

India-Thailand Free Trade Agreement

India has recently inked a free trade agreement (FTA) with Thailand for setting up of a free trade area covering goods, services and investment in 10 years. The Indo-Thai FTA covers as many as 84 items and several areas in the first phase including services, investment, economic cooperation and goods like food items, tourism, auto parts, electronic goods.

As per the 'Early harvest scheme (EHS)' under the agreement, a common list of items for exchange of tariff concession at 6-digit level and tariff on these identified items is slated to be phased out by March 1, 2006.

As per agreement, negotiations on goods will begin from January 2004 and will be concluded in March 2005 and the FTA for zero duty imports will be put into effect by 2010. Similarly negotiations on investment would start in January 2004 and is expected to be completed within two years. Currently, discussions are continuing on the framework of 'Rules of Origin'.

The agreement along with the list of items identified for early harvest programme is being reproduced below:

FRAMEWORK AGREEMENT FOR ESTABLISHING FREE TRADE AREA BETWEEN THE REPUBLIC OF INDIA AND THE KINGDOM OF THAILAND

Preamble

The Governments of the Republic of India and the Kingdom of Thailand hereinafter referred to in this Agreement individually as "the Party" and collectively as "the Parties";

Desiring to strengthen the special bonds of friendship and economic relationship and also cooperation that exist between the Parties with a view to improving living standards, deepening economic linkages, promoting economic growth, investment opportunities, minimising barriers, and creating a larger and more integrated market with greater opportunities;

Desiring to raise the capacity and international competitiveness of their goods and services as well as to promote their mutual interests through liberalization and expansion of trade and investment between them and with a view to eventually establishing a bilateral Free Trade Area;

Recognizing the important role and contribution of the business sector in enhancing trade and investment between the Parties and the need to further promote and facilitate their cooperation and utilisation of greater business opportunities provided by a comprehensive free trade agreement between the Parties;

Re-affirming the rights and obligations with respect to each other under existing bilateral, regional and multilateral agreements including the Marrakesh Agreement establishing the World Trade Organization;

Recognizing the catalytic role that regional trading arrangements can play towards accelerating regional and global liberalization and as building blocks in the framework of the multilateral trading system;

Have agreed as follows:

ARTICLE 1

Objectives

The Parties shall make every effort to:

1. create favourable conditions for greater economic cooperation and promote fair competition;
2. progressively liberalize and eliminate barriers to trade in, and facilitate the cross-border movement of goods and services between the territories of the Parties on a reciprocal basis as well as create a transparent, liberal and facilitative investment regime; and
3. explore new areas and develop appropriate measures for closer economic cooperation between the Parties.

ARTICLE 2

Measures for Comprehensive Free Trade Area (FTA)

The Parties agree to expeditiously negotiate for establishing an India-Thailand FTA with a view to strengthening and enhancing liberalization of trade through the following:

progressive elimination of tariffs and non-tariff barriers in substantially all trade in goods between the Parties;

progressive liberalization of trade in services between the Parties with substantial sectoral coverage;

establishment of an open and competitive investment regime that facilitates and promotes investment within and between the Parties;

establishment of effective trade and investment facilitation measures, including, but not limited to, simplification of customs procedures and development of mutual recognition arrangements;

expansion of economic co-operation in areas as may be mutually agreed between the Parties that will complement the deepening of trade and investment links between the Parties and formulation of action plans and programmes in order to implement the agreed sectors/areas of cooperation; and

establishment of appropriate mechanisms for the purposes of effective implementation of this Agreement.

ARTICLE 3

Trade in Goods

1. With a view to expediting the expansion of trade in goods, the Parties agree to enter into negotiations in which duties and other restrictive regulations of commerce except, where necessary, those permitted under Article XXIV (8)(b) of the WTO General Agreement on Tariffs and Trade (GATT) 1994, shall be eliminated on substantially all trade in goods between the Parties.

2. The tariff reduction or elimination program of the Parties shall require tariffs on listed products to be gradually reduced and where applicable, eliminated, in accordance with this Article.

3. The products which are subject to the tariff reduction or elimination program under this Article shall include all products not covered by the Early Harvest Scheme under Article 7 of this Agreement, and such products shall be categorised into two tracks, namely, the Normal Track and the Sensitive Track.

4. The commitments undertaken by the Parties under this Article and Article 7 of this Agreement shall fulfil the WTO requirements to eliminate tariffs on substantially all the trade between the Parties.

5. The tariff preferences to be mutually agreed between the Parties pursuant to this Article shall set out only the limits of the applicable tariff preferences for the specified year of implementation by the Parties and shall not prevent any Party from accelerating its tariff reduction or elimination if it so desires.

6. The negotiations between the Parties to establish the India-Thailand FTA covering trade in goods shall also include, but not be limited to the following:

(i) other detailed rules governing the tariff reduction or elimination programme for the Normal Track and the Sensitive Track as well as any other related matters, including principles governing reciprocal commitments, not provided for in the preceding paragraphs of this Article;

(ii) Rules of Origin (ROO);

(iii) Treatment of out-of-quota rates;

(iv) Modification of a Party's commitments under this Article on trade in goods based on GATT/WTO principles;

(v) Non-tariff barriers (NTBs) imposed on any products covered under this Article or Article 7 of this Agreement, including, but not limited to quantitative restrictions or prohibition on the importation of any product or on the export or sale for export of any product;

(vi) Safeguards based on the GATT/WTO principles;

(vii) Disciplines on subsidies and countervailing measures and anti-dumping measures based on the existing GATT disciplines;

(viii) Facilitation and promotion of effective and adequate protection of trade-related aspects of intellectual property rights based on existing WTO Agreements, World Intellectual Property Organisation (WIPO) and other relevant disciplines; and

(ix) Dispute settlement mechanism.

ARTICLE 4

Trade in Services

With a view to expediting the expansion of trade in services, the Parties agree to enter into negotiations to progressively liberalise trade in services with substantial sectoral coverage. Such negotiations shall be directed to:

progressive elimination of substantially all discrimination between the Parties, prohibition of new or more discriminatory measures, with respect to trade in services between the Parties except for measures permitted under Article V(1)(b) of the General Agreement on Trade in Services (GATS);

expansion in the depth and scope of liberalisation of trade in services; and

enhanced co-operation in services between the Parties in order to improve efficiency and competitiveness.

ARTICLE 5

Investment

1. To promote investments and to create a liberal, facilitative, transparent and competitive investment regime, the Parties shall endeavour to:

(i) enter into negotiations in order to progressively liberalise their respective investment regimes;

(ii) strengthen co-operation in investment, facilitate investment and improve transparency of investment rules and regulations; and

(iii) provide for the protection of investments.

2. With regard to the promotion and protection of investments, the Parties shall keep in view the provisions of the Agreement for the Promotion and Protection of Investments signed by them on 10 July 2000.

ARTICLE 6

Other Areas of Economic Cooperation

1. The Parties agree to strengthen their cooperation, but not limited to, in the following areas:

(i) Trade Facilitation:

Mutual Recognition Arrangements (MRAs), conformity assessment, accreditation procedures, and standards and technical regulations;

Removal of non-tariff barriers (NTBs);

Customs cooperation;

Trade finance; and

Business visa and travel facilitation.

(ii) Sectors of Cooperation:

(a) Fisheries and Aquaculture;

(b) Information & Communications Technology;

(c) Space Technology;

(d) Biotechnology;

(e) Finance and Banking;

(f) Tourism;

(g) Infrastructure Development;

(h) Health Care;

(i) Construction;

(j) Education; and

(k) Government Procurement.

(iii) Trade and Investment Promotion:

trade and investment fairs and exhibitions;

India-Thailand portal; and

business sector dialogues.

2. Co-operation shall be extended to other areas, including, but not limited to, industrial cooperation, intellectual property rights, small and medium enterprises (SMEs), civil aviation, environment, forestry and forestry products, mining, energy and sub-regional development.

3. Measures to strengthen co-operation shall include, but not be limited to:

promotion and facilitation of trade in goods and services, and investment;

increasing the competitiveness of SMEs;

promotion of electronic commerce;

capacity building; and

technology transfer.

Article 7

Early Harvest Scheme

1. With a view to accelerating the realization of benefits from this Agreement, the Parties agree to implement an Early Harvest Scheme, which will form an integral part of the India-Thailand FTA covering trade in goods for products covered under paragraph 2(i) below and which will commence and end in accordance with the timeframes set out in this Article.

2. The product coverage, tariff reduction and elimination, implementation timeframes, Rules of Origin, trade remedies and emergency measures applicable to the Early Harvest Scheme shall be as follows:

(i) Product coverage;

The specific products listed in Annex-I of this Agreement shall be covered by the Early Harvest Scheme.

(ii) Tariff Reduction and Elimination:

(a) The products covered under this Article shall be subjected to the following tariff reduction and elimination:

Period	Tariff reduction on applied MFN tariff rates as of 1 st January 2004
1.3.2004-28.2.2005	50%
1.3.2005-28.2.2006	75%
1.3.2006	100%

(b) All products where the applied MFN tariff rates are 0%, shall remain at 0%.

(c) Where the implemented tariff rates are reduced to 0%, they shall remain at 0%.

(iii) Interim Rules of Origin:

The Interim Rules of Origin applicable to the products covered under the Early Harvest Scheme shall be further negotiated by the Sub-group of Expert on Rules of Origin. The Interim Rules of Origin shall be superseded and replaced by the Rules of Origin to be negotiated and implemented by the Parties under Article 3(6)(ii) of this Agreement.

(iv) Trade Remedies and Emergency Measures:

If any product, which is covered under EHS, is imported into the territory of a Party in such a manner or in such quantities as to cause or threaten to cause, serious injury to the domestic producers of such product in the importing Party, the importing Party may, after prior consultations, to be concluded within 90 days or on any mutually agreed timeframe, from the date of notifying the other Party, suspend provisionally without discrimination the preferential treatment so accorded.

(v) Application of WTO provisions

The WTO provisions governing modification of commitments, safeguard actions and other trade remedies, including anti-dumping and subsidies and countervailing measures, shall, in the interim, be applicable to the products covered under the Early Harvest Scheme and shall be superseded and replaced by the relevant disciplines negotiated and agreed to by the Parties under Article 3(6) of this Agreement.

3. In order to fully realize the potential benefits of the Early Harvest Scheme, the Parties shall promote and facilitate trade on all products listed in the Early Harvest Scheme. The Parties shall also endeavor to refrain from using non-tariff measures adversely affecting trade on early harvest products.

ARTICLE 8

Timeframes

1. For trade in goods, the negotiations for tariff reductions or elimination and other matters as set out in Article 3 of this Agreement shall commence in January 2004 and be concluded by March 2005 in order to establish the India-Thailand FTA covering trade in goods by 2010.

2. For trade in services and investments, the negotiations on the respective agreements shall commence in January 2004 and be concluded by January 2006. The identification and liberalisation of the sectors of services and investment shall be finalised for implementation subsequently in accordance with the timeframes to be mutually agreed, taking into account the sensitive sectors of the Parties.

3. For other areas of economic cooperation under Article 6 of this Agreement, the Parties shall continue to build upon existing or agreed programmes set out in that Article, develop new economic cooperation programmes, and conclude agreements on other areas of economic cooperation.

ARTICLE 9

General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination in trade between the Parties where the same conditions prevail, or a disguised restriction on trade within the India-Thailand FTA, nothing in this Agreement shall prevent any Party from taking action and adopting measures for the protection of its national security or the protection of articles of artistic, historic and archaeological value, or such other measures which it deems necessary for the protection of public morals, or for the protection of human, animal or plant life, health and conservation of exhaustible natural resources.

ARTICLE 10

Dispute Settlement Mechanism

Any dispute arising between the Parties regarding interpretation, application or implementation of this Agreement shall be settled amicably through consultations.

ARTICLE 11

Institutional Arrangements for the Negotiations

1. The India-Thailand Trade Negotiating Committee (TNC) shall be established to carry out the program of negotiations set out in this Agreement.
2. The India-Thailand TNC may co-opt other members/experts and/or set up working groups as may be necessary to assist the negotiations from time to time.
3. The Parties may establish other mechanisms as may be necessary to coordinate and implement any economic cooperation activities undertaken pursuant to this Agreement.

ARTICLE 12

Miscellaneous Provisions

1. This Agreement and Annexes thereto as well as any legal instrument agreed upon by the Parties pursuant to provisions of this Agreement shall be integral parts of the Agreement and shall be binding on the Parties.
2. Except as otherwise provided in this Agreement, this Agreement or any action taken under it shall not affect or nullify the rights and obligations of the Party under existing agreements to which it is already a party.
3. The Parties shall endeavour to refrain from increasing restrictions or limitations that would affect the application of this Agreement.
4. The provisions of this Agreement may be modified through amendments mutually agreed upon in writing by the Parties.

ARTICLE 13

Duration and Termination of the Agreement

This Agreement shall remain in force until either Party terminates this Agreement by giving six months written notice to the other Party of its intention to do so.

ARTICLE 14

Entry into Force

This Agreement shall enter into force on the thirtieth day after the date on which the Parties hereto have exchanged diplomatic notes informing each other that their respective constitutional requirements and procedures have been completed.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE at Bangkok, on this day of October 2003, in duplicate copies in the English Language.

For the Government of
the Republic of India

(Arun Jaitley)
Minister of Commerce

For the Government of
the Kingdom of Thailand

(Adisai Bodharamik)
Minister of Commerce

and Industry

Annex-I

India-Thailand Consolidated List of Items for EHS

NO.	HS.	DESCRIPTIONS
1	080450	EX. FRESH MANGOSTEENS, MANGOES
2	080610	FRESH GRAPES
3	080810	APPLES
4	081060	EX. FRESH DURIANS
5	081090	EX. FRESH RAMBUTANS, LONGANS, POMEGRANATES
6	100110	DURUM WHEAT
7	100190	OTHER WHEAT AND MESLIN
8	160411	SALMON, WHOLE OR IN PIECES BUT NOT MINCED, PREPARED OR PRESERVED
9	160413	SARDINES, SARDENELLA AND BRISLING OR SPRATS, WHOLE OR IN PIECES BUT NOT MINCED, PREPARED OR PRESERVED
10	160415	MACKERAL WHOLE OR IN PIECES BUT NOT MINCED, PREPARED OR PRESERVED
11	160510	CRAB PREPARED OR PRESERVED
12	250100	SALT (INCL TABLE SALT & DENATRD SALT) & PURE SODIM CHLRDE W/N AQS SOLN SEA WTR
13	261000	CHROMIUM ORES & CONCENTRATES
14	281119	OTHER INORGANIC ACIDS
15	281820	OTHER ALUMINIUM OXIDE
16	281830	ALUMINIUM HYDROXIDE
17	291739	OTHR ARMTIC PLYCRBOXYLC ACIDS THR ANHYDRDS HALIDES PEROXIDES PEROXYACDS & THR DRVTVS
18	390210	POLYPROPYLENE, IN PRIMARY FORMS
19	390690	OTHER ACRYLIC POLYMERS IN PRIMARY FORMS.
20	390710	POLYACETALS IN PRIMARY FORMS.

21	390730	EPOXIDE RESINS IN PRIMARY FORMS.
22	390740	POLYCARBONATES IN PRIMARY FORMS.
23	390760	POLYETHYLENE TEREPHTHALATE IN PRIMARY FORMS.
24	390799	SATURATED POLYALLYL ESTERS AND OTHER SATURATED POL
25	390810	POLYAMIDE -6,-11,-12,-6,6,-6,9,-6,10 OR -6,12,IN PRIMARY FORMS
26	390890	OTHER POLYAMIDES IN PRIMARY FORMS.
27	390950	POLYURETHANES IN PRIMARY FORMS.
28	391990	OTHER SELF-ADHESIVE PLATES, SHEETS, FILM, FOIL, TAPE, STRIP AND OTHER FLAT SHAPES OF PLASTICS
29	441219	OTHR PLYWD COMSSTNG ONLY SHTS OF WOOD OF THICKNESS OF EACH SHEET NT EXCD 6 MM
30	710310	PRECIOUS STONES (OTHER THAN DIAMONDS) AND SEMI-PRECIOSSTONES, UNWORKED OR SIMPLY SAWN OR ROUGHLY SHAPED
31	710490	OTHER SYNTHETIC OR RECONSTRUCTED PRECIOUS OR SEMI-PRECIOUS STONES
32	710510	DUST AND POWDER OF DIAMONDS
33	711319	ARTICLES OF JEWELLERY AND PARTS THEREOF, OF OTHER PRECIUOS METAL, WHETHER OR NOT PLATED OR CLAD WITH PRECIUOS METAL
34	720150	ALLOY PIG IRON: SPIEGELEISEN
35	720711	PRDCTS CONTNG BY WT<0.25% CRBN,OF RCTNGLR (INCL SQR)CRS-SCTN;WDTH<TWICE THE THCKNS
36	720719	OTHR PRDCTS CONTNG BY WT<0.25% OF CARBON
37	722619	FLT-ROLD PRDCTS OF SILICON ELECTRICL STL OTHR THN GRAIN-ORIENTED
38	722990	OTHER WIRE
39	730792	THREADED ELBOWS, BENDS AND SLEEVES OF IRON OR STEEL
40	732020	HELICAL SPRINGS, OF IRON OR STEEL
41	732690	OTHER ARTICLES OF IRON OR STEEL WIRE, NOT FORGED
42	760110	ALUMINUM, NOT ALLOYED
43	760120	ALUMINUM ALLOYS
44	840490	PARTS OF THE ITEMS OF 840410 & 840420
45	840991	PARTS SUITABLE FOR USE SOLELY OR PRINCIPALLY WITH SPARK-IGNITION INTERNAL COMBUSTION PISTON ENGINES
46	841360	OTHER ROTARY POSITIVE DISPLACEMENT PUMPS

47	841381	OTHER PUMPS
48	841451	TABLE,FLOOR,WALL,WINDOW,CEILING/ROOF FANS,WTH SLF-CNTND ELCTRC MOTOR OF OUTPT<=125 W
49	841459	OTHER FANS
50	841490	PRTS OF AIR/VACUM PUMPS,CMPRSSRS & FANS
51	841510	WINDOW/WALL TYPES SELF-CONTAINED AIR CONDITIONING MACHINES
52	841821	COMPRESSION-TYPE REFRIGERATORS, HOUSEHOLD
53	841990	PRTS OF MCHNRY,PLNT/LBRTRY EQMPMNT ETC OF THE ITEMS OF HDG 8419
54	842199	OTHR PARTS OF FLTRNG/PURFYNG MCHNRY
55	842390	WEIGHNG MCHN WEIGHTS & PRTS OF THE MCHNRY
56	842549	JACKS, HOISTS, OF A KIND USED FOR RAISING VEHICLES
57	843221	DISC HARROWS
58	843780	OTHER MACHNRY FOR CLNG,SRTNG/GRADNG SEEDS
59	844820	PRTS & ACCSSRS OF MCHNS OF HDG. NO.8444/OF THEIR AUXLRY MCHNRY
60	844833	SPINDLES,SPINDLE FLYERS,SPINNING RINGS AND RING TRAVELLERS
61	847141	OTHR DGITL AUTOMATIC DATA PROCESNG MACHNS COMPRISNG IN SAMEHOUSNG A CENTRLPROCESNG UNIT & INPUT & OUTPUT UNIT,WH/NOT COMBIND
62	847190	OTHER
63	847290	OTHR OFFICE MACHINES
64	847751	MCHNRY FR MOULDNG/RETREADNG PNEUMTC TYPES OR FR MOULDNG/OTHRWSE FORMNG INNR TUBES
65	847989	OTHR MCHN &MCHNCL APPLNCS OF HDG 8479
66	847990	PARTS OF MACHINES OF HDG 8479
67	848079	OTHR MOULDS FOR RUBBER/PLASTICS
68	848180	OTHER APPLIANCES FOR PIPES, BOILER SHELLS, TANKS, VATS OR THE LIKE
69	848210	BALL BEARINGS
70	848350	FLYWHEELS AND PULLEYS, INCLUDING PULLEY BLOCKS
71	850431	OTHR TRNSFRMRS HVNG A PWR HNDLNG CAPACITY NOT EXCDNG 1 KVA
72	851220	OTHER LIGHTING OR VISUAL SIGNALLING EQUIPMENT
73	851711	LINE TELPHON SET WTH CORDLESS HAND SETS.

74	851790	PARTS OF TELEPHONIC/TELEGRAPHIC APPARATUS
75	852390	OTHER PREPARED UNRECORDED MEDIA
76	852812	RECEPTN APARTS FOR TV ETC COLOUR
77	852910	AERIALS & AERIALS REFLECTORS OF ALL KINDS PRTS SUITABLE FR USE THEREWTH
78	853400	PRINTED CIRCUITS
79	854011	CATHODE-RAY TV PICTURE TUBES, INCLUDING VIDEO MONITOR- CATHODE-RAY TUBES-COLOUR
80	870840	GEAR BOXES
81	903289	OTHR ATMTC RGLTNG/CNTRLNG INSTRMNTS&APPRTS
82	903290	PARTS AND ACCESSORIES OF INSTRMNTS OF 9032
83	910211	WRST-WTCHS,ELECTRLY OPERATED,W/N INCRPRTNG STOP- WTCH FCLTY WITH MCHNCL DISPLAY ONLY
84	940190	PARTS OF SEATS, WHETHER OR NOT CONVERTIBLE INTO BEDS