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Thai FTA Partners Enjoy Tariff Advantage over U.S. Suppliers

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Trade Policy Monitoring

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Report Highlights:

TH0031. Thailand's free trade arrangements have put many U.S. agricultural exports at a significant disadvantage; Thailand again reduced tariffs for many agricultural products to zero in 2010 in favor of her FTA partners, especially China, ASEAN countries, Australia, and New Zealand. U.S. exporters of fresh fruit, tree nuts, snack foods, processed foods, and wine and beer are struggling to remain price competitive in the Thai market.

Thailand's FTA's

Since the 1990's, Thailand has carried out an active trade liberalization agenda in a drive to increase bilateral trade. Thailand has bilateral agreements with Australia (2005), New Zealand (2005), India (2006), Japan (2007), and Peru (2009). As part of the ASEAN free trade area, and under the ASEAN Charter, Thailand has concluded free trade arrangements with Australia-New Zealand (2009), China (2002), India (2003), Japan (2008) and Korea (2009). Negotiations with the European Union and several South Asian countries are in the pipeline. This is an updated version of GAIN [TH7022 Thai FTA Partners Enjoy Tariff Advantages over U.S. Suppliers](#).

Thailand-Australia FTA

The Thailand-Australia Free Trade Agreement entered into force on January 1, 2005. Under the agreement, tariff barriers will phase out by 2020. Meat, dairy, grains and related products, fruit and vegetables, sugar, wine, beer and spirits and other processed foods will gain the greatest market access over time. Tariffs for hides and skins, wool and cotton were eliminated immediately. Thailand and Australia agreed to impose Special Safeguard Measures (SSG) for most sensitive agricultural products such as beef, pork, offal, dairy products, some fruits, and french fries. These products are subject to higher tariff rates if imports exceed volume thresholds.

Under Chapter 6, "Sanitary and Phytosanitary Measures and Food Standards", both countries reaffirm their rights under the WTO SPS and TBT Agreements. In addition, the agreement established an Expert Group on SPS and Food Standards to strengthen cooperation and consultations between the Parties' regulatory agencies it is intended to meet on an ad-hoc basis along with the Working Group on Agriculture. The agreement also allows for the Parties to cooperate on a product trace-back system for non-compliant consignments.

India-Thailand Free Trade Area

On October 9, 2003, Thailand and India signed a framework agreement mainly to initiate an Early Harvest Scheme. Under the Early Harvest Scheme, tariff rates for 82 products were reduced by 50 percent from September 1, 2004-August 31, 2005, by 75 percent from September 1, 2005-August 31, 2006, and 100 percent as of September 1, 2007. The agricultural products under the harvest scheme include rambutans, longans, mangosteens, mangoes, durians, fresh grapes, fresh apples, wheat, prepared/preserved salmon, prepared/preserved sardines, prepared/preserved mackerel, and prepared/preserved crab. A more comprehensive list of goods for tariff reductions was signed under the ASEAN-India Free Trade Area, as the Early Harvest Scheme's goals have been met.

Thailand-New Zealand Closer Economic Partnership (CEP)

Thailand and New Zealand's CEP entered into force on July 1, 2005. Thailand agreed to immediately eliminate tariffs and quotas on 52 percent of all imports from New Zealand. Overall tariffs will reach zero in 2020 and largely benefit New Zealand exports of dairy, meat, fruit and vegetables, seafood, forestry products, processed food and beverages. As with Australia, there are SSG for sensitive commodities.

Under Chapter 6 “Sanitary and Phytosanitary Measures” and Chapter 7 “Technical Barriers to Trade” of the agreement, Parties are required to uphold and enhance the WTO SPS and TBT agreements. The agreement also creates a Joint SPS Committee, which will be responsible for creating technical working groups, initiate, develop and review implementing arrangements on technical matters, and assess progress of priority market access interests. Under the latter point, side letters have been submitted in order for the Joint Committee to commence work on pest risk assessments for New Zealand potatoes for processing and Thai longan, lychee, mangosteen, ginger and durian.

Japan-Thai Economic Partnership Agreement

The Japan Thai Economic Partnership Agreement (JTEPA), signed in April 2007, took effect in November 2007. As a part of the agreement, Thai import tariffs for Japanese fresh fruits, including apple, persimmon, peach and pear, were eliminated immediately. In addition, tariffs on fresh melons and grapes were phased to zero in 2009, and for oranges, strawberries and cherries by 2012. Import tariffs for agricultural products that compete with U.S. products will be gradually reduced, including most seafood products (zero in 2012), confectionery (zero in 2015), chocolate products (zero in 2014), soup and broth preparations (zero in 2014), and beer (zero in 2012).

Under the “Agreement in Trade of Goods” both Parties reaffirmed full compliance with obligations under the WTO Agreement. The agreement does not have specific chapters on SPS or TBT measures.

Thailand-Peru Free Trade Area

The “Second Additional Protocol to the Protocol between the Republic of Peru and the Kingdom of Thailand to Accelerate the Liberalization of Trade in Goods and Trade Facilitation” was signed in November, 2009 but has yet to be implemented. This additional protocol is an amendment to the list of goods and specific rules of origin from the HS of 2002 to the 2007 system, and will enable the first protocol signed in 2005 to enter into force in early 2010. On the date of implementation, 70 percent of the traded goods between the Parties will benefit from duty free treatment, and another 20 percent will have their tariffs phased-out over 5 years.

The protocol includes Annex 2: Sanitary and Phytosanitary Measures and Annex 3: Technical Barriers to Trade. These annexes call for enhancing technical cooperation and improving transparency on measures, standards and conformance. Under Annex 2, the protocol calls for the establishment of a Joint Committee responsible for guidance, implementation and progress on SPS objectives.

ASEAN Free Trade Area

ASEAN was formed in 1967 with six member countries: Brunei, Indonesia, Malaysia, Philippines, Singapore and Thailand, and was subsequently joined by Cambodia, Laos, Myanmar and Vietnam. The former Thai Prime Minister Anand Panyarachun first floated the idea of an ASEAN Free Trade Area (AFTA) in June 1991. The AFTA came into force on January 1, 1993. The ASEAN member countries also signed an agreement on the Common Effective Preferential Tariff (CEPT) Scheme on January 28, 1992 to eliminate tariffs and non-tariff barriers in the region.

There are 4 categories of product lists covered under the CEPT Agreement: 1) Inclusion List (IL)- in which products covered are subject to immediate reduction in tariff; 2) Temporary Exclusion List (TEL)- in which products covered can be delayed for trade liberalization for a period of time; Sensitive

List (SL)- in which products covered are unprocessed agricultural products which are given a longer period of time; and 4) Exclusion List (EL)- in which products covered are permanently excluded from the free trade area to protect national security, public morals, human/animal/plant health, and articles of artistic, historic and archaeological value.

AFTA is on track towards achieving its end goal of 2010 for ASEAN-6 (Brunei, Indonesia, Malaysia, Philippines, Singapore and Thailand), and 2015 for CLMV (Cambodia, Laos, Myanmar, and Vietnam). Under the CEPT Agreement, Thailand's import tariff rates for 8,031 items, which covers all products except four agricultural products under the highly sensitive list (coffee, coconut, fresh cut flowers, and potatoes), are zero as of January 1, 2010.

The Agreement of Trade in Goods includes Chapter 8 "Sanitary and Phytosanitary Measures", which requires members to affirm their rights and obligations with respect to each other under the SPS Agreement. In order to implement this chapter, the ASEAN Committee on SPS Measures was formed and requires the committee to conduct yearly meetings.

The agreement also calls for eliminating non-tariff barriers (NTBs) on the following dates: Brunei, Indonesia, Malaysia, Singapore and Thailand by January 1, 2010; The Philippines by January 1, 2012 and Cambodia, Lao PDR, Myanmar and Viet Nam by January 1, 2015 with flexibilities up to 2018. The NTBs are being reported in the ASEAN Trade Repository.

ASEAN - Australia New Zealand Free Trade Area

The ASEAN-Australia New Zealand Free Trade Area Agreement was signed on February 2009 and implemented on January 1, 2010. This agreement has specific tariff commitments for Thailand. However some of the tariff reductions remain greater than those reductions under the Thailand-Australia and Thailand-New Zealand trade arrangements. Importers are able to choose the agreement under which they would like to trade.

Thai exporters will benefit by using local and regional products that meet the agreement's rules of origin criteria: 1) Wholly produced or obtained in a Party 2) Produced in a Party exclusively from originating materials from one or more of the Parties. 3) Not wholly produced or obtained in a Party provided that: a) the good has a regional value content of not less than 40 per cent of FOB, and the final process of production is performed within a Party; or b) the non-originating materials have undergone at least a change in tariff sub-heading level of the HS.

The agreement's chapters on "Sanitary and Phytosanitary Measures" and "Standards, Technical Regulations and Conformity Assessment Procedures" affirm the rights of the Parties under the WTO SPS and TBT Agreements. In addition, the agreement establishes a Sub-Committee on SPS that will monitor the progress achieved by the Parties in implementing their SPS commitments, and set up subsidiary working groups. The agreement also establishes a Sub-Committee on Standards, Technical Regulations and Conformity Assessment Procedures to promote and monitor the implementation and administration of standards, technical regulations and conformity assessment.

The agreement allows for authorities of any two Parties to meet and make decisions bilaterally. An initial assessment of the ASEAN-Australia/New Zealand Free Trade Area Agreement was provided in GAIN report [TH9037](#).

ASEAN-China FTA

The ASEAN-China Summit in Brunei in November 2001 established a framework for an ASEAN-China Free Trade Area (ACFTA) within ten years. The framework recognizes differences in the level of economic development among the Parties and provides for economic cooperation in (1) agriculture; (2) information and communication technology; (3) human resources development; (4) investment; and (5) Mekong River basin development.

Under the ACFTA framework, applied MFN tariff rates for products listed in the Normal Track have been eliminated starting in 2010 for the ASEAN 6 (Brunei, Indonesia, Malaysia, Singapore, and Thailand) and China. Tariff reduction obligations for Cambodia, Laos, Burma, Vietnam will be implemented over 10 years ending 2015.

Under the agreement's rules of origin, in order for products to gain preferential treatment, products must meet the following conditions: 1) Products wholly produced or obtained in a Party and 2) Products not-wholly produced: a) the ACFTA content is not less than 40 per cent of the FOB value; and b) the non-originating materials have undergone at least a change in tariff sub-heading level of the Harmonized System (HS).

Under the text of the "Agreement on Trade of Goods", Parties must reaffirm their commitments to abide by the provisions of the WTO disciplines on non-tariff measures, technical barriers to trade, sanitary and phytosanitary measures, subsidies and countervailing measures, anti-dumping measures and intellectual property rights. In addition, the Parties signed a MOU in 2009 outlining the terms for cooperation in the implementation of WTO's TBT agreement.

ASEAN-India Free Trade Area

ASEAN-India Free Trade Area Agreement (AIFTA) was signed on August 2009 and implemented on January 1, 2010. This agreement includes expands the number of goods that were not included in the Thai-India Free Trade Area Agreement. Thailand's tariff reductions under this agreement consist: 1) Normal Track: Products must eliminate their tariffs between January 1, 2013 and January 1, 2016. 2) Sensitive Track: Group A) tariffs must be reduced to 5 per cent by 2016 and Group B) tariffs must be phased-out by 2019. 3) Highly-Sensitive List: Tariff reduction commitments must be met by December 31, 2019 4) Exclusion List: No tariff reduction but products will be reviewed annually to determine if conditions are adequate for market access.

Under the agreement's rules of origin, in order for products to gain preferential treatment, products must be: 1) Wholly produced or obtained in a Party and 2) Products not-wholly produced: a) the AIFTA content is not less than 35 percent of the FOB value; and b) the non-originating materials have undergone a change in tariff sub-heading level of the HS.

Under Article 8 of the Agreement on Trade in Goods, the Parties affirm their rights and obligations under the SPS and TBT agreements.

ASEAN-Japan Comprehensive Economic Partnership

ASEAN -Japan Comprehensive Economic Partnership Agreement (AJCEPA) was signed on April 14,

2008. This comprehensive agreement complements and expands the coverage under the JTEPA. However, certain commodities with tariff reductions under JTEPA have more favorable tariff rates, although AJCEPA has a more inclusive list of commodities for tariff reduction. Importers are able to choose the agreement under which they would import.

Thailand's tariff reduction schedule is structured the following way: Group A) Products in this group will eliminate tariffs on the date the agreement is implemented. Group B) Products that must achieve tariff reduction to zero in 3 to 10 years. Group C) Shall apply base rate at the date of implementation. Group Q) Tariff elimination for products under WTO TRQ commitments. Group P) Tariff reduction to a base rate of 10 percent in ten years. Group X) Products excluded from tariff reduction.

For preferential tariff treatment, the agreement specifies the application of rules of origin on a case to case basis under the following categories: 1) Wholly obtained goods: a) produced in the territory of the exporting Party or b) is produced entirely in the Party exclusively from originating materials of one or more of the Parties. 2) Not wholly obtained or produced goods: a) goods whose regional value content is not less than 40% of the FOB value or b) a good that has undergone a change in tariff classification at the four digit-level of the HS.

Under Chapter 4 "Sanitary and Phytosanitary Measures" and Chapter 5 "Standards, Technical Regulations and Conformity Assessment Procedures" the agreement calls for Parties to reaffirm their rights and obligations under the SPS and TBT Agreements. Both chapters establish a Sub-committee for the effective implementation of Chapters 4 and 5.

ASEAN-Republic of Korea Free Trade Area

On February 27, 2009 Thailand signed protocols on the agreement on trade in services and trade in goods and implemented on January 1, 2010. Thailand was the last member to sign the protocols of the "Framework Agreement of the Comprehensive Economic Cooperation among ASEAN and the Republic of Korea." The agreement on trade in goods contains three lists for tariff reduction: 1) Normal track: Thailand must phase-out tariffs for products under this group by January 1, 2010. 2) Sensitive List: Products under this group must have reductions of 20 percent by January 1, 2012 and subsequently reduce tariffs to a rate of 0-5 percent by January 1, 2016. 3) Highly Sensitive List: Consists of five groups; i) Group A: Tariff lines subject to a 50 percent tariff rate capping by January 1, 2016. ii) Group B: Tariff lines subject to tariff reduction by 20 percent by January 1, 2016. iii) Group C: Tariff lines subject to tariff reduction by 50 percent by January 1, 2016. iv) Group D: Tariff lines subject to TRQs on the date the agreement enters into force. (v) Group E: Tariff lines exempted from tariff reductions.

For preferential tariff treatment, the agreement specifies the application of rules of origin on a case to case basis: 1) Wholly obtained goods produced in the territory of the exporting Party: 2) Wholly obtained goods produced in the territory of any Party. 3) Not wholly obtained or produced goods: a) Goods whose regional value content is not less than 40% of the FOB value or b) a good has undergone a change in tariff classification at four digit-level of the HS.

Article 7 of the Agreement on Trade in Goods calls for Parties to reaffirm their WTO commitments on non-tariff measures, technical barriers to trade, sanitary and phytosanitary measures, subsidies and countervailing measures, anti-dumping measures and intellectual property rights.

Appendix A: Applied Tariff Rates for U.S. Products and Thailand's FTA's Tariff Schedule in 2010

PRODUCT & HARMONIZED CODE	Applied Tariff	Aust FTA	NZ FTA	ASEAN-CHINA	JTPEA	ASEAN	India
MEAT OF BOVINE ANIMALS FRESH/CHILLED/FROZEN 0201 + 0202 (KG.)	50%	26.67%	27%	0%	25%	0%	50%
MEAT OF SWINE 0203.290.000	30%	20%	20%	0%	0%	0%	30%
MEAT OF SHEEP/LAMB 0204	30%	0%	0%	0%	0%	0%	30%
TURKEY & CUT OFFALS F/F 0207240-0207270	30% (except 0207.26: =40%	0%	0%	0%	16.67% (except 0227.06 =0%)	0%	30% (except 0207.26: =40%
SALMON (FROZEN,FRESH , CHILLED) 0303.110.001+ 0303.210.004+ 0303.220.005+ 0303.290.001+ 0302.110.007+ 0302.120.008+ 0302.190.004	5%	0%	0%	0%	1.67%	0%	5%
TUNAS 0303.410.008+ 0303.420.009+ 0303.430.004+ 0303.490.005+ 0302.310.000+ 0302.320.001+ 0302.330.002+ 0302.390.008	5%	0%	0%	0%	0303.4: 0% 0302.3: 1.67%	0%	5%
COD 0303.60	5%	0%	0%	0%	5%	0%	5%
SARDINES 0303.710.003	5%	0%	0%	0%	0%	0%	5%
MACKEREL 0303.740.006	5%	5%	5%	0%	5%	0%	5%
DOG FISH & OTHER SHARKS 0303.750.007	5%	0%	0%	0%	1.67%	0%	5%
SEA BASS 0303.770.009	5%	0%	0%	0%	1.67%	0%	5%
CRABS 0306.140.001	5%	0%	0%	0%	0%	0%	5%
SCALLOPS/CLAMS 0307.210.006+ 0307.290.003 (KGM)	5%	0%	0%	0%	1.67%	0%	5%
POWDER MILK & CREAM 0402	Quota tariff rate is different on sub Hscode	Quota tariff rate is different on sub Hscode	Quota tariff rate is different on sub Hscode	0% in quota	Quota tariff rate is different on sub Hscode	0% in quota	Quota tariff rate is different on sub Hscode

PRODUCT & HARMONIZED CODE	Applied Tariff	Aust FTA	NZ FTA	ASEAN-CHINA	JTPEA	ASEAN	India
CHEESE & CURD 0406	30%	20% (except 0406.40: =0%)	20% (except 0406.40: =0%)	0%	16.67% (except 0406.40: =12.86%)	0%	30%
FRESH POTATOES SEED (070110) TABLE OR STOCK (070190)	27% in-quota WTO 125% out-of-quota	48.64 tons TRQ 18% in-quota 125% out-of-quota	38.54 tons TRQ 18% in-quota 125% out-of-quota	0%	19.64%	5%	27% in-quota WTO 125% out-of-quota
DRIED PEAS, BEANS LENTILS 0713	30% (except 0713.10, 0713.20, 0713.31, 0713.40 = 5%)	0%	0%	0%	0% (except 0713.32.10, 0713.32.90: 15%)	0%	30% (except 0713.10, 0713.20, 0713.31, 0713.40 = 5%)
ALMONDS, FRESH/DRIED IN SHELL & SHELLED 0802110001+0802120002	10%	0%	0%	0%	0%	0%	10%
PISTACHIOS, FRESH/DRIED 0802.500.008	10%	0%	0%	0%	0%	0%	10%
ORANGE (MANDARIN, TANGERINS, SATSUMA 0805200	40%	15%	15%	0%	13.33%	0%	40%
GRAPEFRUIT, FRESH/DRIED 0805.400.002	40%	0%	0%	0%	13.33%	0%	40%
GRAPES, FRESH 0806.100.002	30%	15%	15%	0%	10%	0%	30%
RAISINS 0806.200.004	30%	0%	0%	0%	0%	0%	30%
APPLE (FRESH) 0808.10.0003	10%	0%	0%	0%	0%	0%	10%
PEARS & QUINCES 0808.20.0005	30%	0%	0%	0%	0%	0%	30%
CHERRIES (FRESH) 0809.20.0000	40%	0%	0%	0%	13.33%	0%	40%
PEACHES, INCL NECTARINES 0809.300.002	40%	0%	0%	0%	0%	0%	40%
PLUMS AND SLOES 0809.400.004	40%	0%	0%	0%	13.33%	0%	40%
COFFEE 0901.110.007+ 0901.120.008+ 0901.210.009+ 0901.220.004+ 0901.900.000	30% in Quota 90% out of Quota	22% in quota 90% out of Quota	22% in quota 90% out of Quota	30% in quota except 0901.90 = 40%	19.09% in quota	0%	30% in Quota 90% out of Quota
MAIZE EXCEPT SEED 1005.90.0000 (Raw kernel popcorn) 1005.90.0010	20% in Quota 73% out of Quota	14.68% in quota 73% out of Quota	0% in quota	20% in Quota 73% out of Quota	08 = 0% in quota	0% in quota	20% in Quota 73% out of Quota
SUNFLOWER/SUFFLOWER OIL (EDIBLE) 1512.191006	27%	0%	0%	0%	15%	0%	27%
SAUSAGES & SIMILAR PRODUCTS OF MEAT 1601	30%	0%	0%	0%	16.67%	0%	30%
SUGAR CONFECTIONERY 1704.100.007+ 1704.900.001	30%	0%	0%	0%	16.67%	0%	30%
CHOCOLATE & FOOD PREP. WITH COCOA 1806	10%	0%	0%	0%	5%	0%	10%

PRODUCT & HARMONIZED CODE	Applied Tariff	Aust FTA	NZ FTA	ASEAN-CHINA	JTPEA	ASEAN	India
MILKFOOD FOR INFANTS 1901.10.1009	5%	0%	0%	0%	5%	0%	5%
OTHER PREPS W/FLOUR MEAL OR STARCH 1901.909.004	5%	0%	0%	0%	5%	0%	5%
BREAKFAST CEREAL 1904.100.009	20%	0%	0%	0%	10%	0%	20%
POPCORN (Microwave popcorn) 1904.900.003	30%	0%	0%	0%	16.67%	0%	30%
FROZEN FRIES 2004.100.007	30%	15%	15%	0%	10%	0%	30%
JAMS, FRUIT JELLIES (2007) 2007.100.003+ 2007.910.009+ 2007.990.006	30%	0%	0%	0%	16.67%	0%	30%
PEANUT BUTTER 2008.110.200	30%	10%	10%	0%	16.67%	0%	30%
OTHER NUTS INC MIXTURES 2008.190.091	30%	0%	0%	0%	16.67%	0%	30%
CANNED PEACH 2008.700.004	30%	0%	0%	0%	16.67%	0%	30%
FRUIT & VEG JUICE 2009	10-30%	0%	0%	0% except 2009.80 and 2009.90 = 30%	16.67%	0%	10-30%
INSTANT COFFEE 2101.110.010+ 2101.120.010	40% in Quota 49% out of Quota	26.65% in Quota 49% out of Quota	0%	40% in Quota 49% out of Quota	25.45% in Quota 49% out of Quota	0%	40% in Quota 49% out of Quota
INSTANT TEA 2101.200.016	30%	0%	0%	0%	16.67%	0%	30%
TOMATO KETCHUP & OTHER TOMATO SAUCES 2103.200.004	30%	0%	0%	0%	12.85%	0%	30%
MUSTARD FLOUR & MEAL&PREPARED MUSTARD 2103.300.006	30%	0%	0%	0%	10%	0%	30%
OTHER SAUCES & PREP 2103.909.099	5%	0%	0%	0%	1%	0%	5%
OTHER SAUCES & PREP 2103.909.099	5%	0%	0%	0%	1%	0%	5%
SOUPS & BROTHS & PREPARATION 2104.100.008 + 2104.200.004	2104.100.008 =20% 2104.200.004 =30%	0%	0%	0%	2104.10: 6.67% 2104.20: 16.67%	0%	2104.100.008 =20% 2104.200.004 =30%
ICE CREAM 2105.000.001	30%	0%	0%	0%	16.67%	0%	30%
OTHER FOOD PREP 2106.900	5%	5%	5%	0%	38.18%	0%	5%

PRODUCT & HARMONIZED CODE	Applied Tariff	Aust FTA	NZ FTA	ASEAN-CHINA	JTPEA	ASEAN	India
BEER 2203.000.001	60%	0%	0%	0%	20%	0%	60%
CHAMPAGNE 2204.100.104	54%	20%	20%	0%	34.36%	0%	54%
OTHER SPARKLING WINES 2204.100.907	54%	0%	0%	0%	34.36%	0%	54%
WINE 2204210001+ 2204290009	54% for alcohol content not over 23%	20%	20%	0%	38.18%	0%	54% for alcohol content not over 23%
WHISKIES 2208.300.004	60%	0%	0%	0%	20%	0%	60%
DOG&CAT FOOD 2309.100.108+ 2309.100.905	9%	0%	0%	9.1%	0%	0%	9%
OTHER PET FOOD % OF 2309.900.001	9%	0%	0%	9.1%	3%	0%	9%