also alluded to sensitive issues that will need to be addressed: trade in automobiles, protection of intellectual property rights, and labor and environmental standards.

As in most FTA negotiations, competing viewpoints on the desirability and nature of the provisions of the agreement are likely. As background for congressional oversight of the negotiations, this report examines Thailand's economy and trade orientation, discusses the scope and significance of the U.S.-Thai commercial relationship, and summarizes key negotiating issues.

Thailand's economy has recovered strongly from the 1997 Asian financial crisis. In 2004 the Thai economy grew at 5.2% in real terms and yielded a per capita income of $2,490. With around 20% of Thai exports destined for the U.S. market, the United States is Thailand's largest export market. In 2004, Thailand was the United States' 19th largest trade partner, accounting for $23.5 billion in trade turnover ($17.5 billion in U.S. imports and $$5.8 billion in U.S. exports).

Countries that form FTAs agree at a minimum to phase out or reduce tariff and non-tariff barriers (NTB) on mutual trade in order to enhance market access between the trading partners. The U.S.-Thailand FTA is expected to be comprehensive, seeking to liberalize trade in goods, agriculture, services, and investment, as well as intellectual property rights. Other issues such as government procurement, competition policy, environment and labor standards, and customs procedures are also likely to be on the negotiating table.

The U.S.-Thailand FTA negotiations are of interest to Congress because (1) an agreement would require passage of implementing legislation to go into effect; (2) an agreement could increase U.S. exports of goods, services, and investment, with particular benefits for agricultural exports; and (3) an agreement could increase competition for U.S. import-competing industries such as textiles and apparel and light trucks, thereby raising the issue of job losses. This report will be updated as events warrant.

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Why a U.S.-Thailand FTA?

The Bush Administration notified Congress on February 12, 2004, that it intends to begin free trade agreement (FTA) negotiations with Thailand. This notification, which follows an October 19, 2003 announcement by President Bush and Thai Prime Minister Thaskin of their agreement to launch negotiations, allows for talks to begin within 90 days or by mid-May 2004, after required consultations with Congress. Two negotiating sessions took place in 2004, and a third was held April 4-8, 2005, in Thailand. The fourth and fifth sessions were held July 15, 2005, in Montana, and September 26-30, 2005, in Hawaii.

In the notification letter sent to the Speaker of the House and the Senate Majority Leader, then-U.S. Trade Representative Robert Zoellick put forth an array of potential commercial and foreign policy gains that could be derived from the agreement. At the same time, Mr. Zoellick alluded to sensitive issues that require attention: trade in automobiles, protection of intellectual property rights, and labor and environmental standards.[1]

Zoellick's letter states that an FTA would be particularly beneficial to U.S. agricultural producers who have urged the administration to move forward, as well as to U.S. companies exporting industrial goods and services. For agricultural producers, by eliminating or reducing Thailand's high tariffs and other barriers, the FTA offers the opportunity to significantly increase export sales to Thailand. In 2003, Thailand was the 16th largest market for U.S. farm exports.

The administration also argued that an FTA would help boost U.S. exports of goods and services in sectors such as information technology, telecommunications, financial services, audiovisual, automotive, and medical equipment. In 2004, U.S. companies exported to Thailand $5.8 billion in goods and over $1 billion in services. Maintaining preferential access for U.S. investors in Thailand is also a top priority for U.S. business. Given that Thailand is a relatively small economy compared to the United States (1/100th "the size"), the agreement by itself will have limited effects on the overall U.S. economy.

From the standpoint of U.S. foreign policy interests, the Administration views the proposed FTA as strengthening cooperation with Thailand in bilateral, regional, and multilateral fora. Bilaterally, the FTA is seen as strengthening Thailand's

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[1] *Inside U.S. Trade*, "USTR Zoellick Notifies Congress of Intent To Negotiate Free Trade Pact with Thailand," February 19, 2004.

position as a key military ally, particularly in the war on terrorism. Regionally, the FTA is viewed as advancing President Bush's Enterprise for ASEAN Initiative (EAI). The goal of the EAI is to negotiate a network of bilateral trade agreements with the 10 members of ASEAN. Multilaterally, Thailand plays a key leadership role in the World Trade Organization (WTO). An FTA could encourage Thailand to actively cooperate with the United States in supporting multilateral trade negotiations under the aegis of the Doha Development Agenda, particularly in the area of agricultural liberalization.

As for Thailand, similar broad economic and political calculations explain its interest in an FTA. In economic terms, Thailand is very concerned that its exports to the United States have been losing market share in recent years to countries such as Mexico and China. By eliminating U.S. tariff and non-tariff barriers to Thai exports, an FTA could help increase the competitiveness and market share of Thai products in the U.S. market. Thailand also does not want to be excluded from FTA benefits the U.S. has negotiated with other countries, particularly the potential of an FTA to increase U.S. investment in Thailand. Modernization of the services economy and diffusion of higher levels of technology, know-how, and labor management skills are essential for the Thai economy to advance beyond the competition from lower-wage emerging market economies such as China, Vietnam, and Laos. In addition, a closer political and economic relationship with the United States could provide Thailand with more leverage to play a larger role in Southeast Asia.

General opposition to the FTA in both countries is expected from workers and companies in import-competing industries that bear the brunt of the adjustment costs of a trade agreement. Despite the welfare gains to society as a whole (e.g. more efficient resource allocation, lower priced imports, and greater selection of goods), those industries subject to increased competition face additional pressure to cut costs, wages, and prices. Some companies may not be able to withstand these pressure and may be forced out of business, accompanied by a loss of jobs. Under these circumstances, certain stakeholders, as a matter of self-interest, may oppose trade agreements that accelerate competition and structural changes in an economy.

Specific opposition in Thailand may arise from concerns in the agricultural and services sectors. Given that close to 50 percent of the Thai labor force is employed in agriculture, liberalization of this sector is likely to be contentious. Similarly, in a number of services sectors, Thai companies may feel they are at a competitive disadvantage in opening up to U.S. competitors. Thailand's banking and financial services industry, in particular, is wary of further liberalization after the financial crisis of 1997. Thai stakeholders are also particularly wary, given the high incidence of AIDS infections, in U.S. efforts to secure data exclusivity for patented pharmaceuticals. In addition, a number of Thai business interests reportedly are concerned over potential U.S. investment in newly privatized companies such as the Electricity Generating Authority of Thailand and the Mass Rapid Transit Authority.

Opposition in the United States may arise from groups concerned about the impact of the trade agreement on labor and environmental standards. Often joined by anti-globalization activists, these interest groups question whether trade agreements enhance the social welfare of participating countries. Other issues such as transparency in government decision-making, human rights, and freedom of the press could also be raised. In addition, increased market access for Thai agricultural products such as rice and sugar, as well as a reduction of the 25% U.S. tariff on lightweight pick-up trucks, is also likely to be controversial.

In short, competing viewpoints can be expected on the desirability of an FTA. As in most FTAs that the United States has negotiated, the distribution of gains and losses would depend on the details of the provisions.

As background for congressional oversight, this report examines Thailand's economy and trade orientation, the scope and significance of the U.S.-Thai commercial relationship, and the likely top issues in the negotiations. The report concludes with a short summary of the Congressional role and interest in the FTA.

Thailand's Economy and Trade Orientation

Thailand continues to recover from the debilitating effects of the Asian financial crisis, which hit the Thai economy in July 1997 and subsequently affected several other East Asian economies.[2] The economic crisis in Thailand was characterized by a significant depreciation of the *Baht* (which led to a depletion of nearly all of Thailand's foreign exchange reserves),[3] a decline in the stock market, and a sharp decline of property prices. The combination of these shocks led to a major economic downturn. Ten years prior to the 1997 crisis, Thailand had been one of the world's fastest growing economies, fueled in large part by exports. After averaging 8.6% annual growth between 1990 and 1996, Thailand's real gross domestic product (GDP) fell by 1.4% in 1997 and then declined by 10.3% in 1998 (see **Table 1**). Trade also suffered: in 1998, exports fell by 6.7% and imports plunged by 33.0% (in dollar terms) over 1997 levels. The unemployment rate rose from 3.2% in 1997 to 7.3% in 1998. In addition, Thailand's per capita GDP on a purchasing power parity (PPP) basis, a common measurement of a nation's living standards, plummeted by 12%, from $6,468 to $5,709[4]

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[2] For additional information on the Asian financial crisis, see CRS Report 98-434, *The Asian (Global?) Financial Crisis, the IMF, and Japan: Economic Issues*, by Dick K. Nanto; and CRS Report RL30517, *Asian Financial Crisis and Recovery: Implications for U.S. Interests*, by Richard Cronin.

[3] Prior to the crisis, the Thai government attempted to peg its currency (the Baht) to the U.S. dollar (at around 25 Baht to the dollar). However, speculative pressures on the Baht forced the government to attempt to maintain the peg through high interest rates and, ultimately, to use foreign exchange reserves to prop up the currency. Eventually, however, the government nearly ran out of foreign exchange reserves and was forced to abandon the currency peg by allowing the currency to float in international markets. This led the Baht to depreciate sharply (at one point reaching 56 Baht to the dollar in January 1998) and forced the Thai government to seek international financial assistance.

[4] PPP measurements attempt to convert foreign currencies into U.S. dollars based on the actual purchasing power of such currency (based on surveys of the prices of various goods and services) in each respective country. They thus give a more accurate measurement of the size of a country's economy and living standards relative to those in the United States.

Table 1. Selected Economic Indicators for Thailand's Economy: 1996-2003

	1996	1997	1998	1999	2000	2001	2002	2003
Average Exchange Rate (Baht per U.S.$)	25	31	41	38	40	44	43	48
Real GDP Growth (%)	5.9	-1.4	-10.3	4.4	4.8	2.1	4.8	6.2
GDP ($billions)	182	151	112	123	123	116	127	133
GDP (billions ($PPP)*	397	391	349	370	389	404	431	464
Per Capita GDP ($PPP)*	6,623	6,468	5,709	5,981	6,229	6,460	6,850	7,250
Exports ($billions)	56.0	58.4	54.5	58.5	69.8	65.4	68.8	77.8
Imports ($billions)	72.2	63.3	42.4	49.9	62.2	61.8	64.2	64.9
Annual FDI flows ($billions)	2.3	3.9	7.3	6.2	3.4	3.8	3.3	2.2
Public Debt as a % of GDP (%)	16.7	31.8	40.2	51.6	54.2	50.0	51.6	48.8
Official Unemployment Rate (%)	3.5	3.2	7.3	6.3	5.8	5.0	3.7	3.4

Sources: Thailand's Customs Department, Bank of Thailand, and the Economist Intelligence Unit (EIU).

*PPP data are measurements of foreign data in national currencies converted into U.S. dollars based on a comparable level of purchasing power these data would have in the United States. Prices for goods and services are generally lower in Thailand than in the United States, and hence, the PPP measurement of Thailand's GDP is significantly higher than GDP data expressed in nominal U.S. dollars.

Thailand's economy was stabilized by a $17.2 billion loan from the International Monetary Fund (IMF), although a number of major Thai banks and corporations were forced into bankruptcy, largely because much of their short-term debt was in U.S. dollars.[5] Real GDP grew by 4.4% in 1999 and by 4.8% in 2000, but slowed to 2.1% in 2001. Public dissatisfaction in Thailand with government handling of economic restructuring brought about the election of a new coalition government in 2001 (headed by the Thai Rak Thai Party) with Thaksin Shinawatra as Prime Minister. He launched a series of economic initiatives designed to stabilize the economy, boost

[5] The sharp depreciation of the Baht that occurred in 1997 significantly increased the debt burden for these institutions as it took more Baht to purchase dollars to make debt payments. Many such institutions were unable to make their payments and subsequently went bankrupt.

domestic demand, encourage the growth of small and medium-sized businesses, and improve rural incomes.

Thailand's economy has generally experienced strong growth over the past two years, and many analysts are projecting strong growth in the near term. Real GDP increased by 4.8% in 2002. Although the Thai economy (especially the tourist sector) was negatively affected by the outbreak of Severe Acute Respiratory Syndrome (SARS) in early 2003, it quickly recovered and grew at a robust 6.7% in real terms for the full year, boosted in part by strong export growth and consumer spending.[6] Private forecasters project that the Thai economy will grow by 6.9% in 2004 and by 5.6% in 2005.

Despite optimistic projections for the Thai economy over the next few years, many economists remain concerned about the relatively slow pace of banking reforms and the restructuring of non-performing loans, which could potentially spark another financial crisis in Thailand.[7] While Thailand's public debt fell sharply in 2003, it remains high by international standards.

Thailand's economy is heavily dependent on international trade. The shares of exports and imports in GDP have each risen to over 50%, compared with around 40% in 1997. Manufactured goods account for about 75% of Thailand's exports and imports. The largest export items include office machines and telecommunications equipment (25% in 2001), other consumer goods (10%), textiles and clothing (8%) and other semi-manufactures (8%). Agricultural products account for about 18% of Thai exports. The largest categories of Thai imports are machines and telecommunications equipment (22%) and non-electrical machinery (10%). Agricultural imports account for just under 8% of total imports.[8]

Thailand's top trading partners in 2003 were Japan, the United States, the European Union (EU), and China (see **Table 2**). With around 17.0% of Thai exports destined for the U.S. market, the United States is Thailand's largest export market. On the import side, the United States, with an import share of 9.5%, is the third largest supplier after Japan and the European Union.

Foreign direct investment (FDI) is an important source of employment and new technologies and processes. The cumulative level of FDI in Thailand at the end of 2003 was about $31 billion. Portfolio investment in Thailand is also important, with an estimated $17 billion in 2001. Japan is the largest foreign investor in Thailand, followed by the United States. Most FDI inflows are in manufacturing and services. Thailand has virtually no FDI in agriculture.[9]

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[6] Thailand's exports grew by about 17% in 2003.

[7] One estimate puts Thailand's non-performing corporate loans at $42.5 billion, equal to 34% of GDP. See, "Thailand's Debt Undertow, *Businessweek*," September 23, 2002.

[8] *World Trade Organization,* "Trade Policy Review: Thailand," WT/TPR/S/123, October 15, 2003, p.8 [hereafter cited as the *WTO Trade Policy Review - Thailand*].

[9] *WTO Trade Policy Review - Thailand*, pp. 11-12.

Annual FDI flows to Thailand have been relatively flat over the past few years, and in 2003, FDI in Thailand declined by more than half, caused in part by a shift in FDI to China.

Table 2. Thailand's Major Trading Partners: 2003
($ billions)

	Total Trade	Exports	Imports	Trade Balance
Japan	29.5	11.4	18.1	-6.7
United States	20.7	13.6	7.1	6.5
European Union	19.3	11.8	7.5	4.3
China	11.7	5.7	6.0	-0.3
Singapore	9.0	5.8	3.2	2.6
Thailand's World Trade	155.2	80.2	75.0	5.2

Source: Bank of Thailand.

Thailand, as a member of the WTO, supports multilateral trade liberalization. As a member of the Asian Pacific Economic Cooperation (APEC) forum, Thailand is also committed to "open regionalism" as a means of achieving free and open trade and investment by 2020. As a party to the Association of South-East Asian Nations (ASEAN), Thailand also engages in regional trade liberalization and since 2002 has actively negotiated a network of preferential trading arrangements with countries such as Australia, Bahrain, China, and India. While the provisions of these agreements vary considerably from one to the other, none are expected to be as comprehensive as the planned U.S.-Thailand FTA. Relying on an "early harvest" mechanism, Thailand and China, for example, agreed to tariff reductions on fruits and vegetables, but don't expect a full FTA to enter into force until 2010.

U.S.-Thailand Commercial Relations

The United States and Thailand maintain extensive commercial ties. Thailand affords the United States preferential treatment vis-a-vis other countries for certain types of investment under the U.S.-Thailand Treaty of Amity and Economic Relations of 1966. The American Chamber of Commerce estimates that the United States is the second largest foreign investor in Thailand (after Japan), with cumulative investment at $20 billion. U.S.-invested firms in Thailand employ over

200,000 Thai nationals.[10] Major sectors for U.S. FDI in Thailand include petroleum, banking, electronics, and the automotive industry. In recent years, U.S. auto companies have invested heavily in Thailand.[11]

In 2003, Thailand was the United States' 23rd largest export market ($5.8 billion) and its 15th largest supplier of imports ($15.1 billion). U.S. exports to Thailand increased by 20.2% (over 2002 levels), while U.S. imports from Thailand rose by 2.6% to (see **table 3**). However, while imports from Thailand were 17.5% higher than 1997 levels, U.S. exports to Thailand in 2003 were 20.6% lower than they were in 1997.[12]

Table 3. U.S. Merchandise Trade with Thailand: 1997-2003
($millions)

	1997	**1998**	**1999**	**2000**	**2001**	**2002**	**2003**
U.S. Exports	7,357	5,233	4,984	6,643	5,995	4,859	5,842
U.S. Imports	12,595	13,434	14,324	16,389	14,729	14,799	15,181
U.S. Trade Balance	-5,238	-8,201	-9,340	-9,747	-8,733	-9,940	-7,336

Source: U.S. International Trade Commission *DataWeb*.

Top U.S. exports to Thailand in 2003 were electrical machinery (23% of the total), machinery (19%), aircraft (13%), optical and medical equipment (4%) and miscellaneous grains and fruit (3%). Top U.S. imports from Thailand in 2003 included electrical machinery (22%), machinery 16%), precious stones (7%), knit apparel (6%), woven apparel 6%), prepared meat and fish (5%), and rubber (5%). (See Appendix A and B for a detailed commodity breakdown of U.S. exports and imports to Thailand).

Thai-U.S. economic relations continue to deepen, as Thailand reforms its economy and lowers its trade barriers. Still, a number of contentious issues persist. On the Thai side, government officials have expressed disappointment with the United States for failing to take a more active role in rescuing the Thai economy during the serious economic crisis in 1997. More recently, Thai officials have sharply criticized U.S. agricultural policies, especially the farm bill that was enacted

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[10] American Chamber of Commerce in Thailand, Press Release, October 22, 2003.

[11] In October 2003, Ford Motor Company and its affiliate, Mazda Motor Company, announced plans to invest $500 million in Thailand to boost production of its current auto joint venture, Auto Alliance Thailand. This would be in addition to the $500 million the companies initially invested in 1995. Source, *Automotive Intelligence News*, October 15, 2003.

[12] Major U.S. imports from Thailand include include clothing and apparel, office machines and parts (i.e., computer equipment), and telecommunications and sound and reproducing apparatus and equipment. Major U.S. exports to Thailand include electrical machinery and parts, transport equipment (mainly aircraft), and office machines and parts.

in 2002 (The Farm Security and Rural Investment Act of 2002, P.L.107-171), arguing that it heavily subsidizes U.S. farmers, giving them an unfair competitive advantage over Thai farmers, especially in regard to rice. Thai officials further argue that the farm bill has undermined efforts in the WTO for more liberalized trade in agricultural products. Thailand has participated in two WTO dispute resolution cases against the United States: U.S. anti-dumping subsidy offsets (the "Byrd Amendment"), and U.S. restrictions on shrimp imports (that were in place in order to protect sea turtles). More recently, Thai officials are concerned about a pending U.S. antidumping investigation alleging that producers in Thailand and five other countries are selling shrimp in U.S. markets below their cost of production.[13]

As a result of major damage incurred from the December 2004 tsunami, Thai officials have lobbied U.S. officials for new preferential market access provisions, including relief from antidumping orders. Thai efforts reportedly are focusing on gaining more favorable treatment for canned tuna and crabmeat, products that are the chief exports of the Thai provinces damaged by the tsunami.[14]

Although the United States has not filed any cases against Thailand in the WTO, it has raised a number of issues with Thailand over its trade regime. The most prominent complaints include high trade barriers (especially on agricultural products, automobiles, alcoholic beverages, and electronic products), inadequate protection of U.S. intellectual property rights (IPR), and non-transparent customs rules and procedures.

Issues in the FTA Negotiations

Countries that form FTAs agree at a minimum to phase out tariff and non-tariff barriers (NTB) on mutual trade in goods in order to enhance market access between trading partners. Most U.S. FTAs, including NAFTA and agreements with Chile and Singapore, are more comprehensive. Because any U.S.- Thailand FTA is likely to be based on the Singapore model, no sector, product, or functional issue can expect to be excluded from the liberalization process. This approach is favored by many Members of Congress. As a result, the agreement is likely to cover trade in goods and services, agriculture, investment, and intellectual property rights, as well as other issues such as government procurement, competition policy, and customs procedures.

Trade in Goods

Tariffs are the major barrier to liberalized trade in goods. Thailand's reliance on import licensing, opaque customs procedures, and excise taxes are also likely to be issues.

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[13] Crispin, Shawn W. *Asian Wall Street Journal*, "Thai Shrimp Spat Could Grow," January 15, 2004.

[14] *Inside U.S. Trade*, "Countries Impacted by Tsunami Push for Trade Benefits from U.S.," January 21, 2005.

Thailand's simple average applied tariff rate of about 13% for non-agricultural imports provides a relatively high level of protection.[15] Many Thai tariff rates are much higher than the average and tend to be applied to imports competing with locally produced products. These include tariffs on autos and auto parts, alcoholic beverages, fabrics, footwear and headgear, and some electrical appliances. For example, the tariff on passenger cars and sport utility vehicles is 80%, the tariff on motorcycles 60%, and the tariff on completely knocked down (CKD) auto kits 33%. Tariffs on fabrics range from 25%-40%.

Beyond cuts in tariffs, market access for U.S. goods could be improved by reducing excessive paperwork and undue processing delays in Thai customs procedures. In addition, import licensing requirements on various items remains opaque and can sometimes serve as a quantitative restriction.

U.S. tariffs imposed on Thai non-agricultural exports are relatively low, averaging around 2-3%, but U.S. tariffs on some items such as textiles and apparel and light trucks are much higher. Thai concerns may also focus on U.S. trade remedy measures, such as use of antidumping and countervailing duty procedures to protect U.S. industry.

Agricultural Trade

The United States and Thailand are important trading partners in agricultural products, but the U.S. market is more important for Thailand than the Thai market is for U.S. exporters. The United States is the second largest market for Thai agricultural exports and Thailand is the fourth largest supplier of U.S. agricultural imports. At the same time, even though the United States has been the largest supplier of Thailand's agricultural imports, Thailand ranks only as the 16th largest market for U.S. agricultural exports.[16]

The total value of bilateral farm trade was about $1.2 billion in 2002 with the U.S. running a $377 million deficit. The major Thai exports to the United States are processed seafood, frozen shrimp, rubber, rice, tapioca, sugar, and fruits and vegetables. Major Thai imports from the U.S. are oil seeds, cotton, cereals (especially wheat), soybean oil and cake.[17]

Thai-U.S. agricultural trade is more restricted than trade in manufactured goods. Both countries impose higher tariffs on agricultural products than on manufactured

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[15] *WTO Trade Policy Review - Thailand*, p.73.

[16] Thailand Development Research Institute (TDRI), "Impact of Thailand- U.S. Free Trade Agreement," December 2003, 132pp. This study was jointly funded by the Thailand-U.S. Business Council [based in Bangkok], the American Chamber of Commerce in Thailand, and the U.S.-ASEAN Business Council. The study is available on the US - ASEAN Business Council: [http://us-asean.org/us-thai-fta/USTFTA-TDRIstudy.pdf] Hereafter, this report is referred to as the TDRI study.

[17] TDRI Study, p. 43.

goods. The Thai average MFN applied tariff on agricultural products is about 24 percent compared to about 7% for the United States.[18]

More than 43% of the Thai tariff lines for agricultural products have applied rates exceeding 20%, compared to only 1.3% of the U.S. tariff lines. Consumer-ready products, meats, fresh fruits and vegetables face tariffs ranging from 40-60%. Excise taxes and surcharges, licensing fees, and labeling and certification standards can further boost the tax burden considerably.[19]

U.S. fruit growers estimate lost sales of up to $25 million annually from the combined effect of Thailand's high tariffs and surcharge.[20] Other U.S. exports that could benefit from liberalization include meat and dairy products, sugar, alcoholic beverages, and tobacco. U.S. tariff rates that Thailand may want to see reduced include vegetables and fruits with tariff rates exceeding 10%, pineapples with a tariff rate of 29%, and fish and fish products with a tariff rate of 26%. Thailand, which is the world's third largest producer of sugar, will also likely seek substantial liberalization of the U.S. sugar quotas.[21]

Since agricultural barriers are higher than non-agricultural barriers, liberalization could boost trade more in agricultural products than in manufactured goods. U.S. farm groups estimate that potential U.S. agricultural exports to Thailand could increase by around $300 million annually if Thailand's tariffs and other trade-distorting measures were substantially reduced.[22] Similar large increases in Thai agricultural exports to the United States can be expected if substantial liberalization occurs.

Intellectual Property Rights

Deficiencies in Thai protection of intellectual property (patents, copyrights, and trademarks) have been a longstanding U.S. concern. The USTR's 2003 "Special 301" report noted that Thailand had recently taken a number of measures to improve IPR protection, but stated that the United States was concerned with the "explosion of copyright piracy within its borders."[23] The International Intellectual Property Rights Alliance (IIPA) estimates that IPR piracy in Thailand cost U.S. firms $160 million in 2002.[24]

While Thailand has taken positive steps to curtail the open sale of pirated media products (video, audio, and software), U.S. IPR stakeholders maintain that it has not

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[18] TDRI Study, p.44.

[19] TDRI Study, p. 55.

[20] Office of the U.S. Trade Representative, *2002 National Trade Barriers Report*, p. 373.

[21] *BNA, International Trade Reporter,* "Thai Minister Calls on United States To Resist Special Interests in FTA Talks," April 1, 2004.

[22] Office of the U.S. Trade Representative, *2002 National Trade Barriers Report*, p. 373.

[23] USTR, *Special 2003 IPR Report*, May 1, 2003.

[24] IIPA, *2003 Special 301 Report, Thailand,* available at [http://www.iipa.com].

adopted a rigorous regime to crack down on pirated optical disc production or its export. They argue that copyright and optical media legislation pending in the Thai parliament contain particular deficiencies. U.S. manufacturers are pushing for an amendment that would require an optical disc facility to prove its copyright authorization to receive a production license.[25]

U.S. IPR stakeholders lobbied hard to see Thailand make more progress on the pending legislation before the FTA negotiations were formally announced. In deference to these concerns, U.S. Trade Representative Zoellick, in announcing the intention to begin negotiations, recognized their "... concerns about the deficiencies in Thailand's protection of intellectual property and in its customs regime. Addressing these issues, as well as other areas such as strengthening measures against the production of illegal optical discs, will be essential for the successful conclusion of these negotiations."[26]

Trade in Services

Services such as commerce (wholesale and retail trade), transportation, telecommunications, and finance account for a growing share of economic activity in Thailand. In 2002, services accounted for about 55% of GDP and about 40% of employment. A large share of foreign investment goes into services, especially in finance and retail trade.[27]

U.S. negotiating objectives are likely to include improvements in access for U.S. providers of financial, telecommunications, and professional services, and other sectors. Liberalization of these sectors is likely to be accompanied by improvements in Thailand's regulatory environment, as well as capacity to oversee and insure effective competition.

In pursuing these objectives, U.S. negotiators are likely to insist on according greater market access across each other's entire services sector, subject to a few exceptions that must be in writing. This so-called negative list approach was used in the Singapore FTA and is supported by many Members of Congress. Exceptions in the Singapore agreement deal with sectors that usually require government certification or licenses (lawyers, accountants) involve government institutions (airports, provision of social security, public hospitals, government corporations), or involve national policy (atomic energy).[28]

Major financial institutions in Thailand include the central bank, commercial banks, finance companies, securities companies, and insurance companies. Following the 1997 Asian financial crisis, Thailand increasingly deregulated and liberalized access of foreign firms to its financial sector. For example, foreign equity

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[25] *Inside U.S. Trade*, "Bush Announces FTA with Thailand As It Puts G-21 At Distance," October 24, 2003.

[26] Statement available the Office of the United States Trade Representative website.

[27] *WTO Trade Policy Review - Thailand*, p. 77.

[28] CRS Report RL31789, *The U.S.-Singapore Free Trade Agreement*, by Dick K. Nanto.

limits were relaxed for ten years to allow foreign ownership of up to 100% (previously 25%) in commercial banks and finance companies. However, new capital invested in these companies after the ten-year period must be provided by domestic investors until foreign-held equity share falls to 49%. Other restrictions concerning the number branches foreign banks may operate, as well as limits on the number of expatriate professionals that can be employed, could also be raised in the negotiations. Similarly, in the area of brokerage services, foreign firms are allowed to own shares greater than 49% of Thai securities firms only on a case-by-case basis.[29]

Thailand's communications market is characterized by limited competition and relatively high prices. While Thailand has committed to open up telecommunications services to direct foreign competition by January 2006, the reform process has lagged. Although the Thai Government has allowed foreign participation in the telecommunications sector since 1989, the market is still dominated by two state-owned companies: the Communications Authority of Thailand, which controls international services, and the TOT Corporation and Public Company Limited, which controls domestic services. A few private sector companies have been awarded concessions by the Thai government to provide wireless and fixed-line services. Pending establishment of a National Telecommunications Commission to serve as an independent regulator, deregulation and full liberalization of the telecommunications market is likely to be difficult.[30]

Liberalization of other services such as legal, construction, architecture, engineering, and accounting are also likely to be U.S. negotiating objectives. Various Thai laws currently make it very difficult for foreign-owned companies and nationals to operate in these industries.[31]

Investment

The United States has an investment agreement with Thailand under the 1966 Treaty of Amity and Economic Relations (AER). The treaty accords the same rights to U.S. and Thai citizens and companies to own and operate in each other's territory with the exception of professional services and several sectors such as communications, transportation, and depository banking.

Initially, the AER provided few benefits to U.S. investors because Thailand at the time had few laws and regulations restricting foreign investment. Over time, however, Thailand instituted new laws and regulations that limited foreign nationals' operations in Thailand. As a result, the legal treatment accorded by the 1966 treaty became preferences extended only to U.S. investors. Consequently, the AER came to violate Thailand's WTO obligations to accord equal treatment to all member

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[29] Office of the United States Trade Representative, *2002 Trade Barriers Report*, p. 378.

[30] *WTO Trade Policy Review - Thailand*, p. 84.

[31] Office of the United States Trade Representative, *2002 Trade Barriers Report*, pp. 377-378.

states. Thailand received an exemption from the WTO for ten years, but the exemption expires in January 2005.

The FTA negotiations may consider ways to construct a bilateral investment agreement that is WTO-consistent but still retains current privileges for U.S. companies and nationals. With over 1200 U.S. companies currently taking advantage of the rights protected by the AER, the issue could become a top priority for the U.S. business community.[32]

U.S. negotiators may also make establishment of a special investor-state dispute mechanism a priority objective. Such a mechanism could ensure neutral and binding third-party resolution of disputes involving foreign investors and the host country.

Thailand's plans for reforming and privatizing a number of state-owned companies continues to be a matter of great interest to foreign investors. The Thai government's plan to overhaul state-owned telecommunications, energy, and transport companies has encountered widespread opposition from labor unions, causing indefinite delays in planned share offerings of the Electricity Generating Authority of Thailand, Thailand's largest state-owned company.[33]

Congress and the U.S.-Thailand FTA

The U.S.-Thailand FTA negotiations are of interest to Congress because (1) an agreement would require passage of implementing legislation to become operational; (2) an agreement could increase U.S. exports of goods, services, and investment; (3) an agreement could increase competition for U.S. import-competing industries such as textiles and apparel and pick-up trucks; and (4) if an agreement is implemented, Thailand would become the second Asian FTA partner (the first was Singapore) for the United States.

Under the Trade Promotion Authority (TPA) of the Trade Act of 2002, the President has the authority to negotiate FTAs that can only be approved or rejected, not amended, by Congress. Six bilateral agreements are currently operational(Israel, NAFTA, Jordan, Chile, Singapore, and Australia) and two others (Dominican Republic-Central America and Morocco) go into effect next year. An FTA with Bahrain awaits congressional approval, and negotiations are ongoing for South African Customs Union, Andean Community, and Panama.

Before negotiations for the FTA are launched, the Administration must consult with the Congressional Oversight Group, the Senate Finance Committee, the House Ways and Means Committee and other committees with jurisdiction over issues included in the negotiation. Additional consultations are required for aspects of the negotiations relating to agriculture, fisheries, and textiles.

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[32] TDRI Study, p. 103.

[33] Crispin, Shawn W. "Thailand's Drive to Privatize Hits A Few Hurdles," *Wall Street Journal*, March 11, 2004, p. 7.

Many Members of Congress support an aggressive FTA strategy because of the potential to open foreign markets further to U.S. exports and investment. While the Administration's policy of negotiating multiple FTAs has not been very controversial, some Members have expressed concerns that the Administration's criteria for deciding on FTA partners has relied too heavily on foreign policy considerations. In the case of Thailand, however, the same Members welcomed the announcement of the Thailand FTA because Thailand represents a relatively large market that offers significant commercial gains, particularly to U.S. agricultural producers.[34]

In support of the negotiations, a U.S.- Thailand Free Trade Agreement Business Coalition and a congressional caucus were launched on March 23, 2004. Corporate co-chairs of the business coalition are FedEx, General Electric, New York Life International, Time Warner, Qualcomm Inc., and Unocal Corporation. Co-chairs of the congressional caucus are Representatives Jim Ramstad (R-MN) and William Jefferson (D-LA) in the House and Senators Gordon Smith (R-OR) and Max Baucus (D-MT) in the Senate.

At the same time, some congressional concern has surfaced in regard to automotive trade, centered on the impact that a reduction of the current 25% U.S. tariff on pick-up trucks could have on imports and U.S. jobs. Thailand is the world's second largest producer of pick-up trucks, and both Japan and U.S. automakers have operations there.

Senators George Voinovich (R-OH) and Carl Levin(D-MI), co-chairs of the Senate Auto Caucus, in a November 12, 2003 letter, urged the Bush Administration to retain the 25% tariff out of concern that its elimination would open the door for Japan to export trucks from Thailand to the United States. A similar letter was signed by the chairs of the House Auto Caucus, Representatives Dale Kildee (D-MI) and Fred Upton (R-MI).[35] On the Senate side, a group of 40 Senators (36 Democrats and 4 Republicans) sent a similar letter to U.S. trade officials on March 18, 2005.

A different approach to this concern is embodied in S.Con.Res. 90 introduced by Senators Levin and Voinovich on February 23, 2004, and H.Con.Res. 366, introduced February 24, 2004, by Representatives Kildee, Quinn, and Levin. Because Japan and other countries could benefit from bilateral concessions agreed to between the United States and Thailand, the resolutions maintain that negotiations affecting access to the U.S. automotive market should only take place if all major automobile producing countries participate.

Other members of Congress may wish to consider how a U.S.-Thai FTA could affect U.S. commercial relations in Asia in general, particularly in light of the trend among Asian countries for bilateral trade agreements. China's growing economic role in Asia and its quest for new markets, materials, and trade deals is pushing almost

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[34] *Inside U.S. Trade*, "Bush Announces FTA with Thailand As It Puts G-21 At Distance." October 24, 2003.

[35] *Inside U.S. Trade*, "U.S. Seeks Thailand FTA Despite Opposition On IPR; Autos May Pose Problem," February 20, 2004.

every other major Asian country, including Japan and South Korea, to consider FTAs with each other.[36] Given the increased competition, the U.S.-ASEAN Business Council in a recent report calls for a vigorous timetable for the U.S.-Thai FTA talks and designation of the next ASEAN country with which the United States will seek an FTA.[37] Accordingly, U.S. trade strategy toward the ten-nation ASEAN grouping, which is the third largest market for U.S. exports, could be an important congressional consideration.

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[36] *The Economist*, "Why Asian countries are Racing to Sign Bilateral Trade Deals with Each Other," February 28, 2004, pp. 39-40.

[37] *BNA: International Trade Reporter*, "Business Group Call on U.S. Government to Strengthen Trade Links with ASEAN," March 11, 2004.

Appendix A. U.S. Imports from Thailand, Customs Value by Two-Digit Harmonized System Commodity Codes, 2001-2003

(Millions of U.S. Dollars)

HS	Commodity Description	2001	2002	2003
	Total	14,727.2	14,792.9	15,180.7
85	Electrical Machinery	3,024.4	3,275.7	3,349.9
84	Machinery	2,522.0	2,596.1	2,356.0
71	Precious Stones, Metal	850.5	899.5	1,000.8
61	Knit Apparel	992.3	940.1	900.2
62	Woven Apparel	847.1	807.6	841.9
16	Prepared Meat, Fish, etc.	749.5	758.7	772.9
40	Rubber	555.9	650.8	762.7
03	Fish and Seafood	867.0	587.1	651.7
94	Furniture and Bedding	310.6	398.0	420.0
39	Plastic	201.1	214.6	336.0
90	Optical, Medical Instruments	384.0	367.1	311.0
64	Footwear	314.5	279.8	285.3
95	Toys and Sports Equipment	270.9	254.8	265.2
20	Preserved Food	150.4	163.9	208.1
73	Iron/Steel Products	169.0	178.6	193.6
91	Clocks and Watches	83.2	76.6	165.3
44	Wood	161.0	177.1	160.1
98	Special Other	98.1	109.6	155.3
42	Leather Art; Saddlery; Bags	381.0	233.5	154.0
63	Miscellaneous Textile Articles	137.0	145.4	144.9
10	Cereals	106.5	95.0	132.5
87	Vehicles, Not Railway	97.6	122.1	131.8
69	Ceramic Products	133.3	123.0	128.4
76	Aluminum	144.5	113.9	116.5
99	Other Special Improvement Provisions	111.2	109.6	112.0
25	Salt; Sulfur; Earth, Stone	109.9	119.2	98.2
21	Miscellaneous Food	59.0	71.8	76.9
70	Glass and Glassware	58.3	53.3	63.1
83	Miscellaneous Articles of Base Metal	34.0	43.1	55.5
55	Manmade Staple Fibers	53.3	60.8	53.6
52	Cotton and Yarn, Fabric	71.7	71.2	49.0
19	Baking Related	32.5	39.6	47.7
72	Iron and Steel	30.0	58.9	42.5
48	Paper, Paperboard	31.7	34.9	38.0

HS	Commodity Description	2001	2002	2003
27	Mineral Fuel, Oil, etc.	84.6	25.8	37.2
74	Copper and Articles Thereof	38.2	36.6	34.2
23	Food Waste; Animal Feed	22.4	25.8	33.8
96	Miscellaneous Manufacturing	35.9	35.5	33.7
17	Sugars	30.4	21.3	29.4
22	Beverages	16.7	24.1	29.3
08	Edible Fruit and Nuts	19.4	20.0	26.2
34	Soap, Wax, etc; Dental Preparations	19.5	21.4	24.8
24	Tobacco	25.4	14.6	23.9
49	Books, Newspapers; Manuscripts	22.5	21.7	23.5
54	Manmade Filament, Fabric	29.7	27.1	22.9
67	Artificial Flowers, Feathers	29.0	23.7	22.1
32	Tanning, Dye, Paint, Putty	18.1	18.0	17.2
05	Other of Animal Origin	22.9	21.0	16.8
33	Perfumery, Cosmetic, etc.	8.9	8.9	15.8
82	Tool, Cutlery, of Base Metals	7.9	9.5	15.3
41	Hides and Skins	12.0	13.1	13.2
68	Stone, Plaster, Cement, etc.	11.0	16.1	13.1
57	Textile Floor Covering	11.2	11.2	11.3
56	Wadding, Felt, Twine, Rope	9.1	9.2	10.0
06	Live Trees and Plants	8.1	7.5	9.2
58	Special Woven Fabric, etc.	7.8	9.5	8.6
30	Pharmaceutical Products	2.0	3.7	8.6
38	Miscellaneous Chemical Products	7.1	7.9	8.3
59	Impregnated Textile Fabrics	7.0	7.5	8.2
92	Musical Instruments	7.5	8.2	7.9
09	Spices, Coffee, and Tea	15.6	4.4	7.8
35	Albumins; Mod Starch; Glue	7.9	8.6	7.6
11	Milling; Malt; Starch	7.1	7.9	7.5
65	Headgear	6.1	5.7	6.4
18	Cocoa	2.8	5.5	6.3
13	Lac; Vegetable Sap; Extract	5.2	3.0	6.3
29	Organic Chemicals	6.6	5.6	6.2
12	Miscellaneous Grain, Seed, Fruit	6.8	6.8	5.9
60	Knit, Crocheted Fabric	9.5	7.0	5.7
81	Other Base Metals, etc.	16.4	8.7	5.0
50	Silk; Silk Yarn, Fabric	5.8	5.1	4.7
28	Inorganic Chemicals; Rare Earth	0.9	15.5	4.4

HS	Commodity Description	2001	2002	2003
66	Umbrella, Walking-sticks, etc.	6.6	4.9	4.0
07	Vegetables	5.0	5.6	3.1
97	Art and Antiques	3.3	3.5	2.9
04	Dairy, Eggs, Honey, etc.	2.0	6.0	2.7
46	Straw, Esparto	1.5	1.6	1.9
14	Other Vegetable	0.6	0.6	1.3
88	Aircraft, Spacecraft	1.7	1.1	1.0
15	Fats and Oils	0.7	0.8	0.9
80	Tin and Articles Thereof	1.0	1.0	0.9
36	Explosives	0.08	0.9	0.9
26	Ores, Slag, Ash	0.7	0.5	0.8
86	Railway; Traffic Sign Equipment	0.4	0.2	0.4
01	Live Animals	0.1	0.04	0.3
37	Photographic/Cinematographic	0.5	0.3	0.2
53	Other Vegetable Textile Fiber	0.2	0.4	0.2
79	Zinc and Articles Thereof	0.02	0.1	0.2
51	Animal Hair and Yarn, Fabric	0.02	0.04	0.05
75	Nickel and Articles Thereof	0.09	0.08	0.04
47	Wood Pulp, etc.	0.2	0.1	0.03
45	Cork	0.1	0.1	0.03
89	Ships and Boats	1.5	1.0	0.03

Appendix B. U.S. Exports to Thailand by Two-Digit Harmonized System Commodity Codes, 2001-2003

(Millions of U.S. Dollars)

HS	Commodity Description	2001	2002	2003
	Total	5,989.4	4,860.2	5,841.7
85	Electrical Machinery	1,957.8	1,332.1	1,319.4
84	Machinery	1,001.3	921.3	1,089.0
88	Aircraft, Spacecraft	560.7	231.9	782.1
90	Optical, Medical Instruments	208.5	190.1	226.4
39	Plastic	174.7	194.1	210.6
12	Miscellaneous Grain, Seed, Fruit	131.5	116.6	183.9
29	Organic Chemicals	161.8	150.3	177.0
71	Precious Stones, Medals; Coins	111.5	144.3	174.0
52	Cotton and Yarn, Fabric	106.1	126.4	157.1
98	Special Other	149.2	130.0	136.4
72	Iron and Steel	6.8	28.4	97.0
23	Food Waste; Animal Feed	93.9	101.3	78.5
38	Miscellaneous Chemical Products	96.5	97.5	75.0
41	Hides and Skins	72.6	60.3	70.0
47	Wood Pulp, etc.	51.6	63.8	69.7
33	Perfumery, Cosmetic, etc.	35.9	47.0	63.0
31	Fertilizers	57.7	40.5	56.5
10	Cereals	57.7	63.8	55.6
87	Vehicles, Not Railway	143.9	57.5	49.3
70	Glass and Glassware	131.2	75.0	44.4
28	Inorganic Chemicals; Rare Earth	48.2	41.5	43.8
27	Mineral Fuel, Oil, etc.	53.4	39.4	39.6
73	Iron/Steel Products	27.6	28.2	39.2
48	Paper, Paperboard	48.5	54.4	37.5
30	Pharmaceutical Products	45.3	35.9	37.0
32	Tanning, Dye, Paint, Putty	23.8	28.3	34.0
03	Fish and Seafood	23.0	22.0	33.7
56	Wadding, Felt, Twine, Rope	3.9	7.6	32.3
34	Soap, Wax, etc.; Dental Preparations	25.5	28.0	30.5
40	Rubber	21.7	23.5	30.3
44	Wood	25.1	31.4	26.7
76	Aluminum	41.1	31.3	26.5
21	Miscellaneous Food	12.8	19.0	25.3
16	Prepared Meat, Fish, etc.	11.9	12.6	17.0

HS	Commodity Description	2001	2002	2003
20	Preserved Food	15.4	17.1	16.8
08	Edible Fruit and Nuts	11.4	12.1	16.2
49	Book and Newspaper; Manuscripts	8.7	12.3	15.9
54	Manmade Filament, Fabric	10.9	13.0	15.5
25	Salt; Sulfur; Earth, Stone	15.9	15.0	13.2
95	Toys and Sports Equipment	11.9	15.8	12.6
35	Albumins; Mod Starch; Glue	9.7	12.5	12.3
24	Tobacco	23.1	22.1	11.7
94	Furniture and Bedding	13.1	9.5	11.5
82	Tool, Cutlery, of Base Metals	12.3	12.5	10.3
13	Lac; Vegetable Sap; Extract	8.6	8.2	10.0
04	Dairy, Eggs, Honey, etc.	10.0	17.3	8.8
83	Miscellaneous Articles of Base Metals	6.9	8.0	8.1
01	Live Animals	4.5	7.5	8.0
17	Sugars	4.6	7.3	7.0
68	Stone, Plaster, Cement, etc.	4.6	7.0	6.2
74	Cooper and Articles Thereof	4.9	6.2	6.1
96	Miscellaneous Manufacturing	7.8	8.3	5.7
59	Impregnated Textile Fabrics	6.5	5.3	5.5
93	Arms and Ammunition	8.1	4.8	5.3
64	Footwear	4.6	3.8	5.2
55	Manmade Staple Fibers	5.8	4.5	4.4
18	Cocoa	1.0	4.0	4.0
69	Ceramic Products	2.4	2.4	3.8
81	Other Base Metals, etc.	3.8	0.7	3.4
37	Photographic/Cinematographic	2.6	4.0	3.2
19	Baking Related	4.0	3.3	3.2
02	Meat	2.5	2.8	3.0
36	Explosives	2.3	2.8	3.0
60	Knit, Crocheted Fabric	1.7	2.8	2.6
61	Knit Apparel	0.8	0.8	2.5
89	Ships and Boats	0.2	0.6	2.5
92	Musical Instruments	1.8	2.0	2.4
22	Beverages	2.5	3.3	2.2
15	Fats and Oils	1.6	1.4	2.2
63	Miscellaneous Textile Articles	1.8	2.6	2.0
05	Other of Animal Origin	4.9	6.6	1.9
07	Vegetables	1.1	1.3	1.6

HS	Commodity Description	2001	2002	2003
42	Leather Art; Saddlery; Bags	1.7	1.0	1.6
75	Nickel and Articles Thereof	0.9	0.7	1.5
86	Railway; Traffic Sign Equipment	9.0	1.8	1.5
57	Textile Floor Covering	0.7	0.6	1.4
09	Spices, Coffee, and Tea	1.0	1.0	1.2
58	Special Woven Fabric, etc.	2.5	2.8	1.2
62	Woven Apparel	1.0	0.7	1.0
26	Ores, Slag, Ash	0.3	0.6	0.9
11	Milling; Malt; Starch	2.5	1.0	0.6
51	Animal Hair and Yarn; Fabric	0.9	0.7	0.5
97	Art and Antiques	0.7	0.2	0.3
45	Cork	0.02	0.03	0.3
91	Clocks and Watches	0.4	0.4	0.3
65	Headgear	0.3	0.2	0.2
78	Lead	0.1	0.3	0.2
46	Straw, Esparto	0.05	0.08	0.1
43	Fur Skin and Artificial Fur	0.06	0.04	0.09
06	Live Trees and Plants	0.004	0.02	0.08
79	Zinc and Articles Thereof	0.04	0.02	0.06
80	Tin and Articles Thereof	0.2	0.1	0.05
67	Artificial Flowers, Feathers	0.008	0.06	0.04