



DISPUTE SETTLEMENT SYSTEM & STRATEGY IN THAILAND

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Brief Background on Thailand's Legal System

- English common law
- Converted to the civil law in 1923
- Court precedents are persuasive, but not legally binding
- Accusatory (adversarial) system of justice
 - not inquisitional (non-adversarial) system
- Burden of proof lies on the party
- Bench trial (no jury trial)
- Judges limit themselves as a referee.



Arbitration

- Arbitral award is recognized and enforceable in Thailand.
- Thai Court will recognize enforce and an arbitral award.
- Thai Court tends to enforce an arbitral award without getting into details on whether the arbitrators reach a fair award or not.
- Thailand is a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.



Arbitration

- Statutory limitation on time for enforcing an arbitral award in Thailand is 3 years.
- It is unclear whether a Thai Court will recognize and enforce a foreign court decision or not.
- Arbitration clause is recommended for an international contract.
- Arbitration in any jurisdiction outside Thailand.
- Thai Court tends to enforce an arbitral award.



Arbitration

- But a losing party may request the Court to reject the enforcement of the arbitral award
 1. Party's incapacity
 2. Arbitration clause is invalid under the governing law.
 3. No proper notice of appointment of arbitrators or arbitration proceeding.
 4. Arbitral award exceeds the scope of the contract subject to the arbitration.



Arbitration

5. The composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the party or was not in accordance with the governing law.
6. The award has not yet become binding on the parties, or has been set aside or suspended by the Court with the jurisdiction or under the law of the place the award is made.
7. The enforcement of the award is against the public order or the good morale of the people .



Arbitration Bodies in Thailand

- International Chamber of Commerce (ICC)
 - Administered by a Board of Trade, Thailand



- Thai Arbitration Institute, Office of Judiciary of Thailand (Government)
- Thai Commercial Arbitration Office, Board of Trade
- AdHoc Arbitration is unpopular.
 - United Nations Commission on International Trade Law (UNCITRAL)



International Trade

Arbitration



**Central Intellectual Property
and International Trade Court**



Supreme Court



Other Commercial Dispute

Arbitration



Court of First Instance



Supreme Court



Dispute with Thai Government Agencies

Arbitration



Central Administrative Court



**Supreme
Administrative Court**



Fee Comparison

	Arbitration	Court
Cost	Higher ICC	2% up to Baht 200,000 and 0.1% of the dispute amount in excess of Baht 50 Million
Speed	Subject to lengthy delays	The judge will not tolerate lengthy delay



Thank You for Your Attention