

Schedule of Commitments of Thailand

THAILAND'S SCHEDULE OF COMMITMENTS

Market access and national treatment measures listed in the limitations column condition all the sector - specific commitments.	
Sector or Sub-sector	Limitations
HORIZONTAL COMMITMENTS :	
<p>ALL AUSTRALIAN NATIONALS</p> <p>FOREIGN DIRECT INVESTMENT INCLUDING COMMERCIAL PRESENCE:</p> <p style="padding-left: 40px;">All Sectors inscribed in this schedule</p>	<p>In compliance with the Ministry of Commerce Announcement No.4 B.E. 2546 (10 March 2003), registration with the Department of Business Development is required for a natural person (sole proprietorship), a non – registered ordinary partnership, a group of persons and a juridical person (registered ordinary partnership, limited partnership, limited company, public company, and branch) engaging in selling and purchasing goods or services by electronic media via Internet System namely e – commerce, Internet Service Provider (ISP), web hosting and e - marketplace.</p> <p>Except where majority Australian equity participation is permitted by this schedule, commercial presence is permitted only through an entity which is registered in Thailand. For a business characterised as a limited partnership or a registered ordinary partnership, the managing partner or manager must be Thai national.</p> <p>Consistently with the Foreign Business Act B.E 2542 (1999) and other laws and regulations specifically defined, nationality requirement applies to the following activities.</p> <p>Business Services</p> <ul style="list-style-type: none"> • Under the Printing Act B.E. 2484 (1941), supplier of press services must be Thai nationals or nationals of a country under a treaty to which Thailand is a party. • Under the Labour Placement and Protection Act B.E. 2528 (1985), domestic labour placement and supply services suppliers must be Thai nationals or Thai juridical persons. International labour placement and supply services must be supplied by limited companies or public companies with foreign equity participation less than 25 percent and number of foreign shareholders must less than 25 percent of the total number of shareholders. • Under the Private Land Survey Practitioner Act B.E. 2535 (1992), land surveying services suppliers must be Thai nationals or Thai juridical persons. Foreign equity participation must less than 50 percent and number of foreign shareholders must less than 50 percent of the total number of shareholders.

Sector or Sub-sector	Limitations
	<p>Distribution Services</p> <ul style="list-style-type: none"> • In compliance with the Ministry of Finance Announcement (Liquor Administration) B.E. 2543 (2000), distilled liquor distribution services must be operated by a limited company under Thai laws with foreign equity participation less than 49 percent. <p>Education Services</p> <ul style="list-style-type: none"> • Under the Private School Act B.E. 2525 (1982), private school licensees must be Thai-born nationals. Foreign equity participation must be less than 50 percent and number of foreign shareholders must less than 50 percent of the total number of shareholders. The manager of a private school must be a Thai national. • Under the Private Higher Education Institute Act B.E. 2546 (2003), number of foreigners must less than 50 percent of the total number of competent members of the council of a private higher education institute. <p>Tourism and Travel Related Services</p> <ul style="list-style-type: none"> • Under the Travel Agency and Tourist Guide Business B.E. 2535 (1992), foreign equity participation in a travel agency and tourist guide business must less than 49 percent and number of foreign shareholders must less than 50 percent of the total number of shareholders. <p>Recreational, Cultural and Sporting Services</p> <ul style="list-style-type: none"> • Under the Boxing Act B.E. 2542 (1999), boxing services supplier must be owned by Thai nationals. The manager of a boxing services supplier must be a Thai national. <p>Non Service Sector</p> <ul style="list-style-type: none"> • A manufacturer of distilled liquor must be a limited company under Thai laws with foreign equity participation less than 49 percent. • In compliance with the Ministry of Interior Announcement (Sand Injection Approval) B.E. 2546 (2003), foreign participation in a sand injection business must be less than 50 percent. <p>Residency requirements may apply to ensure the accountability of business operations in some specific sectors such as health - related industries.</p> <p>Thailand reserves its policy discretion in the acquisition of land and real estate.</p>

Sector or Sub-sector	Limitations
	<p>Unless otherwise specify in this schedule, equity participation of up to 60 percent by Australian investors/service suppliers is allowed from January 2005 subject to criteria contained in the limitations column and non - discriminatory domestic regulation¹. Furthermore,</p> <p>(1) the investor/services supplier which is a juridical person of Australia must be registered as a registered ordinary partnership, limited partnership or limited company in Thailand; and</p> <p>(2) a debt to equity ratio of 3:1 or lower shall be maintained.</p> <p>Local Government Measures</p> <p>Thailand reserves the right to adopt or maintain any measure administered at the local government level unless that measure is applied on discriminatory basis with the intention of nullifying or impairing the benefit accruing to Australia under the terms of the Agreement</p>

¹ The remaining equity shares must be owned by Thai investors / service suppliers.

Sector or Sub-sector	Limitations
<p>ALL AUSTRALIAN NATIONALS</p> <p>MOVEMENT OF NATURAL PERSONS:</p> <p>All sectors except 39 professions contained in the Annex attached to the Royal Decree Prescribing Works Relating to Occupation and Professional in which an Alien is Prohibited to Engage B.E. 2522 (1979).</p>	<p>(1) <u>Intra-corporate Transferee</u> An Australian national who is intra corporate transferee will be granted a work permit for an initial period of 1 year which will be extended on a yearly basis for a total period of not more than 5 years subject to verification of ongoing employment with original employer and compliance with relevant Thai laws and regulations.</p> <p>A branch or affiliate of Australian juridical person must import foreign currencies into Thailand not less than 3 million Baht for employing one foreign employee. The total amount of foreign employees is limited to 10 persons.</p> <p>(2) <u>Contractual Service Supplier</u> An Australian national who is contractual service supplier providing services to an Australian or a Thai juridical person will be granted a work permit for an initial period of one year which will be extended on a yearly basis for a total period of not more than 3 years, subject to verification of ongoing employment with original employer and compliance with relevant Thai laws and regulations.</p> <p>A juridical person registered in Thailand must have at least fully paid up capital of 2 million Baht per one employee, the total amount of foreign employees is limited to 10 persons.</p> <p>(3) <u>Business Visitor</u> A business visitor who holds Non – Immigrant visa will be granted a temporary stay and a work permit for a period up to 90 days. Both of which may be extended for a total period of not more than 1 year from the arrival date.</p> <p>(4) <u>Access to One Stop Service Centre for Visa and Work Permit</u></p> <p>(i) Australian investors having at least fully paid up capital of 2 million Baht;</p> <p>(ii) Australian intra corporate transferees of a branch or affiliate importing foreign currencies into Thailand not less than 3 million Baht; and</p> <p>(iii) Australian contractual service suppliers of a juridical person with fully paid up registered capital not less than 2 million Baht;</p> <p>will have access to the one stop service centre for visa and work permit.</p> <p>To obtain temporary stay and work permit, Australian nationals under any of these categories will have to fulfil the documentary requirements of Thailand as notified to Australia from time to time.</p>

Sector or Sub-sector	Limitations
	<p>(5) <u>APEC Business Travel Card Holders</u> Australian business people who hold the APEC Business Travel Card (ABTC) will be permitted to attend business meetings/seminars or conduct business contacts without engaging in making direct sales of goods or services to the general public, supplying services, or acquiring remuneration in Thailand for up to 90 days.</p> <p>(6) <u>Non-APEC Business Travel Card Holders</u> Australian business people who do not hold the ABTC will be permitted perform the same activities for up to 15 days. Such business people shall notify the Department of Employment (DOE) before conducting business meetings or contacts in Thailand.</p> <p>(7) <u>Advance applications</u> Australian companies will be permitted to apply for work permits on behalf of an employee prior to the employee's entry into Thailand. The DOE will notify the employers of the outcome of such application, including the period of validity of the permit and other conditions, prior to the employee's arrival in Thailand. Once the employee enters Thailand, the employee will be required to follow normal procedures and provide all necessary documents.</p> <p>(8) <u>Notification to Department of Employment</u> Australian intra-corporate transferees and contractual service suppliers will be permitted to attend meetings/seminars and/or conduct business contacts throughout Thailand without having to notify the authority each time, provided that they inform the DOE when applying for the initial work permit of their intention to have such flexibility.</p> <p>(9) <u>Spouses</u> Spouses of Australian investors, intra-corporate transferees and contractual service suppliers will be permitted to work as managers, executives or specialists for juridical persons in Thailand, provided that they work under valid employment contracts and apply for temporary stays and work permits in compliance with relevant Thai laws and regulations.</p> <p>Thailand reserves its policy discretion in the acquisition of land and real estate.</p>

Sector or Sub-sector	Limitations
<p>II. SECTOR-SPECIFIC COMMITMENTS</p> <p>Notes: (a) Commitments in this Schedule are subject to the general limitations contained in the “Horizontal Commitments” section of this schedule.</p> <p>(b) The (*) indicates that sector- specific commitment for cross-border supply is unbound due to lack of technical feasibility.</p> <p>(c) The (**) indicates that the service specified constitutes only a part of the total range of activities covered by the Provisional CPC concordance.</p>	
<p>1. Business Services</p>	
<p>General management consulting services (CPC 86501) provided exclusively through regional operating headquarters (ROH), ROH’s associated company or foreign branch.</p>	<p>Equity participation of up to 100 percent by Australian investors / service suppliers is allowed.</p>
<p>Convention services (CPC 87909**) excluding catering and beverage services</p>	<p>Total area of not less than 4,000 square meters; and</p> <p>total area of the largest hall must not be less than 3,000 square meters.</p>
<p>International exhibition services (CPC 87909**)</p>	<p>Total area of not less than 50 rai (80,000 square meters) with an indoor exhibition area of not less than 25,000 square meters is required.</p>
<p>2. Communication Services</p>	
<p>Telecommunications equipment sales services (CPC 75420**)</p> <p>Telecommunications consulting services (CPC 75440)</p> <p>Telecommunications terminal equipment leasing services (CPC 75410)</p>	<p>The equity participation of Australian service suppliers must be less than 50 percent;</p> <p>Unbound for cross border supply national treatment.</p>
<p>Database access services (CPC 7523**)</p>	<p>Service suppliers must use the public telecommunications network under the national telecommunications authorities.</p> <p>The equity participation of Australian service suppliers must be less than 25 percent.</p>
<p>Domestic very small aperture terminal (VSAT)</p>	<p>Service suppliers must use the public telecommunications network under national telecommunications authorities.</p> <p>Service suppliers must comply with the built-transferred-operated principle set up by the national telecommunication authorities.</p> <p>The equity participation of Australian service suppliers must be less than 40 percent.</p>

Sector or Sub-sector	Limitations
3. *Construction Services (CPC 51**)	
Construction services relating to basic services to the public in public utilities or transport requiring special tools, machinery, technology or construction expertise	Equity participation of up to 100 percent by Australian investors / service suppliers is allowed when having minimum paid – up registered capital of 1,000 million Baht.
4. Distribution Services	
Retailing and wholesale trade services relating to the distribution and installation of products manufactured by Australian juridical persons established in Thailand	The services must be provided by such juridical persons with Australian majority ownership up to 100%.
5. Education Services	
Tertiary education services (CPC 923**) provided only by institutions specialising in sciences and technology including life sciences, bio-technology and nano - technology only.	<p>Service supplier must situated outside Bangkok and the Metropolitan area;</p> <p>At least half of the Members of the University Council must be Thai nationals.</p> <p>Unbound for cross border supply.</p>
9. Tourism Services and Travel Related Services	
Luxury hotel and resort services (CPC 641**) including hotel management services.	<p>Service supplier must have a minimum paid-up registered capital of 800 million Baht.</p> <p>The facility must have a minimum of 100 rooms.</p>
Full restaurant services (food and beverage preparation and serving services with or without entertainment) (CPC 64210**)	<p>The facility must have a minimum area of 450 square meters.</p> <p>The provider must have a minimum paid-up registered capital of 50 million Baht.</p>
10. Recreational, Cultural and Sporting Services	
<p>Theme park services (CPC 96194**)</p> <p>Zoological garden services (CPC 96321**)</p>	<p>A total area of not less than 200 rai is required.</p> <p>Service supplier must have a minimum paid-up registered capital of 1,000 million Baht.</p>
Aquariums services (CPC 96321**)	<p>A total area of not less than 10 rai is required.</p> <p>Service supplier must have a minimum paid-up registered capital of 200 million Baht.</p>

Sector or Sub-sector	Limitations
11. Transport Services	
<p>Supporting services for maritime transport (CPC 745**) (excluding cargo handling) Port and water waterway operation service including Marina facilities (A small sea, lake or river harbour with docking facilities for motor and sailing boats with maintenance and supply services and berths for long and short term use).</p>	<p>Service supplier must have facilities including a ship lifter, inland berthing, and a shipyard for maintenance and repair.</p>
12. Non-service Sectors	
<p>Mining (including operations undertaken onland or underwater to obtain minerals from an area by any method or methods, but not including “individual mining²” or “panning³” for minerals)</p>	<p>Concessions must be granted by the Department of Primary Industries and Mines, Ministry of Industry as provided by the Mineral Act B.E. 2510 (1967) as amended by the Mineral Act (No.2) B.E. 2516 (1973), the Mineral Act (No.3) B.E. 2522 (1979), the Mineral Act (No.4) B.E. 2534 (1991); and the Mineral Act (No.5) B.E. 2545 (2002).</p> <p>At least two fifths of the member of Board of Directors must be Thai nationals.</p>
<p>Manufacturing Covers all manufacturing which is not included in List 1 and 2 of the Foreign Business Act B.E. 2542 (1999)</p>	<p>Subject to non-conforming measures. No other limitations as long as the equity participation of Australian investors/service suppliers is less than 50 percent.</p>

² Individual mining means the operation undertaken onland or underwater to obtain minerals from an area by using individual manual labour in accordance with the kind of mineral, within the area and by means of digging methods prescribed by a Ministerial Regulation.

³ Panning means the operation undertaken onland or underwater to obtain minerals from an area by using individual manual labour in accordance with the kind of mineral, within the area and by means of panning methods prescribed by a Ministerial Regulation.