FALLEN TIGER: THE STORY OF THAILAND'S CURRENCY DEVALUATION IN 1997

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I. INTRODUCTION

According to the Chinese calendar, 1998 was the year of the Tiger.[1] However, the prospects of a successful 1998 remained in doubt for the "Tiger" economies of Southeast

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† Ms. Cunningham was the winner of the James Baker Hughes Award. This award is given for the best student-written paper dealing with international economic law. The *Houston Journal of International Law* will accept papers for consideration of this award from any student at any post-secondary institution.

1. *See* Tina Soong, *Chinese Welcome Year of the Tiger*, TIMES-PICAYUNE (New Orleans), Jan. 8, 1998, at 3A1.

Asia[2] in light of the economic turmoil unleashed in 1997 that began with Thailand's devaluation of its currency.[3] To many investors and economists the trouble in Thailand came as a complete surprise. Due to strong economic growth during the late 1980s, Thailand became known as the Fifth Tiger, following the rapid growth of Taiwan, Korea, Singapore, and Hong Kong, the four other so-called Tigers.[4] This region has also been dubbed the "'East Asian Miracle'" by economists and investors, again due to the rapid economic growth they achieved.[5] Between 1985 and 1995, Thailand experienced an annual growth rate averaging 9.8%, while simultaneously experiencing low inflation, averaging around 4.4% per year.[6] But 1996 marked the beginning of an economic downturn, when exports began to stagnate and growth began to slow.[7] In July of 1997, Thailand was forced to devalue its national currency, the baht, which sent the country into an economic tailspin.[8] Thailand's currency devaluation had a domino effect on the other Southeast Asian nations, which had only months before seemed economically strong,[9] and eventually led to instability in U.S. markets.[10] Because of the amount of

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2. *See* Sara Webb, *Asia's Financial Woes Becloud International Markets*, WALL ST. J., Jan. 2, 1998, at R1. Peter Jackson, a noted conservationist stated, "Let us all think about the future of the tiger for 30 seconds." Randy Lee Loftis, *Tiger's Tale at Center of Dallas Conference: Experts Fill Ballroom to Discuss Risk to Species*, DALLAS MORNING NEWS, Feb. 11, 1998, at 29A. Although he was referring to the actual animal, his statement is amazingly on-point to the topic of this Comment. Many in the financial world hoped that 1998 would be the year of the tiger—or, at least, the return of the tiger.

3. *See* Raymond G. Falgui, *Currency Crisis Puts ASEAN Scheme to the Test*, BUS. WORLD (Manila), Oct. 23, 1997, *available in* LEXIS, World File, AIW Library.

4. *See* ROBERT J. MUSCAT, THE FIFTH TIGER: A STUDY OF THAI DEVELOPMENT POLICY 3–4, 223 (1994). The Tiger economies have also been referred to as Newly Industrializing Countries (NIC). *See id.* at 3.

5. *The Baht Spills Over*, ECONOMIST, May 24–30, 1997, at 69 (noting that a loss of confidence in Thailand may lead to the end of the "East Asian Miracle" in the long run).

6. *See Thailand: 'Tis an Ill Wind That Blows Nobody Any Good*, BANQUE PARIBAS CONJONCTURE, May 1, 1997, at 10 [hereinafter *Thailand: 'Tis an Ill Wind*].

7. *See id.* (explaining that "the unemployment rate stood at 2.6% and the minimum wage was increased in October by 8.4%").

8. *See* Webb, *supra* note 2, at R1.

9. *See* Falgui, *supra* note 3 (noting that the currencies of Malaysia, Singapore, and the Philippines followed the downward trend of the Thai baht).

10. *See* Douglas Lavin & Christopher Rhoads, *Asian Crisis Threatens Europe Less Than U.S.*, WALL ST. J., Dec. 11, 1997, at A20 (noting the link between luxury car sales and Asian economies).

foreign capital invested in Thailand and the other Tiger countries, the economic health of the region in the Year of the Tiger had a dramatic impact on the rest of the world's major economies.

This Comment will analyze the events leading up to the devaluation of the baht, as well as evaluate Thailand's hope for economic recovery in the future. Part II of this Comment will examine the history of Southeast Asia's growth into a free trade area through the creation of the Association of Southeast Asian Nations (ASEAN) and the Asian Free Trade Area (AFTA), and the relative success of each group. Part III will highlight the rise and fall of Thailand's substantial economy in the 1980s and 1990s, including the political factors that fueled Thailand's substantial growth, the linkage of the baht with the U.S. dollar, and the effect of the flood of foreign investment into the region. It will then analyze the circumstances surrounding the devaluation of the baht in July of 1997. Part III will also discuss the economic measures put in place by the Thai government since the fall of the baht to help regain economic stability, as well as the impact of the billion-dollar International Money Fund (IMF)[11] bailout put in place in mid-1997 to help Thailand recover from the strain of significant debt obligations.[12] Part IV of this Comment will discuss the effect of Thailand's instability on other Southeast Asian countries in 1997. Finally, Part V will evaluate Thailand's chances for recovery in the future, and will discuss the merits of the IMF's position as a world bailout organization.

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11. The International Money Fund (IMF) was created by the Bretton Woods Agreement in 1944. *See* Articles of Agreement of the International Monetary Fund, 60 Stat. 1401, T.I.A.S. No. 1501, 2 U.N.T.S. 39 (1945). The IMF focuses on assisting countries to lower trade barriers and to stabilize currencies. JOHN DOWNES & JORDAN ELLIOT GOODMAN, DICTIONARY OF FINANCE AND INVESTMENT TERMS 268 (4th ed. 1995) [hereinafter DICTIONARY]. When the IMF makes loans to assist struggling countries, such as Thailand, it usually imposes strict fiscal regulations in an attempt to lower inflation, cut imports, and raise exports. *See* Bob Davis*, IMF Rides to the Rescue for Ailing Asia,* WALL. ST. J., Nov. 25, 1997, at A2 (describing the role of the IMF in the Asian recovery scheme). IMF funds come from contributions from industrialized nations' treasuries. *See id.*

12. *See IMF Approves $3.9 Billion Credit Line for Thailand*, WALL ST. J., Aug. 21, 1997, at A10 (totaling the credit package from Asian central banks, the World Bank, and the Asian Development Bank at US$16.7 billion).

II. THE HISTORY OF FREE TRADE IN THAILAND—ASEAN AND AFTA

ASEAN was formed in 1967.[13] The original agreement between Thailand, the Philippines, Malaysia, Singapore, Brunei, and Indonesia was one of the few regional arrangements that originated in the 1960s still in force today.[14] ASEAN was formed primarily to defend against communist inroads in to Southeast Asia.[15] From the outset, ASEAN's focus was more on political stability than economic growth.[16] Because of its loose organization, ASEAN accomplished little in the way of progress toward meaningful economic cooperation during its first eight years of existence.[17] Instead, its major achievements centered on security and political considerations.[18]

ASEAN's first foray into attempting to create a free trade area came in 1977 with the emergence of Preferential Trading Agreements (PTAs).[19] PTAs allowed favorable treatment of ASEAN products within the region by granting tariff preferences for legitimate ASEAN-made products.[20] The PTAs were focused on only a few categories of products, such as crude oil and rice.[21] At the same time, the tariff preferences were restricted in size, and the products chosen were subject

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13. *See* Association of Southeast Asian Nations Declaration, Aug. 8, 1967, 6 I.L.M. 1233 [hereinafter Bangkok Declaration] (reproduced from a text provided to the I.L.M. by the U.S. State Department).

14. *See* Sherry M. Stephenson, *ASEAN and the Multilateral Trading System*, 25 LAW & POL'Y INT'L BUS. 439, 439 (1994).

15. *See id.* at 439–40. (observing that "[p]eace among ASEAN members also was high on the initial priority list").

16. *See id.* at 440. ASEAN members had to deal with two deadly and prolonged wars during the 1960s and most of the 1970s, namely the Vietnam and Cambodian conflicts. *See id.* ASEAN created a rehabilitation assistance program for Indochina in 1973, following the end of the Vietnam War. *See id.* Members of ASEAN jointly called for a withdrawal of foreign troops in Cambodia in 1979. *See id.* In the 1980s and 1990s, ASEAN established a nuclear-free zone and debated enacting a military alliance for the region. *See id.*

17. *See* Deborah A. Haas, *Out of Others' Shadows: ASEAN Moves Toward Greater Regional Cooperation in the Face of the EC and NAFTA*, 9 AM. U. J. INT'L L. & POL'Y 809, 810, 812–13 (1994).

18. *See id.* at 820.

19. *See id.* at 818.

20. *See id.*

21. *See id.* at 819 (noting that "[t]he PTAs focused on reducing trade barriers to basic commodities such as crude oil and rice, . . . , and merchandise promoting expansion of intra-ASEAN trade").

to production constraints.[22] Because of these reasons, the PTAs were never successful in creating the type of free trade area that ASEAN was seeking.

In 1992, economic concerns came into the forefront for ASEAN. At the Singapore Summit, held in January of 1992, ASEAN began to move toward regional economic integration.[23] Largely in response to free trade agreements among trading nations, such as the North American Trade Agreement (NAFTA),[24] "ASEAN leaders developed a legal framework to promote economic cooperation in their region."[25] Three documents were developed outlining the goals of the Summit.[26] First, the Singapore Declaration summarized the agreements reached by the ASEAN leaders in areas including politics and economic cooperation.[27] The second document, the Framework Agreement on Enhancing ASEAN Economic Cooperation, laid the basic setting for enacting an economic cooperation scheme.[28] The third document, Agreement on the Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area (CEPT-AFTA Agreement), enumerated the provisions for enacting economic cooperation.[29] Of the three documents, the CEPT-AFTA Agreement "provides the only binding action plan for achieving economic integration."[30]

The CEPT, set forth in the Singapore Declaration, had three major objectives. First, CEPT focused on increasing trade among ASEAN nations through accelerated tariff reduction plans.[31] Second, CEPT sought to increase foreign

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22. *See id.* at 819.

23. *See* Peter Kenevan & Andrew Winden, *Flexible Free Trade: The ASEAN Free Trade Area*, 34 HARV. INT'L. L.J. 224, 224 (1993) (discussing the legal framework developed to achieve such integration).

24. *See generally* North American Free Trade Agreement, *done* Dec. 17, 1992, Can-Mex-U.S., 32 I.L.M. 297 [hereinafter NAFTA] (entered into force Jan. 1, 1994). By eliminating tariffs between the three member nations, the United States, Canada, and Mexico, NAFTA created a free trade zone stretching from the "Yukon to the Yucatan." Kenneth H. Bacon, *Trade Pact Is Likely To Step Up Business Even Before Approval*, WALL ST. J., Aug. 13, 1992, at A1.

25. Kenevan & Winden, *supra* note 23, at 224.

26. *See id.*

27. *See id.* (citing Singapore Declaration of 1992, Jan. 28, 1992, 31 I.L.M. 498).

28. *See id.*

29. *See id.* at 224–25.

30. *Id.* at 225.

31. *See* Haas, *supra* note 17, at 829.

investment in ASEAN.[32] Third, CEPT wanted to increase "the efficiency and competitiveness of the manufacturing sectors."[33] The key regulatory provision of AFTA was the reduction of tariffs between ASEAN countries to five percent on all manufactured goods by January 1, 2008.[34]

The objective of AFTA was to unite Southeast Asian economies into a wider trading area.[35] By combining what was then nearly 330 million people, and generating an aggregate gross national product of nearly US$293 billion with an annual growth rate of around seven percent per year, arguably the real goal of AFTA was to attract foreign investment and to offset any losses in investment due to other regional free trade agreements, such as the hemispheric trade in the Americas.[36] Asian countries with export-driven economies feared that cheaper products would draw trade away from Asia.[37] ASEAN's main concern was that the signing of NAFTA would allow the United States to use Mexico as a principal import source, and that the majority of U.S. investment capital would flow to Mexico in return.[38] Because of protectionist trade policies and preferential tariff structures, ASEAN members were concerned that their exports to the United States would decrease, while Mexico's would increase.[39] Free trade areas necessitate discrimination against nonmember countries because they promote lower tariff and nontariff barriers that benefit only the partner countries.[40] ASEAN attempted to build an economic structure

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32. *See id.*

33. *Id.*

34. *See id.* at 829–30.

35. *See* Martin Rudner, *Institutional Approaches to Regional Trade and Cooperation in the Asia Pacific Area*, 4 TRANSNAT'L L. & CONTEMP. PROBS. 159, 183 (1994).

36. *See id.* (discussing the aims of the Asian Free Trade Agreement (AFTA)).

37. *See* Kathryn L. McCall, *What Is Asia Afraid Of? The Diversionary Effect of NAFTA's Rules of Origin on Trade Between the United States and Asia*, 25 CAL. W. INT'L L.J. 389, 390 (1995) (discussing Asia's apprehensions over the possible impact of NAFTA).

38. *See* Haas, *supra* note 17, at 825. "For example, thirty-eight percent of Mexican exports to the United States, totaling $31 billion in 1991, consisted of motor vehicles and parts and electronic goods. These same categories constituted fifty-six percent of Malaysia's exports to the United States." *Id.* at 826–27 (footnotes omitted).

39. *See* Haas, *supra* note 17, at 826.

40. *See* McCall, *supra* note 37, at 392. Free trade areas must adopt "rules of origin" to determine which goods are produced within the member countries and thus subject to preferential tariff rates. *Id.*

to protect itself against NAFTA, but accomplished little outside of offering political rhetoric.

In 1995, ASEAN members revisited their prior goals. The Fifth ASEAN Summit Meeting was held in Bangkok in December of 1995 (Bangkok Summit).[41] Members noted the significant progress of ASEAN, including the admission of Vietnam on July 28, 1995 and the participation of Laos and Cambodia as observers.[42] At the Bangkok Summit, ASEAN leaders agreed to step up progress toward AFTA by calling for a reduction in tariffs to between zero and five percent by the year 2000, revising the earlier projected date of 2003, previously revised from 2008.[43] Another goal of ASEAN at the Bangkok Summit was to intensify its cooperative relationships with other regional trade organizations, such as the European Union (EU) and NAFTA.[44] ASEAN also committed itself to the implementation of an ASEAN Plan of Action on Cooperation and Promotion of Foreign Direct Investment and Intra-ASEAN investment, designed to establish an ASEAN investment region, which would help enhance the area's attractiveness to foreign direct investment.[45]

In mid-1997, ASEAN leaders reported that substantial progress had been made toward the tariff reduction goal

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41. *See* Association of Southeast Asian Nations: Bangkok Summit Declaration on the Progress of ASEAN, Vietnam's Membership, Greater Economic Cooperation and Closer Political Cooperation in International Fora, Dec. 15, 1995, 35 I.L.M. 1063 [hereinafter Bangkok Summit Progress] (reproduced from the declaration text provided by the ASEAN Secretariat and prepared by Professor Sompong Sucharitkul at Golden Gate University School of Law).

42. *See Introductory Note by Sompong Sucharitkul*, 35 I.L.M. 1063, 1064 (1996). ASEAN leaders "declared their aim to work towards the speedy realization by the ASEAN region of a common spirit and sense of community, bringing shared prosperity to all its members and citizens. ASEAN will foster its resilience in political, economic, social, cultural, humanitarian and other fields which will enhance peace, security and prosperity in Asia and the Pacific." *Id.* at 1064.

43. *See id.* at 1065.

44. *See* Bangkok Summit Progress, *supra* note 41, at 1069 (incorporating "the results of the Fifth Formal ASEAN Summit Meeting").

45. *See id.* The Asia Investment Area (AIA) was a key topic of ASEAN's August 1997 meeting in Singapore. *See* Ronnie Lim, *Planning ASEAN's Next Economic Evolution: ASEAN Veteran Tracks Singapore's Role*, BUS. TIMES (Singapore), Aug. 8, 1997, *available in* LEXIS, World Library, AIW File. Leaders discussed ideas to make ASEAN nations more competitive with China and India, which are both receiving foreign direct investment at the expense of ASEAN. *See id.*

originally targeted for 2003.[46] Although they claimed that trade had increased significantly between ASEAN countries,[47] ASEAN leaders were intent upon concentrating their efforts on an attempt to recreate the success of the largest of the free trade areas, NAFTA and the EU.[48] Also contemplated was a plan to boost the economic growth of the export industry, especially in light of the currency devaluation.[49] Finally, the leaders discussed implementing an ASEAN Investment Area (AIA) that would encourage both foreign investment flow and free capital movement.[50] As a sign of their commitment to expansion, the ASEAN leaders, even after the devaluation of the Thai baht in July of 1997, remained committed to the CEPT plan for decreasing their tariffs by the year 2000.[51]

ASEAN leaders met again in December of 1997 in Kuala Lumpur.[52] The economic situation had worsened significantly for the member nations since the last summit meeting.[53] The statement released from the summit called for support of the "'Manila Framework,'" an emergency stabilization plan drawn up the previous month by ASEAN deputy finance ministers.[54]

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46. *See ASEAN Stresses Need to Eliminate Non-Tariff Barriers*, Agence-France Presse, July 25, 1997, *available in* LEXIS, News Library, AFPFR file [hereinafter *ASEAN Stresses Need*] (stating that in a joint statement released at the end of ASEAN's annual meeting, leaders noted that average tariff rates had fallen from 12.76% in 1993 to around 6.38% in 1997; nearly 91% of all tariff lines in ASEAN countries have been included).

47. *See id.* (reporting that in a joint statement released at the end of their annual meeting, ASEAN ministers noted that inter-ASEAN trade had grown 12% in the last year to US$36.3 billion in the first half of 1996). Other sources peg the growth rising at a 13.4% increase in 1996, up to US$77.8 billion in 1996 from US$68.7 billion in 1995. *See* Falgui, *supra* note 3.

48. *See* Falgui, *supra* note 3.

49. *See id.* (recognizing the need to achieve this goal both within and outside the region).

50. *See* Lim, *supra* note 45 (discussing ASEAN's next economic phase).

51. *See* Falgui, *supra* note 3. Before the meeting of the AFTA Council in Subang Jaya, Malaysia on October 15, 1997, there was concern that due to the deflated growth projections for the coming year some ASEAN members would ask for an extension of the 2003 deadline. *See id.* For example, Thailand's growth rate was then expected to slow to between two and three percent during the next year due to the US$17.2 billion bailout package from the IMF. *See id.* Instead, all members renewed their commitment to AFTA. *See id.*

52. *See ASEAN Calls on Global Powers to Take a Role in Helping to Halt Asia's Crisis*, ASIAN WALL ST. J., Dec. 16, 1997, at 4 [hereinafter *ASEAN Calls on Global Powers*] (discussing Asia's financial situation during the annual summit amongst Asian leaders).

53. *See supra* text accompanying notes 1–10.

54. Timothy Mapes, *ASEAN Summit Ends on a Weak Note*, ASIAN WALL ST. J., Dec. 17, 1997, at 3. The Manila Framework was designed to give support to

Leaders also discussed increasing trade between ASEAN members.[55] ASEAN leaders further called upon the major economies such as the United States, the EU nations, Japan, and others to assist in developing an economic plan, but no new ideas came from ASEAN itself.[56] Eventually, a document called *ASEAN Vision 2020*, was created which described the region as an "outward-looking association living in peace and prosperity."[57] However, plans to make ASEAN one of the top five trading nations by the year 2020, behind NAFTA, EU, China, and Japan,[58] must necessarily be put on hold in the wake of the region's economic crisis.

Although these summits have fostered communication among the nations, they have done little toward setting firm trading policy. Southeast Asia has traditionally been a region with little or no regulation in place to ensure orderly trade practices among its nations or to ensure financial stability within the region. This lack of structure necessitates looking outside the region for help in unsettled economic times. It is against this backdrop of concern over inter-ASEAN and foreign trade as well as the region's scant history of financial policy making that Thailand's ensuing economic decline in 1997 must be considered.

III. THE RISE AND FALL OF THAILAND IN THE 1980S AND 1990S

A. *Economic Factors*

Thailand is located in the heart of Southeast Asia and has a population of sixty million people.[59] Thailand is the third largest state in ASEAN[60] and was considered one of the

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the IMF as the principal source of bailout programs. *See id.* Leaders also agreed that any approach or resolution undertaken by the governments must first be agreed upon by the IMF. *See ASEAN Calls on Global Powers, supra* note 52, at 4.

55. *See ASEAN Calls on Global Powers*, *supra* note 52, at 1.

56. *See id.*

57. *Id.*

58. *See* Falgui, *supra* note 3 (expressing concern over the effect of the currency crisis on ASEAN economic initiatives).

59. *See Thailand*, *in* THE WORLD ALMANAC AND BOOK OF FACTS 849 (1999) (listing 60,037,366 as the exact population).

60. *See* Michael A. Geist, *Toward a General Agreement on the Regulation of Foreign Direct Investment,* 26 LAW & POL'Y INT'L BUS. 673, 700 (1995); *see also Major International Organizations, in* THE WORLD ALMANAC AND BOOK OF FACTS 1999, at 866 (1998) (listing the 1998 members of ASEAN as Brunei, Cambodia,

fastest growing economies in the world in the late 1980s and early 1990s.[61] Thailand was often praised for the consistency of its economic growth.[62] Thailand experienced a ten-year period of rapid growth between 1985 and 1995 in which steady growth and low inflation were combined with high investment ratios and high savings rates.[63] In the years between 1987 and 1993, Thailand's Gross Domestic Product (GDP) grew at a rate above 7% for each year, with the highest rates of 13.2%, 12%, and 10.1% occurring in 1988, 1989, and 1990, respectively.[64] In 1993, foreign investment in Thailand's stock exchange rose to 114 billion baht, over seven times the previous year's figure.[65] In addition, domestic investment grew in the early 1990s, growing to forty percent of the GDP in 1992.[66]

Economic growth in Thailand peaked in mid-1995, accompanied by a surge in inflation.[67] In an attempt to slow an overheating economy, several economic controls were put in place by the Thai governing bodies.[68] The Thai central bank raised the discount rate, placed a ceiling on credit growth, and required banks to submit an annual activity plan that detailed their coverage of foreign exchange rate risks and limitations on property loans.[69] Thailand's economic growth began to decline significantly in the early

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Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam).

61. *See* Robert J. Muscat, *Thailand, in* FINANCIAL SYSTEMS AND ECONOMIC POLICY IN DEVELOPING COUNTRIES 113, 113 (Stephan Haggard & Chung H. Lee eds., 1995) (referring to Thailand being hailed as the "next 'Asian Tiger'").

62. *See id.* (referring to rapid and consistent growth particularly between 1987 and 1990).

63. *See Thailand: 'Tis an Ill Wind, supra* note 6, at 10 (citing average growth of 9.8%, average inflation of 4.4%, and an investment ratio of 39.3% of GDP).

64. *See* PASUK PHONGPAICHIT & CHRIS BAKER, THAILAND: ECONOMY AND POLITICS 152 (1995) (crediting exports for the increases in the GDP). Gross Domestic Product refers to the yearly value of goods sold and services paid for within a country. *See* P. H. COLLIN, DICTIONARY OF BANKING AND FINANCE 109 (1991).

65. *See* PHONGPAICHIT & BAKER, *supra* note 64, at 159. This figure amounts to "almost four times the value of foreign equity investment (31 billion baht), and over one-third of the total inflow of funds." *Id.*

66. *See id.* at 157.

67. *See Thailand: 'Tis an Ill Wind, supra* note 6, at 10 (listing the following as factors in the surge in inflation: increases in domestic agricultural costs, increases in world oil and grain prices, floods and the high average level of the yen).

68. *See id.*

69. *See id.*

part of 1996.[70] The Thai central bank announced that the country's export growth in the first half of 1996 fell to 5.7%, down significantly from the 26.9% figure of the prior year, the lowest since 1983.[71] China's twenty-six percent growth rate in exports in the first seven months of 1997 increased the pressure on Thailand.[72] Based largely upon this news, Thailand's growth projection for 1997 dropped from 8.3% to 7.8% in August of 1996,[73] then dropped even further to between 7% and 7.5% by December,[74] and dropped to 5.9% in mid-year 1997.[75] On the other hand, in 1996 the current account deficit grew to nearly 8.2% of the GDP.[76] In response to the severe current account deficit, Thailand's cabinet approved a cut of fifty-nine billion baht in its national budget for the fiscal year of 1997.[77] This cut was equivalent to 6% of the overall spending plan and was designed to lower the current account deficit to 7.2% of GDP.[78]

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70. *See* Jathon Sapsford et al., *Asia's Financial Shock: How It Began, and What Comes Next,* WALL ST. J., Nov. 26, 1997, at A11 (describing Thailand's "teetering" economy in 1997).

71. *See Thailand Posts Lowest Export Growth in 13 Years,* KYODO NEWS INT'L, Aug. 26, 1996, *available in* LEXIS, Market Library, IACnws File. The Stock Exchange of Thailand hit a 33 month low and stockbrokers attributed the drop to a loss of confidence in the economic policies of Prime Minister Banharn Silpa-archa. *See id.*

72. *See* Joyce Barnathan et al., *The New Asian Reality,* BUS. WK. (Int'l Ed.), Sept. 15, 1997, at 18. The growth rate in China was the result of many factors, including China's growing global market share of garments, shoes, and toys, as well as its ability to manufacture electronics, telecommunications equipment, and machinery cheaply and effectively. *See id.*

73. *See Thailand Posts Lowest Export Growth in 13 Years, supra* note 71.

74. *See Thailand Expects 7–7.5% Annual Economic Growth*, KYODO NEWS INT'L, Dec. 23, 1996, *available in* LEXIS, Market Library, IACnws File.

75. *See BOT Revises Down Thai Economic Growth for '97*, KYODO NEWS INT'L, June 2, 1997, *available in* LEXIS, Market Library, IACnws File. This trend will place Thailand in a recession in 1998. A recession is commonly defined as "at least two consecutive quarters of decline in a country's gross domestic product." DICTIONARY, *supra* note 11, at 463.

76. *See Thailand Expects 7–7.5% Annual Economic Growth, supra* note 74.

77. *See Thailand Cuts '97 Budget by 6%,* KYODO NEWS INT'L, Mar. 17, 1997, *available in* LEXIS, Market Library, IACnws File. Forty billion baht (approximately US$1.6 billion) was cut from the approved spending plan, with 44.1% coming from regular expenditures and 55.9% coming from capital expenditures. *See id.* The remaining 19 billion baht (approximately US$760 million) resulted from delaying funding for government agencies and state enterprises. *See id.* In addition, the cabinet also approved cutting or delaying outlays for state funded infrastructure programs, totaling 47 billion baht. *See id.*

78. *See id.*

Thailand's economy is largely dependent upon exports,[79] and news that export growth had slowed during this time period rocked the stability of the economic markets as well.[80] By December of 1996, total growth was estimated at 6.7%, with 0% growth expected from export trade.[81] The Asian Development Bank attributed the decline in exports to several factors, including a slump in the electronic sector, tight monetary policies in other countries, and the appreciation of the U.S. dollar against the Japanese yen.[82]

The appreciation of the U.S. dollar against the Japanese yen had a serious effect on Thailand's economy because of the method by which the Thai baht currency exchange rate was determined.[83] The Thai baht was "pegged" to a basket of currencies with strong ties to the U.S. dollar, instead of allowing market forces to determine its worth.[84] The strengthening of the dollar in Japan made Japanese exports more attractive to consumers in the United States because more goods could be bought with fewer U.S. dollars, while the exchange rate with the Thai currency remained the same.[85] This made Thai goods more expensive in comparison to Japanese goods. Another disadvantage of letting the baht remain on par with the U.S. dollar was that Thai interest rates were far above U.S. dollar rates, which caused distortion of the real worth of the baht.[86] However, the "combination of exchange-rate stability and high interest rates attracted huge capital inflows."[87]

The dramatic influx of cheap capital spurred investment in the domestic infrastructure, particularly in property

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79. *See Thailand Posts Lowest Export Growth in 13 Years, supra* note 71.

80. *See id.* (noting that when the news of Thailand's export growth hit the Thai stock exchange, it hit a 33 month low).

81. *See Thailand Expects 7–7.5% Annual Economic Growth, supra* note 74 (basing figures on estimates from the Bank of Thailand).

82. *See Asia-Pacific To Grow at Slower Pace in '97 and '98: ADB*, KYODO NEWS INT'L, Apr. 21, 1997, *available in* LEXIS, Market Library, IACnws File.

83. *See also* Peter G. Warr, *The Thai Economy, in* THE THAI ECONOMY IN TRANSITION 19–20 (Peter G. Warr ed., 1993) (describing Thailand's fixed exchange rate policy).

84. Henny Sender, *Get a Grip: Can Thailand's Central Bank Handle the Baht Crisis?*, FAR E. ECON. REV., Mar. 27, 1997, at 67, 67.

85. *See, e.g., Several European Bourses Float at Lofty Levels: Tokyo Shares Rise Following Pause for Holiday*, WALL ST. J., Jan. 17, 1997, at C13 (noting that "[a] strong U.S. dollar against the yen buoyed export-oriented issues").

86. *See* Sender, *supra* note 84, at 67–68.

87. *Id.*

development.[88] This inflow of funds created a glut of high-risk loans being funded by the overzealous Thai banking sector.[89] Luxury hotels and high-rises became plentiful as the flood of cheap capital spurred development companies along at a breakneck pace.[90] One of the largest developers, Bangkok Land, persuaded the Ministry of Defense to house its soldiers in some of its empty condominiums and lobbied to convince parliament to move to one of its vacant housing estates.[91] One new development stands empty in the middle of a rice paddy, inaccessible because there are no roads that reach it.[92] These became tell-tale signs of too much development too fast.

Because of poor loan decisions, the troubled banking sector was a major factor in Thailand's downfall. The problems began when Thailand began to open its banks to foreign investors.[93] In 1993, the Thai government allowed some foreign and local banks to make loans in U.S. dollars and other currencies through what was called the Bangkok International Banking Facilities (BIBF).[94] Thailand's goal was to "become a regional financial hub for neighboring economies."[95] By making loans in foreign currency, businesses were able to obtain loans with far lower interest rates than could be borrowed in baht.[96] At the same time, the Thai government continued to maintain high interest rates on baht-denominated loans in order to keep inflation in

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88. *See id.*

89. *See id. at* 67–68 (quoting the vice president of Morgan Stanley in Bangkok as saying, "in retrospect it's clear that there were too many cranes and too much employment in the financial sector").

90. *See id.*

91. *See id.* (exemplifying those in trouble as "pull[ing] every political string they can to keep from going under").

92. *See* Henny Sender, *Now for the Hard Part*, FAR E. ECON. REV., Sept. 25, 1997, at 42, 46 (referring to vast amounts of money poured into such projects by investors counting on the continuation of the miracle of megagrowth).

93. *See* Bruce Einhorn & Ron Corben, *One Tired Tiger*, BUS. WK. (Int'l Ed.), Mar. 24, 1997, at 22 (quoting Executive Vice President of Bangkok Bank, Nimit Nontapunthawat who stated, "We were too bullish on [financial] liberalization.").

94. *See id.*

95. *Id.*

96. *See* Sapsford et al., *supra* note 70, at A11 (describing Thais finding it cheaper to borrow in dollars rather than in baht); *see also* Sender, *supra* note 92, at 43 (referring to savings from borrowing in dollars rather than in baht).

check.[97] Because of these policies, many of the investors seeking foreign loans were local companies, and many were able to secure loans because of the low US$500,000 minimum.[98] As a result of the availability of low-interest loans, Thai companies began pouring money into property development schemes at an alarming pace.[99] Foreign investors also took advantage of these favorable rates, and "[t]he most aggressive [banks]—Bank of Tokyo, Citibank, Sakura Bank, and Hongkong [sic] & Shanghai Banking—loaned a combined $10.1 billion."[100] These loans would eventually play a significant role in Thailand's downfall.

B. Economic Controls

Thailand began making its economic policy less liberal in the mid-1990s in an attempt to combat high inflation resulting from the rapid growth of the economy.[101] Even before the economic crisis of 1996–1997, Thai law had placed certain restrictions on foreign direct investment.[102] The Alien Business Law (ABL)[103] outlines those industries and their specific regulations, while the Investment Promotion Act (IPA)[104] establishes a review procedure for these investments.[105] Under these laws, industries are divided into the following three categories: Category A, which is always

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97. *See Thailand Finally Lets Its Currency Float,* WALL ST. J., July 3, 1997, at A8 (describing how the main Thai bank raised interest rates to a four-year high to battle inflation).

98. *See* Einhorn & Corben, *supra* note 93, at 22. The minimum was raised to US$2 million in 1995 and to US$5 million in 1996. *See Thailand, 'Tis an Ill Wind, supra* note 6, at 10.

99. *See Thailand Finally Lets its Currency Float, supra* note 97, at A8 (referring to excessive loans for "dud real estate projects"); *see also* Sender, *supra* note 92, at 46 (describing mountains of money being poured into luxury property developments).

100. Einhorn & Corben, *supra* note 93, at 22.

101. *See Thailand 'Tis an Ill Wind, supra* note 6, at 10 ("Growth peaked in mid-1995 and was accompanied by a surge in inflation . . . . It was vital to calm things down . . . .").

102. *See* Geist, *supra* note 60, at 700–02.

103. National Executive Council Announcement No. 281 (B.E. 2515 (1972)) (commonly known as the Alien Business Law).

104. Investment Promotion Act (B.E. 2520 (1977)), *amended by* Investment Promotion Act (No. 2) (B.E. 2534 (1991)) *available in* INTERNATIONAL CTR. FOR SETTLEMENT OF INV. DISPUTES, INVESTMENT LAWS OF THE WORLD 1 (Thailand Supp. 1995).

105. *See* Geist, *supra* note 60, at 700–01.

restricted;[106] Category B, which is generally restricted and requires Thai approval;[107] and Category C, which is generally restricted, although investors may participate after obtaining an Alien Business License.[108]

In 1992, Thailand formed the Securities Exchange Commission (SEC), which became the regulatory body for the securities industry.[109] Under SEC guidelines, foreign investors cannot exceed ownership limits of twenty-five percent for Thai banks and finance companies and forty-nine percent for all other Thai companies.[110] Once foreign ownership reaches the limits under these regulations, foreign investors can only trade on the foreign board of the stock exchange.[111] This limitation serves to curb stock market speculation by investors who may sell the moment the market becomes unstable.[112] Thus Thailand's policy regarding foreign investment was fairly well developed entering into the early 1990s.

In an attempt to stabilize the spiraling economy in the period after 1992, the Thai government began to establish measures designed to tighten monetary policy. Fiscal and economic controls were enacted as early as 1995 in an attempt to slow down the overheated economy.[113] Other

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106. Category A includes real estate, accounting, law, advertising, and construction. *See id.* at 701.

107. Category B "include[s] retail stores, domestic air, land, and sea transports, hotels, forestry, fishing, publishing, and many types of manufacturing." *Id.*

108. Category C "include[s] all services not listed under A or B and a wide range of manufacturing activities." *Id.* An Alien Business License application must be made to the Department of Commercial Registration, which then determines approval based on the amount of debt financing and the proportion of Thai involvement. *See id.* at 701–02.

109. *See* Enrique R. Carrasco & Randall Thomas, *Encouraging Relational Investment and Controlling Portfolio Investment in Developing Countries in the Aftermath of the Mexican Financial Crisis*, 34 COLUM. J. TRANSNAT'L L. 539, 603 n.361 (1996). For a detailed look at Thailand's securities laws, see Pises Sethsathira, *Securities Regulation in Thailand: Laws and Policies*, 4 PAC. RIM L. & POL'Y J. 783 (1995). The Thai SEC was created by the Securities and Exchange Act of May 1992, which was a substantial reorganization of the existing structure. *See id.* at 784–86.

110. *See* Carrasco & Thomas, *supra* note 109, at 603.

111. *See id.* at 603–04.

112. *See id.* at 604.

113. *See Thailand: 'Tis an Ill Wind*, *supra* note 6, at 10. Those controls included raising the discount rate, setting a ceiling on credit growth, and requiring banks to "submit an annual activity plan, to cover their foreign exchange risks and to limit property loans." *Id.*

measures included placing controls on foreign investments and limitations on the troubled banking sector.[114] However, these measures were not enough to defend the ailing baht. In May of 1997, the Bank of Thailand (BOT) ordered strict restrictions on selling baht to foreign investors and prohibited sales to those investors who were merely speculating on the currency rates.[115] This strategy effectively curbed short-term gains by currency traders and prevented large outflows of capital.[116] In an attempt to stabilize the Thai currency, later that same month banks were ordered by the government not to buy back baht-denominated commercial paper from offshore investors, in an attempt to stabilize the Thai currency.[117] In the end, these measures were not enough to protect the weak currency from devaluation.

C. Political Corruption

Political corruption was a large factor in Thailand's economic crisis,[118] particularly in the banking industry. Gross mismanagement of the BOT is a case in point. Although the BOT was one of the most highly-regarded central banks in Southeast Asia, "[a] series of missteps and a failure to act decisively at crucial moments" caused a loss of credibility.[119] The problems became readily apparent under governor Vijit Supinit.[120] Under Vijit's helm, the BOT failed to contain the glut in the real estate market.[121] Most problematic of all, a flexible exchange rate policy was not delivered as promised.[122] BOT officials had discussed ways to combat distortions in the price of the baht, caused by the

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114. *See id.*

115. *See The Baht Spills Over, supra* note 5, at 70.

116. *See id.* at 70–71.

117. *See id.*

118. *See Analysis—Crisis Exposes Thai Political Weakness*, ASIA PULSE, Sept. 16, 1997, *available in* LEXIS, World Library, Apulse File [hereinafter *Analysis*]. The United States is lobbying to include political corruption on the World Trade Organization's agenda, viewing it as an obstacle to world economic growth. *See id.*

119. Sender, *supra* note 84, at 67.

120. *See id.* "'Flexible exchange rates didn't happen. Safeguarding the financial system didn't happen. Proactive management of the real-estate problem didn't happen. And control of problem banks didn't happen,' [said] a former Bank of Thailand official now with an American bank." *Id.*

121. *See id.*

122. *See id.*

fixed exchange rate system, since the spring of 1994.[123] When the dollar began to appreciate significantly in 1995, the potential weaknesses of the currency system became even more pronounced.[124] The BOT, concerned with its own political scandals, failed to take action to bolster the stability of the baht.[125] The Bangkok Bank of Commerce (BBC) was ridden with scandal and mismanagement, and BOT governor Vijit Supinit allegedly had close political ties to BBC's president, Krikkiat Jalichandra, who earlier had aligned himself with the BOT.[126] Vijit allowed the BBC to operate even though it was grossly overridden with debt, allowing cronyism to outweigh sound financial policy.[127] The BBC was eventually suspended in 1996 after it posted losses of US$3 billion.[128] Vijit eventually resigned from the BOT in late 1996, leaving behind a much weakened and demoralized central bank, which did not have the strength or the support to make economic policy decisions in time to avoid crisis.[129]

Thailand's economic crisis brought its political corruption into the forefront.[130] The devaluation of the baht, which many believed should have come much sooner, revealed the depth of collusion between the Thai government and business leaders.[131] Critics believe that the Chavalit Yongchaiyudh government did not act sooner to float the baht because of pressure from large corporations which held large unhedged overseas loans.[132] Allowing the baht to float would have caused a devaluation of the baht and made these loans more costly to repay, devastating those with large amounts of foreign debt. According to some sources, a Japanese financial officer hedged all of his company's foreign currency loans, acting on a tip-off by a top local bank officer that high-ranking government officials were selling baht in

123. *See id.* at 67–68.

124. *See id.* at 68.

125. *See id.* (noting that staffers who remained were divided over policy aims and political loyalties).

126. *See id.* at 67.

127. *See id.*

128. *See id.*

129. *See id.*

130. *See Analysis, supra* note 118.

131. *See id.*

132. *See id.*

anticipation of the coming devaluation.[133] Throughout the month of June, the BOT continued to lend money to finance companies, allegedly ensuring that they would be protected in case of a cash shortage.[134] Then in July and August the bank issued two different lists of financial companies that were no longer covered under its umbrella.[135] Rumors began to circulate that some financially unstable companies did not appear on the smaller list due to lobbying by politicians with stakes in those companies, and the local press speculated about bribes taken by BOT employees.[136]

Stories of corruption only served to keep investors away at a time when Thailand most needed the benefits of liquidity. This loss of confidence led Thailand to propose amendments to its constitution.[137] The amendments, drafted by a team led by former Prime Minister Anand Panyarchun, proposed strict new guidelines including a mandatory disclosure of assets for public officials and formation of an independent body to crack down on corruption.[138] The changes won support from the people of Thailand and the business community[139] and passed in September, 1997 despite opposition from top-ranking government officials who have benefited from the existing political scheme.[140] However, the reforms came too late to restore confidence to the region.

D. Devaluation and its Aftermath

In July of 1997, the Thai government put an end to speculation about its continued defense of the ailing baht

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133. *See id.* Hedging is a strategy used to offset investment risk by attempting to eliminate the possibility of future gain or loss. *See* DICTIONARY, *supra* note 11, at 237.

134. *See* Sender, *supra* note 92, at 48.

135. *See id.* The first issued list contained 42 names, and the second amended list contained 16 names. *See id.*

136. *See id.* (speculating that a third list with ten more names on it was circulating).

137. *See Analysis, supra* note 118.

138. *See id.* In 1991, After a military coup in 1991 Thailand enacted a new constitution, its fifteenth since the military's overthrow of the absolute monarchy in 1932. *See* Ted L. McDorman, *The 1991 Constitution of Thailand*, 3 PAC. RIM L. & POL'Y J. 257, 258 (1995).

139. *See Analysis, supra* note 118 (noting that bright green, the color seen everywhere from blouses worn by television news anchorwomen to ribbons on motorcycles and cars, signified support for the proposed amendments).

140. *See id.*; Paul M. Sherer, *Thais, Battling Corruption, Revamp Constitution,* WALL. ST. J., Sept. 29, 1997, at A19.

and allowed the currency to float.[141] Previous attempts by the Thai central bank to defend the baht through the purchase of foreign currency contracts had reduced the country's foreign exchange reserves to a two-year low of US$33.3 billion.[142] Upon news of the devaluation, the baht immediately dropped from 24.70 baht on the dollar to 29.55, a drop of 16.4%.[143] In an attempt to prevent a steeper fall, the Thai government raised the discount rate two percentage points to 12.5%, hoping that the high rate would coax foreign investors into keeping their money in Thailand.[144]

The effects of devaluation upon a country run deep. Per capita income immediately decreases as the currency weakens, and therefore, wages are suddenly worth less.[145] Thailand is a country with a large gap between its rich and its poor.[146] The process of floating the exchange rate harms the poor in particular because they lack the means to invest in financial markets to protect themselves from inflation.[147] In addition, foreign debt becomes more expensive to repay, and companies with large amounts of foreign loans face the danger of default.[148] Foreign investment is likely to dry up as investors lose confidence, causing delays in projects funded

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141. *See Thailand Finally Lets its Currency Float*, WALL ST. J., July 3, 1997, at A8. The Thai government unpegged the baht from its narrow trading range against a dollar-denominated basket of currencies, allowing market forces to determine its worth. *See id.*

142. *See* Richard L. Holdman, *Thailand Combats Baht Fallout,* WALL ST. J., July 9, 1997, at A10. Foreign currency contracts are promises to buy baht in the future. *See* DICTIONARY, *supra* note 11, at 203. The Bank of Thailand entered into contracts to buy baht in three, six, or nine months time. *See The Baht Spills Over, supra* note 5, at 70.When these forward commitments were taken into account, the Bank of Thailand's (BOT) reserves were significantly lowered. *See id.*

143. *See Thailand Finally Lets Its Currency Float, supra* note 141, at A8. The 16% drop is considered small relative to the drop in the Mexican peso after its devaluation in 1994. *See id.*

144. *See id.* The discount rate is the base rate at which the BOT lends money to commercial banks. *See id.*

145. *See* David Malpass, *Floating Into Monetary Trouble*, WALL ST. J., July 23, 1997, at A18.

146. *See* Medhi Krongkaew, *Poverty and Income Distribution, in* THE THAI ECONOMY IN TRANSITION 401, 435–36 (Peter G. Warr ed., 1993). The study notes that in 1988 the incidence of poverty in the populations of Bangkok and the central Thai regions decreased, while in the rural areas poverty increased or stayed the same. *See id.* at 435. The result was a substantial divergence between the two areas. *See id.*

147. *See* Malpass, *supra* note 145, at A18.

148. *See* Jathon Sapsford et al., *supra* note 70, at A11.

largely by foreign capital.[149] Higher interest rates and less capital results in slower overall growth, and 1998 growth projections for Thailand have ranged anywhere from three and a half percent[150] to negative two percent.[151] Recession looms large for a country that must take the bold step of devaluation.[152] However, devaluation is a necessity when a dramatic rise in the value of another currency relative to the currency in question occurs, making it necessary to allow the market to determine its worth.[153]

As a result of Thailand's crisis, the IMF stepped in to assist in the recovery.[154] At first, Thai government officials were opposed to receiving aid from the IMF because they feared a bailout package could bring down the government by diminishing its domestic credibility.[155] Thailand's government had blamed international currency investors, securities analysts, and the media for aggravating Thailand's economic problems; accepting foreign help could be seen as a retreat from this position.[156]

Thailand eventually abandoned its hard-line position and accepted a bailout package from the IMF.[157] The announcement by the Thai government that it would negotiate with the IMF caused an immediate positive reaction in the Thai currency and stock markets.[158] Eventually Thailand and the IMF agreed upon a US$17 billion loan package—at the time the biggest bailout since the Mexican peso crisis in 1994.[159] However, the loan by the IMF was not

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149. *See* Malpass, *supra* note 145, at A18.

150. *See* David Kern, *International Outlook*, NAT'L WESTMINSTER BANK ECON. & FIN. OUTLOOK, Oct. 1, 1997, *available in* 1997 WL 9607205.

151. *See* G. Bruce Knecht, *Asia Shudders at 'Normal' Growth*, WALL ST. J., Dec. 5, 1997, at A13.

152. *See* Paul M. Sherer, *Likelihood of IMF-Led Bailout Increases as Officials Signal Support*, WALL ST. J., July 28, 1997, at A9A.

153. *See* DICTIONARY, *supra* note 11, at 138.

154. *See* Bruce Einhorn, *Can Chaun Turn Thailand Around?*, BUS. WK., Apr. 6, 1998, at 56, 56.

155. *See* Sherer, *supra note* 152, at A9A.

156. *See id.* (noting that in July the Thai police raided two foreign brokerage firms suspected of spreading rumors).

157. *See* Sara Webb, *IMF Aid Could Hurt Indonesian Shares*, WALL ST. J., Oct. 13, 1997, at C1.

158. *See* Sara Webb et. al., *Asian Markets Rally for Second Straight Session in Advance of Indonesia's Accord with the IMF*, WALL ST. J., Jan. 15, 1998, at C16.

159. *See* Webb, *supra note* 157, at C1. Indonesia and South Korea would receive record breaking IMF loans of US$40 billion and US$57 billion,

without its price. Strict controls were put in place in the banking sector to ensure financial stability and economic recovery.[160] These measures included allowing foreign banks to take majority ownership and control of Thai banks and financial institutions and a government proposal to share 800 billion baht in collateral received from Thai financial institutions with foreign creditors in exchange for loans totaling 500 billion baht.[161] Other restructuring elements of the IMF package included the creation of two new regulatory bodies.[162] The first was a company modeled after the U.S. Resolution Trust Corporation., responsible for purchasing nonperforming assets from financial institutions and auctioning them.[163] The other regulatory body was designed to act as a "superagency" to rehabilitate suspended companies.[164] Although these measures were generally looked upon favorably in the international investment community, the IMF has not been without its critics. Opponents say that the large bailouts given to countries such as Mexico and Thailand, and followed by Malaysia and Korea, allow these countries to escape economic trouble without having to implement sound economic policies.[165]

IV. THE ASIAN FLU

In the aftermath of Thailand's currency devaluation and ensuing IMF bailout package, the other Asian "miracle" economies suffered heavily as well.[166] Indonesia, South

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respectively, dwarfing the billions received by Thailand. *See* Knecht, *supra* note 151, at A13 (discussing Indonesia's IMF loan); *Korea Gets Additional $3.5 Billion from IMF*, WALL ST. J., Dec. 19, 1997, at A4.

160. *See* Michael Gonzalez, *Thailand Tries To Recover*, WALL ST. J., Oct. 10, 1997, at A22.

161. *See id.* (commenting that Thailand's economic recovery would depend in part upon the market's reaction to the Thai government's restructuring program).

162. *See id.*

163. *See id.*

164. *See id.*

165. *See* William E. Simon, *Abolish the IMF*, WALL ST. J., Oct. 23, 1997, at A18 (arguing that IMF loans have been "quite ineffective in preventing currency crises and in promoting stable economic growth in developing countries"). Simon argues instead that "the IMF may actually promote crises, because governments often resist sound economic and financial policies (which may be unpopular) because they know that the IMF will be there to bail them out in the event of a crisis." *Id.*

166. *See* Brian Bremner et al., *Rescuing Asia*, BUS. WK., Nov. 17, 1997, at 116, 119–20.

Korea, and the Philippines all accepted loan packages from the IMF, with totals expected to double that of the Mexican bailout of 1995.[167] As with Thailand, economic woes in other Asian regions were caused by bad debts, collapsing financial markets, and government cronyism. As of late November of 1997, Asian markets had collectively lost US$400 billion in value.[168] Even prosperous Hong Kong was affected by the Asian downturn.[169] In October of 1997, Hong Kong's stock market fell more than ten percent in one day in a reaction to an interest rate hike designed to shore up the Hong Kong dollar.[170] Moreover, stalwart Japan faced crisis in its banking sector.[171] The Asian market instability had in some cases a dramatic impact on the domestic markets as well, causing sharp drops in the Dow Jones industrial average in the fourth quarter of 1997.[172] Like Thailand, other Asian countries suffering from economic turmoil must take strong measures to regain their once healthy fiscal outlooks.

A. *Indonesia*

On October 31, 1997, Indonesia agreed to an IMF rescue package entailing sweeping reforms of economic and political structures.[173] The loan package consisted of a US$10 billion contribution by the IMF over the next three years, US$4.5 billion from the World Bank, and US$3.5 billion from the

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167. *See id.* at 118. The authors estimate that the final total of the rescue package will exceed US$100 billion, including US$40 billion for Indonesia, US$23 billion for Thailand, US$1 billion for the Philippines, and US$40 billion for South Korea. *See id.*

168. *See* Neel Chowdhury & Anthony Paul, *Where Asia Goes From Here,* FORTUNE, Nov. 24, 1997, at 96, 96.

169. *See id.*

170. *See* Steven Butler, *Et Tu, Hong Kong? Asia's Woes Continue*, U.S. NEWS & WORLD REP., Nov. 3, 1997, at 60, 60.

171. *See It's Time for Japan's Banks to Act,* BUS. WK., Dec. 1, 1997, at 190, 190 (stating in an editorial that when the country's tenth largest bank, Hokkaido Takushoku Bank, Ltd., failed in 1997, Tokyo sobered up to the idea of reforming its financial system).

172. *See* Butler, *supra* note 170, at 60 (reporting that the Dow Jones fell 2.33%, or 186.88 points in one day, followed the next day by a further drop of 132 points due to concerns about the region's economic health). *See also* Suzanne McGee, *Wary Investors Sought Stability in Fourth Quarter*, WALL ST. J., Jan. 2, 1998, at 17 (reporting that the Dow Jones suffered its first correction—defined as a decline of 10% or more—in 10 years in the first few weeks of October, largely due to the uncertainty of the Asian economic front).

173. *See* Darren McDermott & Richard Borsuk, *Indonesia's Rupiah Dives on Suharto Rumors*, WALL ST. J., Dec. 10, 1997, at A16.

Asian Development Bank.[174] At first, Indonesian president Suharto was reluctant to agree to the IMF package, which would not come without economic strings attached.[175] President Suharto ruled Indonesia for thirty-two years and at the time had several relatives and friends who controlled significant business ventures that would be hurt by fiscal tightening.[176] In a move calculated to win the acceptance and confidence of the IMF, the United States pledged US$3 billion in additional support, which was possibly the final push that Indonesia needed to cooperate with the IMF.[177] The move was successful, and Indonesia began a series of painful cuts in its ailing economy, including liquidating sixteen of the country's most troubled banks, raising interest rates to around thirty percent to support the rupiah, and committing to a budget surplus.[178] In addition, the government has agreed to drop restrictions on wheat and flour imports, ending long-running monopolies, and to lessen the control of the National Logistics Board, or Bulog, which controls the trade and distribution of other commodities.[179]

However, even these stringent reform measures were not enough to stabilize the troubled rupiah. In December of 1997, the rupiah fell ten percent on groundless rumors that President Suharto had endured a stroke or died.[180] Overall, the rupiah fell about fifty percent against the dollar in the

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174. *See Baleful Bonanza,* ECONOMIST, Nov. 8, 1997, at 79, 79. The size of the loan package was a cause of concern for some economists because unlike Mexico in 1995, Indonesia still had a large amount of cash in reserve, including US$20 billion in foreign currency reserves and an extra US$5 billion from a "contingency" fund. *See id.* Because of the large amounts of cash on hand, the enormous amount of the loan package seemed unnecessary to some. *See id.*

175. *See* Bremner et al., *supra* note 166, at 120–22 (reporting that Suharto initially negotiated with stronger neighbor Singapore to lend the money, but Singapore sided with the IMF and demanded serious reforms before it would contribute).

176. *See* Chowdhury & Paul, *supra* note 168, at 103. Suharto's youngest son, Tommy, runs the Timor project, which is to be the "national car" of Indonesia. *See id.* At least US$1.3 billion is already invested in this project, although local consumers have largely stayed away from the product. *See id.*

177. *See* Bremner et al., *supra* note 166, at 120.

178. *See* McDermott & Borsuk, *supra* note 173, at A16 (observing that three of the banks targeted for closure belonged to relatives of Suharto).

179. *See* Bremner et al., *supra* note 166, at 120.

180. *See* McDermott & Borsuk, *supra* note 173, at A16 (reporting that the situation intensified on reports of 76-year-old Suharto taking an unprecedented 10 day rest to recover from overseas travel).

second half of 1997.[181] Although the Indonesian government was quick to blame currency speculators for the sharp decline, it appears that Indonesia, like Thailand, fell prey to a huge influx of foreign dollars, which was more than the Indonesian banks and investment firms could prudently invest.[182] Domestic companies also began to borrow in foreign currencies, including the U.S. dollar, to escape interest rates that were as high as eighteen to twenty percent.[183] When both Thailand and the Philippines allowed their currencies to fall freely against the U.S. dollar in July, investor confidence in the rupiah likewise plummeted, and Indonesia's central bank responded by widening its trading band with the dollar.[184] This move made it more expensive to convert rupiah into the dollars needed to pay back the dollar denominated debt.[185] The unfavorable conversion rate hurt many Indonesian companies, especially those with heavy dollar debts, and by the end of 1997, the Jakarta composite index closed thirty-seven percent down.[186] In May of 1998, Suharto resigned amid widespread protests from the Indonesian people,[187] sparking a rally among Asian markets.[188]

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181. *See* David Wessel et al., *Speculators Didn't Sink Indonesian Currency; Local Borrowing Did*, WALL ST. J., Dec. 30, 1997, at A1.

182. *See id.* (reporting that at least one Indonesian official compares any disorder in the economy caused by speculation to criminal subversion, punishable by death in Indonesia).

183. *See id.* (reporting that interest on dollars was approximately nine percent to ten percent in comparison).

184. *See id.* Indonesia's rupiah had been linked to the dollar, allowing for limited daily fluctuations; however, due to a 31% devaluation in 1986, itself due to falling oil prices, and "[t]o compensate for differing inflation rates and to keep exports competitive, the central bank moved down the band's midpoint at a gradual and predictable 4% to 5% annual pace." *Id.*

185. *See id.* (observing that for borrowers the logic was simple because in the end the additional costs incurred by buying dollars was still less than originally borrowing in rupiah).

186. *See* Darren McDermott, *Rupiah's Fall Undermines Debt Accord*, WALL. ST. J., June 15, 1998, at A23; Douglas Appell et al., *1997 Year-End Review of Markets and Finance*, WALL ST. J., Jan. 2, 1998, at R10.

187. *See* Richard Borusk et al., *Suharto Resigns, and Vice President Takes Over*, WALL ST. J., May 21, 1998, at A8 (stating that 250,000 to 500,000 Indonesians took to the streets calling for Suharto's resignation and political reform).

188. *See* Greg Ip, *Suharto Resignation Boosts Asian Share Prices*, WALL ST. J., May 22, 1998, at C12 (reporting gains as high as 4.3% in the stock market on news of Suharto's resignation).

B. South Korea

In early December of 1997, South Korea became the next beneficiary of an IMF loan package,[189] claiming a record total of US$57 billion in loans.[190] In the fourth quarter, problems in South Korea's banking sector sent investor confidence reeling, and a government plan proposed to shore up the financial sector was poorly received.[191] Korea's stock market and currency plunged, but momentarily recovered upon news that the government would nationalize its largest troubled business, Kia Motors.[192] The recovery did not last long, however. Many economists predicted the impending IMF bailout, after at least nine of the top thirty corporations filed for bankruptcy by November of 1997.[193] In addition, Korea's foreign short-term debts far outweighed its reserves, with debts estimated at between US$65 and US$70 billion maturing within a year, compared to only US$30 billion of foreign exchange reserves on hand at the central bank.[194] At the same time, Korea's currency, the won, began to decline sharply.[195] Japan contributed to Korea's money shortage by cutting credit lines in an attempt to bolster its own troubled

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189. *See* Knecht, *supra* note 151, at A13 (discussing negotiations between South Korea and the IMF).

190. *See* Michael Schuman & Bob Davis, *South Korea Agrees to IMF's Bailout Terms*, WALL ST. J., Dec. 4, 1997, at A14 (containing the original bailout figure of US$55 billion); *see also* Michael Schuman et al., *Korea to Get Quick Release to $10 Billion in Aid*, WALL ST. J., Dec. 26, 1997, at A5 (containing the revised figure of US$57 billion). To prod Korea into making needed reforms quickly, the IMF is demanding that tough measures be implemented by the Korean government, such as requiring a rise to punitively high levels in the prime rate at which the central bank lends dollars to other banks. *See id.*

191. *See* Butler, *supra* note 170, at 60. After President Kim Young Sam failed to win support in the legislature for a series of financial reform bills, he fired his finance minister and chief economic advisor. *See* Steven Butler, *Make Check Payable to South Korea Inc.*, U.S. NEWS & WORLD REP., Dec. 1, 1997, at 53, 53.

192. *See* Butler, *supra* note 170, at 60 (stating that although the move temporarily restored national confidence in the government, reformers wanting to see less government intervention were disappointed).

193. In January of 1997, Hanbo Group was the first company to go bankrupt and at least eight others followed suit. *See* Appell et al., *supra* note 186, at R10. Hanbo Group was the fourteenth largest business conglomerate in Korea. *See id.*

194. *See* Bremner et al., *supra* note 166, at 119–20. These debts were largely rolled over, allowing the Korean government some breathing room. *See* Stephen E. Frank et al., *More Banks Join Fight To Stem Korean Debt Crisis*, WALL ST. J., Dec. 31, 1997, at A6.

195. *See* Appell et al., *supra* note 186, at R10 (stating this to be a cause of worry regarding the health of Korean companies).

banks, thus preventing Korean banks from borrowing the dollars they needed to repay maturing foreign bank loans.[196]

Industry was another problem for Korea in 1997. Korea had invested heavily with borrowed money and its factories were producing more goods in 1997. However, export prices for semiconductors and steel, both large parts of Korea's economy, fell sharply resulting in lower profits for the manufacturing sector.[197] As a result of the slumping economy, in December of 1997 the Korean government predicted that Korean banks and business conglomerates would have to lay off as many as 350,000 workers.[198] This caused severe psychological problems among Korean workers. Unlike the United States where layoffs are seen as a natural reaction to a struggling economy, Koreans are bewildered at any prospect of losing their jobs.[199]

The final bailout package negotiated between Korea and the IMF was far worse than economists estimated. The IMF imposed conditions similar to those prescribed in Thailand and Indonesia, including slower economic growth, higher interest rates, and corporate restructuring, which are expected to increase the number of corporate failures in 1998.[200] In mid-December, Korea elected a new president, Kim Dae Jung.[201] In his acceptance speech, Kim pledged

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196. *See* Butler, *supra* note 191, at 53 (stating simply that South Korea's markets "ran out of dollars").

197. *See id.* (stating that manufacturing companies could not make profits, were running out of cash, and going bankrupt).

198. *See* Mark L. Clifford et al., *Jobs Shock: Layoffs Could Reach 2 Million*, BUS. WK., Dec. 22, 1997, at 48, 49 (stating that economists familiar with Korean policies of jobs and promotions based on seniority instead of initiative fear that workers may take to the streets in protest if massive restructuring and layoffs occur).

199. *See id.*

200. *See* John Burton, *S. Korea Agrees to IMF Terms for Loan*, FIN. TIMES (London), Dec. 1, 1997, at 1. In December of 1997, Korea was expected to raise the interest rate at which the central bank loans money to other banks to encourage Korean banks to borrow money directly from markets. *See id.* The discount rate was expected to rise to 30%. *See* Schuman et al., *supra* note 190, at A5. Other strict reforms included abolishing restrictions on foreign ownership of Korean shares by the end of 1998, liberalizing the labor market to allow for restructuring through layoffs, following World Trade Organization rules for its troubled financial markets, and pushing the sale of two troubled commercial banks, Korea First Bank and Seoulbank. *See id.*

201. *See* Michael Schuman & Namju Cho, *South Korea Elects Kim Dae Jung President*, WALL ST. J., Dec. 19, 1997, at A13 (reporting that Kim, a strong supporter of democracy, was repeatedly jailed or exiled for his views under the country's authoritarian regimes and that Kim at age 72 is the first member of

support for the IMF package.[202] World economists hope that his commitment to the IMF package will lead the way for necessary reforms in Korea.[203] In 1997, the Korea Composite Stock Price Index closed down forty-two percent.[204]

C. The Philippines

In late December of 1997, the central bank of the Philippines in Manila sought a short-term loan of US$2 million from the IMF.[205] The loan was sought to sustain depleted foreign reserves, which had dropped to around US$10 billion.[206] The Philippines was no stranger to the IMF, as it received a loan package in 1986 designed to bolster the country's economic health and eventually drive away the corrupt regime of the late dictator Ferdinand Marcos.[207] Some of the successes for the IMF in the Philippines included reducing tariffs, bankrupting and then privatizing banks, and toppling monopolies in commodities such as sugar and coconuts.[208] It is hoped that measures such as these will also help Korea and other ailing Asian economies.[209] The current loan is seen as a precautionary arrangement for the Philippines, which was scheduled to exit IMF control at the end of 1997.[210] The Philippine Stock Exchange index finished 1997 forty-one percent down.[211]

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an opposition party to be elected president since Korea began holding true democratic elections in 1987).

202. *See id.* (referring to the tough terms imposed by the IMF bailout package).

203. *See* Schuman & Davis, *supra* note 190, at A14 (observing that although hope may be high, skepticism is too).

204. *See* Appell et al., *supra* note 186, at R10.

205. *See* Rexie Reyes & Alastair McIndoe, *Dollar Strapped Philippines Seeks $2 Billion Loan*, WALL ST. J., Dec. 24, 1997, at A8.

206. *See id.* (stating that economists and analysts cheered the move as a way of bolstering confidence in the Filipino peso).

207. *See* G. Bruce Knecht, *How the IMF's Medicine Cured Manila*, WALL ST. J., Dec. 22, 1997, at A14 (reporting that the fund is credited with helping the Philippines avoid excesses that have toppled neighboring economies).

208. *See id.* (showing the success of one tariff protected company that lost half of its market share by increased over all sales).

209. *See id.*

210. *See* Reyes & McIndoe, *supra* note 205, at A8 (stating that the IMF has deferred its final review of the Philippines' proposed exit in order to determine whether the Philippines has passed a new oil-deregulation law and posted a budget surplus in 1997, as required by the IMF).

211. *See* Appell et al., *supra* note 186, at R10 (citing such causes as volatility in regional currencies and high interest rates).

D. Japan

Toward the end of 1997, Japan was also feeling the effects of a stagnating economy. Long-term government bonds hit a record low of 1.685%, following seven years of asset deflation.[212] Economists argued that a stimulus package was needed to boost consumer and business confidence, although an economic reform package introduced in late October by Japan's ruling Liberal Democratic Party failed to contain any significant new measures and depressed markets even further.[213]

Japanese banks and investment firms also felt the effects of heavy debt and bad loans. One of Japan's largest brokerage houses, Sanyo Securities, closed its doors in the wake of US$3 billion in debt.[214] The fall of Thailand, Indonesia, South Korea, and others only added to Japan's increasing debt problems, as Japan's government lent heavily to the crisis countries.[215] In late November, Japan's tenth largest bank, Hokkaido Takushoku Bank, collapsed sending the banking industry into a panic.[216] This high-profile disaster prodded the Ministry of Finance to declare that it would close down banks or restructure their operations if they appeared unlikely to meet fiscal standards set by the government.[217]

In early December, the government began to discuss using public money to bail out struggling banks by issuing ten trillion yen (US$77 billion) in bonds and using the proceeds to inject money into struggling banks and other

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212. *See* Butler, *supra* note 170, at 60 (reporting that the stock market and yen also declined).

213. *See id.* (reporting one economist's projections for economic growth of less than one percent).

214. *See* Bremner et al., *supra* note 166, at 116 (reporting that some economists interpreted the collapse of Sanyo as a sign of the government's willingness to allow the financial sector to restructure itself and that the government is allowing Western bankers to help workout an estimated US$250 billion in debt, another sign that the government is serious about resolving its crisis).

215. *See* Butler, *supra* note 191, at 53 (reporting that tens of billions of dollars lent to these countries is adding to Japan's "mountain of bad debt").

216. *See* Norihiko Shirouzu & David P. Hamilton, *Japan Vows to Force Weakest Banks to Close*, WALL ST. J., Dec. 1, 1997, at A15.

217. *See id.* (necessitating a statement by the Foreign Ministry that more bank failures would cease with a commitment to public funding to address the collapse).

financial institutions.[218] This plan was finalized in early January of 1998.[219] Other measures discussed by the Ministry of Finance included developing a loan disclosure system for nonperforming loans modeled after U.S. banking regulations in order to encourage stricter accounting for the banks' problem loans.[220] In January, the Ministry of Finance estimated the total amount of bad loans to be 76.7 trillion yen, approximately US$577.5 billion, much higher than earlier disclosures made by the Ministry.[221] The Japanese government hopes these strict new measures will put the economy on the road to recovery. In 1997, the Nikkei index dropped twenty-one percent.[222]

E. Hong Kong

In the fourth quarter of 1997, the Hong Kong dollar began to slide, fueling losses in the Hong Kong stock market and the U.S. Dow Jones industrial average.[223] In late October, when Taiwan allowed the exchange rate of its dollar to fall freely, the Hong Kong dollar was left as the only major

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218. *See* Jathon Sapsford & David P. Hamilton, *Japan Mulls $77 Billion Rescue Plan*, WALL ST. J., Dec. 9, 1997, at A14 (reporting that the prime minister requested the plan to be taken up by an intraparty committee).

219. *See Japan Plan To Aid Banks with New Funds Advances*, WALL ST. J., Jan. 8, 1998, at A6 (reporting that the draft of the bill to use public funds to rescue the ailing banks included measures designed to inject money into the weaker banks to boost their supply of capital and that the Ministry of Finance agreed to give 10 trillion yen (US$74.8 billion) to Japan's Deposit Insurance Corporation to purchase preferred stock of the banks and further increase their capital).

220. *See* Jathon Sapsford, *Japan to Toughen Bad-Loan Accounting*, WALL ST. J., Dec. 26, 1997, at A5. The draft law included provisions similar to the United States' Reconstruction Finance Corporation, which was created by the government in the 1930s to reintroduce capital into failing banks during the Great Depression. *See* Jathon Sapsford, *Japan Prepares Bank-Bailout Package*, WALL ST. J., Jan. 9, 1998, at A10.

221. *See* Jathon Sapsford, *Japan's Estimate on Banks' Problem Loans Leaps*, WALL ST. J., Jan. 13, 1998, at A17 (reporting that, of the problem loans, only US$20.3 billion were considered irrecoverable, while the rest had a high risk of going bad). Economists have been calling for Japan to take this sort of action to clean up its banking system before it got much worse, pointing to Thailand as an example of what happens when a government waits too long. *See It's Time for Japan's Banks to Act*, *supra* note 171, at 190.

222. *See* Appell et al., *supra* note 186, at R10 (stating that this might be seen as an impetus for authorities to "clean up the mess").

223. *See* Butler, *supra* note 170, at 60 (reporting that Hong Kong's main stock index fell more than 10% and that the Dow Jones incurred an initial loss of 2.33%).

Asian currency that had not been devalued.[224] Currency speculators began to trade heavily in the Hong Kong dollar, causing instability in the exchange rate and putting pressure on the currency's peg to the U.S. dollar.[225] On October 22, the Hong Kong dollar fell six percent in one day due to Taiwan's ailing dollar, a precursor to the instability that would soon follow.[226]

Unemployment became a significant concern in Hong Kong in late November when department store giant Yaohan closed its doors.[227] Real estate firms were also forced to close due to the steep decline in property sales and prices, which had fallen more than twenty percent since October.[228] In December, Hong Kong investment bank Peregrine Holdings laid off 275 workers,[229] foreshadowing its eventual collapse. When Peregrine officially closed its doors in January of 1998, the news sent shock waves through Hong Kong's Hang Seng index, as well as markets worldwide.[230] Although the Hang Seng dropped only twenty percent in 1997,[231] economists fear that the government will surrender its fight to keep the Hong Kong dollar pegged to the U.S. dollar and will allow its value to be determined by market forces as in other troubled Asian countries.[232] Further bad news for Hong Kong in 1997 came from an unexpected source, the so-called "bird flu," which

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224. *See id.*

225. *See id.*

226. *See* Mark L. Clifford & Michael Shari, *Leaders Fumble, Markets Tumble*, BUS. WK. (Int'l Ed), Nov. 3, 1997, at 48, 48.

227. *See* Mark L. Clifford et al., *supra* note 198, at 49 (noting that 2,700 workers were laid off).

228. *See id.*

229. *See id.*

230. *See* Erik Guyot et al., *Peregrine Collapse Ripples Throughout Globe*, WALL ST. J., Jan. 13, 1998, at A17 (explaining that the Hang Seng fell 8.7% on Monday after the news broke and that many international banks were expected to post losses from holdings in Peregrine, including First Chicago NBD Corp., Credit Suisse First Boston Corp., and Chase Manhattan Corp.)

231. *See* Appell et al., *supra* note 186, at R10.

232. *See* Mark L. Clifford & Sheri Prasso, *A Heavy Hand in Hong Kong*, BUS. WK., Sept. 7, 1998, at 46, 46. As of September of 1998, Hong Kong managed to stave off a currency devaluation and keep it pegged to the U.S. dollar by spending an estimated US$3 billion in foreign reserves to fend off currency speculators. *See id.* With the reversion of Hong Kong to Chinese rule in July of 1998, any move by the Chinese government to devalue its own currency, the yuan, could seriously affect Hong Kong's ability to stabilize its currency rate. *See* Craig S. Smith & David Wessel, *Monetary Experts Don't See China Devaluation*, WALL ST. J., Jan. 15, 1998, at A15 (discussing the possibility of a Chinese devaluation).

caused a decline in retailing and tourism.[233] Hong Kong, like its other Asian neighbors, apparently still has rough times ahead.[234]

V. WHAT LIES AHEAD FOR THAILAND?

The IMF bailout of Thailand and the other Asian countries sparked a fresh debate on the effectiveness of the IMF's economic reform plan. Although Thailand's government won praise from the IMF for swiftly implementing tough economic reforms, it is highly likely that Thailand has not yet reached the depths of its crisis.[235] In early January of 1998, the baht continued to fall despite Thailand's compliance with IMF recovery measures.[236] The persisting fall of the baht could mean that foreign debt becomes increasingly more expensive to repay, thus scaring away foreign investors who are desperately needed to inject capital into the region.

In early January, Prime Minister Chuan Leekpai confirmed that Finance Minister Tarrin Nimmanhaeminda would travel to the United States to seek a renegotiation on some of the terms of the IMF package.[237] The Thai government was having difficulty meeting the IMF condition that the country achieve a budget surplus equal to one percent of its gross domestic product in the fiscal year ending September 30 due to falling government revenues.[238] Other concerns listed by the Thai government as discussion points included high domestic interest rates and their impact on Thailand's private businesses and economic growth goals for 1998.[239] Thailand was eventually able to lower its interest

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233. *See* Joyce Barnathan & Bruce Einhorn, *Now For the Side Effects*, BUS. WK., Jan. 12, 1998, at 48, 48 (noting that the "bird flu" was a virus suspected to be carried by chickens).

234. *See* Mark. L. Clifford et al., *'There's Nothing Holding These Currencies Up,'* BUS. WK., Jan. 19, 1998, at 54, 54 (discussing the continuing fall in the Thai baht and the Indonesian rupiah, among others, and the fear that China will devalue its currency).

235. *See* Peter Montagnon & Ted Bardacke, *Asia's Great Depression*, FIN. TIMES (London), July 1, 1998, at 23.

236. *See Sinking Baht Drags Index Down*, BUS. DAY (Thailand), Jan. 6, 1998, *available in* 1998 WL 7905554.

237. *See Tarrin To Seek IMF Review: Projections Upset by Regional Turmoil*, BANGKOK POST, Jan. 6, 1998, *available in* 1998 WL 7885236 [hereinafter *Tarrin To Seek IMF Review*] (explaining that Tarrin insisted the U.S. visit was for the purpose of reviewing the IMF terms and not to renegotiate).

238. *See* Paul M. Sherer, *Thailand To Seek IMF-Package Revisions*, ASIAN WALL ST. J., Jan. 6, 1998, at 1.

239. *See Tarrin To Seek IMF Review*, *supra* note 237.

rates domestically, easing some of the pressure on the corporate sector. [240]

The continued fall of the baht and Thailand's attempts to negotiate revisions to the IMF rescue package led critics to question whether the IMF programs were doing more harm than good.[241] There are many arguments against large bailouts of the type seen in Asia, and criticism of the IMF has become quite fashionable. The IMF bailout for Southeast Asia has been extremely controversial in the political arena. When President Clinton and U.S. Treasury Secretary Robert Rubin asked Congress for an additional US$17.9 billion to shore up the IMF's core capital, both conservatives and liberals in Congress balked.[242] Conservatives such as House Majority Leader Dick Armey argued that far from solving problems, the IMF was actually contributing to them by bailing out countries making poor financial decisions.[243] Liberals, on the other hand, viewed the IMF as a bastion of international capitalists attempting to protect themselves from global financial losses.[244] In addition, many on the left felt that supporting the IMF would be supporting governments who consistently violate U.S. notions of human rights.[245]

However, because the United States itself is becoming more intertwined with what is termed the "global economy," the United States cannot afford to sit on the sidelines. In fact, much of the turmoil in domestic markets in 1998 can be directly related to the Asian crisis.[246] Because of reduced Asian demand for American products, many companies are faced with falling prices and surplus goods, leading to

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240. *See* Bruce Einhorn & Ron Corben, *Thailand: Banking Chaos*, BUS. WK. (Int'l Ed.), Aug. 17, 1998, at 51, 51.

241. *See* Sherer, *supra* note 238, at 1.

242. *See* Greg Hitt, *Gingrich, After a Special Visit From Rubin, Gives New Life to IMF Funding Initiative*, WALL ST. J., Oct. 14, 1998, at A24.

243. *See id. See also* George P. Shultz et al., *Who Needs the IMF?*, WALL ST. J., Feb. 3, 1998, at A22 (arguing that the IMF bailout packages discourage emerging market economies from implementing necessary financial reforms and encourages more countries to continue to operate with bad economic and financial policies).

244. *See* Laura D'Andrea Tyson, *If There Were No IMF, They'd Have to Invent One*, BUS. WK., Mar. 9, 1998, at 21, 21.

245. *See id.*

246. *See Spending Climbed in June, Outpacing Income Growth*, N.Y. TIMES, Aug. 4, 1998, at D2 (citing export problems and trade deficit as just two examples).

reduced corporate profits.[247] American farmers have been hit hard as demand for rice and wheat has declined severely due to of Asia's woes.[248] For this reason, the United States should back the IMF, as well as the programs it has put in place to oversee the troubled Asian nations. Late in its summer session, Congress eventually approved Clinton's request for IMF funding, subject to certain restrictions.[249] Its support will lend credence to the reforms of the IMF and will eventually help to restore Thailand to economic health.

The IMF has been widely criticized for allowing the currency exchange rates to continue to float.[250] Economists argue that a deflated currency naturally leads to high rates of inflation.[251] Presently, however, the effects of inflation have failed to reach alarming heights in Thailand. Prices went up only 7.7% over the year 1997, even after the baht fell 46% against the U.S. dollar.[252] Thai office rent is much cheaper than that of neighboring Hong Kong, causing some companies to make plans to relocate from Hong Kong to Thailand later this year.[253] Other companies such as Toyota are foregoing profits in order to keep prices stable and retain market share during the crisis.[254] This is coupled with the fact that traditionally Asian nations such as Thailand, Indonesia, and South Korea have relatively little history of inflation, unlike Latin American countries.[255] In Thailand, the deflated currency appears to be slowing the growth of the consumer economy, a chief objective of the IMF's reform

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247. *See*, *e.g.*, Patrick McMahon, *'Asian' Flu Knocks Northwest off Its Feet: Nearly All Economic Sectors Have Felt the Pinch Acutely*, USA TODAY, Dec. 24, 1998, at A4 (giving examples of Boeing and other Pacific Northwest companies suffering due to the reduction of Asian customers).

248. *See* George Tibbits, *Asians Can't Afford To Buy Wheat, and U.S. Farmers Suffer*, BUFF. NEWS, July 4, 1998, at B8 (observing that wheat prices hit a seven-year low).

249. *See* Milton Friedman, *Markets to The Rescue*, WALL. ST. J., Oct. 13, 1998, at A22.

250. *See* David Malpass, *The Road Back From Devaluation*, WALL ST. J., Jan. 14, 1998, at A18.

251. *See id.*

252. *See* Paul M. Sherer, *Thai Baht Devaluation Fails To Trigger Classic Inflation*, WALL ST. J., Feb. 3, 1998, at A17.

253. *See id.* Air France, for example, announced plans to relocate its regional headquarters to Bangkok. *See id.*

254. *See id.* (noting that although the cost of producing Toyota's Soluna sedan, manufactured in Thailand, increased by 30% to 40% since June 1997, Toyota raised the price less than 6%).

255. *See id.*

plan.[256] In addition, a weaker currency would logically help stimulate export growth by making goods cheaper for other countries to purchase.

Furthermore, many economists feel that the punitively high interest rates will cause more financial crises in Thailand and its neighbors.[257] However, high interest rates are needed to prevent short-term capital flight and to put a floor underneath weak currencies.[258] In the short term, high interest rates should also act to slow growth and prevent consumerism from driving up prices, leading to an inflationary economy. When confidence returns to the region, as some signs indicate, high interest rates will be attractive to spur foreign investment in the region.[259] The IMF does seem to be backing off somewhat from the severity of its initial proposals by allowing Thailand to lower its interest rates to fifteen percent, down from twenty-two percent in early 1998.[260] Interest rates are still higher than some economists feel are necessary.[261] However, advising Thailand to relax monetary policy and increase deficit spending in the wake of such gross mismanagement by both government and the private sector is irresponsible. Although companies are currently suffering because of the severe shortage of capital, monetary restrictions should remain in place until the banking sector can deal with the repercussions of a too-loose monetary policy.

The touchstone for Thailand will be banking reform. The IMF faced a similar banking crisis in 1994 when Mexico devalued the peso. Since the IMF measures were implemented, however, "Mexico hasn't suffered a single bank

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256. *See id.* (recognizing the need for such policy in the battle against inflation).

257. *See* David Malpass, *Break the IMF Shackles*, WALL ST. J., Sept. 26, 1997, at A22.

258. *See* Brian Bremner et al., *What To Do About Asia*, BUS. WK., Jan. 26, 1998, at 27, 28.

259. The IMF has made similar predictions. *See* Bob Davis & David Wessel, *World Bank, IMF at Odds Over Asian Austerity*, WALL. ST. J., Jan. 8, 1998, at A5; *see also* Darren McDermott, *For Asian Markets, the Second Act Starts*, WALL ST. J., Feb. 9, 1998, at A15 (explaining that stock indexes in Thailand and South Korea rose 44% and 33% in Indonesia through February of 1998 and that the Korean won and the Indonesian rupiah are still nowhere near pre-crisis levels, even though they have risen sharply).

260. *See* Einhorn *supra* note 240, at 51; Davis & Wessel, *supra* note 259, at A5.

261. *See* Saritdet Marukatat, *Should Economists Denounce IMF for Making a Wrong Assessment of Thai Fundamentals*, BANGKOK POST, Jan. 14, 1998, at 3.

run, and its economy is growing at a 7% annual rate."[262] The strategies used to fix the Mexican crisis can work for Thailand as well. First, Thailand must eliminate cronyism in its banking sector and allow bad banks to close.[263] Thai officials have shown a willingness to conform to this standard by closing fifty-six insolvent finance companies in December of 1997.[264] In addition, Thailand is moving toward restructuring its banks by implementing measures that, for example, separate and tackle nonperforming loans using two separate governmental bodies.[265] Also, foreign investment is needed to shore up Thailand's undercapitalized banks.[266] The announcement in February 1998 of Dutch bank ABN Amro's plans to purchase a stake in Bank of Asia, a midsize Thai bank, is a sure sign that investors are regaining confidence in Thailand and also that Thailand is willing to surrender control of its banks to foreign investors.[267] Even bigger steps forward can be seen in the changes implemented under the helm of Prime Minister Chuan Leekpai, who came into power at the beginning of 1998.[268] For the first time, foreign investors will be able to control big pieces of the banking, financial, real estate, and manufacturing sectors.[269] Many banks were ordered to recapitalize by selling off pieces to foreign investors, and several finance companies have been shut down.[270] Thai officials have already sold US$23 billion in loans from these failed institutions to foreign investors at deep discounts.[271] In addition, the government is taking steps to reform the corrupt practices of the Bank of Thailand.[272] In the past, the job of disciplining banks with excessive bad

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262. Jathon Sapsford et al., *Seeking a Way Out: Ailing Asian Countries Might Hunt for Cures in a Surprising Place*, WALL ST. J., Dec. 9, 1997, at A1.

263. *See id.*

264. *See id.*

265. *See* Gonzalez, *supra* note 160, at A22.

266. *See* Henny Sender, *Dutch Bank ABN Amro Agrees to Acquire a Majority Stake in Thailand's Bank of Asia*, WALL ST. J., Feb. 24, 1998, at A16 (speculating that as much as US$25 billion may be needed).

267. *See id.*

268. *Thailand's New Prime Minister May Restore Confidence,* WALL ST. J., Nov. 10, 1997, at A19.

269. *See* Einhorn, *supra* note 154, at 56–58.

270. *See id.* at 58. Most of the institutions forced to close were the very ones that helped create the bubble economy. *See id.*

271. *See* Pete Engardio, *Cleaning Up Thailand's Mess: The Long Struggle Ahead*, BUS. WK., Oct. 12, 1998, at 120, 120–22.

272. *See id.* at 122.

loans or low quality risk management went to a separate policy department that was subject to political cronyism. As a consequence, those who were well-connected were allowed to escape rebuke.[273] The new system will consolidate the central bank's oversight operations into one office.[274] A training program will also be set up with the aid of foreign instructors to retrain Bank of Thailand examiners to spot problems more efficiently.[275] A computerized payment system will be installed to help the central bank track offshore private debt.[276] Credit committees will be established to approve loans, and "[l]oans will be listed as nonperforming when borrowers miss payments for three months."[277] Thailand is leading the other Asian nations in its efforts to reform its banking sector, and the world is watching.

There are also signs that in 1998 the region may be becoming amenable once again to foreign investment. During the third quarter, Thai markets rose 4.12%, even as the domestic S&P 500 fell 10%.[278] In addition, Credit Lyonnais Securities in Hong Kong issued a "buy" recommendation to investors on the Thai market, reversing the "sell" recommendation that it previously carried since December of 1995.[279] George Soros, of international hedge fund fame, invested US$3.5 million into a US$650 million package for Nakornthai Strip Mill, a steel mill.[280]

There is hope for Thailand's future prosperity through the IMF-led plan. Although not without its critics, the IMF package has already brought and will continue to bring serious reforms to Thailand, reforms that are sorely needed to help the country regain investor confidence. The reforms will not come overnight, but over time; a recession is a hurtful, but necessary medicine. If Thailand can stay the course and continue to implement tough measures designed to slow growth until a more sound foundation can be placed

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273. *See id.*

274. *See id.*

275. *See id.* (setting up training areas in "credit analysis, monitoring foreign-exchange transactions, and assessing bank management").

276. *See id.*

277. *Id.*

278. *See* Leslie P. Norton, *Time Again to Ride the Tigers?* BARRON'S, Oct. 12, 1998, at 26.

279. *See id.*

280. *See* Einhorn, *supra* note 154, at 58.

under the economy, the once proud Tiger will again regain its swiftness and grace.