

Annex 4.2 New Zealand's Schedule on Investment

Limitations on all overseas investment in New Zealand

A Overseas Investment Regime

Consistent with New Zealand's overseas investment regime,* the following investment activities require prior approval from the New Zealand Government:

acquisition or control of 25 per cent or more of any class of shares or voting power in a New Zealand entity where either the consideration for the transfer or the value of the assets exceeds NZ\$50 million.**

commencement of business operations or acquisition of an existing business, including business assets, in New Zealand, where the total expenditures to be incurred in setting up or acquiring that business or those assets exceed NZ\$50 million.**

acquisition or control, regardless of dollar value, of certain categories of land that are regarded as sensitive or require specific approval according to New Zealand's Overseas Investment legislation, and acquisition of any land wherever located worth more than NZ\$10 million.***

acquisition or control, regardless of the dollar value, of 25 per cent or more of any class of shares or voting power in a New Zealand entity that owns commercial fishing quota or annual catch entitlement, or the acquisition of commercial fishing quota or annual catch entitlement.

Overseas investors must comply with the criteria set out in the overseas investment regime for the establishment, acquisition, expansion, management, conduct and operation of an investment in New Zealand and any conditions specified by the Overseas Investment Commission and the responsible Minister of the Crown.

The criteria applied to overseas investment that require approval under New Zealand's overseas investment regime may be adjusted or replaced from time to time by New Zealand Government legislation, regulation or policy setting.

* Full details of the overseas investment regime are available, as at the date of entry into force of this Agreement, at www.oic.govt.nz.

** The NZ\$50 million threshold will increase to NZ\$100 million on coming into force of proposed New Zealand legislation to amend the overseas investment regime.

*** The NZ\$10 million threshold will cease to apply on coming into force of proposed New Zealand legislation to amend the overseas investment regime.

B Overseas company reporting requirements for all overseas companies

Overseas companies, issuers, subsidiaries of companies and where 25 per cent or more of the

shares are held or controlled by companies incorporated outside New Zealand are required to satisfy the requirements set out in the Companies Act 1993 and the Financial Reporting Act 1993, including the preparation of audited financial statements on an annual basis. All overseas companies must comply with the Acts regardless of whether the investment requires approval under the Overseas Investment Act. The legislation requires financial statements in relation to an overseas company's New Zealand business.

C Exceptions to National Treatment

More favourable treatment may be accorded to New Zealand nationals and permanent residents in the form of incentives or other programmes to help develop local entrepreneurs and assist local companies to expand and upgrade their operations. More favourable treatment may be accorded to New Zealand nationals and permanent residents in respect of ownership of enterprises currently in State ownership.

More favourable treatment may be accorded to New Zealand nationals and permanent residents in respect of ownership of Producer and Marketing Board assets.

Under the Fisheries Act, no vessel owned or operated by an overseas person may be registered to carry out commercial fishing or fish carrying activities without permission from the Minister of Fisheries and subject to any conditions that he or she thinks fit to impose. Further, no vessel that is not a New Zealand ship will be used for commercial fishing within the territorial sea of New Zealand. Foreign fishing vessels or fish carriers are required to obtain approval from the Minister of Fisheries before entering New Zealand internal waters.

Annex 4.1 Thailand's Schedule on Investment

Market access and national treatment measures listed in the limitations column condition all the sector - specific commitments.

Sector or Sub-sector Limitations

Horizontal Commitments:

Under Thailand's Foreign Business Act B.E. 2542 (1999), the advantages and disadvantages to the nation's safety and security, economic and social development, public order or good moral, art, culture and tradition of the country, natural resource conservation, energy and environment, consumer protection, size of enterprises, employment, technology transfer, and research and development shall be taken into account in permitting the foreigners to operate the business.

Foreigners shall be prohibited from operating any business prescribed in List One under the Foreign Business Act.

Foreigners shall be prohibited from operating any business prescribed in List Two under the Foreign Business Act unless permitted by Minister of Commerce with the approval of the Cabinet.

All New Zealand Citizens

Foreigners shall be prohibited from operating any business prescribed in List Three unless permitted by the Director General of the Department of Business Development with the approval of the Foreign Business Committee.

Foreign Direct Investment in Non - Service

Business operations are permitted only through entities which are registered in Thailand with a minimum capital brought or remitted into Thailand for commencing business operations of 3 million Baht for each of businesses.

Sector All Sectors

For a business characterised as a limited partnership or a registered ordinary partnership, the managing partner or manager must be a Thai national.

inscribed in this schedule

In compliance with the Ministry of Commerce Announcement No.4 B.E. 2546 (10 March 2003), registration with 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 the Internet System namely e – commerce, an Internet Service Provider (ISP), web hosting and e - marketplace.

Foreign investment in manufacturing distilled liquor is restricted. A manufacturer of distilled liquor must be a limited company under Thai laws with foreign equity participation less than 49 percent.

Thailand reserves its policy discretion in the acquisition of land and real

estate.

Unless otherwise specified in this schedule, equity participation of less than 50 percent by New Zealand investors is allowed subject to criteria contained in the limitations column and non - discriminatory domestic regulation. Furthermore,

1. the investor which is a juridical person owned and controlled by a person of New Zealand must be registered as a registered ordinary partnership, limited partnership or limited company in Thailand; and
2. a debt to equity ratio of 3:1 or lower shall be maintained.

Thailand reserves the right to adopt or maintain any measure administered at the local government level unless that measure is applied on a discriminatory basis with the intention of nullifying or impairing the benefit accruing to New Zealand under the terms of the Agreement.

Sector or Sub-sector

Limitations

Non-Service Sectors

Manufacturing in the following

Equity participation of up to 100 percent by New Zealand investor is allowed^[2].

- activities electronic industry and electrical appliances
- software industry^{*}
- machinery and mechanical appliances
- manufacturing of pulp, paper, paper containers and articles made from fibre, pulp, paper or paperboard^[1]
- food processing using modern technology
- manufacturing of basic chemicals, given that the production must have chemical process
- manufacturing of furniture (except carved wood and wood fabrication from natural forest)
- manufacturing of natural rubber
- manufacturing of textile products (except products related to Thai silk)
- manufacturing of vehicle parts (except those related to natural safety and security)

Total number of New Zealand director up to 100% of total number of board of directors is allowed.

A foreign director applying for a business operation certificate or responsible for business operation must have the following qualification:

1. over 20 years old
2. being neither incompetent nor quasi – incompetent
3. not being a bankrupt
4. never having been punished by a court judgment
5. never having been imprisoned
6. never having a license issued under Thailand's Foreign Business Act revoked during the five year period prior to the date of the license application

* Must be approved by relevant government agencies if the Board of Investment privilege is sought.

[1] Raw materials must not be derived from natural forests in Thailand.

[2] The remaining equity shares must be owned by Thai investors.