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The U.S. Government's Global Hunger & Food Security Initiative



THAILAND RATE Country Summary

This document presents the findings of the Regional Agricultural Trade Environment (RATE) assessment conducted in the ASEAN region in 2012 by the Maximizing Agricultural Revenue through Knowledge, Enterprise Development, and Trade (MARKET) Project.



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THAILAND

Regional Agricultural Trade Environment (RATE) Assessment Country Summary

USAID Maximizing Agricultural Revenue through Knowledge, Enterprise
Development and Trade (MARKET) Project

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On the cover: An organic vegetable grower in central Thailand
Photo: Nathan Associates Inc.

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RATE COUNTRY SUMMARY—THAILAND

This country summary sets forth general findings from the Regional Agricultural Trade Environment (RATE) assessment conducted in Thailand in May and July 2012. In addition to comprehensive desk research, assessors conducted a series of interviews across the country's agriculture sector, including with national and local government officials, producers associations, owners of small, medium, and large agriculture enterprises, trade service-providers, market workers, women's business groups, nongovernment organizations (NGOs), foreign investors, research institutes, international donors, the banking and lending community, and others. Interviews and observations took place in and near Bangkok, Chiang Mai and Fang, and validating consultations with interested stakeholders took place in October 2012. In all, the team consulted more than 100 stakeholders in Thailand.

What is RATE?

The Regional Agricultural Trade Environment (RATE) assessment is a tool designed to examine the agricultural trade enabling environments of countries in a particular region, with the objective of identifying a range of legal and institutional reforms that will help the region, and the individual countries, become more efficient in their approach to trade.

In recent years, the international community has committed to a variety of multicountry initiatives that emphasize the collection of benchmark information. Such benchmarks allow participating countries to compare their economic and business environments to others. The accepted use of such benchmarks helps countries identify relative areas of strength and weakness and to track evolution in those rankings over time. Examples include the World Economic Forum's Global Competitiveness reports, the International Finance Corporation's Doing Business reports, and the United States Agency for International Development's (USAID) BizCLIR (Business Climate Legal and Institutional Reform) and AgCLIR (Agribusiness Climate Legal and Institutional Reform) reports.

Building on such initiatives—USAID's BizCLIR and AgCLIR, in particular—the ASEAN RATE inquiry has been conducted for Member States of the Association of Southeast Asian Nations (ASEAN) under the Maximizing Agricultural Revenue through Knowledge, Enterprise Development, and Trade (MARKET) project funded by USAID. RATE builds a knowledge base for addressing the priorities of USAID's Feed the Future initiative, which aims to increase investment in agriculture and rural development as both a lever for combating food insecurity and an engine for broader economic growth, prosperity, and stability.

RATE collects certain quantitative and qualitative information across relevant agriculture value chains in ten topical areas critical to trade in agricultural products sector, namely (1) the conditions for enterprise formality; (2) access to finance; (3) infrastructure; (4) intellectual property; (5) competition; (6) nontariff barriers; (7) trade facilitation; (8) gender; (9) transparency and accountability; and (10) food security. Each RATE country assessment, set forth in a separate detailed, country-specific presentation and reported through a series of Country Summaries, benchmarks the national enabling environment for agribusiness and agricultural trade by identifying the private sector priorities, key market constraints, and successful national initiatives in support of agricultural trade in individual ASEAN Member States.

INTRODUCTION

After two decades of careful attention to economic policy, Thailand has exhibited remarkable growth. The country has transformed in recent generations from an agriculture-based economy to one that is heavily based in industry and value-added enterprise. Still, the country's agriculture sector remains of key interest to policymakers, who are eager to reclaim Thailand's long-held position as the world's largest rice exporter, after falling behind India in 2012. Thailand's historical emphasis on infrastructure development and logistics strategy is at the foundation of its economic success. Its primary agricultural export is rice, followed by sugarcane, seafood, and meat products.

Thailand has a solid legal framework in most areas affecting agricultural trade. The country's rules and regulations are not always reflected in public and private-sector practice, however, suggesting a need for strengthening both implementing and supporting institutions. Government institutions and public agencies are fairly active and responsive to problems in the agriculture sector and industries. Private associations of exporters and importers and crop-specific organizations promote and defend the interests of their members. Next to Singapore and Malaysia, the World Bank's *Doing Business in 2013* report ranks Thailand the strongest enabling environment for business among ASEAN Member States.

Figure 1. Representative Statistics Pertaining to Agricultural Trade: Thailand

Population (2013)	67.4 mn
Agriculture as percent of GDP (2012)	12.3
Services as percent of GDP (2012)	44.2
Industry as percent of GDP (2012)	43.6
Percent of population engaged in agriculture (2011)	38.2
Exports (all sectors, 2012)	\$226.2 bn
Imports (all sectors, 2012)	\$217.8 bn
Percent of women participating in agriculture sector (2011)	37
Female/Male literacy rate (2005, percent)	92/96
Female labor participation rate (women over 15, 2011)	64
Prevalence of under-nourishment (2011, percent of population)	7
Percent of children underweight (2006, percent of children under 5)	7
Percent of workers informally self-employed or informal wage-earners (2000 est.)	63

SOURCES: CIA Factbook; World Bank

TOPICAL SUMMARIES

For each ASEAN Member State surveyed by RATE, assessors asked approximately 150 questions—around 15 per topic—related to the legal framework, implementing institutions, supporting institutions, and social dynamics of each of the ten topics studied by the assessment. This section summarizes the answers to these questions by setting forth the primary issues, opportunities, and challenges associated with each topic.

Informal Economy

Throughout Southeast Asia, recent generations have witnessed a transition from economies grounded in informal activity—mostly agriculture and casual trade—to more formal and clearly defined relationships between enterprises and the regulating authority of government.

Formalization begins with registration with one or more government agencies, and can result, in theory, in a number of advantages, among them limited liability, better access to finance, more opportunities to participate in higher-value pursuits, greater ability to enforce contracts, and even the benefits of a strengthened community tax base. For many informal producers, processors, and traders, however, registration with national or local authorities often means assuming the costs of formal tax collection and licensing interventions, without immediate or obvious tangible benefits. Enterprises typically remain

When producers, processors, and traders assume the various aspects of enterprise formality, their businesses can grow and their goods can circulate more freely, within and across borders, enhancing food security.



Members of a Thai growers cooperative meet to discuss constraints.

informal because they perceive formalization as too costly, too complex, and not worth the effort. As long documented by the World Bank's *Doing Business* initiative, however, persistent, widespread enterprise informality undermines improvements in productivity and quality, access to markets, and economic growth.¹

In Thailand's agricultural sector, various forms of government support target the lower levels of agricultural value chains, including informal agribusinesses. Public and private extension services are widely available and accessible and include business development and technical advice for farmers and small and medium-sized agribusinesses. The focus of assistance, however, is rarely business formalization. It is mostly geared to productivity and market linkages. Although the processes and requirements to register businesses are not very cumbersome, agricultural enterprise at the "grassroots" largely remains informal. Medium and large companies are almost always formally registered and licensed, while smaller enterprises remain informal. In general, smaller enterprise owners do not perceive formalization as offering substantial benefits, at least not enough to warrant the time and financial investment needed for business registration. Many small businesses benefit from corporate income tax exemptions, so payment of taxes should not constitute a disincentive to formalization. Nonetheless, small businesses typically say they would prefer to establish sustainable businesses and secure their livelihoods before formalizing.

Thailand's government has initiatives to integrate small enterprises into the formal economy, or at least to keep account of their presence and activities. For example, One *Tumbon*, One Product (OTOP) is a government-funded program that supports small processing enterprises in the agriculture sector and others.² OTOP officers register informal enterprises in groups, which become beneficiaries of funding and extension assistance. Although OTOP registration is not full-fledged formalization, it is a constructive step toward it by way of recognition and assistance. When OTOP participants grow enough to be sustainable, the hope is that they will be both willing and accountable to formalize.

The Department of Export Promotion in the Ministry of Commerce also encourages formalization by providing attractive benefits to enterprises that register for its services. Informal businesses are not permitted to register with the Export Promotion Office.³

Contract farming is common in Thailand. Small farmers often accept valuable input from larger buyers—including seeds, feed, or fertilizer—in exchange for a promise to deliver the products that they help produce. Agreements are usually informal, verbal, and based on trust. Even when there is a written contract, it does not signify much for either party because there is little expectation that it will be enforced through Thailand's court system. Despite this informal structure, contract farming appears to be effective for both sides, according to stakeholders interviewed during the RATE assessment.

¹ See World Bank, *Doing Business in 2013* (2012), and accompanying literature at www.DoingBusiness.org.

² *Tumbon* means village. See website of OTOP, at <http://www.thai-otop-city.com>.

³ See website of the Department of Export Promotion, at <http://depthai.en.busytrade.com>.

Access to Finance

Producers, processors, and traders seek finance for a variety of purposes: for operations; to bridge the gap between production of goods and receipt of payment for them; for capital purchases, farming equipment or storage facilities; to cover swings in supply and demand conditions; or to launch a processing enterprise.⁴ In many instances, they are disappointed. The risks involved in lending are often too great for banks and other lenders to assume. These risks include ambiguous and highly disputed land rights, limited forms of collateral, inadequate financial infrastructure, and the particular risks faced in agriculture, such as seasonality and geographic clustering of risk.

A variety of safe and accessible opportunities to access finance helps producers, processors, and traders cope with supply and demand risks, strengthen their enterprises, and contribute to food market stability.

Through the Bank of Agriculture and Agricultural Cooperatives (BAAC), Thailand's government promotes access to finance in rural areas, giving farmers access to credit without being subject to cumbersome procedures. BAAC has different scales of lending in keeping with customers' income,



Access to finance remains a challenge to small business.

⁴ See USAID/Enabling Agricultural Trade Agribusiness Commercial Legal and Institutional Reform project, *Lessons from the Field: Getting Credit* (2011).

needs, business plans, and assets. BAAC offers main credit lines, credit to low-income farmers through “community banks,” administers microfinance loans, and provides seeds and other input through “village funds.” BACC is also the local level agent responsible for handling transactions related to the rice-pledging scheme. Over the years, BAAC officers have decreased the ratio of nonperforming to performing loans, mainly by working directly with farmers and solving repayment problems directly, rather than resorting to legal action.

BAAC also established the Agricultural Marketing Cooperative (AMC), which offers training on finance and credit, as well marketing assistance. Although AMC has disseminated useful information and helped increase understanding of credit, it is not regarded as effective in getting farmers to manage credit better. The prevailing view among community leaders in rural areas is that farmers have “too much access” to credit and many end up either not using the funds efficiently or using them for nonagricultural purposes altogether.

Small and medium enterprises (SMEs), including those in food transport and trade in agricultural products, face strict collateral and income requirements because of the risks they present as borrowers. The government aims to assist them primarily through the SME Development Bank, which provides various types of financing based on policy objectives such as tourism and even employment maintenance scheme. A countermeasure for SMEs against the global financial crisis, the employment maintenance scheme is supported by the government budget and administered by the Bank in cooperation with the Ministry of Labor and Social Welfare. SMEs that get financing under the scheme are not allowed to dismiss any employees until repayments are completed.⁵

Large companies do not have much trouble getting loans and credit, which private sector representatives attribute to the size of their operations and, in many cases, political connections.

Infrastructure

A nation’s success in agricultural trade, whether domestically or in international markets, is generally only as good as the ability of its producers to get their products to the next stop on the value chain—that is, to local markets, distributors, and processors, as well as to storage facilities, warehouses, and ports. Producers and processors also need access to inputs that are transported over long distances, including seed, feed, fertilizer, and equipment. To support commerce that extends beyond the farm gate, governments must invest in and maintain a supporting infrastructure that incorporates transport, water, power supplies, and telecommunications.

Strong markets for agricultural products need public facilities that support production, processing, and trade, such as roads, rail, ports, wholesale markets, storage facilities, and access to communications and information.

In Thailand, infrastructure networks are fairly well developed, following an emphasis on infrastructure investments in national development strategies since the 1960s. The road network reaches broadly across the country, with feeder roads connecting rural areas to markets. Irrigation facilities have also improved

⁵ APEC, Making it Easier for SMEs Getting Access to Credit in Thailand (February 2012).

substantially, with a 7.5 percent annual increase in irrigated areas between 1961 and 2000,⁶ although there is still a need for better irrigation infrastructure in northeast Thailand. One exception is the nation's rail system, which domestic and international traders consider insufficient. Rehabilitating the railways would improve the efficiency of transport of inputs and equipment to farms, as well as goods from the farm to domestic and international markets.

Two strategies have set the stage for infrastructure development in Thailand: the recently announced seven-year *Thailand 2020* infrastructure development plan and the *Logistics Development Strategy 2007-2011* (LDS). The Thailand 2020 bill proposes to invest \$60 billion mainly in high-speed rail infrastructure across the country, as well as new mass transit routes in Bangkok.⁷ The LDS enhanced trade facilitation by creating integrated logistics services, among other things, and established the national logistics committee that oversaw the design of the national single window model. When fully implemented, both plans should result in seamless transactions in agricultural value chains and more timely and less costly transport of inputs and end products.

To finance its infrastructure projects, the government of Thailand will pursue off-budget borrowing in the form of bond issuances by the Ministry of Finance. The government also intends to encourage private sector participation, especially through public-private partnerships (PPPs). The Securities and Exchange Commission established an infrastructure fund for the purpose of raising private funds. The Ministry of Finance also regularly issues bonds to mobilize funds from investors.

Historically, corruption and mismanagement of public finances have been associated with Thailand's infrastructure projects. The Thaksin government (2001-2006) was often accused of handing out undeserved concessions to parties favored by or beneficial to the government. Critics in the media and private sector charge that the government continues to allocate project budgets at rates higher than actual costs, with the difference collected by officials at various levels. According to the World Bank, Thailand has put in place systems that help identify



Forming much of Thailand's border with Laos, the Mekong River is critical to Thailand's infrastructure and food security.

⁶ S. Isvilanonda and I. Bunyasiri, "Food Security in Thailand," ARE Working Paper (September 2009).

⁷ Bangkok Post, "Chadchat Rebuts Critics of Infrastructure Splurge" (July 26, 2013).

symptoms of corruption and reduce the opportunities for corrupt practices. The government has created *e-auction* systems to reduce collusion in public procurement.⁸

Thai farmers and agribusinesses complain about the lack of affordable storage facilities for agricultural products, primarily those that require cold storage, resulting in post-harvest loss. The Public Warehouse Organization stores agricultural goods (primarily rice) for the government after buying them from farmers and millers. But individual farmers and even cooperatives often lack sufficient storage facilities and cannot store products until market conditions become favorable. As a result, they are often compelled to sell their products immediately for very low prices.

Intellectual Property Rights

Intellectual property (IP) is increasingly viewed as a key factor in development. Intellectual property is a branch of law that protects intangible property such as inventions, new plant varieties, geographical indications, and trademarks and protects against dishonest business practices. An effective IP system makes markets more predictable and reduces the risk of investment. This benefits local producers and better positions a country to attract foreign investment, as international investors give substantial weight to IP protection in their decisions on where to locate their business investments.

Investment in a vibrant food economy is enhanced by systems supporting the recognition and protection of new plant varieties, and of patents, trademarks, and copyrights used in connection with equipment, products, and services.

As Thailand strives to become a net agricultural exporter and as agribusiness spawns processing, research, and other side businesses, more and more people understand IP and how Thailand's IP laws may be hindering competitiveness. The kinds of IP that are applied and valued generally depend on an enterprise's position in the value chain. In Thailand, at the beginning of the chain—farm production—geographic indications are valued, because they certify that an agricultural product with specific qualities, characteristics, or reputation can be produced only in a particular location. Some small processors obtain trademarks, but most do not because the expected benefits are not viewed as worth the effort and expense. As an enterprise grows it is more likely to obtain a trademark. Thai universities work with farmers on agricultural production and handle patent applications for inventions in cooperation with farmers. At this time, however, there is little expressed demand for agriculture-related patents.

Thailand adopted or revised its laws on copyright in 1994 and its laws on patents and plant varieties in 1999. The 1991 trademark law was updated in 2000, and laws were adopted to protect integrated circuit layout-designs in 2000, trade secrets in 2002, and geographical indications in 2003. The Optical Disc Production Act was adopted in 2005. Thailand's Plant Variety Protection Act, which establishes and protects rights in new plant varieties, is largely ineffective. Its provisions are outdated and do not meet international standards. Measures are also needed to protect test and other data against unfair commercial use or disclosure in connection with marketing approval for pharmaceutical and agricultural chemical products.

⁸ World Bank, "Thailand: Experts share lessons for countering corruption" (Report from conference on February 23, 2012).

Unsurprisingly, there is not much demand in Thailand for IP lawyers with expertise in agriculture. Universities that help farmers with patents usually rely on in-house expertise. As agribusiness develops, demand for IP legal services will likely increase, and Thailand is on track in terms of educating IP lawyers with specialties in agribusiness. The Ministry of Education mandated in 1998 that IP curricula be included in bachelor programs and as major programs at the graduate level. About ten universities offer specialization in IP law.

Thailand's judicial system does not provide much incentive for developing IP law expertise. Judges start their careers in the general criminal and civil courts and tend to become judges in Thailand's Intellectual Property and International Trade Court without any formal training in IP law. To advance in their careers, they need to rotate every seven years. Just as they become familiar with IP law, they must switch departments. IP training has been provided by the U.S. for many judges. Unfortunately, the rotation does not allow them to continue to develop their expertise or provide continuity in the system.

Thailand is one of 10 countries on the 2013 Special 301 Intellectual Property Rights (IPR) "Priority Watch List" of the Office of the U.S. Trade Representative (USTR). This is evidence of U.S. concern that stakeholders in Thailand's economy are not committed to sustaining a fair, transparent, and efficient IPR regime. Thailand is cited for its lack of progress in addressing landlord liability, curbing unauthorized recording of motion pictures in theaters and piracy of cable and satellite signals, providing Thai Customs with *ex officio* authority, implementing the provisions of the World Intellectual Property Organization (WIPO) Internet Treaties, and establishing improved legal mechanisms to address the problem of copyright piracy and trademark counterfeiting on the Internet. However, the USTR is encouraged by progress Thailand has made in passing several legislative initiatives to improve IPR protection and enforcement, including the passage of the Anti-Money Laundering Act, which includes IPR offenses as a predicate crime, and the launch of the National IPR Center of Enforcement.

Competition

Competition is at the heart of any successful market economy. True competition promotes economic efficiency, consumer choice and welfare, and overall economic growth and development. Competition forces companies to work as efficiently as possible and offer the most attractive array of price and quality options in response to consumer demand, rather than conspiring as cartels to fix prices or to block other companies' entry into the market.

Thailand's recent strong economic performance is widely attributed to its free-enterprise-oriented practices and other factors, such as good infrastructure and generally pro-investment policies. But free enterprise practices do not necessarily prevail at the low ends of agriculture sector value chains. Government programs protect farmers and control the prices of agricultural commodities. Launched in 2011, the Rice Mortgage/Pledging Scheme sets minimum prices for rice purchases from farmers and these minimums are considerably above market prices. As a result, the government has become a large buyer of rice, which hampers the international competitiveness of the private sector. As summarized in the *Bangkok Post* (October 6, 2012), "Critics of the [rice scheme] point to the huge budget used by the program, only to distort market mechanisms and put the country's rice

Competition compels producers, processors, and traders to be more efficient and innovative and to offer the most attractive array of price and quality options in response to consumer demand.

exports in peril.” Although there have been schemes to support rice farmers in the past, this program is perceived as particularly inefficient and costly.⁹

The Thai government controls prices of many other commodities, including staples such as sugar, pork, cooking oil, condensed milk, and wheat flour. Price control review mechanisms are not transparent¹⁰ and the mechanisms themselves sometimes work against farmers. Farmers may become dependent on



Producers like this organic farmer complain of the difficulty of getting products past nontariff barriers (NTBs) in other countries.

emphasis on quality is driven by exports, which spills into domestic trade, where local producers strive to become more competitive by meeting high standards. Thailand’s export-driven economy necessitates a constant self-renewal following the technologies and best practices around the world. However, challenges in the competitiveness of the workforce, including poor English skills and a capacity gap in middle-management, may make it difficult to maintain a competitive edge after the ASEAN Economic Community is fully established in 2015.

government subsidies and have no incentive to find more productive ways to make a living. And the benefits of price controls can be short lived as input providers often respond by raising their prices to the farmers. Thailand has tried to control the price of fertilizer and other inputs, but this usually results in shortages or poor quality inputs.

As mandated by the Competition Act, the Thai Trade Competition Commission (TCC) launched its operations in 1999. The TCC is charged with regulating mergers and acquisitions and addressing abuses of dominant position by monopolies. The Commission is not considered particularly effective. It lacks independence, its commissioners are part-time, and its budget is small. Most officials in the commission’s cadres have no training in law or economics, resulting in poorly articulated and often inaccurate judgments. Most of the civil servants formerly worked at the Central Committee on Price Fixing, and are more accustomed to controlling prices than to letting market forces determine them.¹¹

Thailand fiercely protects its reputation for high quality agricultural production—the highest in the ASEAN region by many standards. The country’s

⁹ Reuters, “Untenable Thai rice scheme puts populist PM in bind” (October 9, 2012).

¹⁰ Office of the U.S. Trade Representative, National Trade Estimate Report on Foreign Trade Barriers (2012)

¹¹ Asialaw, “The Thai Competition Act 1999: What’s Gone Wrong?” (February 2005).

Nontariff Barriers

Although the formal definition of what constitutes a “nontariff barrier” (NTB) varies according to the source, NTBs are generally viewed as government-imposed or government-sponsored measures—other than tariffs—that are used to protect a domestic industry from international competition. A great many measures can be interpreted as an NTB, ranging from restrictions on food imports due to food safety considerations, to business licensing requirements that are especially difficult for outsiders to fulfill, to outright quotas. For the purposes of agricultural trade, NTBs may include import restrictions on inputs, sanitary and phytosanitary (SPS) regulations, animal and plant health standards, food safety standards, business licensing procedures, labeling and packaging requirements, and constraints on trade in services. Some of these are sanctioned by the world trade community through agreements, while others can be challenged by trade partners as restrictive of trade.

Markets function more efficiently when trade is managed through transparent tariffs and legitimate health and safety measures, rather than via more opaque quotas, licenses, and other barriers.



Thai agricultural products are known for their high quality standards.

NTBs are widely used in the ASEAN region and stakeholders in Thailand voice passionate concerns about the issue. Food producers and processors complain of being unfairly disadvantaged vis-à-vis regional competitors, despite their products’ typically higher quality. Exports from Thailand face especially high barriers in Indonesia, which has very strict regulations for packaging and labeling.

Thailand's commitment to maintaining its net-exporter status requires it to be ever mindful of international trade standards and best practices. The Food and Drug Administration and Plant Protection Office of the Ministry of Agriculture are responsible for ensuring health and safety of agricultural products. Their work is widely regarded as reliable and on par with international standards. Thailand's ban on the import of genetically modified seeds could be considered an NTB and multinational seed companies are considering relocating production to other countries.¹²

Requirements and procedures for obtaining a business license are straightforward and not very time-consuming, thanks to the merging of the registration memorandum and registration application and the establishment of a one-stop shop for business licensing in 2012. Difficulty obtaining import licenses, however, may signal an NTB. During the RATE assessment, one businessman who wanted to import coffee from Indonesia reported that he was directed to a committee to obtain the required license. Since the committee met only once a year, the businessman was discouraged from pursuing his plan.

Testing, certification and traceability services are adequate in Thailand, with both public and private agents knowledgeable and reliable in their services. The most prominent certification agency is Central Laboratories, formerly a stated-owned entity. Now operated privately, the laboratories establish a quality standard ("Q logo") for meeting food safety standards for imported agricultural products.

Trade Facilitation

Prudent and effective international trade facilitation requires the provision of high-quality, transparent government services at the border, including predictable and consistent procedures by Customs agencies, health and agriculture inspectors, immigration agencies, and others. Governments throughout the world increasingly recognize that capable and responsible trade-related operations, including fast and efficient clearance processes at the border, are a prerequisite for development. Due to their greater perishability, foods in particular require efficient trade regimes and border crossings. Food security is enhanced when cross-border flows of products are "facilitated" to minimize time spent by food-related cargo in trade, thus reducing both physical losses and costs.

The volume and efficiency of markets improve when procedures and controls governing the movement of goods across borders are transparent, accessible, and consistently administered by customs agencies and other key border agencies, including port authorities, health agencies, quarantine services, and immigration.

Thailand's Customs Act (1926) has been amended many times to reflect World Trade Organization (WTO) principles. In the past, amendments to laws and regulations were not well publicized, and traders had little notice or information about changes that affected trade costs. But in 2011 the Thai Customs Department committed to "always conducting public hearings to listen to public comments and concerns, particularly on sensitive or controversial issues" when enacting or amending laws and regulations.¹³

¹² USDA (2012). Thailand Agricultural Biotechnology Annual Report. Global Agricultural Information Network Report.

¹³ Thailand's Comments in The 2011 National Trade Estimate Report (NTE) for the incoming 2012 NTE Report Submitted to the United States Trade Representatives (September 2011).

A major concern about the Customs Act is that it gives the Customs Department Director General authority and discretion to arbitrarily increase the customs value of imports. Responding to complaints about this, the government proposed changes to customs laws and regulations, including removal of this discretion. Proposed legislation was sent to Parliament in 2011. Since the change of government in August 2011, however, the proposed legislation has stalled and had not been reintroduced as of September 2013. Perhaps this uncertainty in its customs environment is why Thailand is the only ASEAN Member State that has lost ground in its *Doing Business* ranking on “trading across borders” since 2010. Still, on that measure, the country ranks third highest in ASEAN.

Thailand has improved significantly in trade facilitation, which reflects the growth of its economy and its export-oriented priorities. The creation of a national single window (NSW) in 2008 was a major step in these improvements. That process merged 35 agents from at least 12 ministries into one organization and standardized and computerized trade procedures. Progress in achieving shared processes and use of technology is communicated to traders and other stakeholders through an NSW website. Still, as of 2013, a number of functions have not yet been streamlined to take advantage of shared information. For example, commodities entering Thailand must pass through customs *before* they are inspected for quarantine issues, resulting in a charge to the importer even if the commodity is ultimately rejected. Several agencies in Thailand are involved in import quarantine control and in general they work well together. However, communication is not always seamless between the agencies, according to traders.

The NSW program has many stakeholders, among them importers, exporters, customs brokers, freight forwarders, commercial banks, and government agencies. Thailand still needs to develop its national action plan on NSW implementation for import, export, logistics, and information-exchange among ASEAN and other regions. It also must develop e-tracking services to assist traders in checking the status of their declaration forms, vessel schedules, and merchandise lists. It also plans to develop e-licensing services for information sharing between the Thai Customs Department and other agencies.

On the World Bank’s 2012 Logistics Performance Index, Thailand scored 3.5 out of 5, low for a country for which trade is so important. Average customs clearance is 1.9 days, higher than smaller economies in ASEAN. In addition, lead times for imports and exports are longer compared to other countries in the region. Red tape is considerable and, according to traders, there is some corrupt activity in certain trade and customs procedures.¹⁴

The Customs Department has established a cooperation center to provide advice and resolve complaints made by the private sector to eliminate corruption. Thailand has also implemented measures for integration of logistics services. One problem is that SMEs are less likely to have the resources necessary to access the electronic forms.

Thailand’s food industry is governed by the Food Act (1979) and related regulations stipulated by the Ministry of Public Health. In general, imports of food for sale in the Kingdom require an import license and standard labeling according to domestic regulations. Some agencies of the Ministry of Agriculture and Cooperatives monitor the importation of certain food products such as meat, fruits and vegetables,

¹⁴ Cheewatrakoolpong; Ariyasajjakorn, “Quantitative Assessment of Trade Facilitation on Thailand’s Exports” (May 2012).

through import permits and phytosanitary or sanitary certificates. In addition, 23 agricultural commodities are subject to the tariff-rate-quota system administered by the Ministry of Commerce.

In general, the private sector, especially importers and exporters, report satisfaction with their experience with customs, especially in light of recent improvements. A persistent problem is that the U.S. Food and Drug Administration (FDA) inspects shipments only after they clear customs; if a shipment is not approved the importer would have already paid the customs fees for no reason. This is also an NTB issue. The private sector and its associations communicate with regulating agencies on trade laws and regulations. Their actions can result in satisfactory outcomes such as suspension of regulations against their interests. Nevertheless, private actors are not satisfied with their participation in policymaking.

Gender

As underscored by USAID’s 2012 Gender Equality Policy, gender equality and female empowerment are “fundamental to the realization of human rights and key to effective and sustainable development outcomes.

Strengthening educational and economic opportunities for women can lead to more robust and equitable economic growth.

Although many gender gaps have narrowed over the past two decades, substantial inequalities remain across every development priority worldwide—from political participation to economic inclusion—and remain a significant challenge across all sectors in which USAID works, particularly in low-income and conflict-affected countries and among disadvantaged groups.”

Women in Thailand enjoy comparative equal opportunity and non-discrimination in terms of law, education, public and private sector employment, civil society organizations, and social roles. Still, they continue to be treated inequitably when compared to men. In business, they have key responsibilities but careers that develop slowly. Acute problems include violence, discrimination, and human trafficking.

Thailand’s 2007 Constitution guarantees women and men equal rights and prohibits discrimination on the basis of sex. Under the Civil and Commercial Code, marital property is managed jointly or by one spouse with the consent of the other. Women and men have the right to manage their separate property as individuals and have the power to enter into contracts. All land transactions require spousal approval and signature and formal inheritance law does not distinguish between men and women. However, the law allows that only the head of the household may acquire land, and men are routinely registered as the heads of households. In rural areas, knowledge of the formal law is limited, and men dominate ownership and management of agricultural land.¹⁵

National and local government entities offer equal access to women and men on assistance to farmers to promote crop productivity and quality. National security policy does not mention gender. The National Statistics Office maintains gender-disaggregated statistics on multiple areas, including those pertinent to agricultural trade.

¹⁵ OECD (2012). Social Institutions and Gender Index: Thailand.
<http://www.oecd.org/dev/poverty/theoecdsocialinstitutionsandgenderindex.htm>

Thailand's government supports an increasing role for and involvement of women in business and government. The Women's Development Fund, funded directly by the Prime Minister's office, is focused on professional development, job opportunities and income, development of women's potential and networking, and raising awareness of problems faced by women in all dimensions. The fund gives out loans for little or no interest. The many women's cooperatives around the country also support business development for women at low ends of the value chain.



Women are involved at every level of the Thai private and public sectors, but are still most prevalent among small traders.

According to a 2011 report by Grant Thornton, an independent consulting company, women hold 45 percent of senior management positions in Thailand, the highest percentage in the world.¹⁶ Anecdotal evidence suggests that women hold at least this percentage of agriculture and trade-related positions as well. During the RATE assessment, women were well represented in interviews with government institutions, research institutions, universities and the agricultural bank (BAAC). There are also many qualified female lawyers available for services, although most do not focus on agriculture and trade.

¹⁶ Grant Thornton, "Proportion of women in senior management falls to 2004 levels" (2011), http://www.internationalbusinessreport.com/Press-room/2011/women_in-senior_management.asp.

Transparency and Accountability

When discussed in terms of governance, the term “transparency” pertains to the free and full availability of critical information to the public. “Accountability” refers to the authority which citizens confer to those they elect to govern on their behalf, such that it is always limited, provisional, temporary, and subject to recall through regular elections or other arrangements. In the absence of transparency and accountability, corruption ensues. In the popular definition long espoused by Transparency International (TI), corruption is “the abuse of entrusted power for private gain.”

As TI has long maintained, corruption hurts everyone who depends on the integrity of people in a position of authority. Thus, issues of transparency, accountability, and corruption are relevant in all sectors of an economy, including the public and private institutions involved in agriculture.

Transparency and accountability in all aspects of agricultural trade—including production, processing and trade—facilitate increases in regional and international cooperation and trade.

Corruption has been endemic in Thailand for many years and facilitation payments are common at many junctions of business and government. Although reforms and actions to curb corruption have been somewhat effective, the problem seems to be more a function of mindset and that takes much longer to change. Transparency International’s 2012 Corruption Perceptions Index ranked Thailand 88 out of 176 countries. Given the country’s level of development and impressive economic performance, this is not a favorable ranking.

One advantage Thailand has in curbing corruption is its solid and comprehensive legal framework for transparency and accountability. The laws on public financial management link the budget to strategic policy priorities of the government. Reporting of public debt is transparent and the legal framework for public financial management is clear. The Act of Penal Code covers active and passive bribery, attempted corruption, extortion and abuse of public office for private gain, all punishable by heavy sentences. Still, the Act has been criticized for not being stronger. The Anti-Money Laundering Act 1999 criminalizes money laundering and the use of crime-related assets.

Thailand has also improved corporate governance since the 1997 financial crisis. Rules and regulations have been revised to strengthen the rights of minority shareholders and creditors, to make boards of directors more accountable, and to make accounting and auditing standards consistent with international standards. Further improvements are needed, such as a whistleblower law. Corruption reporting is supported by a hotline with full-time staff and regular funding.

The National Counter-Corruption Commission is not free of political influence, according to Global Integrity. Increasing media scrutiny of public figures has raised political pressure to curtail favoritism and corruption. But public officials are rarely convicted on corruption charges and legal deterrents to corruption are inadequate. Some in the private sector are concerned about partiality in the legal system and having to pay unfair fines to courts. There is no consensus on whether judges and courts are independent and impartial, but there is a concern about court bias based on class divisions.

Despite the many reforms of higher education in Thailand since the 1990s, there seems not to be a sufficient number of competent professionals to support transparent practices in Thailand, including auditing, accounting, legal, and quantitative analysis professions. There is a focus on social sciences and humanities choices in education, even though the industry needs are elsewhere.

In recent years, Thailand’s banking systems were considerably modernized and upgraded to international standards. The Bank of Thailand and the Stock Exchange Commission are considered strong regulators of the financial sector. The banking sector has still not adopted the Equator Principles, which provide a framework for social and environmental risk assessment in project financing. This leaves Thai banking sector lagging behind international standards.

Food Security

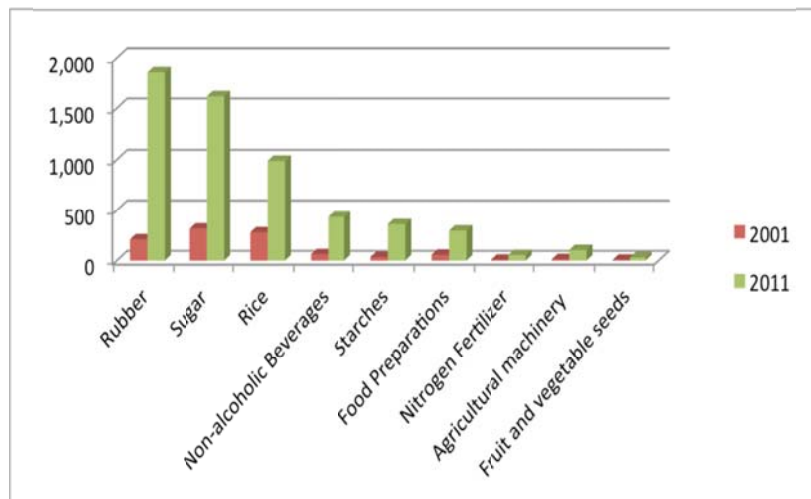
Thailand is a major exporter of agricultural products, including staples like rice and sugar, and the vast majority of people have reasonable access to food. Thus, discussions of food security in Thailand focus on productivity, land, and affordable food for the urban poor. Food security is also an issue given rising food prices and production costs as well as decreasing food exports. Figures 2 and 3 summarize data on Thailand’s major agricultural exports and imports.

Food security exists when all people, at all times, have physical and economic access to sufficient, safe, and nutritious food to meet food preferences and dietary needs for active and healthy lives.

Given that a main issue is increasing productivity, the legal framework pertaining to food security begins with the Agricultural Economics Act (1979). The act covers formulation of agriculture policies, formulation of agriculture and cooperative development plans, and designation of agricultural economic areas, all with the objectives of increasing productivity and facilitating stability and prosperity in the agriculture sector. Policies and laws relating to land use in the Agricultural Land Reform Act, Land Codes, and Land Development Act, favor agricultural development. In practice, farmers face issues of land distribution, inheritance, and a lack of proper land titles.

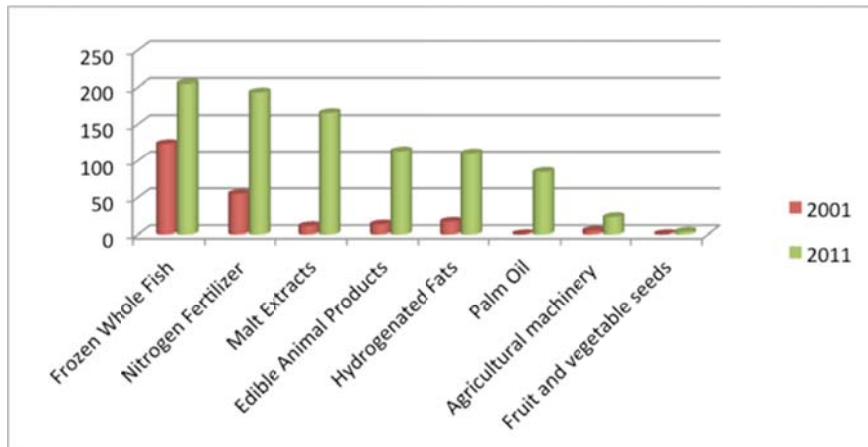
Government institutions regularly consult the private sector about the possible impact of government policies on business. But even the biggest agribusinesses do not feel that their input is reflected in the final policies. Farmers—not engaged in or sufficiently informed about policy discussions—have been adversely affected many times by free trade agreements, even to the point of losing their livelihoods, because they were not aware of the consequences of those agreements.

Figure 2. Thailand's Major Agricultural Exports to ASEAN Member States, plus Exports of Key Inputs, 2001-2011 (US\$ millions)



Farmers and cooperatives are not very active in national policy discussions for a number of reasons: day-to-day work demands, education, interests, lack of power, lack of understanding, and sociocultural gaps. Research and educational institutions, as well as NGOs, work with farmers and are present in many government-organized workshops representing the views and problems of farmers.

Figure 3. Thailand's Major Agricultural Imports from ASEAN Member States, plus Imports of Key Inputs, 2001-2011 (US\$ millions)



CONCLUSION

The enabling environment for agricultural trade in Thailand is favorable for value chain development and food security in the country. The country's robust financial sector, improved customs operations, economic engagement of women, and fairly widespread adoption of free enterprise principles are advantages for Thailand's development and can serve as a model for other countries in the region. Still, a nagging lack of transparency and continued corruption impede growth, including in agriculture and agribusiness, and hinder market efficiency. Corruption also renders distribution channels uncompetitive. Ultimately, Thailand has the capacity to overcome these limitations and be a leader in enhancing agricultural trade in ASEAN.