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Criminal Provisions

“Thailand has adopted a firm policy in condemning terrorism in all its forms and manifestations. An amendment to the Penal Code (Section 135/1-3) has been proposed which would define the scope of terrorism, would treat terrorist acts as serious offences, and criminalize all steps in the terrorism process: the preparation, the aiding and abetting, and the actual commission of acts of terrorism. Proposed Penal Code, Section 135/1 defines terrorist acts as conduct made with the intention to “intimidate a population, to threaten or compel the Royal Thai Government or any government or international organization to do or abstain from doing any act. Proposed Penal Code, Section 135/2 provides that “any person providing forces, arms, properties or any support for the commission of terrorism is considered to be committing an act of terrorism.” Proposed Penal Code, Section 135/3 criminalizes “stockpiling weapons, providing or compiling property, or organizing any preparation or conspiracy in order to commit a terrorist act.” The proposed amendment to the Penal Code also “stipulates severe punishment on recruitment of members of terrorist groups. . . either in the form of direct support or facilitation of the commission of terrorist acts.”

Under the proposed amendment, penalties for commission of terrorist acts would range from fines of 200,000 to 1,000,000 Baht and sentences of 3-20 years, life sentences, or even death sentences for very serious offences. Also, “any person who threatens to commit such an offence or is an accomplice thereto would receive the same punishment as the perpetrator of the crime of terrorism.” Attempts to commit terrorist acts are subject to lesser punishment, ranging from fines of 60,000 to 300,000 Baht to 3-5 years imprisonment.

The Penal Code contains provisions providing Thai Courts with jurisdiction over persons who commit acts within the Kingdom or target the Kingdom or its citizens. A person may be punished under Thai law, regardless of their nationality, if they commit an offense within the Kingdom of Thailand, under Section 4 of the Penal Code. Even if the offense was only partially committed within the country, Section 5 treats these offenses as having been committed within the Kingdom. Per Section 8 of the Penal Code, offenses committed outside of Thailand may be tried in Thai courts if (1) the offender is a Thai person and a request for punishment has been made by the Government of the country where the act occurred, *or* (2) the offender is an alien and the Royal Thai Government or a Thai person is the injured party, and there is a request for punishment by the injured person.

Counter-Terrorism Authority

Thailand established the Policy on Counter International Terrorism in 1993, to provide “a broad framework and policy guidelines for counter-terrorism measures” within the Thai government. Under this Policy, the Committee of Counter International Terrorism (COCIT) was established to serve as Thailand’s primary body in charge of directing and coordinating policy and strategy on international terrorism. At an operational level, the Policy also established the Counter International Terrorist Operations Centre (CITOC), which operates as a special agency attached to the Supreme Command Headquarters. In the event of an emergency, the CITOC is capable of operating as an independent body, taking orders from and reporting to the Prime Minister. The Directive Committee on the Prevention and Solution of Transnational Crime was established in 2001, “to provide police guidelines and a venue for coordination among agencies concerned on the matters relating to transnational crime, with the aim of preventing and solving the problem in more holistic manner.”

Preventing Terrorists From Obtaining Weapons

The proposed amendment to the Penal Code Sections 135/1-3 will also criminalize the act of supplying weapons to terrorists, either in the form of direct support or facilitation of the commission of terrorist acts.

Domestic manufacture, sale, possession and disposition of weapons is governed by: (1) the Munitions of War Control Act of 1947, and (2) the Firearms, Ammunition, Explosive Articles and Fireworks and Imitation of Firearms Act 1947. The Munitions of War Control Act of 1947 “prohibits a person from importing, procuring, bringing in, manufacturing, or possessing weapons except with permission of the Permanent Secretary of the Department of Defense.” The Act also prohibits giving weapons to individuals who may cause any violence to the public peace. The Firearms, Ammunition, Explosive Articles and Fireworks and Imitation of Firearms Act 1947 requires individuals who wish to manufacture, purchase, possess, use or import guns, bullets or explosives to seek permission from the register. Export of weapons and explosives are also further regulated by the Act on Export Control of Armaments and Materials of 1952 and the Decree on the Export Control of Armaments and Materials of 1992. Individuals seeking to export or transship weapons or explosives are required to seek permission from the Minister of Defense, and subject to certain conditions.

Laws Pertaining To Biology

The Hazardous Substances Control Act, B.E. 2535 (1992) defines hazardous substances including ‘toxic substances’, ‘mutant causing substances’, ‘substances causing diseases’ and ‘other substance either chemicals or otherwise which may cause injury to the persons, animals, plants, property, or environments’. It also outlines the punishment for violating the act, an imprisonment not exceeding one year or by a fine only. Related legislation includes: The Pathogens and Toxins Act, B.E. 2525; The Export and Import Act (1979); Plant Quarantine Act, B.E. 2507 (C.E); and The Pathogen Control Act , 1956.

Various sets of guidelines regulate biotechnology. The Thai Draft Guidelines on Contained Uses of Genetically Modified Organisms apply to any experiment carried out in laboratories of government, state enterprises, private organizations, or companies involved in the construction and/or propagation of viroids, viruses, cells or organisms of novel genotypes produced by genetic manipulation which are either unlikely to occur in nature or likely to pose a hazard to public health or to the environment. If an investigator is uncertain if the work he/she is proposing to do falls within the scope of these Guidelines, a description of the proposed work should be submitted to the Institutional Biosafety Committee (IBC) for written clarification before work commences. If there is no IBC in the firm or institution, a description of the work proposed should be sent to the National Biosafety Committee (NBC).

Thailand also has in place Biosafety Guidelines in Genetic Engineering and Biotechnology for Laboratory Work and Biosafety Guidelines in Genetic Engineering and Biotechnology for Field Work and Planned Release.

Preventing, Suppressing and Criminalizing the Financing of Terrorism

In 2001, Thailand signed the International Convention for the Suppression of the Financing of Terrorism. Thailand is in the process of ratifying this Convention. The Money Laundering Act requires financial institutions, government units under the Department of lands, and traders engaging in business relating to investment or mobilization of capital to report suspicious transactions to the Anti-Money Laundering Office. The penalty for non-compliance with this requirement is a fine of up to 300,000 Baht. Thai law does not provide a legal basis for freezing funds or financial resources of persons or entities suspected of committing or facilitating the commission of terrorist acts. An amendment has been proposed to

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Section 3 of the Money Laundering Act that would help to correct these deficiencies and bring Thai law into compliance with the International Convention. The amendment to the Money Laundering Act would empower the Anti-Money Laundering Office to freeze any funding relating to a terrorist act.

International Cooperation

Following the September 2001 terrorist attacks in the United States, Thai intelligence agencies have made information sharing and networking with their foreign counterparts a high priority. Under Section 4 of the National Intelligence Act of 1985, the National Intelligence Agency “is entrusted with coordinating intelligence and counter-intelligence matters with foreign countries, which include those relating to terrorism.” Thailand also has domestic legislation and bilateral treaties in place to improve cooperation between countries relating to mutual assistance in criminal matters, as well as extradition of criminals. “The Mutual Assistance in Criminal Matters Act (1992) forms a broad basis for cooperation with other countries in criminal matters; i.e. taking testimony and statements of persons; providing documents, records, and evidence for prosecution and search and forfeiture of properties.” The Mutual Assistance in Criminal Matters Act is also supplemented by several bilateral treaties.

The Extradition Act of 1929 allows for extradition of criminals in absence of a treaty on the subject. Under the Act, the Royal Thai Government may at its discretion surrender to foreign States persons accused or convicted of crimes committed within the jurisdiction of such States, “provided that under the laws of Thailand the crimes are punishable with imprisonment for no less than one year.” Historically, Thailand has extradited persons to countries with which Thailand does not have an extradition treaty on the basis of reciprocity.

Thailand is making efforts to become a party to all international conventions on terrorism. So far, Thailand is already party to 4 international conventions; the Cabinet has decided, at least in principle, to become a party to 11 other international conventions on terrorism, “pending the necessary amendments of domestic laws to enable full compliance with each convention.” To improve this process, in 2002 the Thai Cabinet established the Committee on Considering Thailand becoming a Party to International Conventions and Protocols relating to Terrorism. The Committee bears the responsibility of determining what new or amended legislation is necessary for Thailand to implement the remaining treaties. The Committee is also responsible for “considering and preparing Thailand’s position in the conference on drafting the international conventions relating to terrorism.” The Thai Constitution requires that “before becoming a party to any international agreement, the authority concerned has to ascertain that domestic laws are adequate for the purpose of the full implementation of such an agreement.”

At a regional level, Thailand is a member of ASEAN and the Asia-Pacific Group on money laundering, and is considering acceding to a trilateral agreement on information exchange. ASEAN has been developing an improved framework for handling terrorism. In May 2002, the terrorism component of the Work Programme to Implement the ASEAN Plan of Action to Combat Transnational Crime was adopted at the Special ASEAN Ministerial Meeting held in Kuala Lumpur. Thailand is member of the Asia-Pacific Group on Money Laundering and is actively “involved in operation and coordination efforts of the EGMONT Group.” The Thai Government has expressed its willingness to accede to the Trilateral Agreement on Information Exchange and Establishment of Communication Procedures Between Indonesia, Malaysia, and the Philippines (signed May 2002). And finally, Thailand and Australia have recently concluded a final draft of the Memorandum of Understanding on Cooperation to Combat International Terrorism. “The MOU covers a broad spectrum of cooperation, ranging from information and intelligence sharing, to suppression of people smuggling and to defence cooperation.

BIBLIOGRAPHY OF THAI LEGISLATION

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1. Penal Code, Sections 135/1-3 (proposed amendment).
2. Penal Code, Section 4 (jurisdiction over offenses occurring within Thailand).
3. Penal Code, Section 5 (jurisdiction over offenses occurring partially within Thailand).
4. Penal Code, Section 8 (jurisdiction over offenses occurring outside of Thailand).
5. Penal Code, Sections 341 & 343 (cheating and fraud).

Preventing Terrorists From Obtaining Weapons

1. Penal Code, Sections 135/1-3 (proposed amendment)

Counter Terrorism Authorities

1. National Intelligence Act of 1985.
2. Policy on Counter International Terrorism (1993).

Laws Pertaining To Biology

1. The Toxic Substances Control Acts ,1992
2. Pathogens and Toxins Act, B.E. 2525 (C.E.), 1982
3. The Export and Import Act (1979)
4. Plant Quarantine Act, B.E. 2507 (C.E), 1964
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6. Thai Draft Guidelines on Contained Uses of Genetically Modified Organisms
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8. Biosafety Guidelines in Genetic Engineering and Biotechnology for Field Work and Planned Release
9. Biosafety Guidelines in Genetic Engineering and Biotechnology for Laboratory Work
10. Fertilizers Act B.E. 2518 (A.D. 1975)
11. Drugs Act B.E. 2510 (A.D. 1967)
12. Control of Fuel Oil Act B.E. 2542 (A.D. 1999)
13. Consumer Protection Act B.E. 2522 (A.D. 1979)

Preventing, Suppressing and Criminalizing the Financing of Terrorism

1. Money Laundering Act, Section 3 (proposed amendment)..

International Cooperation

1. Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963).
2. Convention on the Suppression of Unlawful Seizure of Aircraft (1970).
3. Convention on the Suppression of Unlawful Acts Against the Safety of Civil Aviation (1971).
4. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (1988).
5. Mutual Assistance in Criminal Matters Act (1992).
6. Memorandum of Understanding on Cooperation to Combat International Terrorism between Thailand and Australia (2002).