Shin Corporation (Thailand) and Temasek (Singapore)

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This case was developed based on the information that is in the public domain, solely for educational purposes as a contribution to the Project entitled “Capacity Building for Investment Liberalization and Facilitation” conducted under the auspices of the Asia-Pacific Economic Cooperation (APEC). The case is neither designed nor intended to illustrate the correct or incorrect management of the situation or issues contained in the case.

Executive Summary

Thailand had embarked on significant reforms in its investment regime. The investment liberalization initiative had been undertaken unilaterally. This was due to the recognition of the benefits of some degree of liberalization and competition in response to changes in the international economic climate. Thailand had to conform to the Agreement on Trade-Related Investment Measures (TRIMs) to eliminate trade-related performance requirements and investment barriers. Controls of Foreign Direct Investment (FDI) in the economy, however, remained quite extensive and complex. The policy instruments included restrictions on the entry and establishment of foreign investment and the level of foreign ownership permitted, special treatment of foreign investors, investment incentives such as tax and non-tax concessions, and operational restrictions such as local content requirements and minimum export levels that did not violate TRIMs. It was only recently that Thailand entered into various Free Trade Agreements (FTAs), which obviously prohibited the use of investment measures beyond TRIMs that had been generally used in other developing economies.

The Shin Corporation-Temasek case circumvented such restrictions and policy instruments. The transaction of selling the major shares of Shin Corporation by the Shinawatra and Damapong family to Temasek was done through several holding companies to circumvent the restriction of equity ratio in a Thai company by using nominees. The companies included Cypress Holdings, Kularb Kaew and Cedar Holdings. Cypress Holdings was a holding company of Temasek. It owned 49% of Kularb Kaew's equity but had 90% of voting rights. Kularb Kaew owned 41% of Cedar Holdings which held 54.5% of Shin Corporation's equity and also directly held 22.4% shares of Shin Corporation.[1] Thus, the main control of the company fell in the hands of Temasek, a foreign-owned company. The transaction also allowed tax evasion and circumvented the restricted sensitive area of industries prohibited to foreign investors.

This case study demonstrates that the lack of a transparent, rule-based investment regime and of a clearly articulated policy of progressive FDI liberalization might have contributed to illegal actions, uncertainty, ineffective implementation of existing investment laws and regulations, discouragement of good FDI, and harmful effects to the host economy.

Recommendations to the case include the strengthening of standard legal and institutional framework governing FDI's activities and the protection of FDI, enhancement of good governance and transparency, capacity building, ensuring fair competition, balanced liberalization and sustainable development, full participation of the host economy and local people, and standardization of labor laws and practices. All are essential to the liberalization and encouragement of FDI in Thailand that will result in a prosperous Thai economy.

Background and Introduction

Shin Corporation

Shinawatra Computer was founded in 1983 by Thaksin Shinawatra. The company grew to be one of the largest conglomerates in Thailand and changed its name to Shin Corporation in 1999. On 23 January 2006, 49.6% of the company's shares were sold by the Shinawatra family to Temasek Holdings, the Singapore sovereign wealth fund investment arm, for US$ 1.88 billion.[2] The sale turned out to be highly controversial in Thailand and contributed to the downfall of the Thaksin government.

The Shin Corporation group comprised Shin Satellite, Advance Info Services (the largest mobile phone network in the economy) and ITV, a local television station. It also held shares in Thai AirAsia, a low cost airline company. The operations of the Shin Corporation Group were divided into four business lines: wireless telecommunication, satellite and international business, media and advertising, and E-business and others.[3]

Temasek Holdings

Before 1974, the Ministry of Finance of Singapore held stakes in various local companies such as manufacturing and shipbuilding. With the incorporation of Temasek in 1974, the Ministry of Finance transferred all its stakes to Temasek but it continued to be the sole shareholder of the company up to the present. In 1981, the Ministry of Finance also set up the Government of Singapore Investment Corporation (GIC) which invested primarily the government's foreign reserves in assets outside of Singapore.[4]

In 2002, Ho Ching, the second wife of Lee Hsien Loong, who became the Prime Minister of Singapore, was appointed the executive director of Temasek Holdings.[5]

The Case of Shin Corporation and Temasek

On 12 January 2006, Kularb Kaew Co., Ltd was established in Thailand. Eight days later, the Thaksin government announced the new law on telecommunications, exempting from taxation the selling shares in a telecommunications business, removing the restriction on the equity held by foreigners,[6] and removing restrictions on the ratio of Thai nationals in the Board of Directors in a telecom company. Three days later, on 23 January 2006, the Shinawatra and Damapong families sold their 49.6% stake in Shin Corporation to Temasek Holdings for about 73 billion baht (about US$ 1.88 billion)[7] arousing considerable public suspicion about the deal.

The sale of Shin Corporation's shares by the Shinawatra family to Temasek was done through several holding companies, including Cypress Holdings, Kularb Kaew and Cedar Holdings. Cypress Holdings was a holding company of Temasek. It owned 49% of Kularb Kaew's equity but had 90% of voting rights. Kularb Kaew, on the other hand, owned 41% of Cedar Holdings which held 54.5% of Shin Corporation's equity. Kularb Kew also directly held 22.4% share of Shin Corporation.[8]

Officially, all these companies were regarded as Thai companies because Thai nationals held majority shares. But the Thai-held securities were issued the preferred shares, limiting Thai shareholders' voting rights to only 1%. Since Shin Corporation's four lines of businesses were all considered sensitive in nature, the public was concerned with the potential threats to national security due to the acquisition of the company's shares by Temasek.

Since Temasek was wholly owned by Singapore's Ministry of Finance, its transactions involving the take-over of local companies of other economies caused protests in those affected economies—including Thailand in this case—due to their close links to the Singapore government.[9]

The case involving Shin Corporation and Temasek had been investigated extensively on the grounds that the former Thai Prime Minister was guilty of corruption and tax evasion. It was a decisive factor in the subsequent *coup d'etat* and change of government in Thailand. But the case also pointed out issues with Thailand's foreign investment regime (which lacked a rule-based policy framework) and its related laws and regulations, as well as its inefficient tax laws.

The Key Controversies

Thaksin Shinawatra was accused of selling out Thailand through the Shin Corporation-Temasek deal, which was prohibited under Thai laws because Shin Corporation's businesses were considered vital to the Thai economy. However, his supporters argued that the mobile phone industry was highly competitive, and that there were no criticisms hurled against its competitor, the Norwegian firm Telenor, when it acquired Total Access Communication, the second largest mobile phone operator in Thailand.[10]

Thaksin was also accused of restricting the Thai telecom sector to foreigners,[11] which made it possible for his own company to operate in an oligopolistic market. His supporters further argued that to avoid the conflict of interest, the former Prime Minister Thaksin needed to completely sell out his stakes in Shin Corporation.[12]

Use of Nominees

In acquiring Shin Corporation, various holding companies were used, including Kularb Kaew and Cedar Holdings. Kularb Kaew was owned by Thai nominees shareholders, Pong Sarasin, a son of the former Prime Minister, and his brother, Arsa Sarasin. Temasek was one of the owners of Cedar Holdings Company, which was also 10% owned by Siam Commercial Bank (SCB). The SCB which played an important role in advising and providing financial support to the deal had as its major stakeholder the CPB Capital Co., an investment arm of the Crown Property Bureau.[13]

Using local nominees by foreign owners was illegal. Critics deplored this method as a way of circumventing Thai laws and regulations restricting the equity ratio of foreign ownership of Thai companies. After the investigations, it was found out that Thai nominees held 24.1% of all shares in the Thai security market, and up to 30% of all shares in the technology sector. It was argued that the efforts to eliminate the use of nominees might potentially cause dramatic outflow of capital from Thailand. However, the investigation of the use of nominees was in progress and may result in legal reforms in the Thai economy.[14]

Temasek's Action

Temasek expressed its intention to reduce its shares in Shin Corporation. However, the Thai government continued to take legal action to further investigate whether Kularb Kaew was a nominee of Temasek.[15] Mom Rajawongse Tonhnoi Tongyai has replaced Pong Sarasin as the Chairman, who was removed from the Board of Directors. Mom Rajawongse Tongnoi Tongyai was said to be the private secretary of Crown Prince Maha Vajiralongkorn. The Crown Prince's office later declared that he was only a low ranking officer in the office.[16]

Problems and Challenges

The definition and interpretation of "nominee" under the Foreign Business Act of 1999, as well as the limitation of foreign investment in Thai companies may affect foreign investment in Thailand.[17]

The entry of foreign investors into the Thai economy. Thai laws and regulations on foreign investment restricted areas of Thailand's investment to foreign investors, but in practice these regulations were constrained by uncertainty on how to define a "Thai company." The legal framework governing foreign direct investment in Thailand consisted of national investment laws, administrative regulations and policies, investment-related laws and regulations, as well as bilateral investment agreements that were developed to ensure the protection and fair treatment of foreign investment.

The participation of foreign investors in the Thai economy was still subject to some restrictions and screening process under Thai laws and regulations.[18] It was accepted in international law that economies had sovereignty to screen and control foreign investment or even to expropriate foreign properties[19] if it was done for the public interest, based on the non-discrimination principle, with due procedure and fair compensation. Thus, the entry and establishment of foreign investors was generally left to the host economy's discretion.

The interaction of the three main players in an international investment, namely, the governments of the home and host economies and the transnational company (TNC), regularly encountered difficulties that resulted in conflicts that must be resolved. Problems included double taxation, repatriation of profit, expropriation, and compensation, employment of TNC staff, environmental protection, labor relations, technology transfer, group liabilities and directors liabilities, accountability, disclosure and anti-trust.

Thailand had embarked on significant voluntary reforms to its investment regime. The investment liberalization initiative was undertaken unilaterally,[20] recognizing the benefits of a degree of liberalization and competition as a response to changes in the international economic climate. By 1995, Thailand had to conform to the World Trade Organization's (WTO) Agreement on Trade-Related Investment Measures (TRIMs) to eliminate trade-related performance requirements. Controls of FDI in the economy, however, remained quite extensive and complex.[21] The policy instruments included the following:

- Restrictions on entry and establishment
- Restrictions on the level of foreign ownership permitted
- Special treatment of foreign investors
- Operational restrictions, such as local content requirements and minimum export levels that did not violate TRIMs, until recently, when Thailand entered into various FTAs, which obviously prohibited the use of investment measures beyond TRIMs
- Investment incentives, such as tax and non-tax concessions

Restrictions on the level of foreign ownership permitted. In Thailand, certain business activities were subject to the shareholding requirements stipulated in the Foreign Business Act. For companies engaged in production designed mainly for domestic consumption or distribution, Thai shareholding must not be less than 51% of the registered capital.[22] But export-oriented projects with at least 50% production allocated for export could be majority owned by non-Thais. If 80% or more of the output was exported, non-Thais could own 100% of the shares.

Restricted Areas of Industry to Foreign Investors

The Foreign Business Act of Thailand prohibited aliens from conducting certain types of businesses. The scheme of this law was to divide all prohibited businesses into three categories, A, B and C, as shown in the Appendix. Business activities in categories A and B were prohibited to aliens, while those in category C businesses were open to aliens provided they obtained permits. In certain exceptional cases, the Director-General of the Department of Commercial Registration, Ministry of Commerce, might allow an alien to conduct a type of business that was classified under Category B, as long as the business obtained privileges from the Board of Investment (BOI).[23] For details, please see the Appendix.

Rationale behind the Ownership Restrictions

There were two broad policy objectives of these Thai ownership restrictions. The first was related to the economy's export-push policy. The rules encouraged foreign investors to invest in export-oriented industries in order to support the balance of payments. The Thai government was concerned about the importation of intermediate inputs and raw materials by foreign investors. But if the foreign-owned company intended to export a higher proportion of its product, this could be used to offset the importation of inputs. Therefore, the Thai government allowed a higher ratio of foreign equity in such a case.

The second broad objective was (as in other economies) to balance the economic interests of domestic and foreign investors, and to secure public order, health and the sensitive business sector. The Thai investment policy was actually influenced by "the trade-oriented investment pattern" which was complementary to the open regionalism that relied on market-driven factors more than on regulatory function. The interplay of domestic laws and regulations, bilateral investment treaties, economic policy, and more recently the commitments made by the host and home economies of FDI under the investment chapters of the bilateral FTAs all played an important role in the liberalization of FDI.

Sensitive Areas of Industry Prohibited to Foreign Investors

In addition to the limit set on the ratio of total equity that could be foreign-owned, there were areas of investment that were restricted and subjected to other major hindrances. For example, sensitive areas such as satellite, telecommunications, and media and advertising were under control. Nominees had been widely used to circumvent these laws, regulations and restrictions. There were even cases of individuals changing their nationality through marriage to a Thai national to qualify as an investor in Thailand.

The Telecommunications Business Act stipulated that the telecommunications business was prohibited to foreign investors. But the Thaksin government changed the law just one day before the Shin Corporation deal. Not only did the government eliminate the restriction but it also liberalized the process of granting licenses, even to business operators that did not own their own network for telecommunications services. This was stipulated as follows:

> **Section 7.** [24] *Any person who intends to operate a telecommunications business in accordance with the nature and categories prescribed in notification of the Commission under the law on the organizations to assign radio frequency spectrum and to regulate the sound broadcasting, television broadcasting and telecommunications services shall obtain a license from the Commission.*
>
> *There shall be three types of license as follows:*
>
> *(1) Type One License: being a license granted to the telecommunications business operator who operates without his or her own network for telecommunications services which are deemed appropriate to be fully liberalized. The Commission shall grant a license once notified by a person who intends to operate such business;*

(2) Type Two License: being a license granted to the telecommunications business operator who operates with or without his or her own network for telecommunications services intended for a limited group of people, or services with no significant impacts on free and fair competition or on public interest and consumers. The Commission shall grant a license once a person who intends to operate such business has completely fulfilled the standard criteria prescribed in advance in notification of the Commission;

(3) Type Three License: being a license granted to the telecommunications business operator who operates with his or her own network for telecommunications services intended for general public, or services which may cause a significant impact on free and fair competition or on public interest, or a service which requires special consumer protection. A person who intends to operate such business can commence the operation only after he or she is approved and granted a license by the Commission.

The rights of Type One, Type Two or Type Three licensee to operate telecommunications business in which nature, categories and scope of service shall be in accordance with notification prescribed by the Commission, which shall be in conformity with the nature of telecommunications business for each type of license under paragraph two. In issuing such notification, the Commission shall also have regard to the development of diverse telecommunications services and fairness among the operators.

The Shin Corporation (Thailand) and Temasek (Singapore) deal was subject to these regulations. Much of Shin Corporation's business was in activities that were prohibited to foreigners. Likewise, the equity ratio between the Thai and foreign shareholders which could not exceed the ratio of 51%:49% of the registered capital was circumvented through the use of nominees. The situation was further complicated by the opportunistic alteration of some laws and regulations that restricted foreign investment. These reforms were widely seen as supporting the deal and legitimizing the take-over of Shin Corporation.

Why Did the Deal Violate the Laws?

A review of Shin Corporation group's business structure and lines of business operation confirmed that the group ran many businesses that were prohibited to foreign investors in Thailand. These included telecommunications, airlines, and television stations.

On the other hand, in Thailand some businesses such as wireless telecommunications had been oligopolies that were run by powerful conglomerates, including Shin Corporation, which was one of the biggest conglomerates in Thailand. Hence, there was lack of competition resulting in ineffective business operations and service provision; limitation of consumer choice; high price combined with relatively low quality; and restricted network availability. Given this, a wiser approach to liberalization should have emphasized the strengthening of Thailand's competition law and policy.

The discretionary nature of tax administration was also problematic. Tax exemptions were granted on a case-to-case basis and were subject to alteration from time to time. The sale of Shin Corporation shares to Temasek Holdings was subjected to minimal public scrutiny regarding its tax implications, since the related laws were changed only one day before the deal was made. It was argued that the multiple sale of shares by the Shinawatra family was done to avail themselves of the opportunity not to pay taxes due to the new law promulgated specifically for this transaction. It was also claimed that many loopholes were deliberately incorporated into the laws and regulations to monitor the tax collection system.

Nationality of Juristic Person

Another crucial issue in the Thai policy governing FDIs was how to determine the nationality of the company (i.e. the juristic person), given different underlying principles, including where the business was incorporated, where the business was managed, and who owned and exercised effective control.

There were three basic criteria to determine the nationality of a company or juridical person[25]:

1. *The concept of incorporation or constitution, according to which a company was deemed to be attached to the legal order under which it was incorporated, irrespective of the place and seat of its economic activities. This approach was preferred in the Anglo-American legal system. The rationale for this criterion was consistent with traditional international law.*[26]

2. *The concept of the seat (siege social or "headquarters"), according to which the actual management of a company determined its nationality. This concept had generally been followed in Germany and some other European economies.*

3. *The concept of control, according to which nationality was determined on the basis of the nationality of the shareholders who owned or controlled the company. This concept had been adopted by Switzerland and included in most of the recent Swiss treaties.*

In the Shin Corporation-Temasek case, the Thai government applied the corporate rule in conjunction with the equity ratio measure to determine the nationality of the juristic person. Any company that had been incorporated in Thailand and complied with the law that Thai shareholders must own the majority of the company or holding shares of at least 51% of the registered capital was deemed a Thai company. But given that nominees were widely used, as shown in the Temasek case, there was a loophole in the law. Even though the use of nominees was itself unlawful, it was widely practiced. As this case demonstrated, the company could manipulate the shareholding structure easily by issuing preferred shares to limit the voting rights of the majority of the shareholders. Consequently, effective management control and power were in the hands of foreign investors, not the major Thai shareholders.

The case suggests that Thailand should consider using the "control principle" to determine the nationality of the company. In the case at hand, since Shin Corporation was taken over by Temasek it was deemed to be a Singaporean company, because the effective control of the business resided in the Singaporean government through the Ministry of Finance.

Free and Fair Competition and Transparency

A further and perhaps more fundamental policy issue is whether such business activities should be considered sensitive to the Thai economy or not. In other words, should liberalization of foreign investment be seen as beneficial to the Thai economy by promoting competition or should specific business activities continue to be listed in a negative list that is closed to foreign investors?

Whatever restrictions remain should be transparent. That is, Thai investment laws and regulations need to be transparent, rule-based system and standard. Thus it would be beneficial both for the investor and the host economy if the Thai government were to standardize its investment regime and reduce the degree of discretion.

Addressing these Challenges

Potential areas of law reform include the following:

1. Implement an effective competition law and policy.
2. Further liberalize Thailand's foreign investment regime based on a clear, rule-based system.
3. Introduce a standard legal and institutional framework governing FDI's activities and the protection of FDI.
4. Clarify the principles and rules for determining the nationality of juristic person.
5. Standardize measures for environment protection.
6. Strengthen labor laws and regulations.
7. Promote good governance and transparency.
8. Standardize BITs and create an agreed set of investment rules.

In short, Thailand needs to create a favorable legal, political, social and economic environment for foreign investment. In order to continue attracting FDI, there must be a fair and liberalized rule-based investment regime in Thailand. This would both enhance the potential benefits of FDI for Thailand as the host economy and reduce uncertainty for the investor.

Conclusions and lessons learned

According to the accepted wisdom of neo-liberalism, the market is the most efficient allocator of resources. Therefore the market should be allowed to operate with as little interference as possible. Regulations should focus on protecting consumers, for example, through safety or environmental regulations, as opposed to directing the economy.

This leads to a preference for an open global economy with well defined rules but minimal barriers to the flow of capital or technology.[27] Foreign investment is regarded as an important source of capital, and FDI also brings to the host economies advanced technology, managerial skills, employment, and the improvement of production methods as well as competition that help to upgrade local firms' operations. This perspective entails an open market economy, even though firms still could be subject to some restrictions on the grounds of security, public order, health and other sensitive issues.

There are no comprehensive global investment regulations in today's world.[28] Rather, the BITs networks govern the transnational investment activities in conjunction with domestic investment laws and regulations. Standardization of BITs or creation of an agreed set of investment rules may solve the problem of FDI barriers.

Currently, the interplay of domestic laws and regulations, bilateral investment treaties, economic policy, and more recently commitments made by host and home economies in the investment chapters of the bilateral FTAs have all played an important role in the liberalization of FDI. These may form an agreed set of investment rules to facilitate and standardize the investment regime.

Such a system would help to discipline host economies, making it more difficult to introduce discretionary changes to laws or regulations on an ad hoc basis. Nonetheless, global investment liberalization must take into account legitimate domestic policy concerns including environmental protection, security, interest of public domain, public order, consumer health and safety and other issues.

The key lesson learned from the Shin Corporation-Temasek case was that the lack of a transparent, rule-based investment regime and a clearly articulated policy of progressive FDI liberalization might have contributed to illegal actions, uncertainty, and ineffective implementation of existing investment laws and regulations.

Endnotes

[1] Wikipedia, http://en.wikipedia.org/wiki/Shin_Corp

[2] *Ibid.*

[3] *Ibid.*

[4] Wikipedia, http://en.wikipedia.org/wiki/Temasek_Holdings

[5] *Ibid.*

[6] "Thailand's Thaksin Freeze Out," *Asia Sentinel,* 14 June 2007.

[7] The Shinawatra and Damapong families did not pay capital gains tax due to the special tax exemption. Although the tax exemption was legal, the sale drew heavy criticism over Thaksin's ethics on the grounds that Shin Corporation, a dominant player in Thailand's information technology sector, will be sold to an investment arm of the Government of Singapore.

[8] "Kularb Kaew has 1 year to cut non-Thai shareholding," *The Nation*, 10 January 2007, http://sg.news.yahoo.com/060223/1/3ywh2.html

[9] Wikipedia, http://en.wikipedia.org/wiki/Temasek_Holdings

[10] Wikipedia, http://en.wikipedia.org/wiki/Shin_Corp

[11] http://sanpaworn.vissaventure.com/log/237/abhisit-vejjajiva-economic-nationalist, and http://www.matichon.co.th/matichon/matichon_detail.php.

[12] http://www.ipsnews.org/interna.asp

[13] Wikipedia, http://en.wikipedia.org/wiki/Shin_Corp

[14] "Nominees likely to face more scrutiny," *Bangkok Post*, 26 August 2006.

[15] "Temasek may lose heavily on sale," *The Nation,* 18 October 2006.

[16] Wikipedia, http://en.wikipedia.org/wiki/Temasek_Holdings

[17] "Who can own what?" *Bangkok Post,* 23 November 2006.

[18] For example the Foreign Business Act B.E. 2542, Land Act, Telecommunication Business Act, Condominium Act, Investment Promotion Act etc.

[19] Schwarzenberger, G. (1969).

[20] Thailand gradually liberalized investment regulations step by step, aspect by aspect, and sector by sector without entering into any agreement for each liberalization at the time until recently.

[21] The analysis in this section was based on national investment laws of Thailand, compiled in *Doing Business in Asia.* Published by CCH Asia Limited.

[22] The required percentage of Thai interests in Thai-foreign joint ventures in agriculture, livestock, fisheries, mining and services used to be 60%, now it is reduced to 51% as other sectors produce for domestic consumption.

[23] Even though in theory an alien can ask for permission to engage in business listed in Category C, in practice permission is only feasible after the designated business activity obtains BOI privileges.

[24] Section 7 of the Telecommunication Business Act B.E. 2544 replacing the Telegraph and Telephone Act B.E. 2477 and the Telegraph and Telephone (no. 2) B.E. 2517.

[25] Adapted from Khettai Langkarpint, 1992 "Nationality of Juristic Person" abstract Bangkok: Chulalongkorn University.

[26] Because the corporation is a creature of domestic law and depends for its existence on domestic law, it can be destroyed at will by the domestic system that created it. For this reason, international law did not interfere with corporate personality in any significant manner. It was also logical that since the creation of the corporation depended on the will of the state as expressed in its domestic law, the corporation should have the nationality of the state in which it was created.

[27] Muchlinski (1995: 93).

[28] See Sornarajah (1994: chapter 6, p. 225-236) Also see Schwarzenberger, G. (1969: 109-20). Also see UNCTAD (1988:1).

Appendix: Areas of Business Restricted to Foreign Investment in Thailand

The restricted areas of investment not open to foreign investors were classified into three lists[*] as follows:

LIST ONE (Category A)

The businesses not permitted for aliens to operate due to special reasons:

(1) Newspaper business, radio broadcasting or **television station business**
(2) Rice farming, farming or gardening
(3) Animal farming
(4) Forestry and wood fabrication from natural forest
(5) Fishery for marine animals in Thai waters and within Thailand specific economic zones
(6) Extraction of Thai herbs
(7) Trading and auctioning Thai antiques or national historical objects
(8) Making or casting Buddha images and monk alms bowls
(9) Land trading

LIST TWO (Category B)

The businesses related to the national safety or security or affecting arts and culture, tradition, folk handicraft or natural resource and environment:

Group 1 - The businesses related to the national safety or security:

(1) Production, sale, repair and maintenance of:
   a. Firearms, ammunition, gun powder, explosives
   b. Accessories of firearms, ammunition, and explosive
   c. Armaments, ships, air-crafts or military vehicles
   d. Equipment or components, all categories of war materials

(2) Domestic land, waterway or air transportation, including **domestic airline business**

Group 2 - The businesses affecting arts and culture, traditional and folk handicraft:

(1) Trading antiques or art objects being Thai arts and handicraft
(2) Production of carved wood
(3) Silkworm farming, production of Thai silk yarn, weaving Thai silk or Thai silk pattern printing
(4) Production of Thai musical instruments
(5) Production of goldware, silverware, nielloware, bronzeware or lacquerware
(6) Production of crockery of Thai arts and culture

Group 3 - The businesses affecting natural resources or environment:

(1) Manufacturing sugar from sugarcane
(2) Salt farming, including underground salt
(3) Rock salt mining
(4) Mining, including rock blasting or crushing
(5) Wood fabrication for furniture and utensil production

LIST THREE (Category C)

The business which Thai nationals were not yet ready to complete with foreigners:

(1) Rice milling and flour production from rice and farm produce
(2) Fishery, specifically marine animal culture
(3) Forestry from forestation
(4) Production of plywood, veneer board, chipboard or hardboard
(5) Production of lime
(6) Accounting service business
(7) Legal service business
(8) Architecture service business
(9) Engineering service business

[*] Foreign Business Act B.E. 2542, Annex to the Act of the three lists.

(10) Construction, except for
- a. Construction rendering basic services to the public in public utilities or transport requiring special tools, machinery, technology or construction expertise having the foreigners' minimum capital of 500 million Baht or more
- b. Other categories of construction as prescribed by the ministerial regulations

(11) Broker or agent business, except:
- a. Being broker or agent for underwriting securities or services connected with future trading of commodities of financing instruments or securities
- b. Being broker or agent for trading or procuring goods or services necessary for production or rendering services amongst affiliated enterprises
- c. Being broker or agent for trading, purchasing or distributing or seeking both domestic and foreign markets for selling domestically manufactured or imported goods in the manner of international business operations having the foreigners' minimum capital of 100 million Baht or more
- d. Being broker or agent of other category as prescribed by the ministerial regulations

(12) Auction, except:
- a. Auction in the manner of international bidding not being the auction of antiques, historical artifacts or art objects which are Thai works of arts, handicraft or antiques or having the historical value
- b. Other categories of auction as prescribed by the ministerial regulations

(13) Internal trade connected with native products or produce not yet prohibited by law
(14) Retailing all categories of goods having the total minimum capital of less than 100 million Baht or having the minimum capital of each shop of less than 20 million Baht
(15) Wholesale of all categories of goods having minimum capital of each shop of less than one million Bath
(16) Advertising business
(17) Hotel business, except for hotel management service
(18) Guided tour
(19) Selling food or beverages
(20) Plan cultivation and propagation business
(21) Other categories of service business except that prescribed in the ministerial regulations