

# TRADE & CUSTOMS

## Thailand



# Trade & Customs

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Quick reference guide enabling side-by-side comparison of local insights, including into major domestic legislation and international agreements; trade defence investigations; customs duties; trade barriers; export controls; financial and other sanctions, including trade embargoes; and recent trends and hot topics.

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Generated 11 July 2022

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# Table of contents

## **LEGAL FRAMEWORK**

Domestic legislation

International agreements

## **TRADE DEFENCE INVESTIGATIONS (OUTSIDE THE WTO DISPUTE SETTLEMENT SYSTEM)**

Government authorities

Complaint filing procedure

Contesting trade remedies

WTO rules

Appeal

Review of duties/quotas

Compliance strategies

## **CUSTOMS DUTIES**

Normal rates and notification requirements

Special rates and preferential treatment

Challenge

## **TRADE BARRIERS**

Government authorities

Complaint filing procedure

Grounds for investigation

Measures against foreign trade barriers

Private-sector support

Notable non-tariff barriers

## **EXPORT CONTROLS**

General controls

Government authorities

Special controls

Supply chain security

Applicable countries

Named persons and institutions

Penalties

## **FINANCIAL AND OTHER SANCTIONS AND TRADE EMBARGOES**

**Government authorities**

**Applicable countries**

**Specific individuals and companies**

## **OTHER RELEVANT ISSUES**

**Other trade remedies and controls**

## **UPDATE AND TRENDS**

**Recent developments**

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## LEGAL FRAMEWORK

### Domestic legislation

What is the main domestic legislation as regards trade remedies?

Trade remedies in Thailand are regulated by the Anti-dumping and Countervailing Act, B.E. 2542 (1999), as amended by the Anti-dumping and Countervailing Act (No.2) B.E. 2562 (2019) (AD/CVD Act) and the Safeguard Measures on Increased Imports Act, B.E. 2550 (2007) (SG Act).

The AD/CVD Act is the primary legislation governing anti-dumping, and countervailing duty investigations. The SG Act applies to safeguard investigations. Both of these main laws are supplemented by ministerial regulations and notifications issued by the Ministry of Commerce, Committee for Anti-dumping and Countervailing, the Safeguard Committee, and the Department of Foreign Trade (DFT).

The domestic legislation as regards trade remedies is listed on the DFT website ( <https://www.thaitr.go.th/th/law> ).

*Law stated - 08 June 2022*

### International agreements

In general terms what is your country's attitude to international trade? Has it raised tariffs in the last year?

In a nutshell, the orientation of the Thai economy towards international trade is based on the export-led growth model, hence the country's liberal attitude towards free trade, both import and export. In particular, the Thai government's proactive free trade agreement strategy is conceived as a means of ensuring that goods produced in Thailand will have access to markets beyond Thailand's borders, and to establish Thailand as a strategic investment location in the region.

To date, Thailand has concluded 14 bilateral and regional trade agreements with all ASEAN (Association of Southeast Asian Nations) countries, as well as China, India, Japan, South Korea, Australia, and New Zealand. In addition, in 2021, Thailand also concluded and ratified the accession to the Regional Comprehensive Economic Partnership Agreement, the world's largest trade agreement, covering a population of 2.2 billion and 30 per cent of the world's gross domestic product.

In addition to the existing trade agreements, Thailand is also negotiating or will begin negotiating new trade agreements with its strategic trade partners, such as the European Union, the European Free Trade Association, Turkey, Pakistan, and Canada.

In terms of the overall tariff rates, Thailand has not raised its applied tariffs on imported goods in the last year. However, the tariff rates for some products may be revised as a result of a change in tariff nomenclature from the ASEAN Harmonised Tariff Nomenclature 2017 version to the 2022 version.

*Law stated - 08 June 2022*

## TRADE DEFENCE INVESTIGATIONS (OUTSIDE THE WTO DISPUTE SETTLEMENT SYSTEM)

### Government authorities

Which authority or authorities conduct trade defence investigations and impose trade remedies in your jurisdiction?

The Department of Foreign Trade ( DFT ), Ministry of Commerce, is the authority empowered by the Anti-dumping and

Countervailing Act (AD/CVD Act) and the Safeguard Measures on Increased Imports Act (SG Act) to conduct trade remedy investigations under the mandate of the Committee for Anti-dumping and Countervailing (AD/CVD Committee) and the Safeguard Committee (the Committees), respectively. The Committees are empowered by law to authorise the initiation and termination of trade remedy investigations and to impose trade remedy measures on subject imports.

*Law stated - 08 June 2022*

## Complaint filing procedure

What is the procedure for domestic industry to start a trade remedies case in your jurisdiction?  
Can the regulator start an investigation ex officio?

To initiate a trade remedy case, a written complaint or petition for a trade remedy investigation must be submitted to the DFT for consideration.

The petition for a trade remedies case must contain prima facie evidence demonstrating that all substantive criteria for imposing trade remedy measures have been fulfilled. For example, a petition for an anti-dumping investigation must contain prima facie evidence that dumping exists (eg, based on sample sales invoices of exporters), material injury has occurred to the domestic industry, and there is a causal link between dumped imports and the injury incurred. Typically, the prima facie standards required by the DFT with respect to trade remedy petitions are rather high and it is not unusual for several drafts of a petition to be submitted and revised before the DFT is satisfied with the information and supporting evidence. Notwithstanding the above, based on the Notification of the Ministry of Commerce issued in 2021, a timeline is imposed on the petitioner whereby they must revise any shortcomings as requested by the DFT within four months from the first submission date. Once the petition passes muster at the DFT, it will be submitted to the relevant committee with the DFT's recommendations thereon. The final decision on whether to initiate the investigation lies with the Committees.

Standing requirements must be met by domestic producers in order to represent the domestic industry. For anti-dumping and countervailing duty investigations, section 33 of the AD/CVD Act imposes a 25 per cent minimum standing requirement for a domestic industry (ie, the petition must be supported by the domestic producers of like product whose collective output is more than half of the total production of the like product produced by the domestic producers expressing either support for or opposition to the petition, provided that the supporters' production must account for not less than one-quarter of the domestic total production of the like product). In addition, section 24 of the AD/CVD Act requires a domestic industry to have a major proportion of collective output. Under section 24, major proportion means 'more than half of the total domestic production of the like product' (ie, 50 per cent or greater). For safeguards, the SG Act only requires that, to represent a domestic industry, the domestic producer applicants' production output is a major proportion of the total collective output of all domestic producers.

The DFT and the AD/CVD Committee cannot initiate an original trade remedy investigation ex officio in the absence of a complaint or petition from domestic producers who have legal standing. However, the AD/CVD Act may authorise the AD Committee to initiate a subsequent review of the measures ex officio .

*Law stated - 08 June 2022*

## Contesting trade remedies

What is the procedure for foreign exporters to defend a trade remedies case in your jurisdiction?

Upon the initiation of a trade remedy investigation, the notice of initiation will be published in the Royal Gazette. In addition, the notice of initiation will also be published on the DFT's website, and the foreign exporters' questionnaire and a copy of the non-confidential petition will usually accompany the notice of initiation. Known foreign exporters

(usually those which have been identified and listed in the complaint) and the embassies of the relevant countries in Thailand will also be notified. In a few cases, the questionnaire will later be sent to the known foreign exporters by registered mail.

In Thai trade remedy practice, interested parties normally have 15 days from the date of investigation initiation to present opinions supporting or objecting to the petition or to provide notice of their intention to give an oral presentation. In both cases, the opinion and the notice must be in writing. It should be noted that once this 15-day statutory deadline lapses, the merits of the petition as such will no longer be scrutinised, although interested parties may still respond to the relevant questionnaires and/or comment on the injury investigation. The interested parties have 37 days to submit their responses, and if additional time is required, the DFT will normally grant a two-week extension with cause, and if additional time is still required upon good cause being shown, the DFT will normally grant another two-week extension, although the period of an extended deadline to submit the questionnaire response may not exceed 30 days in total. Under Thai law and under current DFT practice, an interested party may submit its comment on injury facts and issues at any time during the investigation.

The time limit for completing anti-dumping and anti-subsidy investigations in Thailand is one year, with a possible extension of up to six months. For safeguard investigations, the SG Act requires safeguard investigations to be completed within 270 days from the date of initiation, with a possible extension of up to 90 days.

*Law stated - 08 June 2022*

## WTO rules

Are the WTO rules on trade remedies applied in national law?

Thailand is a member of the WTO. As Thailand operates under a dualist system of jurisprudence, the WTO laws and rules on trade remedies do not have the direct force of law in Thailand. However, Thailand has enacted key legislation on anti-dumping and countervailing duties and safeguards that are broadly in line with the WTO discipline on trade remedy investigations.

Notwithstanding the above, where Thai laws are silent or the issues are not specifically addressed under Thai law, the interested parties may bring up the applicability of WTO rules on the issue in question. In the judicial review proceedings with respect to the anti-dumping investigation on Glass Blocks from Indonesia, the Thai Central Intellectual Property and International Trade Court (IPIT Court) cited relevant WTO law as the authority. In taking into account the phrase 'upon good cause shown' provided under article 6.5 of the Anti-Dumping Agreement (ADA) even though this phrase did not appear in the AD/CVD Act, the court reasoned that article 6 of the ADA, the AD/CVD Act, and the Dispute Settlement Understanding had to be interpreted together in judicial review proceedings conducted by the court.

In the case of safeguard actions, pursuant to section 41 of the SG Act, when the safeguard measures specified by an international agreement that Thailand is a party to differ from those specified in the Act, any implementation in terms of procedures and conditions shall be in accordance with the obligations that Thailand has committed to under each specific agreement.

*Law stated - 08 June 2022*

## Appeal

What is the appeal procedure for an unfavourable trade remedies decision? Is appeal available for all decisions? How likely is an appeal to succeed?

As a general rule in Thailand, governmental actions are subject to judicial review by the Administrative Court, unless

provided otherwise by law. Pursuant to section 61 of the AD/CVD Act, determinations in anti-dumping and countervailing duties investigations are subject to review by the IPIT Court. The interested parties wishing to appeal a final determination made by the AD/CVD Committee may file their appeal to the IPIT Court within 30 days from the date of the final determination. If interested parties are not satisfied with the judgement or order of the IPIT Court, they may appeal to the Court of Appeal for Specialized Cases and, subsequently the Supreme Court of Thailand.

In the case of safeguard actions, since there is no legal provision regarding the appeal process, decisions concerning safeguards (as administrative orders) are subject to judicial reviews by the Administrative Court under the general rules set out in the Act on Establishment of Administrative Courts and Administrative Court Procedure, B.E. 2542 (1999), as amended in 2021. Judicial reviews in safeguard investigations must be initiated within 90 days from the date on which the complainant became aware or should have been aware of the alleged illegality in the disputed determination. If interested parties are not satisfied with the judgment or order of the Administrative Court, they can appeal to the Supreme Administrative Court of Thailand.

*Law stated - 08 June 2022*

### **Review of duties/quotas**

How and when can an affected party seek a review of the duty or quota? What is the procedure and time frame for obtaining a refund of overcharged duties? Can interest be claimed?

Pursuant to section 56 of the AV/CVD Act, any interested party, including an affected foreign exporter, may request an interim review of the anti-dumping or countervailing duties by submitting an interim review application to the DFT after the measures have been imposed for at least one year. An interim petition must contain prima facie evidence demonstrating a change in circumstance of dumping, injury, or both. Once the interim review is initiated, it must be concluded within one year without any extension.

In addition to an interim review investigation, an importer may request a refund of anti-dumping duty paid for a specific imported shipment, pursuant to section 59 of the AD/CVD Act. The request must be made within six months from the date of payment of such duty, based on evidence of no dumping margin or that the duty imposed exceeded the dumping margin.

*Law stated - 08 June 2022*

### **Compliance strategies**

What are the practical strategies for complying with an anti-dumping/countervailing/safeguard duty or quota?

Different trade remedies call for different practical strategies and considerations. For example, a practical strategy for minimising the impact of an anti-dumping duty would be to request an interim review based on a change of circumstance in dumping margins, and the interested party could begin the preparation well before the onset of the one-year anniversary. With regard to safeguards, in light of Thailand's propensity to apply a safeguard surcharge, an interested party or subject country should consider requesting quotas on favourable terms prior to the imposition of the safeguard measures.

*Law stated - 08 June 2022*

## CUSTOMS DUTIES

### Normal rates and notification requirements

Where are normal customs duty rates for your jurisdiction listed? Is there an exemption for low-value shipments, if so, at what level? Is there a legally binding system of information for applied tariffs or similar in place? Are there prior notification requirements for imports?

The current normal customs duty rates (the bound rates) and the applied tariff rates are listed on the Customs Department website.

For low-value shipments, the Thai customs law allows goods that have a value of less than 1,500 baht to be exempt from import duties.

As for the prior notification requirement, in general, operators are not required to notify the Customs Department prior to importation. However, for some specific products, such as cassava or cassava products, importers may be required to notify the relevant departments, such as the Department of Foreign Trade (DFT) or the Customs Department about the importation prior to the importation date.

*Law stated - 08 June 2022*

### Special rates and preferential treatment

Where are special tariff rates, such as under free trade agreements or preferential tariffs, and countries that are given preference listed?

The preferential tariff rates under Thailand's free trade agreements are listed on the DFT website ( [http://itd.customs.go.th/igtft/th/main\\_frame.jsp?lang=th&top\\_menu=menu\\_homepage&current\\_id=5028](http://itd.customs.go.th/igtft/th/main_frame.jsp?lang=th&top_menu=menu_homepage&current_id=5028) ).

The list includes preferential tariff rates pursuant to: (1) ASEAN Trade in Goods Agreement (ATIGA); (2) Thailand-Australia Free Trade Agreement (TAFTA); (3) Thailand-New Zealand Closer Economic Partnership (TNZCEP); (4) Japan-Thailand Economic Partnership Agreement (JTEPA); (5) Thailand-India Free Trade Agreement (TIFTA); (6) ASEAN-China Free Trade Agreement (ACFTA); (7) ASEAN-Japan Comprehensive Economic Partnership (AJCEP); (8) ASEAN-Republic of Korea Free Trade Agreement (AKFTA); (9) ASEAN-India Free Trade Agreement (AIFTA); (10) ASEAN-Australia-New Zealand Free Trade Area (AANZFTA); (11) Agreement on Closer Economic Partnership between the Government of Thailand and the Government of the Republic of Peru (TPFTA); (12) ASEAN-Hong Kong, China Free Trade Agreement (AHKFTA); (13) Thailand-Chile Free Trade Agreement (TCFTA); and (14) Regional Comprehensive Economic Partnership Agreement (RCEP).

Please note that Thailand does not grant Generalised System of Preferences (GSP) preferential rates.

*Law stated - 08 June 2022*

How can GSP treatment for a product be obtained or removed?

This question is not applicable as Thailand, as a developing country, does not grant GSP preferential rates.

*Law stated - 08 June 2022*

## Is there a duty suspension regime in place? How can duty suspension be obtained?

The Customs Department permits duty suspensions as follows:

- **Exemption:** full or partial exemption of duty for certain types of goods included in Part 4 of the Customs Tariff Decree B.E. 2530, such as goods for temporary display at exhibitions that are re-exported within six months after the importation date, samples of goods with no commercial value, military hardware, etc.
- **Duty drawback:** the Customs Department will refund import duty paid or return guarantees placed on imports for goods that were imported and have undergone production, mixing, assembling, or packing and are then re-exported to a foreign destination or for use on board a ship or aircraft that will leave Thailand within one year from the date of importation.
- **Bonded warehouse:** goods that are stored, exhibited, produced, mixed, assembled, or packaged in a bonded warehouse are suspended from payment of taxes and duties until they are taken for domestic consumption. In addition, if the imported goods are released from the bonded warehouse for the purpose of exportation, the goods are exempt from payment of import/export taxes and duties.
- **Free zone:** imports of specific goods or machinery into a free zone for industrial or commercial purposes or any other activities that are considered to benefit the Thai economy are exempt from import duties. In addition, goods that are released from the free zone for exportation are also exempt from export duties.
- **Board of Investment (BOI):** tax and duty privileges are granted to companies that are eligible for investment promotions and privileges under the Board of Investment Act B.E. 2520 (1977), as amended in 2017, whereby they are exempt from or enjoy reduced import duty rates on machinery and/or materials imported for use in the promoted business in the BOI project.

To obtain these duty suspensions, the importers and the exporters may be required to obtain approval or specific licences from the Customs Department/BOI (in the case of bullet point five, above) prior to import or export of goods.

*Law stated - 08 June 2022*

## Has your country applied tariffs for 'national security' reasons?

No. Thailand does not impose tariffs for national security reasons.

*Law stated - 08 June 2022*

## Challenge

### Where can customs decisions be challenged in your jurisdiction? What are the procedures?

Under the Customs Act B.E. 2560 (2017), a party may challenge an assessment of a customs official by appeal to the Appeal Committee and subsequently to the competent court.

Importers and exporters are entitled to appeal an assessment of a customs officials to the Appeal Committee within 30 days after the date of receiving the notice of assessment. Once an assessment decision is made by the Appeal Committee, the importers or the exporters are entitled to appeal the decision of the Appeal Committee by filing the case at the competent court within 30 days from the date of receipt of the appeal decision(except when the Appeal Committee has dismissed the appeal because the appellant has requested its appeal to be withdrawn).

## TRADE BARRIERS

### Government authorities

What government office handles complaints from domestic exporters against foreign trade barriers at the WTO or under other agreements?

The Department of Foreign Trade (DFT) is the central government office for the administration of complaints from domestic exporters regarding foreign trade barriers. Specific bureaus under the DFT are responsible for complaints based on the type of trade barriers for which they are responsible:

- tariff barriers: Bureau of Merchandise Trade Administration;
- non-tariff barriers:
  - quantitative measures (ie, quota): Bureau of Merchandise Trade Administration; and
  - qualitative measures (ie, technical barriers to trade (TBT), sanitary and phytosanitary (SPS), environmental and labour measures): Bureau of Trade Measures and Bureau of National Imports-Exports and Product Standards.

Government offices other than the DFT administer specific types of qualitative non-tariff measures:

- TBT for industrial products (except food and agricultural products): Thai Industrial Standards Institute under the Ministry of Industry;
- SPS for food and agricultural products: National Bureau of Agricultural Commodity and Food Standards under the Ministry of Agriculture and Cooperatives;
- environmental measures (ie, eco-labelling, conservation of natural resources): Ministry of Natural Resources and Environment; and
- labour measures (ie, non-discrimination of employment and occupation, imported goods must not be manufactured by child workers or prisoners): Ministry of Labor.

However, if an interested party is uncertain as to which specific government office handles its complaint, it can file the complaint directly with the DFT, which will then forward the complaint to the responsible government office.

*Law stated - 08 June 2022*

### Complaint filing procedure

What is the procedure for filing a complaint against a foreign trade barrier?

There is no formal procedure for filing a complaint against a foreign trade barrier, specifically non-tariff barriers. As a matter of practice, the domestic exporters may file a formal complaint letter with the Director General of the DFT, or the Director General of other government offices (if the domestic exporters can identify the specific government office overseeing the related products or issues). The receiving government office will then evaluate the complainant's request and proceed with appropriate measures to defend the complainant's interests, including consultation between the Thai and foreign authorities and/or escalation of the issues to a negotiations round under the WTO.

*Law stated - 08 June 2022*

## Grounds for investigation

What will the authority consider when deciding whether to begin an investigation?

The Thai authority will consider the merits of the reported trade barrier that breaches any concession or Thailand's interests under the WTO and/or other relevant agreements.

*Law stated - 08 June 2022*

## Measures against foreign trade barriers

What measures outside the WTO may the authority unilaterally take against a foreign trade barrier? Are any such measures currently in force?

As a member state, Thailand is under an obligation to follow all rules and regulations of the WTO. In other words, the Thai authority does not take measures outside the WTO regulations when taking measures against a foreign trade barrier.

*Law stated - 08 June 2022*

## Private-sector support

What support does the government expect from the private sector to bring a WTO case?

Generally, the government will allocate a budget to cover all expenses in WTO case proceedings. Financial support from the private sector is therefore not expected, although the private sector may voluntarily support the government if it wishes to do so. Apart from financial support, the government may request the private sector to provide other support as needed, depending on the nature of the issue.

*Law stated - 08 June 2022*

## Notable non-tariff barriers

What notable trade barriers other than retaliatory measures does your country impose on imports?

Thailand has imposed both automatic and non-automatic import licensing requirements on various products, including: (1) 16 kinds of drugs, chemical and pharmaceutical; (2) clenbuterol compounds and salts; (3) albuterol or salbutamol; (4) fish meal with a protein content of less than 60 per cent; (5) coins of size and weight similar to the official coins; (6) plastic waste and scrap; (7) used diesel engines of 331–1,100 CC, (8) antiques; (9) marble and building stone; (10) used rubber tyres for buses or trucks; (11) volatile alkyl nitrite substances; and (12) intaglio printing machinery.

In addition, there are also import restraints on import administration, such as certificate of origin requirements or registration requirements. The imported products subject to these types of measures include: (1) logs, wood, and all wooden products; (2) ceramic food containers and metal-coated food containers; (3) fuel oil; (4) cassava and cassava products; (5) fresh oranges; (6) shallots; (7) swine offal; and (8) gas water warmers and water heaters.

Moreover, Thailand also imposes SPS measures on imports of foods, plants, and meat, among others. For example, imports of meat are subject to inspection and require specific permits from the Department of Livestock Development, as well as a health certificate issued from the country of origin.

## EXPORT CONTROLS

### General controls

What general controls are imposed on exports?

Pursuant to the main governing legislation, the Thai Export and Import Act B.E. 2522 (1979) as amended in 2015, Thailand can impose the following export controls: absolute prohibitions, restrictions requiring written permission to export from the competent authorities, standard requirements, special duty, or documentation requirements (ie, certificate of origin, goods quality certificate). Export controls may also include quotas and export licence requirements under the Export Standard Act B.E. 2503 (1960) or under other laws.

Law stated - 08 June 2022

### Government authorities

Which authorities handle the controls?

The Ministry of Commerce is the main authority responsible for imposing export controls and issuing mandates requiring export licences under the Export and Import Act. Specific products may also be subject to export controls as mandated by specific authorities under other laws.

The Thai Customs Department is the authority responsible for intercepting the exportation of restricted goods and ensuring compliance with all laws and regulations.

Law stated - 08 June 2022

### Special controls

Are separate controls imposed on specific products? Is a licence required to export such products? Give details.

The following products are subject to special export control:

#### Dual-use items (DUIs)

Goods that have a civilian function, but can also be used for military applications contributing to the proliferation of weapons of mass destruction are subject to export control pursuant to the Trade Controls of Weapons of Mass Destruction Act B.E. 2562 (2019) and the related Notifications of the Ministry of Commerce. In this regard, the Director General of Department of Foreign Trade (DFT) is authorised to conduct a risk assessment investigation on activities related to DUIs. If the Director General of the DFT finds that such activities pose risks to the proliferation of weapons of mass destruction, the DFT can impose 'catch-all' measures by suspending all activities related to such DUIs, including a prohibition on export, re-export, transshipment, transits, and transfer of technology and software.

#### Military equipment

Pursuant to the Act Controlling Exportation of Arms, Ammunition and Strategic Materials B.E. 2495 (1952), and the Royal Decree Controlling Export of Arms, Ammunitions and Strategic Materials B.E. 2535 (1992), as amended in 2009,

military equipment is regarded as export-controlled or prohibited goods, and may only be exported upon receiving approval from the Ministry of Defence. In addition, certain licences are also required for the export of military equipment pursuant to the specific requirements under the following regulations: Firearms, Ammunition, Explosive, Fireworks, and Imitation Firearms Act B.E. 2490 (1947), the Atomic Energy for Peace Act B.E. 2504 (1961), the Emergency Decree to Control Border Trade B.E. 2527 (1984), and the Armaments Control Act B.E. 2530 (1987) as amended in 2019. Thailand, as a member state of the United Nations, also commits to the relevant commitments of that organisation, as well as particular treaties on weapons control and disarmament.

### **Radio communications equipment**

The export of radio communications equipment, such as transmitters, receivers, and transceivers, is regulated by the Radio Communications Act B.E. 2498 (1955), as amended in 1992. In particular, an export licence is required prior to export. However, the Minister of Transport and Communications and the National Broadcasting and Telecommunications Commission are authorised to grant licence exemptions for specific equipment.

### **Plants and plant varieties**

Pursuant to the Plant Quarantine Act B.E. 2507 (1964), as amended in 2008, controlled plants, as prescribed by the Ministry of Agriculture and Cooperatives, are not permitted to be exported without being accompanied by a phytosanitary certificate and a licence from the Department of Agriculture. In addition, certain plant varieties, seeds, and reserved and conserved plants are also prohibited from being exported unless permission is granted by the Minister of Agriculture and Cooperatives under the Plants Varieties Act B.E. 2518 (1975), as amended in 2007. In addition to these prescribed plant varieties, the Minister of Agriculture and Cooperatives may also issue notifications restricting the export of new plant varieties for the purpose of preventing diseases, promoting health, maintaining public welfare, and preserving and conserving the environment, and biological diversity.

### **Hazardous substances**

The Hazardous Substance Act B.E. 2535 (1992), as amended in 2019, stipulates that an export licence is required for most hazardous substances including explosives, flammables, oxidizing agents and peroxide, toxic substances, diseases-causing substances, radioactive and mutation-causing substances, corrosive and irritating substances, and other substances that may harm people, animals, plants, property, or the environment. These substances are classified into groups depending on the need for control. Under this Act, exporters are required to comply with the notifications as issued by all relevant government entities involved in the control of hazardous substances.

### **Medical instruments**

Under the Medical Instrument Act B.E. 2551 (2008), as amended in 2019, a licence is required for the exportation of medical instruments, which must comply with the prescribed standards. In addition to the export licence, an exporter is also required to obtain a licence to manufacture each medical instrument intended for export.

### **Wild animals**

Under the Wild Animal Reservation and Protection Act B.E. 2562 (2019), and in accordance with the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the exportation of wild animals, carcasses of wild animals, reserved wild animals, and protected wild animals is prohibited unless permission is granted by the

Department of National Wild Animal and Plant Stock.

## Pathogens and animal toxins

Pursuant to the Pathogens and Animal Toxins Act B.E. 2558 (2015), pathogens and animal toxins are prohibited from export unless a licence is granted from the Department of Medical Sciences, Ministry of Public Health in compliance with the applicable ministerial regulations.

*Law stated - 08 June 2022*

## Supply chain security

Has your jurisdiction implemented the WCO's SAFE Framework of Standards? Does it have an AEO programme or similar?

The Thai Customs Department issued a Letter of Intent to implement the World Customs Organizations's SAFE Framework of Standards in Thailand on 9 May 2006. By 2011, the authorised economic operator (AEO) programme was fully established. Currently, the government body that is responsible for the AEO programme is the AEO Standard Division under the Customs Standard Procedures and Valuation Bureau.

*Law stated - 08 June 2022*

## Applicable countries

Where is information on countries subject to export controls listed?

Thailand has not published a list of countries that are subject to export controls. However, relevant domestic authorities handling export controls may issue administrative regulations restricting or prohibiting the export of certain products to specific countries. General information regarding restrictions and prohibitions is available on the DFT (<https://www.dft.go.th/th-th/dft-service-data-import-export/cid/80>).

*Law stated - 08 June 2022*

## Named persons and institutions

Does your jurisdiction have a scheme restricting or banning exports to named persons and institutions abroad? Give details.

No, Thailand does not have a scheme for restricting or banning exports to named persons and institutions abroad.

*Law stated - 08 June 2022*

## Penalties

What are the possible penalties for violation of export controls?

Under the Export and Import Act, penalties for violation of export controls include a term of imprisonment, a fine, or both. In the case of prohibited goods, the goods, including containers and vehicles used in the transport thereof, will also be confiscated.

**FINANCIAL AND OTHER SANCTIONS AND TRADE EMBARGOES****Government authorities****What government offices impose sanctions and embargoes?**

Pursuant to the United Nations Security Council (UNSC) Resolutions, the Thai cabinet imposes trade sanctions by passing cabinet resolutions. Consequently, all government offices must comply with the cabinet's decisions, and trade sanctions will be issued in the form of notifications from the Ministry of Commerce on prohibition or restriction on the export/import of goods.

Law stated - 08 June 2022

**Applicable countries****What countries are currently the subject of sanctions or embargoes by your country?**

The following countries are currently subject to Thailand's trade embargoes:

- the Republic of Sudan – as per UNSC Resolution 1556 (2004);
- the State of Libya – as per UNSC Resolution 2174 (2014);
- the Islamic Republic of Iran – as per UNSC Resolution 2231 (2015);
- the Republic of Yemen – as per UNSC Resolution 2216 (2015);
- the Islamic State of Iraq and the Levant and Al-Qaida group – as per UN Resolution 2199 (2015);
- the Central Africa Republic – as per UNSC Resolution 2262 (2016);
- Democratic People's Republic of Korea Arms Embargo – as per UNSC Resolutions 2321(2016);
- the Republic of South Sudan – as per UNSC Resolution 2428(2018);
- the Federal Republic of Somalia – as per UNSC Resolution 2444(2018); and
- the Democratic Republic of the Congo – as per UNSC Resolution 2424 (2018).

The list of sanctions and embargoes imposed by Thailand is posted on the DFT website (<https://www.dft.go.th/th-th/dft-service-data-intertrade-unesco/cid/1164>).

Law stated - 08 June 2022

**Specific individuals and companies****Are individuals or specific companies subject to financial sanctions?**

Individuals or specific companies can be subject to financial sanctions under Thai law. Pursuant to the Counter-Terrorism and Proliferation of Weapon of Mass Destruction Financing Act B.E. 2559 (2016), the Anti-money Laundering Office is authorised to impose financial sanctions against individuals or companies that are identified by the UNSC as being involved in terrorism. Additionally, Thai law also authorises the Anti-Money Laundering Office to adopt its own list of individuals or entities that it suspects are involved in terrorism, upon designation by the competent court, and to impose financial sanctions (eg, freezing of assets) against such individuals or entities.

The list of individuals or specific companies subject to financial sanctions by Thailand is provided on the Anti-money Laundering Office website (<https://www.amlo.go.th/dpl/>).

## OTHER RELEVANT ISSUES

### Other trade remedies and controls

Describe any trade remedy measures, import or export controls not covered above that are particular to your jurisdiction.

The legislation governing anti-circumvention (AC) investigations was introduced in 2019 to counteract specific trade practices aimed at circumventing anti-dumping (AD)/countervailing duties (CVD). In particular, the following specific forms of trade practices fall within the scope of Thai AC laws and are subject to AC investigations:

- slight modification;
- transshipment;
- channelling;
- completion; and
- assembly operations.

If, upon investigation, AC is found to have taken place, the Committee for Anti-dumping and Countervailing could also impose duty rates on the products subject to the AC measures at a rate different from those established in the original measures for that alleged exporter. However, such rates cannot exceed the highest rate for such exporting country (usually the 'All Others' rates) in the original measures. The Thai AC measures can only be applied to specific exporters that are found to have engaged in circumventing activities, rather than on a country-wide basis as used in AD or CVD investigations.

Law stated - 08 June 2022

## UPDATE AND TRENDS

### Recent developments

Are there any emerging trends or hot topics in trade and customs law and policy in your jurisdiction? What effects are Brexit, the withdrawal of the US from TPP and TTIP, RCEP and negotiations of FTAs (such as the EU–Japan Free Trade Agreement, the Pacific-Alliance, etc) expected to have on your jurisdiction?

### Public interest consideration in anti-dumping measures

Since 2021, the Thai government has paid greater attention to the implications of public interest considerations regarding the imposition of trade remedies measures. As the majority of trade remedies measures in Thailand revolve around steel and metal products, the global surge in steel prices since late 2021 has prompted the Department of Foreign Trade (DFT) and the Committee for Anti-dumping and Countervailing (the AD/CVD Committee) to pivot its application of trade remedy investigations to alleviate the impact on domestic users. In this regard, the determination of trade remedy investigations issued since 2021 have been subject to the application of public interest considerations pursuant to section 7 of the AD/CVD Act, whereby the AD/CVD Committee has suspended the application of anti-dumping (AD) measures for between six to 12 months.

Furthermore, since the beginning of 2022, the Russia–Ukraine crisis has created market uncertainty, especially in terms of steel product price and supply. Similarly, the situation has prompted the AD/CVD Committee and the DFT to adopt

measures to reduce the burden on the relevant downstream industries, including a suspension of collection of AD duties. The situation was reflected in the AD/CVD Committee notification issued in May 2022, which ordered a temporary suspension of the collection of AD duties on imports of tinplate and tin-free steel products from the subject countries.

In view of the above developments, future trade remedy investigations that are related to steel and metal products or involve downstream industries that are significantly impacted by the Russia–Ukraine crisis are likely to be subject to the same treatment until the pricing situation becomes more stable.

### **The effect of the inauguration of the RCEP Agreement**

The commitments under the Regional Comprehensive Economic Partnership Agreement (RCEP Agreement) have been applied in Thailand since 1 January 2022. To date, in terms of tariff reduction, there have so far been no significant effects from the preferential tariff regime provided by the RCEP Agreement. However, the concession schedule is still in its early stages and the RCEP's preferential tariff rates are still significantly higher than the preferential tariff rates provided by other trade agreements. Nonetheless, more prominent effects from the RCEP Agreement are anticipated in relation to the RCEP's rules of origin which enable more goods to have RCEP originating status, as a result of the extensive coverage of the agreement, which covers 15 countries in the Asia-Pacific region. In the long run when the preferential tariff rates have been fully reduced or eliminated, the RCEP Agreement is also expected to be a prominent agreement that provides attractive opportunities for trade among the RCEP members and will likely reshape supply chains in the Asia Pacific region.

*Law stated - 08 June 2022*

## Jurisdictions

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	<b>Colombia</b>	Araújo Ibarra International Trade Consultants SAS
	<b>Eurasia</b>	Dentons
	<b>European Union</b>	Fieldfisher
	<b>Japan</b>	Mori Hamada & Matsumoto
	<b>Jordan</b>	AL Armouti Lawyers & Consultants
	<b>Malaysia</b>	SKRINE
	<b>Mexico</b>	Galicia Abogados SC
	<b>Thailand</b>	Weerawong, Chinnavat & Partners Ltd
	<b>Turkey</b>	ACTECON
	<b>Ukraine</b>	Sergii Koziakov & Partners
	<b>United Kingdom</b>	Clifford Chance
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