

# **Newsletter No 17 (EN)**

**What WTO means to your Business**  
January 2001

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## Executive Summary

The World Trade Organization (**WTO**) is an organization for the purpose of liberalizing international trade. It represents the depositary of its agreements which have been negotiated and adopted in sessions called “rounds.” The Uruguay Round (1986-1994) was the latest of eight rounds. During and between the rounds, negotiations continued on special aspects of trade and on bilateral tariff and services commitments. The WTO Agreement was intended to transform the GATT 1947 (the General Agreement on Tariffs and Trade) into a membership organization. The WTO is responsible for:

- implementing, administering, and carrying out the WTO Agreement and its annexes
- acting as a forum for ongoing multilateral trade negotiations
- serving as a tribunal for resolving disputes
- reviewing the trade policies and practices of its member states

The Final Act is made up of 3 parts. The first part introduces the other two parts. The second part is made up of the WTO Agreement and its annexes, of which there are two kinds: Multilateral Trade Agreements and Plurilateral Trade Agreements. Multilateral Agreements consists of 14 Agreements on Trade in Goods (including GATT 1994), the General Agreement on Trade in Services (GATS), the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), and the Trade Policy Review Mechanism (TPRM). These Agreements are binding to all members of the WTO. The third part contains the Ministerial Declarations, Decisions, and Understandings, which further clarify certain provisions of some of the agreements.

WTO member countries receive guarantees that their exports will be treated consistently in other countries’ markets. Each member promises to do the same for its imports while giving developing countries some flexibility in implementing their commitments. The agreements also bind governments of member countries to keep their trade policies within agreed limits for the benefit of member countries and the world as a whole.

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Although there are approximately 60 agreements and separated commitments (the so-called schedules) made by individual members, there are 4 agreements, which are of the most importance and in the interest of all member countries as well as the world as a whole ([GATT](#), [GATS](#), [TRIPS](#), [TRIMS](#)).

The original rules of the **General Agreement on Tariffs and Trade ([GATT](#))** provided the basic rules of the multilateral trading system. These rules, dealing only with trade in goods, were further supplemented and modified by several legal instruments between 1948 and 1995. One of the most important principles of [GATT](#) is the **Most Favored Nation Rule (MFN)**, which means that every time when a member state improves the benefits that it gives to one trading partner, it has to give the same “best” treatment to all other [WTO](#) members, so that they remain equal.

The **General Agreement of Trade and Services ([GATS](#))** which entered into force in 1995 is one of the prominent achievements of the Uruguay Round. It deals with services only. Although services represents not more than 20 % of the total trade it gets an increasingly importance due to the introduction of new transmission technologies such as electronic banking, tele-education services, communication and transport. The [GATS](#) consists of 2 different kind of obligations: General obligations and specific commitments. While general obligations are applicable directly and involuntarily to all member countries the specific commitments affect the market access and the national treatment in specific sectors. Exceptions under the [GATS](#) are allowed to protect the public morals or maintain public order and to protect human, animal or plant life or health.

The **Agreement on Trade Related Intellectual Rights** entered into force in 1995 and provides rules requiring Governments to ensure a certain (minimum) level of protection of Intellectual Property Rights such as copyrights and related rights (rights of Performers, producers of sound recordings), patents including the protection of new varieties of plants, trademarks including service marks. In addition it covers industrial designs, designs of integrated circuits and undisclosed information including trade secrets and test data. There are 2 major groups of provisions under the [TRIPS](#) Agreement. The first one, the general provisions compiling the minimum standards of protection to be provided by each member. The second major group deals with domestic enforcement procedures. Like the [GATS](#) Agreement under the [TRIPS](#) exceptions are allowed to protect life or health. For example the governments can refuse to grant patents for inventions whose commercial exploitation needs be prevented to protect human, animal or plants life or health diagnostic and surgical methods.

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The objection of the **Trade Related Investment Measures Agreement**, which entered into force in January 1995, is to facilitate investment across international borders so as to increase the economic growth of all trading partners. The **TRIMS** refers to the existing provisions under the GATT, thus the **TRIMS** Agreement doesn't apply to services. Under the **TRIMS** exceptions are allowed to protect public moral or maintain public order and to protect human or plant life. In addition there are exceptions for developing countries to deviate temporarily from the **TRIMS** Agreement.

The **Trade Policy Review Mechanism** was an early result of the Uruguay Round. Surveillance of national trade policies is an important activity running throughout the work of the **WTO**. The objectives of the **TPRM** include facilitating the smooth functioning of the multilateral trading system by enhancing the transparency of Members' trade policies. All member countries of the **WTO** are subject to review under the **TPRM**. The reports consist of detailed parts examining the trade policies and practices of the Member and describing trade policymaking institutions and the macroeconomic situation.

The legal basis for the **dispute settlement process** is the **Understanding on Rules and Procedures Governing the Settlement of Disputes**, Annex 2 of the **WTO** Agreement (**DSU**). Under the **DSU**, the "players" in a dispute settlement process are subject to certain rules aimed at ensuring due process and unbiased recommendations and rulings. The Uruguay Round **Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU)** contains a number of provisions regarding the specific interests of the developing and the least-developed countries. It also provides some special rules for the resolution of disputes for a Member who nevertheless believes that benefits are being nullified or impaired.

In addition to the above-mentioned tasks the **WTO** cooperate and share information with the **IMF** (**I**nternational **M**onetary **F**und), the World Bank and its associated development institutions, and the relevant development banks, for example, the **ADB** (**A**siatic **D**evelopment **B**ank).

Due to the **WTO** and its Agreements Thailand, which is a member of the **WTO**, has several commitments under the **WTO** such as lower tariffs for agricultural and industrial information technology products, lower subsidies for industrial and fish products. These commitments are the reason for new laws and amendments to the existing law, for instance the Patents Act, the Trademark Act, the Copyright Act etc. In spite of these new Regulations and Amendments, even in the field of intellectual

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property rights it will take more time and much more efforts to enforce the commitments under the [WTO](#) Agreements.

## 1. WTO (The World Trade Organization)

**Address:** World Trade Organization, Rue de Lausanne 154, CH-1211, Geneva 21, Switzerland

**Web site:** <http://www.wto.org/>

**Set up:** 1 January 1995

**Initial Member Countries:** 128

**Germany:** Member since 1 January 1995

**Thailand:** Member since 1 January 1995

**Fiscal Year 2000 Budget:** 127 million Swiss Francs

**Fiscal Year 2001 Budget:** 134 Million Swiss Francs

**Fiscal Year 2002 Budget:** 143 Million Swiss Francs

**Director General:** Dr. Supachai Panitchpakdi

### WTO in Brief

The World Trade Organization (**WTO**) is an organization for the purpose of liberalizing international trade while maintaining fairness in such trade.

The multilateral trading system of the WTO are made up of several WTO agreements, negotiated, signed, and ratified by a large majority of the world's trading nations. They are binding contracts providing member countries guaranteed trade rights.

Member countries receive guarantees that their exports will be treated equally in other countries' markets. Each member promises to do the same for its imports while giving developing countries some flexibility in implementing their commitments. The agreements also bind governments of member countries to keep their trade policies within agreed limits for the benefit of member countries and the world as a whole.

Although there are over 30,000 pages of approximately 60 agreements and separated commitments (the so-called schedules) made by individual members, there are 4

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agreements which are of most importance and in the interest of all member countries as well as the world as a whole. They are, namely:

- 1) General Agreement on Tariffs and Trades ([GATT](#)),
- 2) the General Agreement of Trade and Services ([GATS](#)),
- 3) the Trade Related Intellectual Property Rights ([TRIPS](#)), and
- 4) the Trade Related Investment Measures ([TRIMS](#)).

## Essential Agreements among WTO Member Countries:

### 1.1 [GATT](#) (the General Agreement on Tariffs and Trade)

**Entered into force:** 1 January, 1948

**Initial Contracting States:** 23

**Current Contracting States:** 128

**Germany:** signed on 1 October 1951 effective: 1 October 1951

**Thailand:** signed on 1 January 1995 effective: 1 January 1995

#### 1.1.1 Overview

The original General Agreement on Tariffs and Trade (now referred to as [GATT](#) 1947) provided the basic rules of the multilateral trading system from 1 January 1948 until the establishment of the World Trade Organization on 1 January 1995. These rules, dealing only with trade in goods, were further supplemented and modified by several legal instruments between 1948 and 1995 as a result of multilateral negotiations, protocols of accession, waivers, and other decisions. Articles of [GATT](#) 1947 dealing with several such as accession, joint action by the Contracting Parties (the signatories of the agreement) and consultations and complaints allowing [GATT](#) to function effectively as an international organization.

A further important feature of [GATT](#) 1947, however, was its “**grandfather clause**” included in the Protocol of Provisional Application. It provided that the rules in Part III of [GATT](#) 1947, which essentially dealt with non-tariff trade measures, need be applied only to the extent that they were not inconsistent with legislation in effect when a country acceded to [GATT](#). [GATT](#) 1994, which sets out the main [WTO](#) rules that bear specifically on trade in goods, is legally distinctive from [GATT](#) 1947. Many of its key elements have been carried over without changes from [GATT](#) 1947, for instance,

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the Most-Favoured-Nation ([MFN](#)) rule (Article I of both [GATT](#) 1947 and [GATT](#) 1994) and the provisions of Part IV, on trade and development.

Other Articles carried over into [GATT](#) 1994 have effectively been modified, sometimes substantially, by individual agreements negotiated in the Uruguay Round.

## 1.1.2 GATT 1994

The Marrakech Agreement Establishing the World Trade Organization states that the General Agreement on Tariffs and Trade 1994 (**GATT** 1994) is an instrument legally distinctive from GATT 1947 annexed to the Final Act of the United Nations Conference on Trade and Employment (Havana Conference).

## 1.1.3 Uruguay Round Understandings

The Uruguay Round Understandings incorporated into [GATT 1994](#) include those on: (i) interpretation of Article II: 1(b); (ii) interpretation of Article XVII; (iii) balance-of-payments provisions; (iv) interpretation of Article XXIV; (v) waivers of obligations; and (vi) interpretation of Article XXVIII.

## 1.1.4 The General Exceptions of GATT, “Article 20”

Negotiated as early as 1947, GATT Article XX “General Exceptions” underlies a number of specific instances in which [WTO](#) members (originally [GATT](#) contracting parties) may be excepted from GATT rules. These include two sets of circumstances for environmental protection. The Article states that:

**“Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:**

**“...(b) necessary to protect human, animal or plant life or health;**

**“...(g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;...”**

Paragraphs (b) and (g) are designed to allow [WTO](#) members to adopt policy measures that would normally be inconsistent with [GATT](#), when “necessary” to protect human,

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animal or plant life or health is in the meaning of environment), or natural resources. However, the opening paragraph of Article XX is designed to ensure that the [GATT](#)-inconsistent measures do not result in arbitrary or unjustifiable discrimination or constitute disguised protectionism.

## 1.2 GATS (the General Agreement of Trade and Services)

**Entered into force:** January 1995

**Germany** signed on: **15. April 1994** effective: **1 January 1995**

**Thailand** signed on: **28 December 1994** effective: **28 December 1994**

### 1.2.1 Overview

The creation of the [GATS](#) was one of the prominent achievements of the Uruguay Round, the results of which entered into force in January 1995. The [GATS](#) was inspired essentially by the same objectives as its counterpart in trade of goods, the [GATT](#).

Although services currently account for over 60 percent of global production and employment, they represent no more than 20 percent of total trade (Balance of Payments (**BOP**) basis). However, this seemingly modest share should not be underestimated since many services, which have long been considered genuine domestic activities, have increasingly become internationally mobile. This trend is likely to continue due to the introduction of new transmission technologies, for example, electronic banking, or tele-education services, the establishment of long-entrenched monopolies in many countries such as voice telephony and postal services. Combined with changing consumer preferences, such technical and regulatory innovations have enhanced the “tradability” of services and, thus, created a need for multilateral regulations.

### 1.2.2 Obligation Under GATS

Obligations contained in the [GATS](#) may be categorized into two broad categories: General obligations, which apply directly and involuntarily to all Members and services sectors, as well as commitments concerning **market access** and **national treatment** in specific sectors. Such commitments are laid down in individual country schedules whose scope may vary broadly among Members. The relevant terms and concepts are similar, but not necessarily identical to those used in the [GATT](#); for example, national treatment is a general obligation in goods trade and not negotiable as under the [GATS](#).

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## 1.2.3 General Obligations

**MFN Treatment:** Under Article II of the [GATS](#), Members are bound to provide immediately and unconditionally to services or services providers of all other Members “**treatment no less favorable than that accorded to like services and services suppliers of any other country**”. This results in a prohibition of preferential arrangements among groups of Members in individual sectors.

Derogations are permissible in the form of so-called **Article II-Exemptions**, which means Members were allowed to seek such exemptions before the Agreement entered into force. Contrary, new exemptions can only be granted to new Members at the time of accession or, with respect to current Members, by virtue of a waiver under Article IX: 3 of the [WTO](#) Agreement. All exemptions should, in principle, not last longer than 10 years and are subject to review. In addition, the [GATS](#) Agreement allows groups of Members to enter into economic integration agreements or to mutually recognize regulatory standards, certificates and the like if certain conditions are met.

## 1.2.4 Specific Commitments

**A.) Market Access:** Market access is a commitment in specified sectors. It may be made subject to various types of limitations enumerated in Article XVI (2). For example, limitations may be imposed on the number of services suppliers, service operations or employees in the sector; the value of transactions; the legal form of the service supplier; or the participation of foreign capital.

**B.) National Treatment:** A commitment to national treatment implies that the Member concerned does not use discriminatory measures benefiting domestic services or service suppliers. The key requirement is not to modify the conditions of competition in favor of the Member's own service industry.

Members are allowed to tailor the sector coverage and substantive content of such commitments as they see fit. The commitments thus tend to reflect national policy objectives and constraints both overall and in specific sectors. Although some Members have scheduled less than a handful of services, others have assumed market access and national treatment disciplines in over 120 out of a total of 160 consistent services. The existence of specific commitments further triggers certain obligations concerning, *inter alia*, the notification of new measures that have a significant impact on trade and the avoidance of restrictions on international payments and transfers.

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## 1.2.5 Exceptions

The [GATS](#) permits Members in certain circumstances to adopt and maintain measures in contravention of their obligations under the Agreement, including the [MFN](#) requirement or specific commitments. The relevant Article provides coverage, *inter alia*, for measures necessary to:

- (a) protect public morals or maintain public order;
- (b) protect human, animal or plant life or health; or
- (c) secure compliance with laws or regulations not inconsistent with the Agreement including, among others, measures necessary to prevent deceptive or fraudulent practices.

Moreover, the Annex on [Financial Services](#) entitles Members, regardless of other provisions of the GATS, to take measures including for the protection of investors, depositors, policyholders, or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system. Finally, in the event of serious BOP (balance of payments) difficulties, Members are allowed to temporarily restrict trade, on a non-discriminatory basis, despite the existence of specific commitments.

## 1.3 [TRIPS](#) (Trade Related Intellectual Property Rights)

Entered into Force: January 1995

### 1.3.1 Overview

The Trade Related Intellectual Property Rights ([TRIPS](#)) Agreement, entered into force on 1 January 1995, is so far the most comprehensive multilateral agreement on intellectual property. The areas of intellectual property that the [TRIPS](#) Agreement covers are copyright and related right, for example, the rights of performers, producers of sound recordings and broadcasting organizations, trademarks including service marks, geographical indications including appellations of origin, industrial designs, patents including the protection of new varieties of plants, the layout-designs of integrated circuits, and undisclosed information including trade secrets and test data. The [TRIPS](#) Agreement contains three main features as described below:

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## 1.3.2 General Provisions

The [TRIPS](#) Agreement sets forth the minimum standards of protection to be provided by each Member, and the Agreement requires primarily that the substantive obligations of the main conventions of the World Intellectual Property Organization (WIPO), the Paris Convention for the Protection of Industrial Property (**Paris Convention**) and the Berne Convention for the Protection of Literary and Artistic Works (**Berne Convention**), in their most recent versions, must be complied with.

The [TRIPS](#) Agreement inserts a substantial number of additional obligations on matters where the Paris and Berne conventions are silent. Thus, the [TRIPS](#) Agreement is thus sometimes referred to as a Berne and Paris-plus agreement.

## 1.3.3 Enforcement System

The second major group of provisions deals with domestic enforcement procedures. In addition, it contains provisions regarding civil, administrative, and criminal procedures as well as remedies available for right holders to effectively enforce their rights.

## 1.3.4 Exceptions

The rules are subject to some exceptions, for instance, Governments can refuse to grant patents for the reasons that may relate to public health such as inventions whose commercial exploitation needs to be prevented to protect human, animal or plant life or health diagnostic, therapeutic and surgical methods.

## 1.3.5 Dispute settlement

The [TRIPS](#) Agreement is part of the “single undertaking” resulting from the Uruguay Round negotiations. This implies that the [TRIPS](#) Agreement applies to all [WTO](#) members. It also means that the provisions of the agreement are subject to the integrated [WTO](#) dispute settlement mechanism contained in the Dispute Settlement Understanding [the “Understanding on Rules and Procedures Governing the Settlement of Disputes” ([DSU](#))].

## 1.4 TRIMS (the Trade Related Investment Measures Agreement)

Entered into Force: January 1995

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## 1.4.1 Objectives

The objectives of the [TRIMS](#) Agreement include “the expansion and progressive liberalization of world trade and to facilitate investment across international frontiers so as to increase the economic growth of all trading partners, particularly developing country members, while ensuring free competition”. For example, Thailand, in order to comply with [TRIMS](#), the Board of Investment announced the elimination of local content requirements.

## 1.4.2 Limitation of Coverage to Trade in Goods

The coverage of the [TRIMS](#) Agreement, as defined in Article 1, states that the Agreement applies to investment measures related to trade in goods only. Thus, the [TRIMS](#) Agreement does not apply to services.

## 1.4.3 The TRIMs Agreement and Regulation of Foreign Investment

As an agreement that is based upon existing [GATT](#), the [TRIMS](#) Agreement is not concerned with the regulation of foreign investment. The disciplines of the [TRIMS](#) Agreement focus on discriminatory treatment of imported and exported products and do not govern the issue of entry and treatment of foreign investment, for instance, a local content requirement, imposed in a non-discriminatory manner on domestic and foreign enterprises, is inconsistent with the [TRIMS](#) Agreement since it involves discriminatory treatment of imported products in favour of domestic products. The fact that there is no discrimination between domestic and foreign investors in the imposition of the requirement is inconsistent under the [TRIMS](#) Agreement.

## 1.4.4 Exceptions

**General exceptions:** Article 3 of the [TRIMS](#) Agreement provides that all exceptions under [GATT 1994](#) shall apply, as appropriate, to the provisions of the [TRIMS](#) Agreement.

**Developing countries:** Article 4 allows developing countries to deviate temporarily from the obligations of the [TRIMS](#) Agreement, as provided for in Article XVIII of [GATT 1994](#) and related [WTO](#) provisions on safeguard measures for balance-of-payments ([BOP](#)) difficulties.

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## 1.4.5 Dispute Settlement

The general [WTO](#) dispute settlement procedure, as laid down in the Dispute Settlement Understanding, also applies to disputes relating to the [TRIMS](#) Agreement.

## 1.5 TPRM (Trade Policy Review Mechanism)

Surveillance of national trade policies is an important activity running throughout the work of the [WTO](#). The Trade Policy Review Mechanism was an early result of the Uruguay Round. [TPRM](#) carries out periodic reviews of the trade policies and practices of all member states and prepares an annual overview of the international trading environments. The reviews take place in the Trade Policy Review Body operating under special rules and procedures. The reviews are essentially to peer group assessments, although much of the factual legal work is done by the [WTO](#) Secretariat. All Member countries of the [WTO](#) are subject to review under the [TPRM](#). The four Members with the largest shares of world trade (currently the European Communities, the United States, Japan and Canada) would be reviewed every two years, every four years for the next 16, and every six years for the others. A longer period may be fixed for least-developed Member countries. In 1996 it was agreed that every second review of each of the first four trading entities should be an “interim” review. The reports consist of detailed parts examining the trade policies and practices of the Member and describing trade policymaking institutions and the macroeconomic situation.

## 1.6 Dispute Resolutions

### 1.6.1 In Brief

The dispute settlement system of the [WTO](#) is generally considered to be one of the foundations of the multilateral trade order. Disputes currently being dealt with are subject to the rules, which include greater automaticity in decisions in terms of reference and composition of panels, such that these decisions are no longer dependent upon the consent of the parties to a dispute. The Dispute Settlement Body (DSB) will exercise the authority of the General Council and the Councils and committees of the covered agreements.

The Uruguay Round Understanding on Rules and Procedures Governing the Settlement of Disputes ([DSU](#)) contains a number of provisions regarding the specific interests of the developing and the least-developed countries. It also provides some

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special rules for the resolution of disputes for a Member who nevertheless believes that benefits are being nullified or impaired.

## 1.6.2 Purpose of rules of conduct in dispute resolution

Under the [DSU](#), the “players” in a dispute settlement process are subject to certain rules aimed at ensuring due process and unbiased recommendations and rulings. For instance, there must not be any *ex parte* communications with the panel or Appellate Body members concerning matters under consideration by the panel or the Appellate Body (Article 18.1 [DSU](#)).

## 1.6.3 Obligations under the WTO Rules of Conduct

Under the Rules of Conduct, covered persons are required to be independent and impartial and to respect the confidentiality of proceedings of bodies pursuant to the dispute settlement mechanism.

## 1.6.4 Arbitration as an alternative to dispute resolution through panel and Appellate Body procedure

Arbitration may be resorted to by parties to a dispute through mutual agreement (Article 25 [DSU](#)). The [DSU](#) does not contain detailed procedures regarding resort to arbitration, selection and operation of arbitrators or arbitrating entities under Article 25 [DSU](#). Parties to the dispute are free to apply the rules and procedures they deem appropriate.

## 1.6.5. Supervision of the compliance of [WTO](#)'s rules

A legal action of a private or juristic person due to non-compliance of [WTO](#)'s rules is not possible. Rather, the access to international law authorities is in principle reserved only to legal actions of governments and international organizations.

An exception of the above mentioned principle represents the appeal of an individual to the European Court for Human Rights. According to Article 34 European Convention on Human Rights and Fundamental Freedom an individual can take legal action against a state due to non-compliance of the human rights stated in the European Convention on Human Rights and Fundamental Freedom.

Another exception based on the World Bank agreement to settle international Investment Disputes represents the legal action by an investor to the **ICSID** (the International Center for Settlement of International Disputes).

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## Example: Banana dispute

Following the above-mentioned principle the US government lodged an appeal at the WTO concerning the European restrictions of import of bananas. However, it is interesting to note that the US-Government filed the appeal immediately after receiving a generous donation from Chiquita, a US Banana Company. Later on the competitor Dole participate with a donation as well.

## 1.7 Impacts on Thai laws

There are several issuances of new laws and amendments to the existing laws that are meant to conform with the commitments bound to the WTO such as:

- amendments to the Emergency Decree on Customs Tariff, the Customs Act, the Patents Act, the Trademarks Act, the Industrial Designs Act, the Copyrights Act, the Securities and Exchanges Act , etc;
- promulgations of the Act for Establishment of and Procedure for Intellectual Property and International Trade Court, the Trade Secrets Act, the ministerial regulations issued by virtue of the Emergency Decree on Customs Tariff, the WTO Operations Act, the Alien Business Operations Act, the Plant Variety Protection Act, the Competition Act, the Antidumping and Countervailing Act, the Financial Institutions Act, the Investment Promotion Act, the Life and Non-life Insurances Act, the Telecommunication Operations Act, etc.

## 2. WTO, the World Economy, and other Multilateral Bodies

Currently, the WTO is taking steps to try to overcome some of the structural deficiencies in all existing agreements. For example, the WTO Committee on Trade and Financial Services could take the lead in producing an inventory of all remaining barriers to market access and national treatment for all financial services, including any new barriers that are imposed in the absence of a standstill. In effect, such an inventory would be a non-contractual, non-binding negative list of barriers and facilitate the process of liberalization both domestically and internationally.

The WTO also cooperate and share information with the IMF (International Monetary Fund), the World Bank, and the relevant development banks, for example, the ADB (Asian Development Bank). These procedures focus especially on areas with potentially

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overlapping responsibility such as current [IMF](#) work on capital account convertibility. Since the [WTO](#) is a contractual trade institution, as contrary to a financial or development institution that provides funding upon certain conditions, its role vis-à-vis developing countries is very different from that of the other international institution. However, as the [WTO](#) becomes more involved with the financial services and other new areas, opportunities for creative interaction with others need to be fully explored.

## Other Significant and Related International Organizations

### 3. IMF (International Monetary Fund)

**Headquarters:** International Monetary Fund, 700 19th Street, N.W., Washington, D.C. 20431

**Telephone Operator:** (202) 623-7000

**Fax:** (202) 623-4661

**Web Site**<http://www.imf.org/>

**Established:** 27 December 1945

**Initial Member Countries:** 29

**Agreed in:** Bretton Woods, New Hampshire, USA

**Current Member Countries:** 183

**Governing Bodies:** Board of Governors, International Monetary and Financial Committee, and Executive Board

**Managing Director:** Horst Kohler (Germany)

**Staffs:** 2,500 (from 133 countries)

**Accounting Units:** SDR (Special Drawing Rights)/SDR 1 equaled USD1.28038 (as of August 15, 2001)

**Total Quotas:** SDR212.4 billions (USD272 billions) following a 45% quota increase effective January 22, 1999

#### 3.1 The Creation of the IMF

The [IMF](#), established in 1946, is an international organization of 183 member countries. The purposes of which are to promote international monetary assistance and cooperation, exchange stability, and orderly exchange arrangements.

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Its operations such as surveillance, financial assistance, and technical assistance have been developed in order to cope with the changing needs of its member countries as well as the fast-pace development of the world economy.

## 3.2 The Tasks of the IMF

The intended purposes underlying the creation of the [IMF](#) are, for example:

- To give advice and to assist nations with a lack of cash and financial support in the event of currency fluctuation and threatening bankruptcy,
- To promote international monetary cooperation through a permanent institution,
- To facilitate the expansion and growth of international trade,
- To promote exchange stability, to maintain orderly exchange arrangements among members, and to avoid competitive exchange depreciation,
- To assist in the establishment of a multilateral system of payments in respect of current transactions between members,
- To generate confidence by making the general resources of the Fund temporarily available to the members, and

## 3.3 The Organization of the IMF

The [IMF](#) acts as an intermediary between the will of the majority of the membership and the individual country with the sequence of operation of the [IMF](#) flowing from the governments of member countries to the [IMF](#).

### 3.3.1 Board of Governors

On top of the chain of command is the Board of Governors, one from each member, and an equal number of Alternate Governors. The Governors and their Alternates speak authoritatively for their governments since they are Ministers of Finance or heads of central banks.

The Governors assemble only at annual meetings to deal formally as a group regarding [IMF](#) matters. During the rest of the year, the Governors communicate, on behalf of their governments in respect of the IMF's day-to-day business, with their representatives form the IMF's Executive Board at headquarters in Washington, DC.

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## 3.3.2 Executive Board

The 24 Executive Directors, meeting at least three times a week in formal sessions, oversee the implementation of policies set by member governments through the Board of Governors. At present, eight Executive Directors represent individual countries, namely, China, France, Germany, Japan, Russia, Saudi Arabia, the United Kingdom, and the United States. The other Executive Directors each represent groups of the remaining countries.

The Executive Board rarely makes its decisions on the formal voting basis but relies mostly on the formation of consensus among its members, a practice minimizing confrontation on sensitive issues and promotes acceptance of the decisions ultimately made.

## 3.3.3 Managing Director

The [IMF](#) has total staffs of approximately 2,500, headed by a Managing Director, who also is the chairman of the Executive Board appointing him or her.

## 3.4 The IMF's Actions

### 3.4.1 Surveillance

Surveillance is the procedure through which the [IMF](#) appraises its members' exchange rate policies by virtue of a comprehensive analysis based upon the general economic situation and the policy strategy of each member.

The [IMF](#) fulfils its surveillance responsibilities through:

- 1) annual bilateral consultations with individual countries;
- 2) multilateral surveillance, especially the bi-annual World Economic Outlook (**WEO**) exercise; and
- 3) precautionary arrangements.

### 3.4.2 Financial Assistance

Financial assistance includes credits and loans extended by the [IMF](#) to Member Countries with [BOP](#) problems to support policies of adjustment and reform. As of June 30, 2001, the [IMF](#) had credit and loans outstanding to 90 countries for an amount of SDR 52.2 billion (approximately US\$65 billion).

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The [IMF](#) makes its financial resources available to Member Countries through a variety of financial facilities. In addition to its standard facilities (Stand-By Arrangements; the Extended Fund Facility; the Supplemental Reserve Facility; Contingent Credit Lines; and the Compensatory Financing Facility) the IMF also provides concessional assistance under its Poverty Reduction and Growth Facility (**PRGF**) and debt relief under the Heavily Indebted Poor Countries (**HIPC**) Initiative.

## 3.4.3 Technical Assistance

Technical assistance comprises of expertise and support provided by the IMF to its members in several broad areas: the design and implementation of fiscal and monetary policy; institution-building (such as the development of central banks or treasuries); the handling and accounting of transactions with the [IMF](#); the collection and refinement of statistical data; and training officials.

## 4. World Bank

### Headquarters - General Inquiries:

The World Bank, 1818 H Street, N.W. Washington, DC 20433 U.S.A.

**Tel:** (202) 477-1234

**Fax:** (202) 477-6391

**Web Site:** <http://www.worldbank.org/>

**Set up:** 1944

**Initial Member Countries:** 183

## 4.1 History of the World Bank

The World Bank's early operations were to extend financial aid to Europe after the World War II. Its first loan of USD 250 millions was granted to France in 1947 for post-war reconstruction. As Europe recovered, reconstruction still remained an important focus of the Bank's tasks. To date, aside from reconstruction, the Bank has sharpened its focus on poverty reduction as its ultimate goal.

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## 4.2 Main Tasks of the World Bank

- Investing in people, particularly through basic health and education programs,
- Focusing on social development, inclusion, governance, and institution building as key elements of poverty reduction,
- Strengthening the ability of the governments to deliver quality services efficiently and transparently,
- Protecting the environment,
- Supporting and encouraging private business development,
- Promoting reforms to create a stable macroeconomic environment, conducive to investment and long-term planning, and
- The responsibilities to finance big projects that help developing a country or that are for the benefit of a country.

## 4.3 The World Bank's Structure

The World Bank is owned by 183 member countries whose views and interests are represented by a Board of Governors and a Washington-based Board of Directors. The World Bank's President normally is a national of the largest shareholder, the United States. Elected for a five-year renewable term, the President acts as the chairman of the Board of Executive Directors and is responsible for overall management of the World Bank.

Although formerly having staffs of engineers and financial analysts located solely in Washington, D.C., the Bank currently has a multidisciplinary and diverse staffs including economists, public policy experts, sectoral experts, and social scientists, 40 percent of which are located in country offices. The Bank itself is a group encompassing five closely associated development institutions, namely:

- **IBRD** (the International Bank for Reconstruction and Development),
- **IDA** (the International Development Association),
- **IFC** (the International Finance Corporation),
- **MIGA** (the Multilateral Investment Guarantee Agency), and
- **ICSID** (the International Center for Settlement of Investment Disputes)

All five institutions have been working separately but in close collaboration.

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The World Bank raises money for its development programs by tapping into the world's capital markets, and, in the case of [IDA](#), through contributions from wealthier member governments.

## 4.4 The World Bank's Operations

The World Bank Group is the world's largest source of development assistance. The Bank that once extended USD 15.3 billions in loans to its client countries last year is now functioning in more than 100 developing economies, bringing a mixture of finance and ideas. For each of its clients, the Bank works with government agencies, nongovernmental organizations, and the private sector to formulate assistance strategies. Its offices in 67 countries implement the Bank's program in countries by cooperating with governments and civil society.

In addition to the [IDA](#) and the [IBRD](#), which provide loans and development assistance to middle-income countries and creditworthy poorer countries, the World Bank Group comprises of three other institutions:

**4.5 IFC** ([The International Finance Corporation](#)): IFC promotes private sector investment, both foreign and domestic, in developing member countries. Its work includes activities in some of the riskiest sectors and countries. [IFC](#) serves as an investor and an honest broker to balance each party's interest in a transaction, reassuring foreign investors, local partners, other creditors, and government authorities. [IFC](#) advises businesses entering new markets and governments trying to provide a more open business environment, to create effective and stable financial markets, or to privatise inefficient state enterprises.

**4.6 MIGA** (The [Multilateral Investment Guarantee Agency](#)): MIGA's mandate is to promote foreign direct investment by offering political risk insurance (guarantees) to investors and lenders, and by providing skills and resources to help emerging economies attract and retain such investment.

Projects [MIGA](#) supports typically convey direct benefits to host countries, including jobs created for local workers, accompanying and enduring investments in skills and training for employees, and a general impact on the national economy as a whole, as provided by tax revenues and foreign exchange earnings through exports.

**4.7 ICSID** (The [International Centre for Settlement of Investment Disputes](#)): [ICSID](#) provides facilities for the settlement, either by conciliation or arbitration, of investment disputes between foreign investors and their host countries.

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## 5. **ADB** (Asian Development Bank)

**Headquarters:**

6 ADB Avenue, Mandaluyong City, 0401 Metro Manila, the Philippines

**Tel:** (632) 632-4444

**Fax:** (632) 636-2444

**Mailing Address:** P.O. Box 789, 0980 Manila, the Philippines

**Web Site:** <http://www.adb.org/>

**Email:** information@adb.org

**Set Up:** August 22, 1966 in Manila, the Philippines

**Initial Member Countries:** 31

**Current Member Countries:** 59

**In Operation:** 19 December 1966

### 5.1 ADB in Short

[ADB](#) is a multilateral development finance institution dedicated to reducing poverty in Asia and the Pacific. Established in 1966, it is now owned by 59 members, mostly from the region. Headquartered in Manila, [ADB](#) has 22 offices worldwide with approximately 2,000 employees from nearly 50 countries.

### 5.2 Main Tasks of ADB

- To promote investment in the region of public and private capital for development purposes;
- To utilize the resources at its disposal for financing development of the developing member countries in the region;
- To meet requests from members in the region to assist them in the coordination of their development policies and plans with a view of achieving better utilization of their resources;
- To provide technical assistance for the preparation, financing and execution of development projects and programs, including the formulation of specific project proposals; and

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- To cooperate with the United Nations including the Economic Commission for Asia and the Far East.

## 5.3 Members

[ADB](#) was established in 1966 with 31 initial members. However, its membership has grown to 59 over the years, both within and outside the Asian and Pacific region.

The members of [ADB](#) are the following:

Afghanistan (1966), Australia (1966), Azerbaijan (1999), Bangladesh (1973), Bhutan (1982), Cambodia (1966), China, People's Republic of (1986), Cook Islands (1976), Fiji Islands (1970), Hong Kong, China (1969), India (1966), Indonesia (1966), Japan (1966), Kazakhstan (1994), Kiribati (1974), Korea, Republic of (1966), Kyrgyz Republic (1994), Lao People's Democratic Republic (1966), Malaysia (1966), Maldives (1978), Marshall Islands, Republic of the (1990), Micronesia, Federated States of (1990), Mongolia (1991), Myanmar (1973), Nauru (1991), Nepal (1966), New Zealand (1966), Pakistan (1966), Papua New Guinea (1971), Philippines (1966), Samoa (1966), Singapore (1966), Solomon Islands (1973), Sri Lanka (1966), Tajikistan (1998), Taipei, China (1966), Thailand (1966), Tonga (1972), Turkmenistan (2000), Tuvalu (1993), Uzbekistan (1995), Vanuatu (1981), Viet Nam, Socialist Republic of (1966)

### Countries Outside the Asian and Pacific Region

Austria (1966), Belgium (1966), Canada (1966), Denmark (1966), Finland (1966), France (1970), Germany (1966), Italy (1966), Netherlands (1966), Norway (1966), Spain (1986), Sweden (1966), Switzerland (1967), Turkey (1991), United Kingdom (1966), United States (1966)

**Note:** Germany is the third largest shareholder in ADB among its non-regional members. Overall, Germany is the ninth largest shareholder.

## 5.4 ADB Funds

5.4.1 Asian Development Fund (ADF): The Asian Development Fund (ADF) is designed to provide loans on concessional terms to Developing Member Countries (DMCs) with low per capita gross national product (GNP) and limited debt repayment capacity. The small size and location of countries may also constitute a criterion for [ADF](#) eligibility. The same strict standards for loan approval and administration, which apply to ordinary capital resources (OCR) loans, are applied to [ADF](#) loans.

5.4.2 Technical Assistance Special Fund (TASF): The Technical Assistance Special Fund (TASF) is an important source of grant financing for the Bank's technical assistance operations. It is funded by voluntary contributions of members.

5.4.3 Japan Special Fund (JSF): The Japan Special Fund (JSF), established in 1988, is administered by the Bank. It seeks to help [DMCs](#) restructure their economies and

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expand the scope for new investments by recycling funds as well as to support [DMCs](#)' efforts in industrialization, natural resource and human development, and technology transfer. [JSE](#) is used for financing or co-financing, on a grant basis, technical assistance, and private sector projects through equity investments.

5.4.4 Other Funds: [ADB](#) also manages the fund for the Japanese Scholarship Program and channel financing of grants provided by bilateral donors to support technical assistance and soft components of loans.

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## Table of Abbreviations

ADB:	<u>A</u> sian <u>D</u> evelopment <u>B</u> ank
ADF:	<u>A</u> sian <u>D</u> evelopment <u>F</u> und
BOP:	<u>B</u> alance- <u>O</u> f- <u>P</u> ayments
DMC:	<u>D</u> eveloping <u>M</u> ember <u>C</u> ountries
DSB:	<u>D</u> ispute <u>S</u> ettlement <u>B</u> ody
DSU:	The Uruguay Round Understanding on Rules and Procedures Governing the Settlement of Disputes
GATT:	<u>G</u> eneral <u>A</u> greement on <u>T</u> ariffs and <u>T</u> rades
GATS:	The <u>G</u> eneral <u>A</u> greement of <u>T</u> rade and <u>S</u> ervices
GNP:	<u>G</u> ross <u>N</u> ational <u>P</u> roduct
HIPC:	<u>H</u> eavily <u>I</u> ndebted <u>P</u> oor <u>C</u> ountries
IBRD:	The <u>I</u> nternational <u>B</u> ank for <u>R</u> econstruction and <u>D</u> evelopment
ICSID:	The <u>I</u> nternational <u>C</u> entre for <u>S</u> ettlement of <u>I</u> vestment <u>D</u> isputes
IDA:	The <u>I</u> nternational <u>D</u> evelopment <u>A</u> ssociation
IFC:	The <u>I</u> nternational <u>F</u> inance <u>C</u> orporation
IMF:	The <u>I</u> nternational <u>M</u> onetary <u>F</u> und
JSF:	<u>J</u> apan <u>S</u> pecial <u>F</u> und
MIGA:	The <u>M</u> ultilateral <u>I</u> vestment <u>G</u> uarantee <u>A</u> gency
MFN:	<u>M</u> ost- <u>F</u> avoured- <u>N</u> ation
OCR:	<u>O</u> rdinary <u>C</u> apital <u>R</u> esources
PRGF:	<u>P</u> overty <u>R</u> eduction and <u>G</u> rowth <u>F</u> acility
SDR:	<u>S</u> pecial <u>D</u> rawing <u>R</u> ights
TASF:	<u>T</u> echnical <u>A</u> ssistance <u>S</u> pecial <u>F</u> und
TRIMS:	The <u>T</u> rade <u>R</u> elated <u>I</u> vestment <u>M</u> easures <u>A</u> greement
TRIPS:	The <u>T</u> rade <u>R</u> elated <u>I</u> ntellectual <u>P</u> roperty <u>R</u> ights
WEO:	<u>W</u> orld <u>E</u> conomic <u>O</u> utlook
WIPO:	The <u>W</u> orld <u>I</u> ntellectual <u>P</u> roperty <u>O</u> rganization
WTO:	The <u>W</u> orld <u>T</u> rade <u>O</u> rganization

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## Appendix: Example of Commitments and Exemptions under GATS of Thailand and Germany

### Thailand

#### Commitments:

- **Engineering Services:** Subject to limitation on market access if commercially present and subject to limitation on national treatment (no limitation as long as foreign equity participation does not exceed 49%) if commercially present.
- **Telecommunications Equipment Sales Services:** Subject to limitation on market access if commercially present and subject to limitation on national treatment (no limitation as long as foreign equity participation does not exceed 49%) if commercially present.
- **Technical and Vocational Education Services:** Subject to limitation on market access if commercially present and subject to limitation on national treatment (no limitation as long as foreign equity participation does not exceed 49%) if commercially present.

#### Exemptions

- **Computer Reservation System Services:** Description of measures indicating its consistencies with Article II: Only airlines/CRS partners which are in Amadeus system can bring in and install their own system in Thailand; Countries to which the measure applies: Countries whose CRS operators are in Amadeus system and intend to bring in and install the systems to any travel agencies in Thailand; and Conditions creating the need for the exemption: To ensure that local operators are able to make complete access to the Amadeus system within a certain period of time.
- **Aircraft Repair and Maintenance Services:** Description of measures indicating its consistencies with Article II: Thailand will grant permission to airlines of those countries which treat Thai carriers on reciprocal basis; Countries to which the measure applies: Countries whose airline is accepted as a designated airline by Thailand under bilateral air services agreements and countries whose regulations do not prevent Thai carriers from performing similar activities in that country; and Conditions creating the need for the exemption: Reciprocal basis.
- **International Road Transport Services:** Description of measures indicating its consistencies with Article II: Reciprocity treatment; Countries to which the

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measure applies: Countries that have the agreement on international road transport with Thailand; and Conditions creating the need for the exemption: Reciprocal basis.

## Germany (As part of the European Communities and Their Member States)

### Commitments:

- **Architectural Services:** Subject to limitation on national treatment (application of the national rules on fees and emoluments for all services which are performed from abroad) if commercially present.
- **Medical, Dental, and Midwives Services:** Subject to limitation on market access (Access restricted to natural persons only. Economic needs test for medical doctors and dentists who are authorized to treat members of public insurance schemes. The criterion is shortage of doctors and dentists in the given region) if commercially present.
- **Interior Design Services:** Subject to limitation on national treatment (application of the national rules on fees and emoluments for all services which are performed from abroad) if relating to cross-border-supply.

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- The World Bank Group/Online Documents: “The World Bank Group Site/Index/ICSID- International Center for Settlement of Investment Disputes”
- The World Bank Group/Online Documents: “The World Bank Group Site/Index/IDA- International Development Association”
- The World Bank Group/Online Documents: “The World Bank Group Site/Index/IFC- International Finance Corporation”

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