

# Integrated approaches for the fight against drug trafficking in Thailand

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# Thai laws dealing with narcotic drugs

include:

- Narcotic Drugs Act B.E. 2522 (1979) – ONCB as the implementing agency
- Act on Measures of the Suppression of Offenders in an Offence relating to Narcotics B.E. 2534 (1991) – ONCB as the implementing agency
- Act on Prevention and Suppression of Money Laundering B.E. 2542 (1999) – AMLO as the implementing agency
- Act on Prevention and Suppression of the Participation of Transnational Organized Crime<sup>2</sup>

- Act on Mutual Legal Assistance in Criminal Matters B.E. 2535 (1992) and its first amendment B.E. 2559 (2016) – Attorney General as the Central Authority
- Extradition Act B.E. 2551 (2008) – Attorney General as the Central Authority

# Narcotic Drugs Act B.E. 2522 (1979)

- The main legislation - criminalizing narcotic drug offences
- Drug trafficking offence carries life imprisonment and a fine of one million up to five million baht.



# Act on Measures for the Suppression of Offenders in an Offence relating to Narcotics B.E.

**2534 (1991)**

- Thailand is a party to the UN Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances 1988
- The Act on Measures of the Suppression of Offenders in an Offence relating to Narcotics B.E. 2534 (1991) was enacted to implement the UN Convention 1988
- It adopted a number of measures initially introduced in the UN Convention 1988, including:
  - the principle of conspiracy
  - control delivery
  - extraterritorial principle

- freeze, seizure and confiscation of the money or any assets related to the drug offence
- Asset Examination Committee considers the freeze and seizure of the 'money or assets allegedly related to the drug offence'
- Along with a prosecution order, the prosecutor will ask the court to confiscate the money or assets mentioned above
- Burden of Proof falls into those who argue otherwise

# The Act on Prevention and Suppression of Money Laundering B.E. 2542 (1999)



- Drug-related offences under the Laws on Prevention and Suppression of Narcotic Drugs and the Laws on Measures of the Suppression of Offenders in an Offence relating to Narcotics B.E. 2534 (1991) are considered 'predicate offences'

# **Current situation: many crimes turn transnational**

Various kinds of transnational crimes at present:

- Drug Trafficking
  - Human Trafficking
  - Arms Smuggling
  - People's Smuggling
  - Wildlife Trafficking
  - Economic Crimes
  - Computer Crimes
- etc.

# **Act on Prevention and Suppression of the Participation of Transnational Organized Crime B.E. 2556 (2013)**

- Thailand is a party to the UN Convention against Transnational Organized Crime
- The country enacted the Act on Prevention and Suppression of the Participation of Transnational Organized Crime B.E. 2556 (2013) to implement the UN Convention
- The Thai TOC Act adopted a variety of measures initially introduced by the UN Convention, including:
  - extraterritorial principle
  - conspiracy

- special access to relevant information
- undercover operations
- special forms of surveillance
- controlled delivery
- incentive for cooperation
- criminalization of obstruct



# Mutual Legal Assistance in Criminal Matters

## Relevant Laws and Regulations:

- Treaties
- The Act on Mutual Assistance in Criminal Matters B.E. 2535 (1992)
- The Act on Mutual Assistance in Criminal Matters (Amendment)| B.E. 2559 (2016)
- Regulation of the Central Authority on Providing and Seeking Assistance under the Act on Mutual Assistance in Criminal Matters B.E. 2535

# Types of Assistance

- Inquiry and Producing Documents
- Provision of Documents and Information in the Possession of Government Agencies
- Serving Documents
- Search, Freezing and Seizure
- Transfer of Persons in Custody for Testimonial Purposes
- Locating Persons
- Initiating Proceedings upon Request
- Forfeiture of Property

# Channels for Seeking Assistance from Thailand

- A request to the "Central Authority" - where there is a treaty (bilateral/multilateral) between the Requesting State and Thailand.

**Note:** *The Thai Central Authority is the Attorney General or his designated person.*

- A request through the diplomatic channel – where there is no treaty (with a commitment of "reciprocity").

# Extradition

## Relevant Laws:

- Treaties
- Extradition Act B.E. 2551 (2008)

# Channels for Seeking Extradition from Thailand

- **A request to Central Authority** - where there is a treaty between the Requesting State and Thailand.

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(Section 8)

# Case studies

## 1. Drug-related money laundering case

- T and many accomplices jointly disposed methamphetamine with different roles.
- The first group imported the narcotics from neighbor countries and hid it, waiting for the right time to dispose.
- The second group contacted the buyers before delivering the narcotics
- The third group took care of the payments.
- The payments were made to various accounts, then the money would be transferred into other accounts.

## **Lesson learned – loss in a number of cases, due to:**

- Lack of evidence to prove that the account holders had connection with T.
- Lack of evidence to prove that the account holders knew that the money transferred into the accounts had been derived from narcotics disposal
- Lack of the evidence to prove the link of the money transferred from transactions were the money involved with narcotics disposal as to when and how much

## 2. Drug-related transnational organized crime and money laundering

- J and accomplices conspired to sell marijuana in the country N.
- The money derived from the sale was transferred into the accounts in Thailand
- Thai prosecutor indicted J and accomplices on the charge of money laundering.
- Prosecutor in country N indicted J and accomplices on the charge of narcotics disposal and transnational organized crime

# Challenges:

- Defendants hired 4 lawyers who took 3 days for cross-examining the prosecutor's witnesses.
- Defendants argued that the marijuana was sold in country N at the amount of less than 500 grams, which was not an offence in that country. So, Thailand had no jurisdiction over the case.



### **3. Drug-related transnational organized crime**

- X who is a non-Thai citizen cooperated with many Thai citizens to smuggle narcotic drugs from a neighbor country of Thailand
- Then they brought it along the border to another Thailand's neighbor country and waited for the right time.
- When the time was right, they smuggled the drugs into Thailand and disposed it to many parts of Thailand, including the south.

- X and some accomplices were arrested on the charge of smuggling the narcotic drugs into the kingdom and disposal of the drugs.
- The investigation has found the connection of many people in this drug trafficking ring, including a movie star's husband.



# Challenges:

- How far can the investigation go to bring all those involved with the crime to justice?
- Will all the money and assets derived from the crime be confiscated?
- Will there be a charge of transnational organized crime in this case ?

# Q&A