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Council for Trade in Goods

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RESPONSE TO QUESTIONS FROM OTHER WTO MEMBER COUNTRIES REGARDING THAILAND'S REQUEST FOR THE EXTENSION OF TRIMS:

LOCAL-CONTENT REQUIREMENT (LCR) FOR THE MANUFACTURING OF READY-TO-DRINK MILK

The following communication, dated 20 November 2000, has been received from the Permanent Mission of Thailand.

1. Question from the U.S., Canada, and Japan on procedural issues and commitment to Agreement:

A transitional period has been given to implement the Agreement and if Thailand were to be allowed an extension for the local-content requirement (LCR) as requested, then the same treatment might have to be applied to other requests as well?

Response of Thailand:

There are 2 elements to the procedural issues;

- The time period for the notification of TRIMs.
- The time period for the request for the extension of TRIMs.

It is not the intention of Thailand to renege from the TRIMs Agreement and Thailand has worked continuously for the removal of all TRIMs, as can be observed from the removal of the LCR on automobile sector by 1 January 2000 as well as the work and decisions which have been carried out to removal LCR in the manufacturing of ready-to-drink milk by the various related Ministries and institutions. Yet, the sudden economic downturn of the Thai economy, similar to the rest of the Southeast Asian region, has greatly impeded prior efforts and further complicated the implementation of existing plans and programs to develop the local milk and dairy industry, and thus Thailand has requested a longer time period to use LCR so as to reevaluate and revamp existing plans and help the poor rural Thai farmers prepare themselves for the eventual market liberalization.

As for the concerns that the Thai case could become a precedent for granting extension to other requests, the General Council decision of 8 May clearly differentiated between Members who had filed the requests for extension by the 8th of May and those who had yet to do so. Thailand's request falls into the first category. Since the meeting of the General Council on 8th of May, no other requests for extension have been received by the CTG. As a multilateral solution is being sought for all the requests filed by that date, there is no scope for any precedent setting with respect to the Thai case.

2. Question from Canada:

Describe the measure for which Thailand is requesting an extension and what alternative measures have been taken?

Response from Thailand:

Thailand is requesting a 5-year extension for the use of local content requirement (LCR) for the manufacturing of ready-to-drink milk, or until the year 2004. Specifically, the measure requires the purchase of 10 units of domestic raw milk to every 1 unit imported skimmed milk powder for the manufacturing of ready-to-drink milk with a successive increase in the purchase of domestic raw milk of at least 20 per cent per year. This measure is applied only to the manufacturing of ready-to-drink milk, which accounts for 20 per cent of the total market of imported skimmed milk, while other dairy manufacturers and producers, such as for condensed milk, ice-cream, and biscuits, are permitted to import skimmed milk under the tariff-quota system without local content requirement.

The alternative measure which has been implemented is the application of tariff quota consistent with the WTO Agreement. That is, import of skimmed milk under the quota system is subject to a tariff rate of 5 percent. And as mentioned, this measure is applied only to the manufacturing of ready-to-drink milk, which accounts for 20 per cent of the total market of imported skimmed milk.

3. Questions from New Zealand and Australia:

What TRIMs measure is Thailand requesting for an extension? Why maintaining TRIMs is important for the development of Thailand? And what is the basis for the requested 5-year time frame? End-use of skim milk powder

Response from Thailand:

- What TRIMs measure is Thailand requesting for an extension?

Thailand is requesting a 5-year extension, until the end of 2004, for the use of local content requirement (LCR) for the manufacturing of ready-to-drink milk. Specifically, the measure requires the purchase of 10 unit of domestic raw milk to every 1 unit of imported skimmed milk for the manufacturing of ready-to-drink milk with a successive increase in the purchase of domestic raw milk of at least 20 per cent per year. This measure is applied only to the manufacturing of ready-to-drink milk, which accounts for 20 per cent of the total market of imported skimmed milk, while other dairy manufacturers and producers, such as for condensed milk, ice-cream, and biscuits, are permitted to import skimmed milk under the tariff-quota system without LCR.

- Why maintaining TRIMs is important for the development of Thailand?

The major reasons underlying Thailand's request for the extension of the use of LCR in the production of ready-to-drink milk can be summed up as follows:

- (i) During the transitional period of the TRIMs Agreement, Thailand went through the worst economic crisis in its history which significantly impeded the planned economic development goals, including those for the development of the fledging milk industry. At the same time, given the sudden drop in the purchasing power of the Thai consumers, the demand for local raw milk had declined substantially and resulted in an excessive inventory of raw milk within the Thai market. This onerous situation was further aggravated by the closure of several milk and dairy products manufacturing and processing plants due to the economic crisis, the

subsequent lack of capital as well as the refusal of large dairy manufacturers and processors to purchase local raw milk. Indeed, these incidents have created a great hardship to local milk and dairy farmers who heavily depend upon the selling of their produce for livelihood. As such, the maintenance of LCR for another 5 years would considerably help Thailand readjust its development plans and policies to the abrupt changes in circumstance brought about by the recent economic crisis and to once more prepare for the elimination of all TRIMs. Indeed, Thailand is fully aware that the full recovery of our economy in the current globalized world market is possible only through the maintenance of a fairer and more open multilateral trading environment. Yet, given the still precarious situation of the Thai economy, some adjustments in the reform and liberalization process are necessary if Thailand is to achieve long-term sustainable growth and development.

- (ii) Given the fact that milk and dairy farming has increasingly become a vital alternative means of livelihood for small-scale rural farmers and the agriculture sector has helped to absorb a large number of displaced workers as a result of the recent economic crisis, there is little doubt that the extension of the transitional period for the use of LCR in the milk and dairy industry would provide the Thai local farmers with the much needed time to make the appropriate reforms as well as give the Thai Government the chance to reexamine and readjust the current programs to phase out LCR and to build an effective social safety net in preparation for further market liberalization. Admittedly, without the maintenance of LCR in the manufacturing of ready-to-drink milk at this critical juncture, there would be a substantial financial loss to Thailand's milk and dairy industry as well as the related sectors, as cited in 13.
- (iii) More importantly, the longer time frame for the phasing out of LCR would allow the Thai Government the period to put into effect the strategic development plan to improve the productive efficiency and achieve cost effectiveness in the production of domestically produced raw milk. This is especially important considering that Thai milk and dairy farmers must compete with the lower-price imported skimmed milk, part of which are the result of the use of trade-distorting practices. These distorted trading practices are demonstrated, for instance, by the fact that there has been no significant changes in the prices of imported skimmed milk into Thailand prior to and following our economic turmoil, though the Thai currency has undergone a massive depreciation from 25 Baht per US.\$ 1 to 55 Baht per US.\$1 and has only recently begun to settle at around 40-42 Baht per US.\$1. Likewise, it is evident that while the domestic price of raw milk in the U.S. and the EU is generally higher than the domestic price in Thailand (12.14 Baht/kg and 10.97 Baht/kg, respectively), the dairy products exported from the former markets tended to maintain lower prices, of around 9.50 Baht/kg, than their domestic counterparts in Thailand, of approximately 12.50 Baht/kg.¹ This being the case, therefore, the removal of LCR of the manufacturing of ready-to-drink milk seems inappropriate at this point time since it would not only lead to the further deterioration the competitiveness of Thai milk products in the domestic marketplace but also contribute to further adversity for the rural farmers as well as to the economic recovery and development of Thailand as a whole.

In short, it can be clearly seen that without the maintenance of the LCR, the development, financial, and trade needs of Thailand would be severely impaired, and thus Thailand's request for an extension of the use of LCR in the manufacturing of ready-to-drink milk is consistent with Article 5.3 of the TRIMs Agreement.

- What is the basis for the requested 5 years time frame?

¹ Source: 1999 Dairy Review. An Agra Europe Special Study, Table 15: p.25.

Prior to the economic crisis, the Thai Government has formulated several plans and policies to increase the efficiency in local milk and dairy production and the quality of local milk and dairy products which have an average implementation period of approximately 5 years. However, due to the abrupt downturn of the Thai economy as the result of the crisis, it became imperative for Thailand to extend the time frame so as to reform the existing development programs and to put them into effect. Hence, Thailand decided to request for the 5-year extension of the removal of LCR on the manufacturing of ready-to-drink milk. It is the intention of Thailand to use the additional time to effectively reevaluate and made proper adjustments to the existing development and the eventual LCR phase out in order to proceed forth with our liberalization efforts.

Annual data for raw milk production:

Volume and Value of Raw Milk Production

Year	Volume (tons)	Value (Baht: million)
1991	164,340	1,068.21
1992	215,457	1,508.20
1993	287,164	2,153.73
1994	320,894	2,406.71
1995	348,212	2,611.59
1996	380,101	3,325.88
1997	406,000	3,552.50
1998	431,000	4,633.25
1999	455,000	4,891.25

Source: The Office of Agriculture Economics, Ministry of Agriculture and Cooperatives.
(Current exchange rate: 43 Baht/US.\$ 1)

Most of the raw milk produced by Thai dairy farmers is consumed domestically and is not for export, with exception to the small amount of pasteurized and sterilized milk which are exported to the neighbouring countries.

Information on the number of farm households and cows, etc.

At present, there are up to 22,900 households or at least 90,000 individuals directly involved in this sector. A majority of Thai dairy farmers possess an average of five cows per household