



MOST URGENT
No. 0310/ 1217

Department of Foreign Trade,
44/100 Nonthaburi 1 Road,
Nonthaburi 11000 Thailand
Tel. (662)547-4742
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๑๑ May B.E. 2555 (2012)

Dear Mr.Geoff Gleeson,

Subject: Investigation into the alleged dumping of Hollow Structural Sections (HSS) exported from the People's Republic of China (China), the Republic of Korea (Korea), Malaysia, Taiwan and the Kingdom of Thailand (Thailand)

The Department of Foreign Trade ("DFT") wishes to refer to the Statement of Essential Facts no.117 on Certain Hollow Structural Sections (HSS) exported from, inter alia, the Kingdom of Thailand and to a correspondence letter from the Australian Customs Services ("Customs") dated 17 April 2012 and 26 April 2012.

The DFT wishes to renew concern that the Customs investigation on the particular market situation will continue even though there is intention to terminate the investigation against Thailand on the basis of negligible imports and that the "(further) findings may alter the dumping assessment for Thai exporters".

With respect to the allegations made on the particular market situation in Thailand, the DFT has provided evidence clearly showing that Hot Rolled Coil/Sheet (HRC) prices in Thailand fluctuate freely based on market forces. The suggested price is purely for monitoring purposes and does not represent an enforced ceiling. This is witnessed by the fact that market prices for HRC have moved above and below suggested prices without any control being exercised beyond monitoring. The DFT also noted that the Customs has reached the same conclusion based on, amongst others, evidence submitted and verified during the verification visit at the premises of the Thai Industry concerned.

As the DFT remains fully committed to cooperating with the Customs on this investigation, the following constitutes the response to the additional information requested by the Customs in a letter addressed to the DFT on 17 April 2012;

1. A Copy of the Notification on Notifying of Cost, Price and Product Information regarding Steel Sheet issued on 2 February 2011 is herewith attached both in Thai and English as referred to in the GOT Questionnaire Response. The Notification only entered into force for the period of one year and has been subsequently terminated without further extension on 2 February 2012 since there is no prices fluctuation.

Under this Notification, Producers and Importers of designated Steel Sheet for subsequent selling were required to submit to the Central Commission on Prices of Goods and Services (CCP) general details covering product descriptions, cost of production and importation, cost of sale and related expenses and selling prices of Steel Sheet, also to report changes to selling prices. It is important to note that the changes in proposed prices were implemented by domestic industry without any control from the GOT other than the receipt of information for monitoring purposes.

2. The notification in 1 was issued and enforced by the virtue of the Prices of Goods and Services Act B.E. 2542 (1999) Section 9 (2) (3), Section 25 (3) (4) (5) and Section 26. Certain provisions prescribe extension of power and duties which the CCP can exercise in order to accomplish the tasks and to uphold the objective of the Act which is to provide information for a monitoring system to potentially protect consumers from unfair trade practices. Please find herewith attached (in accord with the consent of the Department of Internal Trade) an unofficial translation of the Prices of Goods and Services Act B.E.2542 (1999).

With regard to your letter 26 April 2012, the response of the DFT is as follows

1. Referring to point 1) (a) and (b) raised in your letter concerning the requirement to inform the Department of Internal Trade (DIT), the information was collected from producers and importers concerned only to use for price monitoring and trend analysis. Once the price changes were informed, they were automatically applied by the producers and importers without any interference from the DIT in term of reviewing or rejecting the proposed prices and/or product information changes concerned.

Furthermore, the prices submitted by the producers and importers were important data, *inter alia*, used as part of indicative price or so called "suggested prices" determination process which was decided by the Sub-Committee on Price Determination of Steel Rod, Section and Steel Sheet which consisted of representatives from public and private sector as follows 1.) The Office of Industrial Policy Ministry of Industry 2.) Iron and Steel Institute of Thailand 3.) The Federation of Thai Industries 4.) Thai Contractors Association under H.M. the King's Patronage 5.) The Association of Thai Steel Industries 6.) Iron and Steel producers. The Sub-Committee also considered information on general economic and market conditions in the steel sector in setting the indicative prices to provide a general benchmark for monitoring. As steel market were considered relatively stable since 2009, the indicative prices had remained at the same level until the end of the Notification period with steel sheet prices fluctuating above and below these indicative prices according to the market force.

2. Referring to point 2) raised in your letter concerning alleged "capping price" causing subsequent losses to Sahaviriya Steel Industries (SSI), after thorough consideration of information acquired from the DIT and SSI, the CEO of a public company is responsible for enhancing equity prices and statements attributing losses to alleged price controls and better conditions to other factors is not a reliable source of evidences. The DFT respectfully considers that a press report from a CEO supporting the share price of a company should be disregarded, as there were no price controls on steel sheet used by the domestic industries.

3. Referring to point 3) (a) and (b) raised in your letter concerning the alleged reports on GOT strictly enforcing price controls in responses to subjugate fluctuation of steel prices, it was paramount to the DIT to be seen as an Agency that could protect the consumers. In this respect, GOT had undertaken several measures including 1.) Mandatory display retail prices of goods, 2.) Establishment of Sub-Committee on Prices Determination of Steel Rod, Section and Steel Sheet to oversee the price movement and trend of subject goods, and 3.) Issuing of Notifications on Notifying of Cost, Price and Product Information. As the DFT has explained with supporting evidences, no price controls were exercised on the subject goods during the stated period.

Furthermore, it is our understanding that the particular market situation is to be determined within the POI in which the allegation of dumping are assessed as the claim made is that raw material costs have been held artificially low. Within the POI, it is the understanding of the DFT that Customs was satisfied that raw materials costs of the domestic industry reflected market conditions. Press reports in 2008 fall outside of the investigation period for the allegation of dumping. Therefore, it is not a substitute for evidence obtained during onsite verification. There is also common understanding that

discrepancy of information is prevalent in the media, rendering it unsuitable as evidence above that supplied by the DFT in respect of this investigation.

The DFT considers that there are no grounds to justify the continuation of this proceeding against Thailand and that the preliminary determination be confirmed. Shall the Customs require further information in order to accelerating the termination of the case, please contact the DFT as soon as the opportunity arisen.

The DFT avails itself to the Customs of the opportunities to renew the assurance of its highest consideration and wishes to receive a positive response to the issues raised.

Yours sincerely,



(Mr. Surasak Riangkrul)
Deputy Director - General
For Director - General

Encl: As attached

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Australia Customs and Border Protection Service
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ประกาศคณะกรรมการกลางว่าด้วยราคาสินค้าและบริการ
เรื่อง การแจ้งต้นทุน ราคาและรายละเอียดเกี่ยวกับเหล็กแผ่น ปี ๒๕๕๔

ตามที่คณะกรรมการกลางว่าด้วยราคาสินค้าและบริการ ได้ยกเลิกประกาศ
คณะกรรมการกลางว่าด้วยราคาสินค้าและบริการ เรื่อง การกำหนดสินค้าและบริการ
ควบคุม ปี ๒๕๕๓ ลงวันที่ ๒๗ มกราคม พ.ศ. ๒๕๕๓ จึงทำให้ประกาศคณะกรรมการกลาง
ว่าด้วยราคาสินค้าและบริการ เรื่อง การแจ้งต้นทุน ราคา และรายละเอียดเกี่ยวกับเหล็กแผ่น
ปี ๒๕๕๓ ลงวันที่ ๖ กุมภาพันธ์ พ.ศ. ๒๕๕๓ ล้มเลิกใช้บังคับ ประกอบกับคณะกรรมการกลาง
ว่าด้วยราคาสินค้าและบริการได้พิจารณาทบทวนการใช้อำนาจกำหนดมาตรการดังกล่าวแล้ว
เห็นควรคงมาตรการดูแลเหล็กแผ่นต่อไป เพื่อให้อุตสาหกรรมที่ใช้เหล็กแผ่นเป็นวัตถุดิบในการ
ผลิตและผู้บริโภคได้ซื้อสินค้าในราคาที่เป็นธรรมและเหมาะสมกับคุณภาพ มาตรฐาน

อาศัยอำนาจตามความในมาตรา ๔ (๒) (๓) มาตรา ๒๕ (๓) (๔) (๕) และ
มาตรา ๒๖ แห่งพระราชบัญญัติว่าด้วยราคาสินค้าและบริการ พ.ศ. ๒๕๔๒ อันเป็น
พระราชบัญญัติที่มีบทบัญญัติบางประการเกี่ยวกับการจำกัดสิทธิและเสรีภาพของบุคคล
ซึ่งมาตรา ๒๙ ประกอบกับมาตรา ๓๒ มาตรา ๓๓ มาตรา ๓๔ มาตรา ๔๑ และมาตรา ๔๓
ของรัฐธรรมนูญแห่งราชอาณาจักรไทย บัญญัติให้กระทำได้โดยอาศัยอำนาจตามบทบัญญัติ
แห่งกฎหมาย คณะกรรมการกลางว่าด้วยราคาสินค้าและบริการ จึงออกประกาศ
ดังต่อไปนี้

ข้อ ๑ ประกาศฉบับนี้ให้ใช้บังคับในทุกท้องที่ทั่วราชอาณาจักรเป็น
ระยะเวลาหนึ่งปี ตั้งแต่วันถัดจากวันประกาศเป็นต้นไป

ข้อ ๒ ให้ผู้ผลิต ผู้นำเข้ามาในราชอาณาจักรเหล็กแผ่นเพื่อจำหน่าย
แจ้งชื่อและประเภทสินค้า ต้นทุนการผลิต ต้นทุนการนำเข้าในราชอาณาจักร ต้นทุนการ
จำหน่าย ค่าใช้จ่าย ราคาจำหน่ายเหล็กแผ่นพื้นฐานตามข้อ ๓ ที่เป็นอยู่ในวันที่ประกาศฉบับนี้ใช้
บังคับภายในสามสิบวัน ตั้งแต่วันที่ประกาศฉบับนี้ใช้บังคับ

5 กพ 54 (2011)



2 กพ 55
(2012)

ให้ผู้ผลิต ผู้นำเข้ามาในราชอาณาจักรเหล็กแผ่นเพื่อจำหน่ายตามข้อ ๓ ที่ดำเนินการภายหลังวันที่ประกาศฉบับนี้ใช้บังคับ แจ้งข้อมูลตามวรรคหนึ่งล่วงหน้า เป็นเวลาไม่น้อยกว่าเจ็ดวันก่อนนำสินค้าออกจำหน่าย

กรณีผู้ผลิต ผู้นำเข้ามาในราชอาณาจักรเหล็กแผ่นเพื่อจำหน่าย ได้แจ้งข้อมูล ตามประกาศคณะกรรมการกลางว่าด้วยราคาสินค้าและบริการ เรื่อง การแจ้งต้นทุน ราคา และ รายละเอียดเกี่ยวกับเหล็กแผ่น ปี ๒๕๕๓ ลงวันที่ ๖ กุมภาพันธ์ พ.ศ. ๒๕๕๓ แล้ว ให้ถือเป็น การแจ้งข้อมูลตามวรรคหนึ่งแห่งประกาศฉบับนี้

ข้อ ๓ เหล็กแผ่นตามข้อ ๒ หมายความว่าเหล็กแผ่นพื้นฐานที่มีมาตรฐาน ชั้นคุณภาพ ความหนา ความกว้าง เบอร์เคลือบ หรือคุณภาพผิว ดังต่อไปนี้

(๑) เหล็กแผ่นรีดร้อนชนิดม้วนหรือชนิดแผ่นที่ไม่ได้ทำมากไปกว่าการรีดร้อน มาตรฐาน JIS G ๓๑๓๑ ชั้นคุณภาพ SPHC หรือ HR๑ ความหนาดังแต่ ๒ มิลลิเมตรขึ้นไป ความกว้างตั้งแต่ ๑๒๐๐ ถึง ๑๕๐๐ มิลลิเมตร

(๒) เหล็กแผ่นรีดร้อนชนิดม้วนหรือชนิดแผ่นที่ไม่ได้ทำมากไปกว่าการรีดร้อน มาตรฐาน JIS G ๓๑๐๑ ชั้นคุณภาพ SS ๓๓๐ หรือ SS ๕๐๐ ความหนาดังแต่ ๒ มิลลิเมตรขึ้นไป ความกว้างตั้งแต่ ๑๒๐๐ ถึง ๑๕๐๐ มิลลิเมตร

(๓) เหล็กแผ่นรีดเย็นชนิดม้วนที่ไม่ได้ทำมากไปกว่ารีดเย็นและอบอ่อน มาตรฐาน JIS G ๓๑๔๑ ชั้นคุณภาพ SPCC ความหนาดังแต่ ๑.๐๐ แต่ไม่ถึง ๑.๓๕ มิลลิเมตร ความกว้างตั้งแต่ ๑๐๕๐ แต่ไม่ถึง ๑๒๕๐ มิลลิเมตร

(๔) เหล็กแผ่นเคลือบสังกะสีชนิดม้วนแบบจุ่มร้อนที่ไม่ได้ทำมากไปกว่าชุบหรือเคลือบ ด้วยสังกะสี มาตรฐาน JIS G ๓๓๐๒ ชั้นคุณภาพ SGCC เบอร์เคลือบ Z๒๒ ความหนาดังแต่ ๐.๘๕๑ ถึง ๑.๕๔๙ มิลลิเมตร ความกว้างตั้งแต่ ๙๑๔ ถึง ๑๒๑๙ มิลลิเมตร

(๕) เหล็กกล้าแผ่นไม่เป็นสนิมรีดเย็นชนิดม้วนไม่ได้ทำมากไปกว่ารีดเย็น อบอุ่น และรีดปรับผิว มาตรฐาน JIS G ๔๓๐๕ ชั้นคุณภาพ SUS ๓๐๔ คุณภาพผิว ๒ B หรือ ๒ D ความหนาดังแต่ ๒.๐ แต่ไม่ถึง ๔.๗ มิลลิเมตร ความกว้างตั้งแต่ ๙๑๔ ถึง ๑๒๑๙ มิลลิเมตร

ข้อ ๔ กรณีที่ประสงค์จะจำหน่ายเหล็กแผ่นตามข้อ ๓ ในลักษณะที่แตกต่าง จาก รายการตามที่ได้แจ้งไว้หรือจำหน่ายในราคาสูงกว่าที่ได้แจ้งไว้แล้วตามข้อ ๒ ให้แจ้งการเปลี่ยนแปลง ดังกล่าวให้ทราบล่วงหน้าเป็นเวลาไม่น้อยกว่าเจ็ดวัน

กรณีผู้ผลิต ผู้นำเข้ามาในราชอาณาจักรเหล็กแผ่น ได้ยื่นแจ้งการจำหน่าย เหล็กแผ่นในลักษณะที่แตกต่างไปจากรายการตามที่ได้แจ้งไว้หรือจำหน่ายสูงกว่าราคาที่ได้แจ้งไว้ ตามประกาศคณะกรรมการกลางว่าด้วยราคาสินค้าและบริการ เรื่อง การแจ้งต้นทุน ราคา และรายละเอียดเกี่ยวกับเหล็กแผ่น ปี ๒๕๕๓ ลงวันที่ ๖ กุมภาพันธ์ พ.ศ. ๒๕๕๓ แล้ว ให้ถือเป็นการแจ้งเปลี่ยนแปลงรายการหรือราคาตามวรรคหนึ่ง แต่จะเปลี่ยนแปลงรายการหรือ ราคาสูงขึ้นได้เมื่อพ้นกำหนดสิบห้าวัน ตั้งแต่วันที่ประกาศฉบับนี้ใช้บังคับ

ข้อ ๕ การแจ้งตามข้อ ๒ หรือข้อ ๔ ให้ยื่นต่อเลขาธิการตามแบบที่
เลขาธิการกำหนด ณ สำนักงานคณะกรรมการกลางว่าด้วยราคาสินค้าและบริการ
กรมการค้าภายใน กระทรวงพาณิชย์

การแจ้งตามวรรคหนึ่ง จะแจ้งโดยทางไปรษณีย์ลงทะเบียนตอบรับ
ทางโทรสารหรือทางข้อมูลอิเล็กทรอนิกส์ก็ได้ โดยให้ถือว่าวันที่ได้ประทับตราประจำวัน ณ ที่ทำการ
ไปรษณีย์ต้นทางเป็นวันแจ้ง ในกรณีที่แจ้งทางโทรสารจะถือว่าวันที่ได้รับโทรสารเป็นวันแสดงเจตนา
ในการแจ้ง ในกรณีการแจ้งทางข้อมูลอิเล็กทรอนิกส์ให้ถือว่าวันที่ข้อมูลอิเล็กทรอนิกส์ได้เข้าสู่ระบบ
ข้อมูลของสำนักงานคณะกรรมการกลางว่าด้วยราคาสินค้าและบริการ กรมการค้าภายใน
กระทรวงพาณิชย์ เป็นวันแสดงเจตนาในการแจ้ง

การแจ้งตามวรรคสองจะสมบูรณ์ก็ต่อเมื่อผู้ผลิต ผู้นำเข้ามาในราชอาณาจักร
ได้ส่งต้นฉบับให้เลขาธิการแล้ว

ให้ผู้ผลิต ผู้นำเข้ามาในราชอาณาจักรที่ประสงค์จะแจ้งทางข้อมูลอิเล็กทรอนิกส์
ลงนามในบันทึกแสดงความตกลงในการแจ้งทางข้อมูลอิเล็กทรอนิกส์ตามหลักเกณฑ์และวิธีการ
ที่เลขาธิการกำหนด

ข้อ ๖ เมื่อผู้ผลิต ผู้นำเข้ามาในราชอาณาจักรร้องขอต่อเลขาธิการเพื่อขยาย
ระยะเวลาตามที่กำหนดไว้ในประกาศฉบับนี้ หรือเมื่อเลขาธิการเห็นสมควร เลขาธิการ
อาจมีคำสั่งขยายระยะเวลาตามที่กำหนดไว้ก่อนสิ้นระยะเวลานั้นได้ แต่การขยายระยะเวลา
เช่นว่านี้ให้ฟังทำได้ต่อเมื่อมีเหตุฉุกเฉินพิเศษหรือมีเหตุจำเป็น และผู้ผลิต ผู้นำเข้ามา
ในราชอาณาจักรได้มีคำร้องขอหรือเลขาธิการได้มีคำสั่งก่อนสิ้นระยะเวลานั้น เว้นแต่ในกรณี
ที่มีเหตุสุดวิสัย

ประกาศ ณ วันที่ ๒ กุมภาพันธ์ พ.ศ. ๒๕๕๔



(นางพรทิชา นาคาศัย)

รัฐมนตรีว่าการกระทรวงพาณิชย์

ประธานคณะกรรมการกลางว่าด้วยราคาสินค้าและบริการ

UNOFFICIAL TRANSLATION *

**The Central Commission on Prices of Goods and Services (CCP) Notification on
Notifying of Cost, Price and Product Information regarding Steel Sheet
B.E.2554 (2011)**

According to the Central Commission on Prices of Goods and Services (CCP) revocation of the Notification on specifying list of monitoring Goods and Services B.E. 2553 (2010) issued on 27 January 2010 which shall render nullification of the CCP Notification on Notifying of Cost, Price and Product Information regarding Steel Sheet B.E.2553 (2010) issued on 6 February 2010, the CCP has considered, herein, to sustain the provisional of Steel Sheet prices monitoring so that Users and Consumers are able to purchase Steel Sheet with fair prices and good quality.

By the provision of Prices of Goods and Services Act B.E.2542 (1999) Section 9 (2) (3), Section 25 (3) (4) (5) and Section 26 which contains certain provision relating to restriction of right and liberties of people, in respect of which, section 29 in conjunction with section 32, section 33, section 34, section 41 and section 43 of the Constitution of the Kingdom of Thailand authorize its enforcement by the provisions of law, the CCP hereby issues notification detailed as follows:

1 This Notification shall enter into force the day following the date of issue for the period of one year and be enforced throughout the Kingdom.

2 Producers and importers of designated Steel Sheet for subsequent selling shall notify the Commission information on; name and classification of the product, cost of production, cost of importation, cost of sale, expenses and selling price of Steel Sheet, in accordance with 3, updated as of the issued date within 30 days.

Any producers and importers of the products under 3 for subsequent selling undertaking business transactions after this notification being enforced shall notify the information required in paragraph one not less than 7 days before products being sold.

With an exception, in the case when the producers and importers have already notified the Commission of those required in paragraph 1 in accord with the previous CCP Notification on Notifying of Cost, Price and Product Information regarding Steel Sheet B.E.2553 (2010) such information shall be legally accepted under this Notification.

3 The designated Steel Sheet in 2 means standard Steel Sheet which possesses certain quality, thickness, width, coating number and surface quality as follows:

(1) Hot Rolled Steel in Coil/Sheet, not further worked than hot-rolled, certified JIS G 3131, quality classification SPHC or HR1, of a thickness exceeding 2 mm and of a width between 1200 to 1500 mm.

(2) Hot Rolled Steel in Coil/Sheet, not further worked than hot-rolled, certified JIS G 3101, quality classification SS 330 or SS 400, of a thickness exceeding 2 mm and of a width between 1200 to 1500 mm.

(3) Cold Rolled Steel in Coil, not further worked than cold-rolled and annealing, certified JIS G 3141, quality classification SPCC, of a thickness of 1 but not exceeding 1.75 mm and of a width of 1050 but not exceeding 1250 mm.

(4) Zinc Coated Steel in coil, not further worked than plated or coated with Zinc, certified JIS G 3302, quality classification SGCC coating number Z22, of a thickness between 0.951 to 1.599 mm and of a width between 914 to 1219 mm.

(5) Cold Rolled Stainless Steel, not further worked than cold-rolled, annealing and surface-treated, certified JIS G 4305, quality classification SUS 304 surface quality 2B or 2D, of a thickness of 2 but not exceeding 4.7 mm and of a width between 914 to 1219 mm.

4 In the case of producers and importers of Steel Sheet for subsequent selling requiring to amend product descriptions and/or to sell Steel Sheet, as stated in 3, with higher prices than which have been notified previously in accordance with 2, the aforementioned producers and importers shall notify the office of the Central Commission on Prices of Goods and Services 7 days in advance before administering the sale and/or the proposed amendment.

With an exception, in the case when the producers and importers have already notified the Commission of those amendment (selling prices and product descriptions) in accord with the previous CCP Notification on Notifying of Cost, Price and Product Information regarding Steel Sheet B.E.2553 (2010), such amendment (selling prices and/or product descriptions) shall be legally accepted and administered not before 15 days after the date this Notification entering into force.

5 The notice required by 2 and 4 shall be submitted to the Secretary – General at the Office of Central Commission on Prices of Goods and Service, Department of Internal Trade, Ministry of Commerce.

Such notice mentioned in paragraph one shall be submitted via registered mail, facsimile or electronic submission system. The office reserves the right to apply the date stamped from the originated post office, the date shown on the facsimile and the date of electronic submission shown in the system as the notice submission date.

The notice made in respect of paragraph two shall be considered completed immediately upon receiving the original copy.

Producers and exporters of Steel Sheet for subsequent selling who expressing interest to submit the notice via electronic submission system shall electronically sign, to accept, Terms of use agreement and Disclaimers set forth by the Secretary-General.

6 Producers and importers of Steel Sheet for subsequent selling may submit a request to the Secretary-General for an extension of this Notification's period of enforcement provided that it is appropriated. Such extension can only be issued and is only valid insofar for *Force Majeure* circumstances, and whereas, the request is lodged before the expiration of this Notification, or when the Secretary – General deems appropriate to issue such extension due to the aforementioned *Force Majeure* circumstances before the expiry date.

Issued on 2 February B.E.2554 (2011)

(Ms.Pondthiwa Nakasai)
Minister of Commerce
Chairman of the Central Commission
on Price of Goods and Services

Tentative Translation***

PRICES OF GOODS AND SERVICES ACT, B.E. 2542 (1999)

BHUMBOL ADULYADEJ, REX.

Given on the 22nd Day of March B.E. 2542;

Being the 54th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have the law on prices of goods and services;

Whereas it is aware that this Act contains certain provisions relating to the restriction of rights and liberties of the people, in respect of which section 29 in conjunction with section 31, section 35, section 36, section 48 and section 50 of the Constitution of the Kingdom of Thailand so permits by virtue of the provisions of law;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows:

Section 1. This Act shall be called the "Prices of Goods and Services Act, B.E. 2542 (1999)".

Section 2. This Act shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3. The Price-Fixing and Anti-Monopoly Act, B.E. 2522 (1979) shall be repealed.

Section 4. In this Act,

"business" means an activity in the area of agriculture, industry, commerce or service or other similar activity;

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* Published in Government Gazette, Vol. 116, Part 22a, dated 31st March 1999.

"goods" means an article capable of utilisation or consumption, including a document of title to an article;

"service" means the procurement of work by way of commission, the granting of any right or the giving of permission to use or to have benefits in any property or any undertaking in return for monetary remuneration or other benefit;

"distribute" means selling, exchanging, making a gift, supplying or transferring a possessory right in goods to another person or providing services;

"produce" means making, mixing, preparing, assembling, inventing, converting, transforming, modifying, selecting, packing apart, packing together, or doing any act for the purpose of bringing into existence goods by any means, including the bringing into existence a trade name or a trade mark for such goods, whether the act is carried out by oneself or by another person entrusted by the former;

"price" also includes remuneration for a disposal;

"Commission" means the Central Commission on Prices of Goods and Services or the Provincial Commission on Prices of Goods and Services;

"Office" means the Office of the Central Commission on Prices of Goods and Services or the Office of the Provincial Commission on Prices of Goods and Services;

"Director-General" means the Director-General of the Central Commission on Prices of Goods and Services;

"competent official" means a Government official appointed by the Minister for the execution of this Act;

"Minister" means the Minister having charge and control of the execution of this Act.

Section 5. This Act shall not apply to the central administration, provincial administration, local administration or activity prescribed by the Ministerial Regulation.

Section 6. The Minister of Commerce shall have charge and control of the execution of this Act and shall have the power to appoint competent officials for the execution of this Act.

CHAPTER I

Commissions on Prices of Goods and Services

Section 7. There shall be a Central Commission on Prices of Goods and Services, called "CCP" in brief, consisting of the Minister of Commerce as Chairman, Permanent-Secretary of the Ministry of Commerce

and Secretary-General of the Board of Investment as Vice Chairmen, and not less than four and not more than eight qualified persons appointed by the Council of Ministers, one-half of whom must be appointed from qualified persons in the private sector, as members, and the Secretary-General shall be a member and secretary.

The CCP. shall also act as the Provincial Commission on Prices of Goods and Services for Bangkok Metropolis.

Section 8. A qualified person to be appointed as a member shall not be a political official, a holder of a political position or an executive member or a person holding a position with responsibility in the management of a political party.

Section 9. The CCP. shall have the following powers and duties in all regions throughout the Kingdom:

- (1) to issue a notification prescribing any particular goods or service as controlled goods or service under section 24;
- (2) to prescribe measures to be implemented with respect to the controlled goods or services under section 25;
- (3) to order a producer or a distributor of controlled goods or services to give statements of fact under section 26;
- (4) to give approval to the notification issued under section 27;
- (5) to prescribe the rules, procedures and conditions for the display of the prices of goods or services under section 28;
- (6) to prescribe the rules and procedures for the determination of the acts which are considered as amounting to the unreasonable lowering or raising the prices or resulting in fluctuation of prices of goods or services under section 29 paragraph two;
- (7) to prescribe the regulations on payment of rewards and awards under section 33;
- (8) to supervise and give directions to the extent of necessity in order to ensure that the distribution of the controlled goods or services is sufficient for the need of the public; in this instance, the CCP. may entrust the PCP., the Secretary-General or the competent official to act on its behalf;
- (9) to consider the complaint that grievance or injury is suffered in consequence of the act having an adverse effect on prices;
- (10) to invite any particular person to give statements of fact, explanations, advice or opinions;
- (11) to perform any other act as provided by the law to be under the power and duty of the CCP..

Section 10. The qualified member under section 7 shall hold office for a term of two years.

At the expiration of the term under paragraph one, if new qualified members have not yet been appointed, the outgoing qualified members shall continue to be in office for further performance until newly appointed qualified members take office.

The qualified members who vacate office at the expiration of the term may be re-appointed but may not be appointed to be in office for more than two consecutive terms.

Section 11. The provisions of section 75, section 76, section 77, section 77, section 78, section 79, section 80, section 81, section 82 and section 83 of the Administrative Procedure Act, B.E. 2539 (1996) shall apply *mutatis mutandis* to the appointment of qualified members, the vacation of office of such members and the meeting of the Commission, and the qualified members shall also vacate office when being under the prohibitions under section 8.

Section 12. In each Province other than Bangkok Metropolis, there shall be a Provincial Commission on Prices of Goods and Services called "PCP." In brief, consisting of the *Changwad* Governor as Chairman and not less than five but not more than nine qualified persons appointed by the *Changwad* Governor, one third of whom must be qualified persons from the private sector, as members and the *Changwad* Commerce Official shall be a member and secretary.

The selection of persons for the purpose of appointment as qualified members shall be in accordance with the regulations prescribed by the CCP.

The PCP. shall have the powers and duties under this Act in the respective Province.

Section 13. The PCP shall have the powers and duties as follows:

(1) to perform the acts under section 25, section 27 paragraph two, section 28, section 29 paragraph two and section 33;

(2) to consider the complaint that grievance or injury is suffered in consequence of the act having an adverse effect on prices;

(3) to invite any particular person to give statements of fact, explanations, advice or opinions;

(4) to comply with the notifications or orders of the CCP. and to perform any particular act as entrusted by the CCP..

The exercise by the PCP. of powers under paragraph one shall not be contrary to or inconsistent with any determination made by the CCP. under section 9.

Section 14. The provisions of section 10 and section 11 shall apply to PCP. *mutatis mutandis*.

Section 15. The Commission may appoint a sub-committee for inquiring into or studying and proposing an opinion on any particular matter or performing any particular act on its behalf, and the provisions of section 11 shall apply to the meeting of the sub-committee *mutatis mutandis*.

CHAPTER II

Office of the Commission on Prices of Goods and Services

Section 16. There shall be established the Office of the Central Commission on Prices of Goods and Services called the "Office of the CCP." in brief in the Department of Internal Trade, Ministry of Commerce. The Director-General of the Department of Internal Trade shall be the Secretary-General who shall be the superior and responsible for the performance of official affairs of the Office, and the Office shall have the powers and duties as follows:

- (1) to carry out the administrative work of the CCP. and sub-committees and serve as a focal point for the co-operation with the PCPs.;
- (2) to study, analyse and research in connection with goods and services, prices and business operation as well as propose to the CCP. projects, action plans or measures in regard to the fixing of prices of goods and services;
- (3) to follow the movement of the prices of the controlled goods or services and oversee the conduct of business operators and report it to the CCP.;
- (4) to receive a complaint that grievance or injury is suffered in consequence of the act having an adverse effect on prices;
- (5) to prescribe regulations for the purpose of the performance of duties of the Office of the CCP.;
- (6) to act in compliance with the notifications, regulations and resolutions of the CCP. and perform other acts as entrusted by the CCP.

Section 17. There shall be established in every Province the Office of the Provincial Commission on Prices of Goods and Services called the "Office of the PCP." in brief which shall be headed by the *Changwad* Commerce Official who shall be the superior and responsible for the

performance of official affairs of the Office. The Office shall have the powers and duties as follows:

(1) to carry out the administrative work of the PCP. and sub-committees appointed by the PCP. and serve as a focal point for the co-operation with the PCPs.;

(2) to perform the acts under section 16 (2), (3) and (4) in that Province and submit such matters to the PCP.;

(3) to prescribe regulations for the purpose of the performance of duties of the Office of the PCP.;

(4) to act in compliance with the notifications, regulations and resolutions of the CCP. and the PCP. and perform other acts as entrusted by the PCP.

Section 18. In the performance of the acts under this Act, the competent official shall have the powers as follows:

(1) to summon in writing any person to give a testimony, provide facts, give written explanations, furnish accounts, records, documents or any evidence for examination or for supplementing the consideration. But, a summons for the document or evidence concerning the cost of production, formulation or composition of the goods or services other than the controlled goods or services shall first be approved in writing by the Secretary-General or the Chairman of the PCP.;

(2) to enter the place of business, place of production, place of distribution, place of purchase or warehouse of a business operator or of any person or other place reasonably suspected to have therein a violation of the provisions of this Act, or enter a vehicle of any person, or order the owner or controller of a vehicle to stop or park for the purpose of examining the conformity with this Act or for searching and seizing evidence or property which may be confiscated in accordance with this Act or arresting the offender connected with the violation of section 30 or section 31, without a warrant of search in the following cases:

(a) where a flagrant offence is evidently being committed in the place or vehicle;

(b) where a person having committed a flagrant offence has, while being pursued, taken refuge, or there are serious grounds for suspecting that such person is concealing, in the place or vehicle;

(c) where there are reasonable grounds for suspecting that the evidence or property which may be confiscated under this Act is found in the place or vehicle and there are reasonable grounds to believe that by reason of delay in obtaining a warrant of search the evidence or property is likely to be removed, concealed, destroyed or transformed from its original state;

(d) where the person to be arrested is the owner of the place or vehicle and there is a warrant for such arrest or such arrest may be made without a warrant;

provided that, for these purposes, the competent official has the power to inquire into facts or summon accounts, records, documents or other evidence from the business operator or owner or controller of the vehicle or from the person concerned or order such persons who are in such place or vehicle to perform necessary acts;

(3) to confine, attach or seize the goods, a vehicle, document or other evidence connected with the commission of the offence in the case where there is clear and convincing evidence that violation of section 30 or section 31 has occurred, provided that the seizure of the goods, vehicle, document or evidence shall first be approved in writing by the Chairman.

Section 19. In the performance of duties of the competent official, the persons concerned shall render reasonable facilities.

Section 20. In the performance of duties, the competent official shall produce the identification card to the persons concerned.

The identification card shall be in accordance with the form prescribed by the Minister by publication in the Government Gazette.

Section 21. The competent official shall procure service of the written summons under section 18 (1) by directing it at the domicile or the place of business of the person named in the summons between sunrise and sunset or during working hours of such person or may send it by registered post requiring acknowledgement of receipt thereof.

In the case where the competent official serves the summons under paragraph one but the person named in the summons refuses to accept it without reasonable cause, the competent official shall request the administrative or police official to accompany the competent official for the purpose of leaving the summon on the spot. If the competent official does not meet the person named in the summons at his or her domicile or place of business, the summons may be served on any *sui juris* person who is living or working in that dwelling-place or place of business. If nobody is met or nobody agrees to accept the summons on behalf of the person named therein, such summons shall be posted in a conspicuous place at the domicile or the place of business in the presence of the administrative or police official who accompanies as witness.

When the competent official has carried out the act under paragraph one or paragraph two, it shall be deemed that the person named in the summons has received it. In the case of the posting of the summons, it shall be deemed that such summons is received upon the lapse of five days as from the date of its posting. If the service is made by a registered post requiring

acknowledgement of its receipt, it shall be deemed that the summons is received upon the lapse of five days as from the date of receipt.

Section 22. In the performance of the acts under this Act, the member of the Central Commission on Prices of Goods and Services, the member of the Provincial Commission on Prices of Goods and Services, the member of a sub-committee, the Secretary-General and the competent official shall be the official under the Penal Code.

Section 23. For the purpose of arresting offenders for the offences under this Act, the competent official shall be the administrative or police official under the Criminal Procedure Code.

An arrest of the offender may be made without a warrant of arrest when a flagrant offence is evidently being committed or when there is any other circumstance under which the Criminal Procedure Code permits the administrative or police official to make an arrest without a warrant of arrest.

CHAPTER III

THE FIXING OF PRICES OF GOODS AND SERVICES

Section 24. For the purpose of preventing the unfair fixing of purchasing prices or distributing prices or the unfair fixing of conditions or trade practice, the CCP., with the approval of the Council of Ministers, has the power to designate, by notification, any particular goods or services to be controlled goods or services.

The CCP. shall review the exercise of power under paragraph one at least once a year. If it witnesses the change or cessation of the economic conditions or facts which were relied on in the consideration and exercise of power of the CCP., the CCP., with the approval of the Council of Ministers, shall revise or cancel the exercise of such power without delay.

The Notification of the CCP. under paragraph one and paragraph two shall come into force upon their publication in the Government Gazette.

Section 25. When the notification is issued for the designation of the controlled goods or services under section 24, the Commission shall have the powers as follows:

(1) to fix the purchasing prices or the distribution prices of the controlled goods or services in order for purchasers to purchase at the prices not lower than the fixed prices or for the distributors to distribute at the prices not higher than the fixed prices, or to maintain the price at a certain level;

(2) to fix the rate of the maximum profit per unit of the controlled goods or services which the distributor may receive from their distribution or to

fix the rate of the difference of the purchasing prices and the selling prices of the controlled goods or services in each chain of trade;

(3) to prescribe the rules, measures and conditions which must be observed with regard to the production, import, export, purchase, distribution or storage of the controlled goods or services;

(4) to designate the areas or the period of time for the application of the notification of the Commission;

(5) to require the notification to the competent official of the quantity, place of storage, cost of production, expenses, production plan, import plans, export plan, purchasing plan, distribution plan, plan for variation of prices or other items, discounts in the distribution, production process and distribution method, in respect of the controlled prices and services;

(6) to require the storage, or the increase of the storage amount, of the controlled goods and to prescribe the areas and the places for the storage of the controlled goods,

(7) to prohibit or permit the delivery of the controlled goods out of, or the bringing of such goods into, any particular locality;

(8) to order the business operator to improve the efficiency of the production, import, purchase, distribution or storage of the controlled goods or services or to suspend or reduce unreasonably excessive expenses;

(9) to provide for the share in the purchase and distribution of the controlled goods or services and prescribe rules and conditions for such share, or prescribe conditions for the purchase and distribution of the controlled goods or services;

(10) to order the distribution of the controlled goods or services in the fixed quantity and at the fixed prices and order the distribution to any Government agency or person as designated by the Commission;

(11) to prohibit the distribution, gift, personal use, move or transformation of the controlled goods or services in excess of the prescribed quantity;

(12) to prescribe measures for preventing the hoarding or possession of the controlled goods in excess of the prescribed quantity.

The exercise of power of the Commission under paragraph one shall be made by issuance of a notification as necessity may arise in the circumstances of the particular case, having regard to the burden to be falling upon the persons obligated thereby, and, for this purpose, the reasons therefor and the persons obligated thereby shall also be specified. Such notification shall come into force as from the day following the date specified therein under (4) and, upon its issuance, shall also be published in the Government Gazette.

The Commission shall review the exercise of power under paragraph one at least once a year to ensure its conformity with the economic

conditions, having regard to the cost of production, expenses incurred in the production, the import, the export, the purchase, the distribution, the appropriate profit rate, effects on investment in the light of the expansion of production capacity at subsequent stages. When the Commission considers that the economic conditions or the facts relied on by it in considering the exercise of its power have changed or cease to exist, the Commission shall issue a notification, and publish it in the Government Gazette, revising or annulling such exercise of power without delay.

The notification of the Commission shall be valid for the specified period, provided that the specified time shall not be longer than one year unless a new notification is issued.

Section 26. The CCP. has the power to issue a notification requiring the producer, distributor, purchaser for redistribution or importer for redistribution of the controlled goods or services to notify to the Secretary-General the name, purchase price, distribution price, standard, quality, size, quantity, unit weight, including the name and quantity of the article which is the component part of such goods or services and their other characteristics as are on the date of the prescription by the Commission.

Section 27. In the case of urgent necessity and secrecy which justifies the exercise of power under section 25 or section 26 and a meeting of the Commission cannot be convoked in due time, the Chairman of the Commission shall have the power to exercise the power of the Commission under section 25 or section 26 for the time being, and the provisions of section 25 paragraph two shall apply to the exercise of such power *mutatis mutandis*.

The notification, when issued under paragraph one, must be submitted to the Commission for consideration within thirty days as from the day following the date of its issuance. If the Commission approves such notification, the Commission shall issue a notification to the effect that the former notification shall continue to be in force. If the Commission does not approve the notification, the Commission shall issue a notification repealing it, provided that it shall have no prejudice to the acts previously done during its application.

The notification under paragraph two shall come into force forthwith upon its issuance and, once issued, shall also be published in the Government Gazette.

Section 28. The Commission shall have the power to require the producer, distributor, purchaser for redistribution or importer for redistribution of goods or services to display the prices of the goods or services. For this purpose, the Commission may also prescribe rules, procedures and conditions for such display.

The provisions of section 25 paragraph two and paragraph three shall apply to the exercise of power under paragraph one *mutatis mutandis*.

Section 29. The business operator shall not carry out any act with the deliberate intention to cause unreasonably low prices, unreasonably high prices or the fluctuation of prices of any goods or services.

The Commission may prescribe the rules and procedures for the determination of the acts which are considered as amounting to the unreasonable lowering or raising the prices or resulting in the fluctuation of prices of goods or services. Such rules and procedures shall be published in the Government Gazette.

Section 30. A person shall not hoard the controlled goods by having the controlled goods in possession in excess of the quantity prescribed in the notification of the Commission under section 25 (12) or keeping the controlled goods at a place other than the place of storage notified to the competent official under section 25 (5) or failing to put into normal distribution or into normal offering to sell the controlled goods which he or she has for distribution or refusing the distribution or delaying the distribution or the delivery of the controlled goods without a justifiable reason.

Section 31. The operator of the controlled service business shall not discontinue the normal service or refuse to render the service or delay the rendering of the service without a justifiable reason.

CHAPTER IV

MISCELLANEOUS

Section 32. The goods seized under section 18 (3), in the case where the owner or possessor is not known or where the public prosecutor gives a final non-prosecution order or where the Court gives a final judgment pronouncing that they shall not be confiscated, and the owner or possessor does not request for having them back within ninety days as from the date of seizure, the date of the knowledge of the final non-prosecution order or the date of the final judgment of the Court pronouncing the non-confiscation, as the case may be, shall be deemed as unowned goods and shall devolve upon the State.

If the goods so seized are perishable or are, if there is a delay in disposal thereof, threatened to be damaged or to cause higher expenses for their storage than their price, the Secretary-General, for Bangkok Metropolis, or the Chairman of the PCP., for any other Province, or the person entrusted by the Secretary-General or by the Chairman of the PCP. may order the competent official or sell such goods by auction or by other appropriate means before they

devolve upon the State. The proceeds of the sale of such goods, after reduction therefrom all expenses and encumbrances, shall be held in place of the goods.

Section 33. In the case where an arrest is made of an offender, the Court shall, upon request by the Public Prosecutor, order payment of a reward to the person giving information eventually leading to the arrest in an amount of twenty five percent of the proceeds of the sale of the article confiscated by the Court's order and payment of an award to the person conducting the arrest in an amount of thirty percent thereof. In the case where no confiscation of the article is made or the article is unable to be sold, such payment shall be made from the fine paid to the Court at such rates.

In the case where there is no person giving information eventually leading to the arrest, payment of an award shall be made to the person conducting the arrest in an amount of thirty percent of the proceeds of the sale of the article confiscated by the Court's order. In the case where no confiscation of the article is made or the article is unable to be sold, such payment shall be made from the fine paid to the Court at such rate.

In the case where there are several persons giving information eventually leading to the arrest or several persons conducting the arrest, rewards or awards shall be paid to such persons in an equal amount among themselves.

In the case where there an article is found without the offender being found, the Commission shall have the power to order payment of rewards and awards from the proceeds of a sale of the article which devolves upon the State in accordance with the regulation prescribed by the Commission but at the rates not higher than those prescribed under this section.

In the case where an arrest is made of the offender and a settlement is made under section 43, the Commission shall have the power to order payment of rewards and awards from the fine in accordance with the regulation prescribed by the Commission but at the rates not higher than those prescribed under this section.

CHAPTER V PENALTIES

Section 34. Any person who fails to comply with the written summons of the competent official under section 18 (1) shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding five thousand Baht or to both.

Section 35. Any person who obstructs the performance of duties of the competent official under section 18 (2) or (3) or section 21 shall

be liable to imprisonment for a term not exceeding one year or to a fine not exceeding twenty thousand Baht or to both.

Section 36. Any person who fails to render convenience to the competent official under section 19 shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding two thousand Baht or to both.

Section 37. Any person who violates or fails to comply with the notification of the Commission under section 25 (1), (2), (3), (6), (7), (8), (9), (10), (11) or (12) or obstructs the performance of work of the CCP, PCP, Secretary-General or competent official under section 9 (8) shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding one hundred thousand Baht or to both.

Section 38. Any person who fails to comply with the notification of the Commission under section 25 (5) or fails make notation under section 26 paragraph one shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding twenty thousand Baht or to both and to a daily fine not exceeding two thousand per day throughout the continuance of the violation or until the notification is made.

Section 39. A person who violates section 26 paragraph two shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding one hundred thousand Baht or to both.

Section 40. Any person who fails to display the price or fails to comply with the rules, procedures and conditions prescribed under section 28 shall be liable to a fine not exceeding ten thousand Baht.

Section 41. A person who violates section 29, section 30 or section 31 shall be liable to imprisonment for a term not exceeding seven years or to a fine not exceeding one hundred forty thousand Baht or to both.

Section 42. In the case where the person who commits an offence punishable under this Act is a juristic person, then, the managing director, the managing partner or the person responsible for the operation of the business of the juristic person in such matter shall also be liable to the penalty provided by the law for such offence unless it is proved that such act has been committed without his or her knowledge or consent or he or she has already taken reasonable action for preventing the commission of such offence from occurring.

Section 43. All offences under this Act which are punishable only with a fine, or which are punishable with a fine or imprisonment for a term not exceeding one year, or with imprisonment for a term not exceeding one year and a fine, may be settled by the Commission. The Commission may

entrust a sub-committee, the Secretary-General, the Chairman of the PCP. or the competent official to exercise such power on its behalf.

The entrustment under paragraph one shall be in accordance with the rules and procedures prescribed by the CCP.

When the offender, in the case of the offence punishable only with a fine, has agreed to pay the maximum rate of fine for such offence, or when the offender has paid the fine in the fixed amount within the specified time, it shall be deemed that the case is settled in accordance with the provisions of the Criminal Procedure Code.

Transitory Provisions

Section 44. All the Ministerial Regulations, Regulations or Notifications issued under the Price Fixing and Anti-Monopoly Act, B.E. 2522 (1979) as in force on the date of the entry into force of this Act shall continue to be in force insofar as they are not contrary to or inconsistent with the provisions of this Act until Regulations or Notifications are issued under this Act.

Countersigned by:
Cuann Leekpai
Prime Minister