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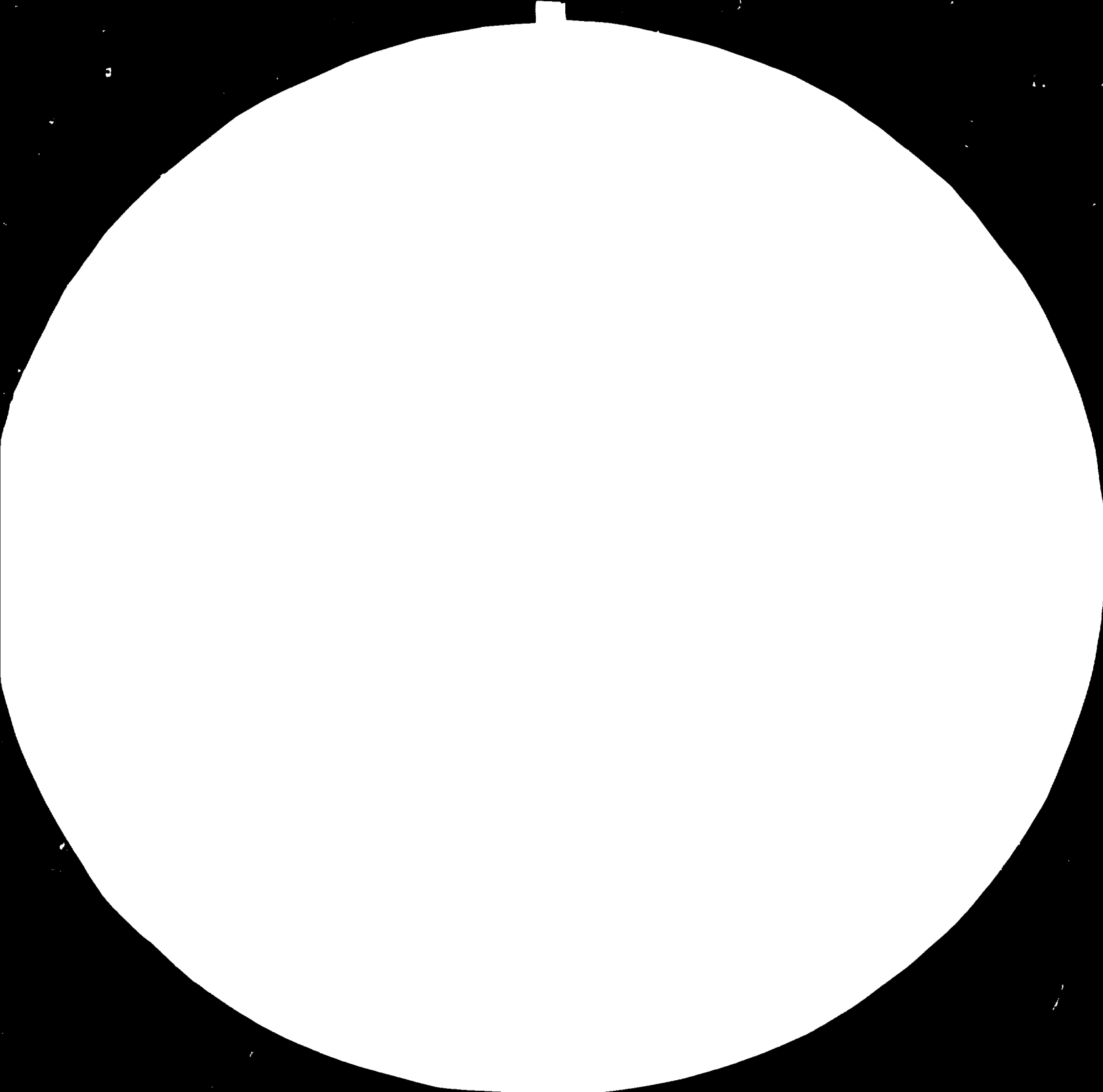
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12893

DP/ID/SER.B/414  
10 August 1983  
English

Thailand.

ASSISTANCE IN THE PROMOTION OF FLOWS OF TECHNOLOGY  
AND INVESTMENT IN THAILAND

SI/THA/82/803

THAILAND

Hubert A. Januszewski

Terminal report \*

Prepared for the Government of Thailand  
by the United Nations Industrial Development Organization,  
acting as executing agency for the United Nations Development Programme

United Nations Industrial Development Organization

Vienna

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This report is prepared for the Government of Thailand, particularly for the Board of Investment and results from the mission undertaken by Mr. Hubert A. Janiszewski, UNIDO staff, acting as an expert under the project SI/THA/82/803, during the period 5-19 06.1983.

The single purpose of the mission was to prepare a draft legislation, inclusive of accompanying documentation, on more direct involvement of the Government in regulating, promoting and streamlining of foreign investments and technology flows into Thailand.

The mission task was accomplished on a basis of findings and recommendations submitted earlier by UNIDO to the Government in the reports <sup>1/</sup> DP/ID/SER.B/372 and DP/ID/SER. 388.

This report consists of the following main parts:

1. Brief background and introduction;
2. Draft Foreign Investment and Technology Act;
3. Draft note of transmittal on Foreign Investment and Technology Act;
4. Draft list of fees to be charged by the BOI under the Act;
5. Draft outline of time-schedule of activities related to approval and implementation of the proposed Act;
6. Follow-up considerations inclusive of a draft PDS for UNIDO assistance.

The mission wishes to acknowledge with thanks, the co-operation and guidance received from Khun Chira Panapong, Deputy Secretary General of the BOI, Khun Premsi Katewongsge Director, Division of Planning, BOI and their staff, as well as that of Mr. W. Millager, UNIDO-SIDFA, and Mr. Y. Saito, Assistant to SIDFA, in the course of the mission.

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<sup>1/</sup> by Mr. J. Pestana and Mr. J. Caldas-Lima in the course of 1982

The views contained and conclusions reached in the report, are, however, those of the author.

1. Brief background and introduction

As the past investigations and surveys carried by the joint unit of ESCAP/CTC and UNIDO revealed, Thailand at present, belongs to those few countries where a very liberal, almost laissez-faire policy is being pursued vis-a-vis direct foreign investments and inflows of technology.

In the area of foreign investments, the Investment Promotion Act BE 2520 provides for investment incentives of various kinds in the promoted sectors while the order 281 reserves certain sectors for exclusive Thai activities.

Except the both above mentioned Acts, no regulation or code applies to foreign investments, thus enabling the economy to be penetrated at ease by the foreign capital.

Although Thailand enjoyed quite an impressive economic growth, particularly on account of the large influx of DFI, yet the Government at present has no means by which it may more effectively channel such flows to preferential areas of the economy nor information as to direction and structure of such flows as a basis for formulation of a more comprehensive policy in this respect.

The restructuring of the manufacturing activities in certain areas of the economy, carried and studied by NESDB will also benefit from such information as well as policy.

As far as regards technology flows, the situation can be described as bad, on account of a large outflow of foreign exchange for technology payments multiplied by a very heavy restrictive nature of the agreements signed by the local technology recipients (both Thai and foreign).

While the fact of an increase of payments of technology ( from ca. 240 mill. Bht in 1972 to ca 1.3 bln Bht in 1981) in itself is a good indication for a rapid modernization of the industry, yet by relation of such absolute figures to GNP and industrial output, shows clearly that Thailand is paying much more for technology than other countries in the region like, Malaysia, Philippines or the Republic of S. Korea.

The reasons for this situation are many and among them one can mention:

- a relatively low technical level of the local industry;
- a large concentration of payments by companies with foreign equity;
- lack of experience in handling complex technology transactions.

The overall brief overview of the situation leads logically towards the recommendation that the Government should, as soon as possible, step in and directly get involved in those critical areas of the economy adopting measures which have been proven elsewhere.

The suggested measures in the form of an **special Act, entrusting the BOI, with its execution, are described in the following parts of this report.**

2. Draft Foreign Investment and Technology Act
3. Draft note on the need of introduction of promotional cum regulatory measures in the area of foreign investments and technology transfer in Thailand and strengthening of the role of BOI.
4. Draft list of fees to be collected by BOI for implementation of Foreign Investment and Technology Act

5. Draft time table related to enactment of Foreign Investment and Technology Act
6. Follow-up considerations inclusive of a draft PDS for UNIDO assistance

Provided that the Government introduces the legislation as described in the following parts of the present report, it is obvious that a fairly large assistance of UNIDO should be secured.

The attached draft PDS provides the necessary documentation for the Government, UNDP and UNIDO to act upon and it is believed that the needed means from IPF will be secured.

Irrespective however, of the approval of the attached project, the BOI in particular, should brace itself for securing (with perhaps ad-hoc UNIDO assistance) of the following:

- (a) Provision of necessary training of its staff on matters related to DFI and technology transfer;
- (b) Using the TIES system of UNIDO for the establishment of direct bilateral contacts with similar offices elsewhere (Philippines, Malaysia, S. Korea, Mexico, Brazil);
- (c) Preparation of internal guidelines for screening and evaluation of DFI and TT agreements (here in particular the assistance of UNIDO will be crucial and essential);
- (d) Preparation of promotional and explanatory documentation for the business community explaining the new measures introduced by the Government and the new role of the BOI.



Foreign Investment and Technology Act

Whereas it is expedient to promote foreign investment and technology and enact a law relating to the regulation of foreign investment and technology.

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

Section 1. This Act is called the "Foreign Investment and Technology Act".

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

Section 3. This Act is without prejudice to the Investment Promotion Act B.E. 2520, National Executive Council Announcement No. 281, Working of Aliens Act B.E. 2521, Exchange Control Act B.E. 2485, Patent Act B.E. 2522. All other laws, rules and regulations in so far they deal with matters governed by this Act, or are contrary to, or inconsistent with the provisions of this Act, shall be replaced by this Act.

Section 4. In this Act

- (a) "Foreign enterprise" means a business enterprise having any of the following characteristics, and includes both an existing enterprise as well as an enterprise that is proposed to be established;
  - (1) single proprietorship held by a foreigner;
  - (2) a partnership, joint-venture, co-operative society foundation of association in which at least one partner or member is a foreigner;

- (3) a branch of a foreign incorporated company;
  - (4) a domestically incorporated company in which 25 percent or more of the paid-up capital, or 25 percent or more of the paid-up capital and loans are owned by foreigners, irrespective whether the foreigner is a physical or legal person.
- (b) "Foreign investment" means contribution coming from a foreigner or foreign enterprise to the capital of a company (from resources remitted from abroad or retained in Thailand) in cash, industrial plants, machinery, equipment or intangibles, with the right to re-export their value and to remit profits abroad and which or a consequence results in the establishment of a foreign enterprise or which changes the character of an existing domestic enterprise into foreign enterprise as characterized in Section 4 (a) above.
- (c) "Foreigner" shall include both physical and legal person and shall mean;
- (1) in the case of physical person, one who is not of Thai nationality;
  - (2) in the case of a legal person;
    - (i) a company or business enterprise which is incorporated or organized abroad, or
    - (ii) a branch or subsidiary of such company or business enterprise in Thailand or

- (iii) a company, incorporated in Thailand is one which has 25 percent or more of the paid-up capital, and is owned by a physical foreigner or by a foreign enterprise;

The "Foreigner" however shall not include a person, be it physical or legal, who is resident and domiciled in Thailand and in whose case the current income as well as investment are not remittable abroad.

- (d) "Technology transfer arrangements" shall mean a contract or agreement or any document effective in Thailand, involving direct or indirect consideration and entered into for any or all of the following purposes:
  - (i) the licensing of the use of exploitation of trade marks;
  - (ii) the transfer, assignment, grant, use or exploitation of patents for inventions, improvements, industrial models and drawings;
  - (iii) the supply of technical know-how or technical information by plans, designs, diagrams, drawings, documentation, literature, instructions, formulae, specifications, computer programmes and training of personnel;
  - (iv) the provision of technical consultancy, services and assistance in whatever form it may be furnished;
  - (v) the provision of managerial and marketing services of any nature including administration and operation of enterprises;

(vi) the provision of basic or detailed engineering for production purposes.

(e) "Registration" shall mean approval and "Registration Certificate" shall mean a certificate of approval granted in terms of this Act; "Board" shall mean the Board of Investment established under the Investment Promotion Act B.E. 2520.

"Secretary General" shall mean the Secretary General of the Board of Investment.

"OFFICE" shall mean the Office of the Board of Investment.

"Chairman" shall mean the Chairman of the Board in understanding of Investment Promotion Act B.E. 2520.

Section 5. The Prime Minister shall have charge and control of the execution of this Act.

## CHAPTER I

### General

Section 6. Foreign investment and technology transfer arrangements are considered major contributors towards the economic and social progress of the country; in order that their contribution is even more effective they shall be regulated by the Board with the view to ensure, in the case of foreign investments, that it flows into areas and activities in conformity with the economic and industrial development plans of the country, and on terms and conditions determined to be mutually beneficial to the foreign investors and the national economy, in the case of technology transfer arrangements, that the technology is needed and appropriate to Thai conditions, that the payments for technology and other commercial conditions are reasonable and that restrictions are minimized.

Section 7. Foreign investment may be made and technology transfer arrangements may be concluded only after obtaining Registration Certificate from the Board in accordance with the provisions of this Act.

The remittance abroad resulting either from foreign investments or technology agreements will be authorized by the Bank of Thailand only when application is accompanied by the above mentioned Registration Certificate issued by the Board in accordance with the provision of this Act.

Section 8. The Board may wish to establish a special subcommittee, to be chaired by the Secretary General, to handle day-to-day registration of foreign investments and technology transfer agreements as foreseen in this Act.

Section 9. The Board will empower the Office with the task of receipt of all applications for registration of foreign investments and technology transfer arrangements, as stipulated in this Act; their evaluation, scrutiny, filing and discussions with applicants; submission of proposals concerning the registration to the subcommittee or the Board and carrying out all technical, promotional and other functions necessary for effective implementation of this Act, inclusive suggestions of policy nature.

Section 10. The Chairman will arrange for suitable administrative arrangements within the Board and the Office to handle registration procedures of foreign investment and technology transfer arrangements as foreseen in this Act.

Section 11. The Board shall have the power to make announcements and issue internal guidelines regarding the criteria employed for registration of foreign investment and technology transfer arrangements and the conditions under which registration may be granted. The Board shall have the power to modify or abolish those conditions at any time.

CHAPTER II

Applying for and granting of registration of foreign investment

Section 12. An application shall be made to the Board on behalf of the foreigner (physical or legal person) for registration of the proposed foreign investment in accordance with the rules, procedures and forms prescribed by the Secretary General, describing the foreign investment to be registered.

Section 13. Where a foreigner wishes to seek promotion under the Investment Promotion Act B.E. 2520 and has to obtain registration of foreign investment under this Act, it may make a consolidated application to the Board seeking both promotion status and registration in accordance with the rules, procedure and forms prescribed by the Secretary General.

Section 14. The Board shall consider the application for registration having due regard, among others, to the following:

- (a) area or activity in which the investment is being made and its conformity to national economic, social and industrial development plans;
- (b) its impact on domestic industrial growth and capabilities;
- (c) extent of foreign and domestic ownership;
- (d) extent of indigenization of the manufacturing programme;
- (e) extent of use of domestic raw materials and other resources and value added therefore;
- (f) extent of import of capital equipment, intermediate goods, raw materials, spares and components;

- (g) the effective contribution towards the balance of payments;
- (h) extent of employment generation and provision for training of local personnel;
- (i) extent of use of foreign and domestic financial resources;
- (j) extent of exports or import substitutions;
- (k) extent to which it will promote or distort competition in the market;
- (l) the introduction of advanced technology;
- (m) the location, bearing in mind the aims of regional development;
- (n) low industrial pollution.

Section 15. Where the Board decides to grant registration, it may stipulate such conditions in the registration certificate as it deems appropriate.

Section 16. When the Board has resolved to grant registration to the foreigner, or foreign enterprise, the Office shall notify it in writing of the resolution of the Board together with the conditions stipulated by the Board within 15 days of the resolution of the Board.

If the foreigner, or foreign enterprise, accepts the registration as provided in the operative para above, it shall confirm it, in writing to the Office within three months from the date of receiving the notice.

The resolution of the Board shall be made available usually within the period of 90 days from the date of submission of the application by the foreign or foreign enterprise.

Section 17. The Board may refuse to consider application if the applicant fails to provide the information requested in accordance with the provisions of Section 12 of this Act. In such cases the applicant shall be duly notified of the Office decision.

Section 18. The foreigner or foreign enterprises may refer to the Prime Minister, the Board resolution not to grant registration or to grant registration on specific conditions with which the said foreigner does not concur.

The Prime Minister will reconsider such Board Resolution within 60 days from the date such reconsideration request is submitted to him.

Section 19. Where the foreigner, or foreign enterprise, has confirmed the acceptance of the registration within three months, the Office shall issue a registration certificate without any delay.

The registration certificate shall be in a form prescribed by the Board and shall be signed by the Secretary General.

Any amendments to the registration certificate shall be made by a resolution of the Board. The Secretary General or authorized person by him, shall sign the amended registration certificate which shall be delivered to the foreigner without delay.

Section 20. The registration certificate or the amended registration certificate as the case may be, shall not as a rule, exceed a period of 120 days from the date of issue. The serial number of registration certificate shall be indicated on all or any deeds, written or other original or authenticated documents in any way connected with foreign investment. Registration certificate may be extended for periods to be established at the time of renewal or extension thereof if they have not been used wholly or in part within the time limits established in this section.



Section 21. The Board shall maintain the stock of Registration Certificates; one copy shall be for the Bank of Thailand and shall be forwarded on the date of issue or on the following working day.

Section 22. The Registration Certificate shall be valid only for the activities specified therein. In case of expansion or diversification of activities, the foreigner shall apply for a suitable certificate for such activities. The procedure prescribed in Section 12 through 20 of this chapter shall be followed in granting a registration certificate in such cases.

### CHAPTER III

#### Applying and granting of registration for technology transfer arrangements

Section 23. Any agreement, contract or document involving technology transfer arrangements as understood and described in Section 4 (d) of this Act, shall be submitted to the Board together with an application for registration in accordance with the rules, procedure and forms prescribed by the Secretary General.

The applicant may be either of the parties to technology transfer agreements, preferably the technology recipient who has the obligation to make remittances on account of the technology received.

Section 24. The Board shall consider the applications for registration having due regard, among others, to the following:

- (a) the need for the import of the technology, their availability or existence in Thailand and its appropriateness to Thai conditions;
- (b) the need to break monopolistic market situation;
- (c) the real contribution towards balance of trade and balance of payments;

- (d) the extent and duration of imported capital goods, raw materials, spare parts, components;
- (e) the extent of utilization of local raw materials and other inputs;
- (f) the impact on the growth of indigenous industrial and technological capabilities, inclusive to the extent of utilization of local R+D resources;
- (g) the extent of arrangements envisaged for the absorption adaptation of technology and training of local technicians and labour;
- (h) the reasonableness of the payments for technology in relation to benefits occurring to the recipient party and the national economy;
- (i) the reasonableness of the duration of the agreement or contract in relation to the absorption of the technology;
- (j) the extent and reasonableness of restrictions included in the contract or the agreement;
- (k) other consideration which may affect the critical and objective evaluation of the technology.

Section 25. The agreements, contracts or other documents regarding the transfer of technology shall be complete and contain, among others, the following:

- (a) a detailed description of the nature of the transfer, nature of the technology transferred and of the practical form it will take as well as a detailed and simple description of the type, form and amount of payments envisaged;

- (b) a definite indication of the period for which the agreement is to remain in force;
- (c) a guarantee that the recipient of the technology concerned will be kept informed of all or any improvements introduced into it during the duration of the agreements, unless such improvements constitute an independent patent;
- (d) an indication that the components, spare parts and services related to the technology concerned will be supplied at the request of the recipient as well as an indication of the terms governing such supplies;
- (e) a statement indicating that conditions governing supplies as in para (d) above will be fixed on terms identical to those prevailing on the international markets whenever transactions of such nature are envisaged;
- (f) a detailed description of the list of the ownership of the titles to the industrial rights involved being in force in Thailand (patents, trade mark, models, drawing, etc.) inclusive of indication of time period covered by each individual right;
- (g) programmes of training of local personnel
- (h) interpretation of the agreements will be according to the Thai Law.

Section 26. Where the Board decides to grant registration it may stipulate such conditions in the registration certificate as it deems appropriate for compliance by the applicant party.

Section 27. In agreements for transfer of technology, particularly between foreign companies and their different branches in Thailand, the following provisions shall not be permitted by the Board:

- (a) prohibitions on the use of the technology after termination of the agreement;
- (b) obligations which require payments for industrial property rights after their expiration, termination or invalidation;
- (c) those which require the technology recipient not to contest the validity of patents of the supplier of technology and prohibit the recipient of obtaining similar technologies from other sources;
- (d) those which unreasonably required tied purchases of raw materials, components, equipment etc. from the supplier of technology or a designated source;
- (e) those which unreasonably restrict directly or indirectly the export of the products manufactured under agreement by the recipient and require that the sales of products are affected through parties designated by the supplier of technology;
- (f) those which limit the scope, value or structure of production or sale price of products manufactured under the agreement.

Section 28. In cases where the transfer of technology assumes special interest for the national economy, agreements containing one or more of the provisions listed in Section 27 may be permitted by the Board.

Section 29. When the Board has resolved to grant registration to the parties of the technology agreement, the office shall notify them in writing of the resolution of the Board together with the conditions stipulated by the Board within 15 days of the resolution of the Board.

If the parties to the technology agreement accept the registration as provided in the operative para above, they shall confirm it, in writing to the Office, within 3 months from the date of receiving the notice.

The resolution of the Board shall be made available usually within the period of 90 days from the date of submission of the application by the parties to the technology transfer agreement.

Section 30. The Board may refuse to consider application if the application fails to provide the information in accordance with the provisions of Section 23 of this Act. In such cases the applicant shall be duly notified of the Office decision.

Section 31. The parties to the technology transfer agreement may refer to the Prime Minister, the Board resolution not to grant registration, or to grant registration on specific conditions with which the said parties do not concur.

The Prime Minister will reconsider such Board resolution within 60 days from the date such reconsideration request is submitted to the Chairman.

Section 32. Where the parties to the technology agreement have confirmed the acceptance of the registration within 3 months, the Office shall issue a registration certificate without any delay.

Any amendments to the registration certificate shall be made by a resolution of the Board. The Secretary General or authorized person by him, shall sign the amended registration certificate which shall be delivered to the parties of the technology agreement without delay.

Section 33. The registration certificate or the amended registration certificate as the case may be shall be issued for the fixed period of time (not exceeding the agreement duration) from the date of issue.

The serial number of registration certificate shall be indicated on all or any deeds, write-ups or other original or authenticated documents in any way connected with technology transfer arrangements.

Section 34. The Board shall maintain the stock of registration certificates; one copy shall be for the Bank of Thailand and shall be forwarded on the date of issue or on the following working day.

Section 35. The registration certificate shall be valid only for the activities specified therein, parties of the agreement and shall not be transferable.

In case of renewal of the technology transfer agreement, or its extension, the parties to the technology transfer agreement shall apply for a new registration certificate. The procedure described in Section 23 - 33 of this Chapter shall be followed in granting a registration certificate in such cases.

In deciding the application for renewal, the Board shall give due consideration to the justification for an extension period and particularly the level of the technology, efforts made to absorb the technology and training programmes during the original period of the agreement.

Section 36. Any agreement or contract involving a technology transfer arrangement as described in Section 4 (d) of this Act, or any renewal thereof, for which a registration certificate has not been issued by the Board, shall not have any legal effect and therefore may not be enforced before any authority and will be considered as null and void.

CHAPTER IV

Applicability to existing foreign investments and technology transfer arrangements

Section 37. Foreign investments and foreign enterprises as described in the preceding Section of this Act shall apply for registration in terms of this Act within six months of the coming into force of this Act. The registration should be effected in accordance with Sections 12 through 20 of this Act.

Section 38. Registration certificate in respect to existing foreign investments and foreign enterprises shall be granted automatically within 90 days from receipt of the application. However, taking into consideration all relevant factors, the Board shall have the power to stipulate in the appropriate cases that Thai participation in the capital of the enterprise be gradually increased.

Section 39. The automatic registration certificate referred to in Section 38 shall be valid only for the existing paid-up capital and existing activities of the foreign enterprise.

Section 40. In cases the foreigner wishes to increase its paid-up capital or to expand or diversify its activities, such application will be considered as a new one, and it should apply to the Board for registration of the increased capital or expansion or diversification of the activities following procedure and consideration as prescribed in Sections 12 through 20 of this Act.

Section 41. All agreements or contracts involving technology transfer arrangements as described in Section 4 (d) of this Act, concluded and valid on the date of the entering into force of this Act, shall be submitted for registration within six months from the date of this Act according to the provisions contained in Sections 23 through 33 of this Act.

Section 42. Registration certificate in respect to existing and valid technology agreements shall be granted automatically within 90 days from the receipt of the application.

Automatic registration certificates shall be granted for a period of two years from the date of issue or till the end of the duration of the agreement whichever is earlier.

For the renewal of the above mentioned automatic registration certificates, the procedures prescribed in Sections 23 through 33 of this Act shall apply.

Section 43. The Secretary General shall have the power to extend the periods of registration stipulated in Sections 37 and 39 if special circumstances will so justify.

#### CHAPTER V

##### Guarantees

Section 44. The state shall give the following guarantees in regard to the foreign investment that has been granted registration under this Act:

1. The foreign investment shall enjoy the most constant protection and security under the laws of Thailand.
2. The foreign investment as well as the returns therefrom, shall receive a treatment which is fair and equitable and not less favourable than that accorded in respect of the investments and returns of nationals and purely domestic companies.
3. The foreign investment shall not be subjected to expropriation or nationalization except for public purposes and against payment of compensation. Such compensation shall be adequate,



effectively realizable, freely transferable (except in cases of large amounts justifying the transfer in reasonable instalments) and made without undue delay. The legality of any such expropriation or nationalization and the amount and method of payment of compensation shall be subject to review by due process of law.

The guarantees mentioned in the above paragraph is without prejudice to the guarantee given under Sec. 43 of the Investment Promotion Act, B.E. 2520.

4. There shall be free transfer of the capital of, and the returns from, the foreign investment subject to the laws and regulations of Thailand and consistent with its rights and obligations as a member of the International Monetary Fund.

Section 45. The guarantees enumerated in the proceeding section are without prejudice to the obligations under any treaty or agreement between Thailand and any other country concerning the promotion and reciprocal protection of investments.

## CHAPTER VI

### Penalties

Section 46. Any enterprise receiving foreign investment without obtaining registration certificate in accordance with the provisions of this Act shall be liable to a fine up to 10,000 Baht.

Section 47. Any person implementing a technology transfer arrangement without obtaining a registration certificate in accordance with the provisions of this Act shall be liable to a fine up to 5,000,000 Baht.

Section 48. Any act in understanding of Sections 46 and 47 of this Act shall be deemed as null and void without any legal effect.

Section 49. Where the conditions stipulated in a registration certificate granted under this Act are contravened, the Board shall have the power to suspend or revoke such certificate and to restore the registration certificate only when the contravention is rectified to the satisfaction and within the time limit stipulated by the Board.

Section 50. The Board shall have the power to withhold or refuse to make remittances of current income or registration of the investment related to the concerned foreign investment or technology transfer arrangement, if it is found that the provisions of this Act or the conditions stipulated in the registration certificate have been contravened in any manner.

#### CHAPTER VII

##### Miscellaneous

Section 51. A registration certificate granted under this Act shall not be assigned or transferred to any other party without the prior approval in writing of the Secretary General.

Section 52. The Prime Minister's Office, Office of the Budget and Ministry of Finance shall make suitable arrangements to enable the Secretary General to perform without delay the duties arising out of this Act, specifically those described in Section 10 of this Act.

Section 53. In respect to any foreign investment or technology transfer arrangement as described in this Act, that takes place after the coming into force of this Act, remittance of current income or registration of capital investment related to it shall not be permitted by the Bank of Thailand unless the application for remittances, registration or payments is accompanied by a valid registration certificate granted under this Act.

This stipulation is without any prejudice to any other scrutiny or control that the Bank of Thailand may exercise under the Exchange Control Act B.E. 2485.

Section 54. In respect of existing foreign investment and technology transfer arrangements described in chapter IV of this Act, the Bank of Thailand shall apply the provisions stipulated in Section 52 above, after nine months from the date of coming into force of this Act.

Section 55. The Board, on the suggestion of the Office may exempt the following: provision of preparation of pre and feasibility studies, pre and investment studies and purely engineering ad-hoc services on similar arrangements which are of limited duration and non-recessing character from obligation of Registration under provisions of this Act, if it finds desirable.

Section 56. The foreigners and parties to the technology transfer arrangements may submit to the Board for information and counsel Acts, contracts or agreements related to foreign investments or technology transfer arrangements prior to formal application for registration. The Office may provide to such parties its unofficial views in respect to the conditions contained therein.

Section 57. "Registration certificates" issued by the Board may provide for obligation of submission of annual reports to the Office on individual project progress. Non compliance with such requirement will be considered in the light of provisions stipulated in section 51 of this Act".

Section 58. The Board shall have the power to establish and collect fees as it considers reasonable for activities connected with application made and advice sought as well as for each registration certificate granted by it under this Act.

The collected fees as above will be used by the Board and the Office according to decisions by the Secretary General for promotional and other activities of the Board and the Office. The collected fees will not affect in whatsoever way the regular Budget allocation to the Board and the Office as foreseen in this Act.

Section 59. The Board shall have the power to make such rules, announcements, issue guidelines and to prescribe such procedures and forms as it may deem appropriate to carry out the provisions of this Act.

Proposed list of fees to be collected by BOI for implementation of  
Foreign Investment and Technology Act

Section 1. Foreign Investments

The following are the fees to be paid by the applicant for BOI activities:

1. Application fees

|   |   |                                     |
|---|---|-------------------------------------|
| In case of total investment<br>up to 10,000,000 Bht | - | 0,1% but not less than 2,000 Bht    |
| In case of total investment<br>10 - 50,000,000 Bht  | - | 0.05% but not less than 5,000 Bht   |
| In case of total investment<br>50 - 100,000,000 Bht | - | 0.025% but not less than 10,000 Bht |
| Over 100,000,000 Bht                                | - | 0.01% but not less than 15,000 Bht  |

2. Fees for issuance of registration certificate in accordance with  
Section 38.

- 5,000 Bht irrespective of the total value of the investment

3. Fees for issuance of registration certificate in accordance with  
Section 16 and 40

- 2,500 Bht irrespective of the total value of the investment

4. Fees for BOI activities foreseen in Section 58

- standard fee of 2,000 Bht

5. Fees for application of extension/revision of registration certificate:

50% of fees as foreseen in part 10 above

6. Fees for issuance of extension/revision of registration certificate:

standard fee of 1,500 Bht

Section 2. Technology transfer agreements

The following are the fees to be paid by the applicant for BOI activities:

1. Application fees

|  |   |                                    |
|--|---|------------------------------------|
| Value of the contract up<br>to 1,000,000 Bht | - | 0.1% but not less than 500 Bht     |
| 1,000,000 - 5,000,000 Bht                    | - | 0.075% but not less than 1,500 Bht |
| 5 - 10,000,000 Bht                           | - | 0.05% but not less than 3,000 Bht  |
| Over 10,000,000 Bht                          | - | 0.03% but not less than 5,000 Bht  |

2. Fees for issuance of registration certificate in accordance with  
Section 42:

- 1,500 Bht irrespective to the total value

3. Fees for issuance of registration certificate according to Section 27:

- standard fee of 1,000 Bht

4. Fees for BOI activities foreseen in Section 58:

- standard fee of 2,000 Bht

5. Fees for application of extension/renewal of registration certificate:

50% of fees or foreseen in part 1 above

6. Fees for issuance of extension/renewal of registration certificate:

Standard fee of 750 Bht

7. Fee for submission of recourse action under Section 18 and 31:

Standard fee of 2,500 Bht

All fees or foreseen under Section 1 and 2 above are to be paid immediately  
on the first request of the BOI

Proposed timetable related to enactment of Foreign Investment  
and Technology Act

| ACTIVITY   | Responsibility        | Time         |
|--|-----------------------|--------------|
| 1. Refinement, discussion of internal draft of Foreign Investment and Technology Act | BOI assisted by UNIDO | 5-19.06.83   |
| 2. Follow-up UNIDO assistance  | BOI/UNIDO             |              |
| Finalization of the draft of Foreign Investment and Technology Act                   | BOI                   | 20-26.06.83  |
| Adoption of the draft by BOI, revisions if necessary                                 | Board                 | 27.6-3.07.83 |
| 1. Preparation of estimation of extra regular budgetary resources for BOI            | Board                 | 4-10.07.83   |
| 2. Preparation of draft list of fees for BOI activities                              | BOI                   |              |
| 3. Preparation for obtaining follow-up UNIDO assistance                              | BOI/UNIDO             |              |
| 4. Preparation for estimation of extra staff resource for BOI                        | BOI                   |              |
| Submission of the Draft Foreign Investment and Technology Act to the Cabinet         | BOI                   | 11-17.07.83  |
| Discussion at the Cabinet, revisions, adoption                                       | Cabinet<br>BOI        | 18-31.07.83  |

| ACTIVITY   | Responsibility  | Time  |
|--|---|---|
| Submission to Parliament of the Draft Act  | Cabinet   | 1-15.08.83  |
| Discussion of the draft Act at Parliament, revision, adoption  | Parliament, Cabinet                                       | 16.08-15.09.83  |
| 1. Obtaining extra regular budgetary resources<br>2. Hiring of additional staff<br>3. Approval of UNIDO follow-up programme<br>4. Beginning of follow-up assistance by UNIDO | Cabinet, BOI<br><br>BOI<br><br>BOI/UNIDO<br><br>UNIDO/BOI | 15.09-30.09.83<br><br>15.09-15.10.83<br><br>15.09-15.10.83<br><br>1.10.83 |
| Publication of the Act in the Official Gazette; Act comes into force   |   | Between 1st and 15.10.83  |
| Beginning of activities of BOI in connection with Foreign Investment and Technology Act  | BOI   | Between 1st. and 15.10.83   |



DRAFT

Note on the need of introduction of promotional cum regulatory measures in the area of foreign investments and technology transfer in Thailand and strengthening of the role of BOI.

This note consists of the following sections:

1. Background and justification
2. Proposed measures
3. Expected results
4. Estimation of costs
5. Estimated timetable

Section 1. Background and justification

The objectives of the Fifth National Economic and Social Development Plan clearly indicate that the Government is aware and sensitive to the crucial role foreign investments and technology transfers play and will play in the development of the country.

In realizing this importance, the Government also recognized that both, foreign investments, and particularly, transfer of technology could play an even greater role in further development, yet this is not the case on the account of inter alia:

- (1) High cost of imported technology;
- (2) Low efficiency of utilization of imported technology;
- (3) Restrictive nature of commercial terms for imports of technology;
- (4) Incompatibility of investment and technology flows with national development objectives;
- (5) Other obvious negative effects which can be usually attributed to such uncontrolled flows.

In supporting the above statements, the following facts are provided, available either from surveys carried by UNIDO or by ESCAP/CTC in the course of 1981-83.

The value of imported technology by Thailand increased almost ten fold, i.e. from Bht 142 million in 1972 to Bht 1,330 million in 1981; while such increase should be welcomed, as it proves that modernization of the Thai industry progresses rapidly, other factors and facts indicate that those flows of technology are having profound negative aspects.

For example, one of the indicators of the cost of technology is the ratio of payments for technology to GNP, and comparing to other countries the situation of Thailand is negative. This ratio (Payment in 79 to GNP 78) looks as follows: USA - 0.29; Japan - 1.04; FRG - 1.52; Republic of Korea - 2.34; Philippines - 2.42; Portugal - 2.58, and Thailand 3.36.

It is clearly seen that the coefficient for Thailand is not only not comparable with this of highly industrialized nations, but it is much higher than that of neighbouring countries, thus the cost of import of technology by Thailand is higher than anywhere else.

These findings have been further supported by period serials, where the ratio has been observed over longer periods of time; the result is that while in other countries (Republic of Korea, Philippines, Spain, Portugal) the coefficient is decreasing (towards the average of highly industrialized nations) the trend in Thailand is reverse, i.e., the technology imported by Thailand is becoming more and more expansive.

If one takes the ratio of payments for technology to industrial output, the situation of Thailand is becoming even more unfavorable. This coefficient looks as follows (payments in 1980 to industrial output 1979): Philippines 8.0; Republic of Korea 6.7; Portugal 6.4 and Thailand 14.6.

The above figures clearly indicate that the Thailand industry is paying on the average, more than double price for the technology than other industrialising countries of comparable level.

It is not secret that, several surveys carried recently have shown evidence of royalties averaging above 10% of in some cases well exceeding 20%, which is highly unusual.

The gloom picture of the Thai imports of technology is further aggravated by the so-called restrictive business practices, which indirectly contribute to the increase of the cost of technology, and substantially lower the efficiency of its utilization locally, restrict local R+D effort and lead towards permanent dependency of the local industry on the foreign technological inputs.

Finally, one should mention that a large part of the so-called technology agreements is limited to the right of use of trade marks or franchising operation, which although catering the needs of a rather limited group of consumers, yet it does not have anything to do with the technological progress of the country, nor they contribute towards the social and economic progress of large segments of the rural population of Thailand.

Another factor worth mentioning is the clear relationship between the foreign investment and the inflow of technology. An investigation carried shows that:

1. Largest payments for technology are made in the so-called non-promoted sectors;
2. The largest flow of technology occurs in enterprises with big foreign equity;
3. Remittances for technology, management and service fees, copyrights etc., are growing faster than remittances of dividends and profits <sup>1/</sup>.

Those three findings may most probably indicate that foreign companies overvalue the technology in order to remit profits by way of various technology payments on account of lower applicable tax to such payments.

It should be underlined, that similar tendencies were found elsewhere including in the member countries of the EEC.

What are the basic reasons behind this unfavorable situation with regard to technology flows and foreign investments?

There seems to be many reasons and specific local conditions which led into the present unfavorable situation.

<sup>1/</sup> For details see, J. Caldas-Lima reports by UNIDO DP/ID/SER.B/372 and DP/ID/SER. 388

After a careful analysis the following basic reasons should be mentioned:

1. Effectively, the low technological level of the Thai industry, including the lack of experienced technicians and engineers;
2. Lack of understanding and preparation within the business and government circles, of the importance and complex nature of technology and foreign investment transactions and its impact on the economy as a whole;
3. Lack of effective government policies in technology transfer and foreign investments which would streamline and regulate uncontrolled flows of both foreign investments and transfer of technology.

While the liberal Government economic policies should be praised and continued in the future, yet, on account of the crucial importance of technology transfer and foreign investments on the economic development, the policy in this area should be changed towards a gradual regulation compatible with national goals and interests. Thailand is at present one of the very few countries in the world (and only one among the ASEAN members) which does not have a regular and full information on the extent of foreign investments, thus the proposed measures are designed to overcome this situation.

In the present difficult economic situation, only a consistent and effective Government role in the economic field, may guarantee a sustained growth and economic progress.

The very similar situation as prevails at present in Thailand, has induced Governments of such varying countries as the Republic of Korea, Philippines, Malaysia, Mexico, Venezuela, Brazil, Argentina, Spain and Portugal, to establish a strong role of the Government in the area of technology transfer in order to:

1. Protect the interests of the domestic industries;
2. Decrease the cost of acquiring technology;

3. Improve the conditions for acquiring technology;
4. Channel the technology flows into areas of national priorities;
5. Gradual development of a strong R+D base within and outside the country.

What is being proposed in the further sections is the only way to achieve those objectives; the proposed measures have been applied successfully elsewhere and there is no reason that they will not produce similar positive results in Thailand.

#### Section 2. Proposed measures

The foreign investment inflows into Thailand are at present regulated by a few Acts, among them most prominently, by the Investment Promotion Act B.E. 2520, yet its application is limited to the provision of certain incentives in the so-called promoted sectors of the economy.

In respect to all other sectors, only the Bank of Thailand keeps the track of information and reference nature.

The National Executive Council Announcement 281 provides only for an indication of those sectors which are reserved for the Thai investors; the proposed Act will provide the Government with a general overview of all foreign investments being made in the Kingdom, including their terms and conditions, thus enabling to develop a comprehensive policy over a period of time.

In respect to the technology transfer transactions, those are of an entirely free nature without any Government interference, except again, the Bank of Thailand, who keeps track of remittances; the only Act which is unfortunately not applied, is the Patent B.E. 2522, which in its Section 39 stipulates two basic conditions to be included in industrial property licences and in its Section 41 provides for contract registration.

As the activities of the Bank of Thailand are of an information character only, and provisions of the Patent Act B.E. 2522 were never implemented, it is proposed to enact a new law called "Foreign Investment and Technology Act" draft which is attached to the present note.

By the enactment of this complex piece of legislation, the following objectives, it is believed, will be achieved over a period of time:

1. Effective recording of all foreign investments made in the past and in the future in Thailand where foreign equity is 25% or more;
2. Effective recording of all past and future technology transfer agreements (including agreements between companies incorporated in Thailand);
3. Gradual introduction of the possibility for the Government to effectively promote, guide and regulate foreign investments in the future, if this is desired;
4. Effective promotion and regulation of technology transfer transactions, particularly to the priority areas of the economy;
5. Provisions of support and assistance to the domestic industries in effectively handling technology transfer transactions;
6. Overall decrease of the cost of technology, thus effectively contributing towards the balance of payments;
7. Elimination of the most negative restrictive business practices, thus effectively increasing the scope of utilization of the technology and contribution towards strengthening indigenous technical capabilities;

8. Strengthening of the role and position of the BOI as the focal point of the Government policies vis-a-vis foreign investment and technology flows.

The proposed Foreign Investment and Technology Act foresees the BOI as the supreme Government institution to handle (in co-operation with the Bank of Thailand and possibly other bodies like the Ministry of Science and Technology and the Ministry of Industry) all matters related to foreign investments and technology transfer.

The Act will provide for obligatory submission for registration of all:

- existing foreign investments with 25 percent or more foreign equity
- new and expanded foreign investments
- existing and new technology transfer transactions

It is foreseen that in respect to existing foreign investments an automatic registration certificate is issued without evaluation, while for new applications an in-depth evaluation is carried. The proposed registration of all foreign investments with 25% foreign equity or more is justified by the fact that according to the local company act, a person holding 25% of the stock may effectively block the company's board decision, thus such cut-off will include only those foreign investments which enable foreign capital effective control over the company in which they invested.

For the existing technology transfer transactions the similar automatic registration system will be established, yet such certificates will be valid for 2 years only, after which the agreements will be subject to scrutiny and evaluation according to the conditions laid out in the Act.

This 2 year period is justified by the need:

1. To provide lead time for business to accommodate to the new conditions imposed by the Government;



2. To provide time for the BOI to develop internal evaluation procedures and train its staff for the task ahead.

As can be seen in the Act, a dual approach is proposed:

- vis-a-vis foreign investments simple registration for recording and information purposes
- vis-a-vis technology transactions effective stimulation of inputs into the national economy.

Research carried in Thailand and the experience of other developing countries which adopted, in the past, similar measures, suggest that the overview and supervision over foreign investments and technology transfer are concentrated in one Government agency (for example, Portugal, Mexico, Argentina, India, etc.). Furthermore, there is an intimate link and interdependency between these two channels of economic activities of foreign suppliers, thus it is proposed to focus promotional and regulatory functions at BOI as reflected in the draft law.

In order that the BOI effectively performs its new task, certain pre-conditions are necessary, particularly as regards the additional staff and budget allocation which are provided for in the Act.

Prior however to the enactment of the Act, the BOI should receive additional budget allocation and staff, which has to be trained. Moreover, it may be necessary to enlist UNIDO's assistance, both in training of the BOI staff (including training in other similar offices abroad) as in internal preparation within the BOI itself.

Finally, by the institution of fees for various new BOI activities, it is believed to create additional sources to be used, i.e., for promotion of BOI activities, training of staff, hiring outside expertise and provision of advice to the business community.

If the promulgation of the proposed Foreign Investment and Technology Act takes longer than foreseen in Section 5 of this note, the time should be used for effective preparation of BOI for tasks as foreseen (option two). Such activities may include the introduction of obligation of submission of all contracts for foreign investments and technology agreements to BOI for information purposes.

The Board may establish a sub-committee to handle registration of both, foreign investments and technology transfer arrangements and will empower the office of BOI to receive applications and carry the evaluation as well as submit proposals for registration to the said sub-committee.

In more complex cases such application may be referred to the Board via the sub-committee.

On the basis of access to such documents, internal guidelines may be developed as well as evaluation criteria prepared, in addition to training of the staff who will handle such tasks in the future.

However, such "transitory" period should not last longer than 6 - 9 months, in view of the grave situation in this respect.

Assistance of UNIDO should be sought for this period, as well as access to UNIDO's TIES system <sup>2/</sup>.

### Section 3. Expected results

By the introduction of one central single piece of legislation as proposed the "Foreign Investment and Technology Act" all major objectives as outlined in the preceeding sections should be achieved and particularly:

1. Radical improvement of terms and conditions under which technology is brought into Thailand;

<sup>2/</sup> TIES - Technology Information Exchange System - information system administered by UNIDO providing its members with information on terms and conditions of technology transactions.

2. Substantial decrease of the cost of technology, both for individual enterprises and the economy as a whole;
3. Improvement of the balance of payments on account of the decreased cost of technology and the elimination of unnecessary imports of raw materials, components, spare parts, etc.
4. Substantial elimination and minimalization of restrictive business practices in technology transfer agreements and thus contribution towards a more effective use of the imported technology and available local technological capabilities;
5. Contribution towards a better understanding of problems of technology transfer arrangements among the business community in Thailand;
6. Increase and strengthening of the bargaining position of domestic enterprises vis-a-vis suppliers of technology;
7. Possibility of streamlining of technological inputs into priority areas of the economy by a careful and skilled interpretation of the provisions of the Foreign Investment and Technology Act;
8. Establishment of a sound factual basis on foreign investment and technology transfer transaction for the formulation of long and short term policies in those areas.
9. Strengthening the role of the BOI as focal point of implementation of the Government policies vis-a-vis foreign investments and technology transfer.

There is no doubt that the business community including foreign capital and suppliers of technology, may raise objections and initially adopt a negative position vis-a-vis the proposed measures.

It is suggested therefore to prepare carefully a promotional campaign to explain both background and objectives of the proposed measures both, before the final introduction of the proposed legislation and in the initial year or two of its implementation by the BOI.

It is therefore of utmost importance to the Government and the BOI, that no effort is spared to effectively implement the Act from the start and with high degree of professionalism.

All conditions as set forth in this note and annexes should be met, before enactment of the legislation.

Nothing will harm more this major effort, like the lack of preparations at the end of the Government and the BOI.

#### Section 4. Estimated costs

The introduction of the Foreign Investment and Technology Act will entail certain additional costs to the budget of the Government, which however will be more than offset by the positive and calculable effects, this registration system will cause to the country.

In terms of additional staff the following are the requirements:

In the area of registration of the foreign investments, it is proposed to establish four additional professional posts plus three additional general service.

All seven posts should be funded from the additional regular budget allocation to the BCI.

Four professional posts will include one at the level of the Director of the Division, plus 3 professional posts (preferably 2 economists and one lawyer).

For the registration of technology transfer transactions, it is proposed to create seven (7) additional professional posts plus six (6) general service.

The person in charge of such operation should be at least at the level of the Director of the Division, preferably however, at the Deputy Secretary General level, due to the high exposure and nature of decisions made.

Among the six professional posts, four should be economists, one lawyer and one combining engineering with legal or economic background. Among the general service staff, at least one should be qualified to handle the use of the computer.

The professional staff, to be funded by extra budgetary allocation, (as well as general staff) should be complemented at least initially, by the assistance of outside expertise (contractual staff) both from, Thailand and expatriots (preferably through the UN system).

All staff freshly recruited (including the general service category) must be fluent in English, be of high integrity and high moral standard.

Suitable premises for all staff should be secured, in addition to conference and meeting facilities, a large specialized library and provision for promotional activities and travel.

It should be envisaged, in the beginning of the second year of operation, to increase the staff in foreign investment registration by 2 professionals and one general service, while in technology transfer, an increase by three professionals plus two general staff.

This increase will be necessary to handle more complex cases, increased amounts of registration and cover ever increasing promotional functions.

The extra contribution by way of fees as envisaged, should be kept at the BOI for financing of extra promotional activities, training of staff, collection of materials, access to information sources, travel, etc.

Section 5. Estimated timetable

A detailed timetable (optimal) is annexed to the note. In summary, it envisages the preparation of the final Law by mid October 1983; the hiring of additional staff and its initial training (with the assistance of UNIDO) in the course of September/October.

The Act should come into force around mid October 1983.

In case this schedule is considered unrealistic, it is proposed that the estimate deadline for the introduction of the Law is the end of 1983, with preparatory activities at the BOI carried for three months, that is October through December 1983.

UNITED NATIONS DEVELOPMENT PROGRAMME

Project of the Government of Thailand

PART A. Basic data

Sector: Industry

Project title: Assistance to the Government in setting up  
promotional cum regulatory functions in relation  
to foreign investments and technology transfer

Project number: DP/THA/83/

Government counterpart  
Agency: Board of Investment

Project start: 1 October 1983

Project end: 1 October 1986

UNDP Contribution: 311,000 \$

Government contribution: - - - - -

Executing agency: United Nations Industrial Development Organization

\_\_\_\_\_  
For and on behalf of UNDP

\_\_\_\_\_  
For and on behalf of Ex. Agency

\_\_\_\_\_  
For and on behalf of the Government

PART B: Background and justification

Background

The 5th Development Plan for 1982-86 has foreseen the establishment of a specialized agency in charge of the regulation and promotion of flows of industrial technology into Thailand.

A similar conclusion was reached earlier by the project DP/THA/78/018/AOI/42 carried jointly by UNDP/IBRD in the course of several missions sent to Thailand in the period 1980-81.

Following those findings and formulation of the development objectives, UNIDO has been requested specifically to look into the possibility and feasibility of setting up such agency under the project SI/THA/82/803. In the meantime, ESCAP/CTC and UNIDO carried extensive studies in the area of TT and DFI flows, indicating that Thailand gets the most conditions, out of all ASEAN countries. in this respect.

The assignment was undertaken in the course of 1982 and its conclusions are summarized in the report. DP/ID/SER.B/372 of 27.01.1983. The conclusions reached suggested that a specialized department is created at BOI to deal with the evaluation and approval of technology agreements as well as that the powers of BOI are extended to cover, initially at least, the registration of all foreign investments being made in Thailand, (not only those coming under the Investment Promotion Act BE2520).

In the result of these findings, the BOI requested and received assistance from UNIDO, under the extended project SI/THA/82/813 in drafting the Foreign Investment and Technology Law covering the above mentioned issues.

Objective of the project

The long term objective of this project, is to assist the Government, and specifically the BOI, in the implementation of the provisions of the Foreign Investment and Technology Law, soon to be enacted by the Parliament, in its initial period, i.d. 1982-1986.



The immediate objectives will be:

- to provide on-the-spot training for the personnel designated to deal with the registration and evaluation of foreign investments and technology transfer agreements;
- to provide assistance in the organizational set-up of the BOI to handle registration and evaluation activities for foreign investments and technology agreements;
- to provide assistance in preparing internal guidelines for the evaluation of technology agreements;
- to provide assistance in setting the BOI permanent linkages information sources on foreign investments and technology flows (UNIDO's TIES and TIEN, UNCTC and others);
- to assist in carrying out promotional activities of BOI among the domestic and foreign business community;
- to assist the BOI in setting effective links with other agencies involved in the implementation of the Foreign Investment and Technology Law.

Description of UNDP inputs

UNDP will provide the following inputs:

1. services of the project manager of the total of 9 m/m (on an on/off basis) to co-ordinate the overall preparations, carrying out of the project and performing specific functions and liaison between the executing agency and the Government;
2. services of short term experts
  - (a) expert on direct foreign investments 5 m/m
  - (b) expert on evaluation of technology transfer agreements 6 m/m
  - (c) legal adviser on the establishment of legal criteria for the evaluation of technology agreements 4 m/m
  - (d) economic advisor on the establishment of economic criteria for the evaluation of technology agreements 4 m/m

3. training of the BOI staff in other similar offices (Philippines, Portugal and Brazil are suggested) under a specially set-up programme;
4. securing the links with UNIDO-TIES and TIEN systems; UNCTC and other organizations;
5. provision of computer hardware and software for registration and recording of the agreements.

#### Description of the Government inputs

The Government will provide the following inputs:

1. it will hire two senior local staff (or designate them from among the existing staff) to undertake activities related to:
  - (a) registration of foreign investments;
  - (b) registration and evaluation of technology agreements.
2. will hire necessary professional and clerical staff to man expanded foreign investment activities (3 professionals) and technology transfer activities (6 professionals);
3. will secure the necessary premises for computer and possible necessary back-up facilities.

#### Envisaged work plan

The activities of the project should start immediately after the Foreign Investment and Technology Law is enacted, which is foreseen in the course of September, i.e. around October 1983.

The project manager should arrive on the initial mission of ca. 3-4 weeks at the time to set up a detailed work plan and agree with the Government and UNDP/UNIDO in carrying individual activities.

The first group of local staff (3-4 persons) should be sent off to the Philippines for training, for about 2 weeks.

Critical activities of the project will begin around May 1985, when the BOI will have to prepare itself for the real evaluation and registration work of the contracts automatically approved.

The project should terminate in October 1986, when the BOI will be in a position to handle its activities without major outside inputs.

Envisaged evaluation and follow-up

The project will be subject to a tripartite evaluation twice. One at the mid of the project implementation, i.e. February/March 85 and the other one before the project termination, i.e, August/September. At both meetings the follow-up may be discussed and decided upon.

## PART C PROJECT BUDGET (UNDP INPUT)

| Description                   | TOTAL     |                | 1983     |               | 1984      |                | 1985      |                | 1986     |               |
|-------------------------------|-----------|----------------|----------|---------------|-----------|----------------|-----------|----------------|----------|---------------|
|                               | m/m       | \$             | m/m      | \$            | m/m       | \$             | m/m       | \$             | m/m      | \$            |
| 11-01 Project leader          | 9         | 72,000         | 1        | 8,000         | 3         | 24,000         | 3         | 24,000         | 2        | 16,000        |
| 11-02 Expert on DFI           | 5         | 40,000         | 1        | 8,000         | 2         | 16,000         | 1         | 8,000          | 1        | 8,000         |
| 11-03 Expert on evaluation TP | 6         | 48,000         | -        | -             | 3         | 24,000         | 2         | 16,000         | 1        | 8,000         |
| 11-04 Legal advisor           | 4         | 32,000         | -        | -             | 1         | 8,000          | 2         | 16,000         | 1        | 8,000         |
| 11-05 Economic advisor        | 4         | 32,000         | -        | -             | 1         | 8,000          | 2         | 16,000         | 1        | 8,000         |
| 11-06 Short term experts      | 2         | 16,000         | -        | -             | 1         | 8,000          | 1         | 8,000          | -        | -             |
| 16-00 UNIDO/UNEP staff travel | -         | 10,000         | -        | -             | -         | 3,000          | -         | 5,000          | -        | 2,000         |
| 35-00 Study tours             | -         | 40,000         | -        | 10,000        | -         | 20,000         | -         | 10,000         | -        | -             |
| 51-00 Equipment               | -         | 15,000         | -        | -             | -         | 15,000         | -         | -              | -        | -             |
| 53-00 Misc. and unforeseen    | -         | 6,000          | -        | 1,000         | -         | 2,000          | -         | 2,000          | -        | 1,000         |
| <b>TOTAL</b>                  | <b>30</b> | <b>311,000</b> | <b>2</b> | <b>27,000</b> | <b>11</b> | <b>128,000</b> | <b>11</b> | <b>105,000</b> | <b>6</b> | <b>51,000</b> |

