

The Regulation on National Borrowing, B.E. 2528 (1985)

Translation

Where as it is deemed appropriate to revise the Regulation on National Borrowing B.E. 2525 (1982), the Cabinet,

Therefore, issues this regulation to be complied by government agencies and state enterprises:

Section 1

This regulation shall be called "The Regulation on National Borrowing, B.E. 2528 (1985)"

Section 2

This regulation shall come into effect on the date of its announcement.

Section 3

The Regulation on National Borrowing, B.E. 2525 (1982) shall be abolished.

Section 4

In this regulation:

"Government Agencies" means ministries and departments, as well as provincial, municipal and sanitation administrations, Bangkok Metropolitan Administration and Pattaya City Administration.

"State Enterprises" means state enterprises under the Budget Procedure Act, B.E. 2502 (1959), except those which are commercial banks, finance companies, securities companies and credit fancier companies.

"Borrowings" means borrowings by government agencies or state enterprises from either domestic or foreign sources with or without government guarantee and hire-purchasing, but not including domestic borrowings of state enterprises for their own revolving funds.

"Baht Counterpart Fund" means the Baht portion of a development project's investment.

"Income of enterprises" means net profit before allowing for depreciation and other costs incurred in acquiring investment funds (interest and commitment charges).

"Committee" means The National Debt Policy Committee.

Section 5

There shall be a Committee called "The National Debt Policy Committee", Composed of representatives from government agencies as follows:

- (1) Minister of Finance Chairman
- (2) Deputy Minister of Finance Vice-Chairman
- (3) Permanent Secretary of the Minister of Finance Member
- (4) Governor of the Bank of Thailand Member
- (5) Secretary-General of the NESDB Member
- (6) Director of the Bureau of the Budget Member
- (7) The Comptroller-General Member
- (8) Director-General of the Department Member of Technical & Economic Cooperation
- (9) Director-General of the Fiscal Policy Office Member and Secretary
- (10) Representative from the NESDB Member and Assistant Secretary
- (11) Representative from the Bureau of the Budget Member and Assistant Secretary
- (12) Representative from the Bank of Thailand Member and Assistant Secretary
- (13) Representative from the Comptroller-General's Member and Assistant Secretary Department
- (14) Director of the Loan Policy and Management Member and Assistant Secretary

The Committee is authorized to:

- (1) Propose to the Cabinet and seek its approval on public sector's external borrowing policies, plans and criteria, which shall then serve as the framework for external borrowing of government agencies and state enterprises.
- (2) Formulate short, medium, and long-term external borrowing plans that are consistent with the National Economic and Social Development Plan.
- (3) Formulate an Annual External Borrowing Plan for each fiscal year within the 31st of October of every year.

The Plan shall specify the name of the implementing agency, potential loan source or sources, loan amount, borrowing schedule, required Baht counterpart Fund and other relevant details of each project. It shall also show that the planned level of borrowing, when accounting for the levels expected for the subsequent five years as well, will result in a debt service ratio not exceeding 9% for those years.

In calculating the said debt burden, in so far as short-term debts (Maturity period of one year or less) are concerned, only those which imply subsequent long-term borrowing or those in the form of revolving funds are included.

In both cases, interests shall be calculated according to the conditions of each loan, while the principals will be regarded as outstanding amounts to be carried over in the following year under the general conditions of long-term loan from foreign financial markets.

- (4) After the Annual External Borrowing Plan pursuant to Section 5 (3) is approved by the Cabinet, any further external borrowing is prohibited, unless offset by a deduction from the Plan of at least an equivalent amount.
- (5) Establish co-ordination between the relevant government agencies and state enterprises to enforce the compliance with this regulation, loan agreements, guarantee agreements and other related agreements, as well as to ensure the allocation of government budget and additional funds from domestic or external sources for counterpart fund purposes.
- (6) Study and analyze the country's debt burden and the result of external borrowing operations, then report to the Cabinet by having the concerned agencies submit the reports prepared according to the guidelines set by the National Debt Policy Committee.
- (7) Consider the borrowings from local and external sources for Baht counterpart funds.
- (8) Consider the borrowings of state enterprises from foreign capital markets under the following conditions:
 - 8.1 The project is a part of the National Economic and Social Development Plan or has been approved by the NESDB as eligible, and/or has received the approval of the Cabinet as an appropriate and special case.
 - 8.2 In all cases, the benefits from the projects must be equivalent to the interests and other service costs such as cost of guarantee on exchange risk. In addition, the debt service coverage ratio (Internal cash generation to debt burden) of the projects in such case must not be less than 1.5 times.
- (9) Coordinate the management of defense loans under the Loan for National Defense Act, B.E. 2519 (1976) and the Act Authorizing the Ministry of Finance to Raise Loans from Foreign Governments for the Purchasing of Military Equipment B.E. 2524 (1981), as well as Recommend loan policies and criteria for future borrowings for defense purposes.
- (10) Consider external borrowing for other projects as may be assigned by the Cabinet, such as joint investments between the Government and the private sector.
- (11) Formulate annual policies, targets, and programs of domestic borrowing for Baht counterpart funds according to the economic and financial conditions of the country.

- (12) Make policy recommendations on the tariffs to be charged by state enterprises as they may affect the enterprises' income and debt repayment ability for purposes of supplementing the operational considerations of the respective ministries in charge.

Section 6

The Committee may appoint subcommittees and working groups as it may seem necessary, and in doing so, representatives from concerned government agencies or state Enterprises may be invited to participate in the deliberations of the subcommittees or working groups.

Section 7

Any government agency or state enterprise wishes to undertake any action for national economic and social development, which implies an increased indebtedness of the public sector, shall present its project proposal to the NESDB under the criteria of the NESDB.

Section 8

After receiving the project proposal in Section 7, the NESDB shall review the details of the project in terms of its contribution to economic and social development, then have the project included in the National Economic and Social Development Plan.

In considering the appropriateness of the project in the above paragraph, the NESDB shall also review the utilization of loan, and select the source of the Baht counterpart Fund in order to avoid later financial problems. The NESDB shall then submit its recommendations pertaining there to the National Economic and Social Board for the latter in turn to seek approval from the Cabinet.

Section 9

The NESDB shall submit to the Committee an annual and three-year borrowing plans, listing the names of the development projects which are expected to utilize foreign loans. The Plans will be used in formulating the Annual External Borrowing Plan in Section 5 (3) by the 31st of August of every year. The Committee shall be periodically informed of any changes made to the plan.

Section 10

The Ministry of Defense shall inform the demand of all the branches of the armed forces for foreign loans for the following fiscal year within the 31st of each year in order to have the project included in the Annual External Borrowing Plan in Section 5 (3).

Section 11

An external borrowing of a government agency or state enterprise which is not under the Act Authorizing of Ministry of Finance to Raise Loans from Abroad, B.E 2519 (1976) and the Act Determining the Power of Ministry of Finance to Guarantee Loans, B.E. 2510 (1967) shall be reported to the Committee within 4 months after the signing of the loan agreement.

Section 12

The Bank of Thailand shall monitor the external borrowing of private Sector to ensure its appropriate level and consistency with the national repayment ability according to policy guidelines as set by the Committee. It shall also prepare a report on private sector's past foreign debt situation and forecast demand for external borrowing every 4 months for the Committee to use in its debt management considerations.

Section 13

In the borrowing for projects approved by the Committee, the Ministry of Finance shall:

- (1) approach loan sources.
- (2) negotiate with loan sources on the details of the amount and conditions of the loan agreements, guarantee agreements or conditions on hire purchasing.
- (3) ensure the obedience to the conditions of the loan agreements and guarantee agreements, as well as the provision of loans for Baht counterpart funds for state enterprises.

Section 14

The Ministry of Finance shall be authorized to consider the domestic borrowing of the public sector other for Baht counterpart funds in accordance with the Budget Procedure Act and the Act Determining the Powers of the Ministry of Finance to Guarantee Loans.

Section 15

In cases where it is necessary for a project to obtain further financial or technical assistance for its successful completion, the DTEC shall seek and contact the sources to acquire such assistance.

In case where the assistance is to be from the World Bank or the Asian Development Bank, the Ministry of Finance shall approach the institutions and request for their assistance by complying with their regulations.

Section 16

In approaching loan sources as specified in Section 13, the Ministry of Finance shall seek approval on the conditions of the loan agreement or guarantee agreement from the Cabinet prior to the signing of the agreements.

The Ministry of Finance shall report the signing of a loan agreement or guarantee agreement to the Committee and the Cabinet.

Section 17

Within 3 years after this regulation become effective, following actions are to be undertaken:

- (1) if it is necessary for the development of the country, the National Debt Policy Committee shall seek approval from the cabinet to increase the regulated debt service ratios (debt burden to revenue in foreign currency) in Section 5 (2) by not more than 2%
- (2) when necessary, any state enterprise that needs to borrow from private capital market in foreign countries, but is unable to comply with the conditions in Section 5 (8) - 8.2, may request for an exemption from the Cabinet through the National Debt Policy Committee.

Announced on the 24th of March B.E. 2528 (1985)

Countersigned by
General Prem Thinsulanonda
Prime Minister

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