

Rubber growers to cut supply 25%

Curbs intended to arrest price slide

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Rubber growers in the southern provinces have agreed to reduce supply by at least 25% in an attempt to stabilise prices that have been declining steadily for two months.

Under the agreement, planters will reduce tapping to 15 days a month from 20 during the high season, said Wit Prattuckchai, director-general of the Office of the Rubber Repainting Aid Fund.

Delaying output entering the market is among several measures intended to shore up para rubber prices. They were agreed on at a weekend meeting among growers in 14 southern provinces, traders and agriculture officials.

Prices of natural rubber have fallen to about 81-85 baht this week for a kilogramme of unsmoked rubber sheet, from 128-133 baht in September.

The decline reflects falling prices in major commodity markets such as the Tokyo Commodity Exchange, where the December contract this week was bid at US\$3.23 for a kilogramme of ribbed smoked sheet grade 3 (RSS3), compared with \$4 to \$4.40 earlier for the October contract and \$4.60 to \$4.70 for September delivery.

The Thai Rubber Association attributed the decline to the economic crisis in Europe, as well as the flooding in Thailand which has severely hurt auto-mobile and auto-parts plants, major users of natural rubber.

According to Mr Wit, the International Rubber Consortium Company (IRCO), formed by three leading rubber producers — Indonesia, Malaysia and Thailand —

to buy rubber from planters at prices not lower than 120 baht/kg for unsmoked rubber sheet.

Some of the funds will also be lent to farm cooperatives to absorb supply from the market during the high season.

He said these measures needed the support of the government in order to protect the 203-billion-baht rubber export industry and save one million farm households.

Mr Wit also said that he was investigating claims by some farmers that traders in China had delayed imports of Thai rubber products because of large stocks in the mainland.

Together with Deputy Agriculture Minister Pornsak Charoenprasert, Mr Wit yesterday departed for China to witness the signing of an agreement to sell 180,000 tonnes of rubber, at \$3.50 a kilogramme by a Thai company to a state enterprise of China.



Workers mix raw latex with water and acid in the process of producing rubber sheets at a factory near Khao Chamao village in Rayong province. BLOOMBERG NEWS

TOURISM

Red carpet still out for filmmakers

Despite the problematic flooding in and around Bangkok, foreign filmmakers continue to express confidence in Thai locations and production services by filming in unaffected provincial destinations.

Suvarnabhumi Airport, Thailand's main international gateway, remains open and is operating normally.

Bangkok's other airport, Don Mueang, is submerged in floodwater, but the two domestic airlines operating from there have moved to Suvarnabhumi and are operating on schedule.

The main commercial and financial centre within Bangkok remains unobstructed by the flooding and is likely to stay dry.

Popular filming locations such as Kanchanaburi, Pattaya and Hua Hin have not been flooded. Southern areas not affected include Phuket, Krabi, Surat Thani, Koh Samui, Hat Yai, Phang-Nga and Koh Chang.

Filmmakers are also taking advantage of the cool, clear weather to film in the northern provinces of Chiang Mai, Chiang Rai and Sukhothai.

"At present, we have eight or nine productions filming or getting ready to start production," said Wanasiri Morakul, director of the Department of Tourism's Thailand Film Office.

"We know that many international filmmakers are currently in production for 2012 shoots, and we want to assure you, Bangkok will bounce back very quickly from this tragic situation. Please don't count us down and out; we are now, and will be in the future, open for your filming business."

Ms Wanasiri said that the incentive of no-cost permits to film in Thailand's national parks and on government agency properties, originally scheduled to end at the New Year, would probably be continued into 2012.

"The period during reconstruction in Bangkok will probably see great values on hotel accommodations in the capital city and in the provinces," she said.

Ms Wanasiri urged filmmakers to contact the Thailand Film Office directly with any questions or concerns.

"We are open for business as usual," she said.

DON'T LET THE FLOOD MAKE YOUR BUSINESS STAGGER AND SWAY

Times of crisis require swift and decisive action and for Thai companies this obligation falls to senior management and the board of directors.

Some factories have been submerged by recent floods and are unable to continue operations, other factories are not flooded but are prevented from operating as they cannot obtain supply chain materials sourced from factories that are now flooded, however in each case the result is the same: through no fault of the company, the factory cannot continue operations and there is no work for factory employees.

Flood-affected companies should consider three essential points:

Employees: Suspending payment of wages for employees is not risk-free.

Frequent reports in the media have stated that companies affected by *force majeure* are not required to pay wages to employees, but companies can be exposed to claims for severance pay by not paying wages during a cessation of business operations and directors can become personally liable both civilly and criminally. Not all directors' and officers' insurance policies will cover this liability or the costs of defending claims.

Force majeure is defined in Thailand's

continue business operations and chooses not to pay employees any wages at all, the Labour Courts are likely to regard this as termination.

One example was considered by the courts in 2002: Water and electricity had been cut off to an employer's building and the employees were not able to access the building. This triggered termination of employment under the LPA because the employees could not work and were not paid and the employer was unable to continue its business.

The provisions of the CCC relating to *force majeure* do not entitle an employer to avoid its obligation to pay severance and the courts have previously ruled that an employer would be required to pay severance on termination of employment even in the event of *force majeure*.

Authorised directors come within the definition of "Employer" in the LPA and can be exposed to civil and criminal liability (such as claims for unpaid salary, six months' imprisonment and penalties of 100,000 baht) if the company suspends payments to employees, and managing directors of companies can also be held criminally liable.

Directors and officers should review their directors' and officers' insurance policies to determine whether they are

covered before taking steps to suspend wage payments.

Any proposal to suspend wages should be discussed with employees and any agreement should be carefully documented, rather than being unilaterally implemented, to address concerns of duress and undue influence and show it was done in good faith.

Contractual obligations: As a result of disruption to factories, many companies are not able to fulfil contracts for manufactured goods.

Thai law can relieve a company from performance that becomes impossible, but not all contracts are subject to Thai law and companies should review the terms of their contracts to determine which law applies to the contract and obtain foreign legal advice if foreign law applies.

Some contracts impose content and timing requirements for notices and it is important to comply with these requirements; otherwise companies risk being subject to liabilities that would not have been imposed if the notice provisions had been properly observed.

Insurance: Disruption to manufacturing premises typically results in several types of damage:

- ◆ damage to buildings;
- ◆ damage to machinery and equipment;

- ◆ damage to inventory and raw materials;
- ◆ loss of profits as a result of interruption to business activities; and
- ◆ legal claims from third parties for failure to deliver manufactured goods.

Companies should assess the damage and review their insurance policies to determine which types of damage are covered by particular policies, and in particular, to determine whether the policies cover damage caused by flooding. Insurance policies are not all worded equally, what is regarded as a flood under one policy may not necessarily be regarded as a flood by another insurance policy. A careful review of defined terms will be necessary.

Insurers should be promptly updated on developments and where the situation changes, these changes should also be promptly reported. This includes evacuation orders, changes to flood control management plans that affect your property or operations, and police, military or government orders and directions.

If in doubt, consult your broker or seek legal advice.

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