

EU Deforestation Regulation: Relevant local laws in Thailand

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Under the European Union's new Regulation on Deforestation-free products, any operator or trader who places relevant products which were made from seven specific commodities (cattle, wood, cocoa, soy, palm oil, coffee or rubber) on the EU market, or exports from it, must conduct due diligence to ensure that (i) the relevant commodities and products are "deforestation-free" and (ii) have been produced in accordance with the relevant legislation of the country of production. As Thailand is a major producer of some of those commodities, local law compliance in the production of those commodities in Thailand constitutes an important part of the due diligence requirements under the Regulation, even though the Regulation itself is EU law. This newsletter highlights some of the potentially-relevant laws and regulations in Thailand for the operators and traders who have supply chains in the country.

1. Regulations regarding land use rights

Thailand is an agricultural country and a majority of the population is engaged in farming. Although land is the primary basis for agricultural production, farmers pay costly land rents and face disadvantages in land tenancy. As a result, the Thai government enacted the Agriculture Land Reform Act B.E. 2518 (1975) (as amended) (the "**Land Reform Act**") in order to reduce certain socioeconomic gaps.

In implementing the Land Reform Act, an Agricultural Land Reform Executive Committee (the "**Committee**") would have power to nominate Land Reform Areas,¹ the actual designation of which will be enacted by royal decree.² The criteria considered in such process are, for example, presence within the boundaries of a district that has a large number of landless farmers or land holdings beneath a certain size that are insufficient to cover the farmer's cost of living, etc.³

Land Reform Areas could be existing public areas for common use by people, public areas exclusively serving the State interest, public areas considered "wasteland," or private individually-owned pieces of land.⁴ In cases where Land Reform Areas were previously owned by private individuals, the Agricultural Land Reform Office (the "ALRO") shall have the power to purchase or expropriate such land.⁵ In that case, the ownership of the Land Reform Area belongs to the ALRO. The ALRO shall have the power to allocate all land or immovable

¹ Section 19(2) of the Land Reform Act

² Section 25 of the Land Reform Act

³ Section 25, paragraph 3 of the Land Reform Act

⁴ Section 26 of the Land Reform Act

⁵ Section 29 of the Land Reform Act

properties it acquires to farmers or agricultural institutions in accordance with the rules, procedures, and conditions prescribed by the Committee.⁶ The allocation of land can be completed for the following holding sizes:⁷

- (1) An area not more than 50 Rai⁸ for a farmer and persons in the same family engaged in any type of agriculture besides raising large animals;
- (2) An area not more than 100 Rai for a farmer and persons in the same family engaged in raising large animals, as prescribed by the Minister of Agriculture and Cooperatives; or
- (3) An area that the Committee deems expedient for an agricultural institution to own, given the type and functions of such institution.

However, if the Committee prohibits the transfer of land rights on the allotted land, such land shall be leased to the farmers. In other cases, land shall be leased or sold on a hire-purchase basis to the farmers upon their request. If land allocation is for an agricultural institution, such land shall be leased to the agricultural institution.⁹

Farmers who have been allotted a plot of land for agricultural purposes would be given a land certificate issued by the ALRO called an “Sor. Por. Gor. 4-01.” The owner of the Sor. Por. Gor. 4-01 would have the right to utilize the land for agricultural purposes. However, such farmers would not have ownership of the allotted plot of land. Additionally, the farmers are not allowed to sell or use the allotted plot of land as collateral.

However, in 2024, the ALRO approved a regulation permitting the Sor. Por. Gor. 4-01 to be changed to a land title deed for agricultural purposes under certain conditions; for example, the land must be used only for agricultural purposes, or the farmers must possess and have been cultivating the allotted plot of land for no less than five years. The change from Sor. Por. Gor. 4-01 to title deed for agricultural purposes would be beneficial to the farmers since it will allow the farmers to sell the right to utilize the allotted land to other qualified farmers. Furthermore, the farmers can utilize the land title deed for agricultural purposes as collateral.¹⁰ The Minister of Agriculture and Cooperatives is confident that all Sor. Por. Gor. 4-01 will be changed to land title deeds for agricultural purposes and will be distributed to the farmers within five years.

2. Regulations regarding forests

In Thailand, the main regulation in relation to forest protection is the Forest Act B.E. 2484 (1941) (as amended) (the “**Forest Act**”). In general, the Forest Act restricts the harming of Timber or Forest Products and controls what qualifies as “restricted timber/product,” which cannot be logged, drilled, chopped, burned, or damaged unless the person desiring to do so has been granted permission or a concession.¹¹ In addition, any person who intends to collect or harm a restricted Forest Product shall be required to obtain permission and pay a royalty.¹²

⁶ Section 30 of the Land Reform Act

⁷ Section 30 of the Land Reform Act


⁸ 1 Rai equals 0.16 hectares.

⁹ Section 30, paragraph 2 of the Land Reform Act

¹⁰ The Thai government news accessed on March 18, 2024: <https://www.thaigov.go.th/news/contents/details/73285>

¹¹ Section 11 of the Forest Act

¹² Section 29 of the Forest Act



In addition to the Forest Act, there are also (i) the National Reserved Forest Act B.E. 2507 (1964) (as amended) (the “**Reserved Forest Act**”), and (ii) the Community Forest Act B.E. 2562 (2019) (as amended) (the “**Community Forest Act**”) that prescribe relevant provisions concerning the protection of forests and are within the scope of the EU Deforestation Regulation.

The Reserved Forest Act was promulgated to respond to threats of destruction or causes of destruction or loss or damage to natural resources in the National Reserved Forests.¹³ Therefore, it is expedient for those intending to access such resources to determine measures for their protection, harm-prevention and maintenance and those in charge of oversight to prescribe systematic management of such resources for the public benefit. These process should involve the establishment of relevant committees to determine necessary measures for supervision and promotion of afforestation and rehabilitation of the National Reserved Forests, and to recommend measures and guidelines for their utilization.

The Community Forest Act was promulgated to promote and support communities in cooperating with the government for the conservation, rehabilitation, management, maintenance, and utilization of natural resources , environment, and biodiversity in a balanced and sustainable manner. In doing so, communities can manage and gain advantages from community forests, resulting in complete and sustainable maintenance of the country’s natural resources, environment and biodiversity. Under the Community Forest Act, community forest areas may be established to promote: (i) conservation of natural resources, the environment, and biodiversity; (ii) rehabilitation of community forests through reforestation; (iii) collaboration among every sector in managing community forests; (iv) the diversity of community culture for conservation, rehabilitation, development, monitoring, and natural resource usage within community forests; and (v) balanced and sustainable use of natural resources in community forests.

3. Regulations regarding labor rights

Section 22 of the Labor Protection Act B.E. 2541 (1998) (as amended) (the “**Labor Protection Act**”) prescribes that agriculture, sea fishing, loading, or unloading of marine cargoes, homework, transport work and other work as provided in the Royal Decree may be prescribed in the Ministerial Regulations for specific protection of labor differently from that of general labor protections.

Regarding agriculture/forestry works, the Labor Minister issued a Ministerial Regulation Regarding the Labor Protection of Employee in Agricultural Work B.E. 2557 (2014) (the “**Ministerial Regulation**”), which has been enacted.

Apart from the above, generally, labor protection provisions for employees under the Labor Protection Act are applied.

4. Regulations regarding indigenous peoples’ rights

In 2023, there were five draft laws on the promotion and protection of the rights of indigenous peoples and

¹³ The National Reserved Forest area is to be determined by the cabinet in accordance with Section 6 of the Reserved Forest Act.

ethnic groups that have been submitted to the Thai Parliament for consideration, including draft laws on (1) the Council of Indigenous Peoples in Thailand, (2) the Promotion and Protection of Ethnic Groups, (3) the Protection and Promotion of Ethnic Groups' Livelihoods, (4) Promotion and Protection of Ethnic Groups submitted by the Forward Political Party, and (5) the Protection and Promotion of the Livelihoods of Ethnic Groups and Indigenous Peoples submitted by the People's Movement for a Just Society ("**P-Move**").

In relation to Free, Prior and Informed Consent ("**FPIC**"), the draft law submitted by P-Move grants protection of the rights of Ethnic Groups and Indigenous Peoples, including, the rights to culture and education, rights to land and natural resources, rights to self-determination, rights to equality and freedom from discrimination, rights to participate, and rights to access the facility. This draft law is intended to provide rights to the Ethnic Groups and Indigenous Peoples to be consulted and cooperated with by the government in good faith through their representative institution in order to obtain their FPIC before adopting and implementing legislative or administrative measures that may affect them. The provided rights are derived and adjusted from the UN Declaration on the Rights of Indigenous Peoples.

Currently, the five draft laws mentioned above are subject to Thai Parliament consideration processes.

5. Regulations regarding trade and customs

The main regulation for trade and customs in Thailand is the Export and Import of Goods Act, B.E. 2522 (1979) (as amended) (the "**Export and Import Act**"). Set out below is a table providing examples of the restrictions/specifications under the Export and Import Act for each of the commodities covered by the EU Deforestation Regulation.

Commodity	Restrictions / Specifications
Coffee	<ul style="list-style-type: none"> Importation and exportation of coffee beans are subject to specific qualification pursuant to the WTO agreement and other free trade agreements.¹⁴
Soy	<ul style="list-style-type: none"> Soybean meal is subject to an import surcharge.¹⁵ Importation and exportation of soybeans are subject to specific qualification pursuant to the WTO agreement and other free trade agreements.¹⁶
Wood	<ul style="list-style-type: none"> Certain types of logs, processed wood, wooden products are prohibited for import or export.¹⁷ Importation and exportation of certain types of logs, processed wood, wooden products require prior certification/notification.¹⁸

¹⁴ Pursuant to (i) the Royal Decree Controlling the Importation of Goods into the Kingdom of Thailand B.E. 2496 (1926) dated 14 November 1926, and (ii) the Ministry of Commerce's Notification Regarding the Importation of Goods into the Kingdom of Thailand B.E. 2525 (1982) dated 6 December 1982.

¹⁵ Pursuant to the Ministry of Commerce's Notification Regarding the Determination of Special Import Duty Rates for Imported Corn, Powdered Fish, and Soybean Meal (No. 19) B.E.2540 (1997) dated 29 December 1997.

¹⁶ Pursuant to the Ministry of Commerce's Notification Regarding the Importation of Goods into the Kingdom of Thailand (No. 68) B.E. 2532 (1989) dated 25 October 1989.

¹⁷ Pursuant to the Ministry of Commerce's Notification Regarding the Designation of Logs, Processed Wood, and Wooden Products as Goods that are Prohibited or Require Certification for Importation into the Kingdom of Thailand, dated 28 April 2023.

¹⁸ Ibid.



In addition to the Export and Import Act, there are regulations also relating to trade and activities involving certain commodities covered by the European Union's Deforestation Regulation. For example, regarding Rubber, under the Rubber Control Act B.E. 2542 (1999) (as amended) (the "**Rubber Control Act**"), rubber traders must obtain a license from the Director General of the Department of Agriculture.¹⁹ In the case of imported and exported rubber, traders also are required to obtain a license from the Director General of the Department of Agriculture, except for imported and exported rubber to be used as samples and where the weight of such rubber does not exceed five kilograms.²⁰ In addition, the importer or exporter must obtain a customs declaration from a competent official and import or export the rubber through the customs checkpoint specified in the customs declaration.²¹

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¹⁹ Section 22 of the Rubber Control Act

²⁰ Section 26 of the Rubber Control Act

²¹ Section 27 of the Rubber Control Act