

PANORAMIC

MINING

Thailand



LEXOLOGY

Mining

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MINING INDUSTRY

Standing

What is the nature and importance of the mining industry in your country?

Thailand was formerly a major producer of tin, but it now produces mainly industrial minerals, including limestone, granite, basalt, lignite, dolomite, rock salt, potash, feldspar and glass sand. Key products include tin metal and gypsum. Mining operations in Thailand have remained relatively stagnant and the number of mines has declined, partly due to environmental concerns and increased regulation of mining operations.

Law stated - 4 April 2025

Target minerals

What are the target minerals?

Based on the latest information provided on the Department of Primary Industries and Mines' website, of the 34 minerals produced in Thailand in 2023, the most-produced target minerals were industrial minerals, including limestone, lignite, gypsum, rock salt and granite. According to Columbia University's Critical Minerals Monitor, in 2022, Thailand was a net importer of critical minerals, with an overall import value of US\$513 million of raw materials and US\$8.4 billion of processed materials, while overall export value was recorded at US\$210 million for raw materials and US\$1.6 billion for processed materials. Thailand's top exports commodities include rare earth-metals (US\$2.2 billion), silicones in primary forms (\$311 million), aluminium alloys unwrought (US\$290 million), copper articles (US\$200 million), mineral substances (US\$85 million), molybdenum ores and concentrates (US\$83 million), and iron ores and concentrates (US\$13 million). China and Japan are Thailand's top mineral trade partners for processed materials.

Regarding technology-related commodities, Thailand is a producer of multiple components of solar technology such as cell and glass. It also produces towers for wind technology.

Thailand's major coal power producer, Banpu Public Company Limited, is diversifying away from coal towards renewable power investment, carbon capture storage and utilisation, Battery Energy Storage Systems, and Intelligent Mining (implementing AI in its mining operations); Banpu aims to reduce its coal-related earnings to less than 50 per cent of its consolidated EBITDA by 2030, targeting net zero by 2050.

Thailand has minimal resources for nuclear technology, with limited radioactive elements to fuel nuclear power. The Thai Government signed an agreement on 14 January 2025 with the US government pursuant to section 123 of the United States Atomic Energy Act, which aims to facilitate the importation of nuclear technology and materials from the United States into Thailand.

Law stated - 4 April 2025

Regions

Which regions are most active?

Exploration and mining activity occur in all regions., with the largest mining production operations in central Thailand. There have also been developments in mining for construction purposes in the eastern region, as part of the attempt to promote the Eastern Economic Corridor project, which aims to focus on infrastructure development.

Law stated - 4 April 2025

LEGAL AND REGULATORY STRUCTURE

Basis of legal system

Is the legal system civil or common law-based?

Thailand's legal system is civil law-based.

Law stated - 4 April 2025

Regulation

How is the mining industry regulated?

The mining industry is regulated by the Ministry of Industry (MOI) and the Department of Primary Industries and Mines (DPIM) at the central level and by the local mineral industry officials at the provincial level. However, several government agencies have regulatory powers over various aspects of mining projects. The mining industry is regulated by the Minerals Act, BE 2560 (2017) (Minerals Act) and its subordinate regulations. Terms in mining concessions are set out in a template prescribed by a subordinate regulation.

Law stated - 4 April 2025

Regulation

What are the principal laws that regulate the mining industry? What are the principal regulatory bodies that administer those laws? Were there any major amendments in the past year?

The Minerals Act, BE 2560 (2017) (Minerals Act) and its subordinate regulations are the principal laws that regulate the mining industry and place significant obligations on mining businesses. These regulations are complemented by several other key laws that address various aspects of mining operations, such as environmental protection, labour rights and safety standards.

The Constitution of the Kingdom of Thailand BE 2560 (2017) sets out the fundamental governance principles related to citizens' rights and state responsibilities, while the Enhancement and Conservation of National Environmental Quality Act BE 2535 (1992) establishes environmental standards, covering key areas such as air quality, and water, noise, and soil quality, among others, ensuring that mining activities are conducted in a manner that minimises environmental impact.

Other key legislation includes the Labor Protection Act BE 2542 (1999), which safeguards worker rights and conditions within the mining sector, and the Occupational Safety, Health, and Environment Act BE 2541 (1998), which mandates safety protocols for workers in high-risk environments. The Hazardous Substance Act BE 2554 (2011) governs the management of hazardous materials, while the Arms Control Act BE 2535 (1992) and Firearms, Ammunition Explosives Act BE 2490 (1947) regulate the use of explosives in mining activities.

These laws collectively ensure comprehensive oversight of the mining sector, focusing on labour, safety and environmental protection. The DPIM is responsible for implementing and enforcing the Minerals Act, while the MOI is charged with the administration thereof. Both are empowered to issue subordinate regulations governing the industry.

Three committees were established under the Minerals Act:

- the National Minerals Administrative Policy Board is mainly responsible for proposing national strategies and plans for minerals management, including monitoring the implementation process;
- the Minerals Committee is charged with advising ministers on the issuance of subordinate regulations, bidding and licence-related matters in relation to Categories 2 and 3 mining leases, and considering complaints and providing assessments of the health and environmental impact of mining activities; and
- the Provincial Minerals Committee is responsible for a wide range of issues related to Category 1 mining leases.

Law stated - 4 April 2025

Classification system

What classification system does the mining industry use for reporting mineral resources and mineral reserves?

There is no legal classification system for reporting mineral resources and mineral reserves. In practice, the DPIM will classify the ore reserves based on reserves in mining lease areas and areas of mineral potential.

Law stated - 4 April 2025

MINING RIGHTS AND TITLE

State control over mining rights

To what extent does the state control mining rights in your jurisdiction? Can those rights be granted to private parties and to what extent will they have title to minerals in the ground? Are there large areas where the mining rights are held privately or which belong to the owner of the surface rights? Is there a separate legal regime or process for third parties to obtain mining rights in those areas?

Mining

Mining rights are granted by the Ministry of Industry (MOI) under the Minerals Act, BE 2560 (2017) (Minerals Act) through the issuance of a mining lease, the maximum duration of which is 30 years. Minerals belong to the state and mining leases do not grant title to minerals in the ground. The mining leaseholder can only sell minerals specified in the mining lease. Other minerals acquired incidentally may be sold upon receiving a licence or special permission from the Department of Primary Industries and Mines (DPIM). Mining leases are classified into three categories (ie, Mining Category 1, Category 2 and Category 3) depending on the size of the mining area, location and the type of mining involved.

Prospecting

Prospecting rights are granted through the issuance of: (1) a general prospecting licence (GPL), valid for one year; (2) an exclusive prospecting licence (EPL), valid for up to two years for an area of not more than 2,500 rai (approximately 980 acres); and (3) a special prospecting licence (SPL), valid for up to five years for an area of not more than 10,000 rai (approximately 3,900 acres) onshore and 500,000 rai (approximately 197,600 acres) offshore. All three licences are non-exclusive, non-renewable and non-transferable.

Law stated - 4 April 2025

Publicly available information and data

What information and data are publicly available to private parties that wish to engage in exploration and other mining activities? Is there an agency, or securities commission regulating public companies, which collects mineral assessment reports from private parties? Must private parties file mineral assessment reports? Does the agency or the government conduct geoscience surveys, which become part of the database? Is the database available online?

Mining laws and regulations, information regarding the number of mines according to the types of minerals, numbers of licence holders and applicants for licences, and mineral assessment statistics are publicly available via the DPIM website. The DPIM prepares mineral assessments by collecting mineral assessment reports submitted by licence holders. The DPIM database is available online.

Law stated - 4 April 2025

Acquisition of rights by private parties

What mining rights may private parties acquire? How are these acquired? What obligations does the rights holder have? If exploration or reconnaissance licences are granted, does such tenure give the holder an automatic or preferential right to acquire a mining licence or more senior tenure? What are the requirements to convert to a mining licence?

Private parties may acquire exploration rights and mining leases, each subject to certain conditions and validity as prescribed by the Minerals Act. The Minister of Industry has the power to revoke the rights and leases if the holder fails to comply with the conditions attached thereto. The criteria for the approval of exploration rights and mining leases are not specified in the law itself and can vary. To apply for any exploration rights or mining leases, the applicant must submit an application, together with supporting documents and information required, to the local mineral industry officials (LMIOs) and pay the specified fees.

Exploration rights

For exploration activities, a prospecting licence must be acquired, and in the case of overlapping applications, the earliest submission will be processed first.

A GPL grants rights for mineral prospecting and exploration within a designated area, issued by the LMIO.

An EPL grants exclusive rights within a designated area (not exceeding 2,500 rai or approximately 980 acres), issued by the Director-General of the DPIM.

An SPL, issued by the Director-General of the DPIM with approval of the Minerals Committee, is valid for five years, non-transferable, and non-renewable. The exploration area under an SPL cannot exceed 10,000 rai (approximately 3,900 acres), except for offshore applications, which may cover up to 500,000 rai (approximately 197,600 acres). An SPL application must include a work plan, annual expense estimates and an offer of 'special benefits' to the government, which will bind the holder upon receiving a mining lease. A progress report must be submitted to the DPIM every 180 days. An SPL is suitable for large projects with high-value minerals or substantial investment, allowing the holder to relinquish areas no longer of interest. SPL holders generally get preferential rights to acquire a mining lease for the covered area, with landowners having priority if there are multiple applicants under the Land Code, BE 2497 (1954).

Mining rights

Upon discovery of a commercial mineral deposit, a prospector must apply for a mining lease to conduct mining activities. Generally, applications will be treated on a first come, first served basis.

Mining leases may not be transferred without the approval of mining lease issuers. An applicant for a mining lease must provide a map showing the area to be mined, reliable evidence of the discovery or existence of the mineral to be mined, evidence showing acquisition of surface land rights, plans for the rehabilitation, proposals of special benefits to the state and other documents or evidence as prescribed in the ministerial regulations. Special rules apply to underground mining and offshore mining.

Law stated - 4 April 2025

Renewal and transfer of mineral licences

What is the regime for the renewal and transfer of mineral licences?

Exploration licences

All prospecting licences are non-transferable and non-renewable.

Mining leases

A mining lease is transferable subject to approval from the issuing authority. Applications and supporting documents for transferring or renewing Category 1 leases must be submitted to the LMIOs and approved by the Provincial Minerals Committee. For Categories 2 and 3, approval is required from the Minerals Committee and the Director-General of the DPIM. The aggregate term of a mining lease, including renewals, shall not exceed 30 years. The Minerals Act and mining leases do not address change of control.

Law stated - 4 April 2025

Duration of mining rights

What is the typical duration of mining rights? Is there a requirement to relinquish a portion of the mining rights to the government after a certain number of years?

Prospecting

The general prospecting licence, exclusive prospecting licence and special prospecting licence are valid for a maximum of one year, two years and five years, respectively.

Mining

Categories 1, 2 and 3 mining leases are valid for a maximum of 30 years. The mining leaseholders may relinquish the rights in whole or in part by submitting an application to relinquish and surrendering the leases to the local mineral industry officials, provided that there are no unpaid debts, the area has been completely rehabilitated, and other conditions have been complied with.

Grounds for revocation are prescribed in several sections of the Minerals Act. Examples include: failure to pay the required special fees to the government; failure to restore the mining area to its former state during and after mine closure; and failure to provide security for the rehabilitation of the mine site and compensation to those affected by the mining activities.

Law stated - 4 April 2025

Acquisition by domestic parties versus acquisition by foreign parties

Is there any distinction in law or practice between the mining rights that may be acquired by domestic parties and those that may be acquired by foreign parties?

It is possible to grant mineral rights to a foreign company under a special agreement. The majority foreign-owned company can operate a mining business only if at least 40 per cent (or 25 per cent with Cabinet approval) of the capital is held by Thai nationals or entities and at least two-fifths of the directors are Thai nationals.

Further, the Land Code limits foreign ownership to 49 per cent, with no more than half of the shareholders being foreign nationals. There are no restrictions on foreign nationals leasing land. For conserved forest land, more than two-thirds of the shareholders must be Thai nationals holding more than half of the shares, and the authorised director must be a Thai national.

Law stated - 4 April 2025

Protection of mining rights

How are mining rights protected? Are foreign arbitration awards in respect of domestic mining disputes freely enforceable in your jurisdiction?

Thailand has an independent court system, including an administrative court to hear cases involving government agencies. Generally, foreign arbitration awards are enforceable under Thai law. Judgments entered by a foreign court are not enforceable in Thailand but can be introduced as evidence in enforcement proceedings in a Thai court. A Thai court is free to examine new issues arising in such a case. However, the Thai Cabinet resolved in 2015 that, while government agencies may enter into contracts with arbitration clauses, 'concession contracts' with a government agency, such as those related to natural resources or operation of public infrastructures, cannot include arbitration provisions unless approved by the Cabinet.

Law stated - 4 April 2025

Surface rights

What types of surface rights may mining rights holders request and acquire? How are these rights acquired? Can surface rights holders oppose these requests or does the holder of the mineral tenure have priority over surface rights use?

Mining rights under the Minerals Act do not include any rights to occupy the surface. Surface rights over a mine vary depending on the type of land. Before applying for a mining lease, an applicant must acquire the right to use the land from the relevant government authority or private owner, as the case may be. Negotiation with a private landowner is concluded by purchase or lease. If the land is owned by the government, a permit issued by the concerned agency is required to be submitted along with the mining lease application.

Law stated - 4 April 2025

Participation of government and state agencies

Does the government or do state agencies have the right to participate in mining projects? Is there a local listing requirement for the project company?

Although there is no prohibition on the government participating in mining projects, there is no precedent for such direct engagement by the government. However, there are cases where the government, through the Ministry of Finance, invests in a Thai company by holding shares, with the purpose of conducting mining projects.

The requirements under the Minerals Act do not apply to the DPIM, the Department of Mineral Resources or Department of Mineral Fuels for the purpose of survey, testing, study and research. Currently, no state enterprise is involved in mining operations, although the state does hold shares, directly or indirectly, in some mining companies. There is also no local listing requirement for a mining company.

Law stated - 4 April 2025

Government expropriation of licences

Are there provisions in law dealing with government expropriation of licences? What are the compensation provisions?

The MOI has the power to revoke a licence when the holder fails to comply with certain provisions under the Minerals Act, or the conditions and obligations attached to the licence, among others.

The Minerals Act itself contains no provision regarding government expropriation of mining businesses or mining leases.

There are guarantees against expropriation in the Investment Promotion Act, BE 2520 (1977), ASEAN Comprehensive Investment Agreement and several bilateral investment treaties.

Law stated - 4 April 2025

Protected areas

Are any areas designated as protected areas within your jurisdiction and which are off-limits to mineral exploration or mining, or specially regulated?

Some categories of reserved areas have been declared closed to exploration and mining activities. These include wildlife reserves, national parks, forests (conservation forests and economic forests) and areas reserved for security purposes. Development activities, including mining, are strictly prohibited in Category 1A watershed areas, and restrictions apply to mining activities in economic forest areas. Other areas of land that are off-limits include urban areas, water bodies and areas for settlement programmes. Furthermore, the use of government-owned land is subject to the designated purposes of the relevant governmental authority for the fulfilment of its duties or operations and may not be leased out or used for mining activities.

In addition, the national strategies and plans for mineral management, established by the Board, may further designate certain areas as protected areas, thereby prohibiting mining activities within those designated areas.

Law stated - 4 April 2025

DUTIES, ROYALTIES AND TAXES

Duties, royalties and taxes payable by private parties

What duties, royalties and taxes are payable by private parties carrying on mining activities? Are these revenue-based or profit-based?

A company earning revenues from mining is liable to pay corporate income tax under the Revenue Code. The current rate is 20 per cent of the net profit. Dividend payments are generally subject to withholding tax of 10 per cent.

Mineral royalties, fees and special contribution

The Minerals Act provides that the mining lease holder and metallurgical operator must pay mineral royalties, fees and a special contribution. The royalty rate for each type of mineral is determined by the ministerial regulation (MR) issued under the Minerals Act and cannot exceed 30 per cent of the market price.

The MR prescribes mineral royalty rates, based on the market price per metric ton announced by the Director-General of the Department of Primary Industries and Mines (DPIM), at the following rates:

- tin ore, gold ore and mineral ore with tungsten oxide: 2.5 per cent to 20 per cent;
- lead ore and zinc ore: 2.0 per cent to 15 per cent;
- gemstone: 10 per cent; and
- other mineral ores, at rates between 4 per cent and 10 per cent.

Mining leaseholders must pay a special contribution of no more than 10 per cent of the mineral royalties of the minerals produced under that lease.

The schedule of maximum applicable fees is detailed in the Minerals Act, and the Minister of Industry has the authority to reduce or waive the fees.

Value added tax

Mining companies are subject to VAT at a flat rate of 10 per cent (currently temporarily reduced to 7 per cent). A zero VAT rate applies to exports of minerals by mineral traders.

Double tax treaties with other nations

At present, Thailand has double tax treaties with 61 countries, including China, Japan and the United States.

Law stated - 4 April 2025

Tax advantages and incentives

What tax advantages, tax credits and incentives are available to private parties carrying on exploration and mining activities?

Board of Investment promotional incentives

Under the Investment Promotion Act, prospecting, mining, mineral dressing, smelting, and metallurgy of targeted minerals are eligible for promotion. To apply for Board of Investment (BOI) incentives, a prospecting license is required for prospecting projects, and a mining lease or sub-lease is needed for other operations. Projects must involve targeted minerals such as rare earths, precious metals and potash, and meet criteria such as obtaining Green Mining or Corporate Social Responsibility certification from the DPIM or other BOI-approved standards within two years of full operation.

Other non-tax incentives may be granted by the BOI to a promoted mining project.

In connection with mining projects, the BOI also promotes industries related to materials production, such as cement manufacturing, which can be derived from mining operations, particularly when incorporating advanced technologies, such as Carbon Capture and Storage and/or Carbon Capture and Utilization to reduce carbon emissions. These initiatives align with Thailand's commitment to fostering a low-carbon economy and supporting industries that prioritise both economic growth and environmental responsibility.

Law stated - 4 April 2025

Tax stabilisation

Does any legislation provide for tax stabilisation or are there tax stabilisation agreements in force?

No legislation currently provides for either tax stabilisation or tax stabilisation agreements.

Law stated - 4 April 2025

Carried interest

Is the government entitled to a carried interest, or a free carried interest in mining projects?

Although there is no prohibition on the government holding an interest in mining projects, there is no precedent for such engagement by the government. However, there are cases where the government, through the Ministry of Finance, invests in a Thai company by holding shares therein, with the purpose of conducting mining projects.

Law stated - 4 April 2025

Transfer taxes and capital gains

Are there any transfer taxes or capital gains imposed regarding the transfer of licences?

The consideration paid for the transfer of a licence is categorised as a taxable income, which is subject to income tax at the rate prescribed by the Revenue Code. Capital gains are treated as normal income. VAT is applicable to transfers of rights.

Law stated - 4 April 2025

Distinction between domestic parties and foreign parties Is there any distinction between the duties, royalties and taxes payable by domestic parties and those payable by foreign parties?

No.

Law stated - 4 April 2025

BUSINESS STRUCTURES

Principal business structures

What are the principal business structures used by private parties carrying on mining activities?

The usual choice of entity to hold mining leases is either a Thai private limited company or a public limited company. Mining rights will not be granted to branches, non-registered partnerships, joint ventures or trusts.

Law stated - 4 April 2025

Local entity requirement

Is there a requirement that a local entity be a party to the transaction?

Under the current laws, an entity doing business in mining (excluding exploration activity) must be Thai majority-owned; otherwise, a foreign business operation licence granted by the Minister of Commerce with the approval of the Cabinet must be obtained.

Law stated - 4 April 2025

Bilateral investment and tax treaties

Are there jurisdictions with favourable bilateral investment treaties or tax treaties with your jurisdiction through which foreign entities will commonly structure their operations in your jurisdiction?

Thailand has signed 42 bilateral investment treaties (BITs), of which 36 are currently still in force, and it has double tax treaties with 61 countries. Among these BITs, those with Australia (Thailand–Australia Free Trade Agreement (TAFTA)), Japan (Japan–Thailand

Economic Partnership Agreement) and the United States (Treaty of Amity) are considered more favourable. The TAFTA specifically addresses mining rights, whereby a company with majority shareholders holding Australian nationality (up to 60 per cent) can engage in mining activities, but approval must be obtained from the MOI, and at least two-fifths of the directors must be Thai. However, the restrictions on foreign land ownership will still apply.

The ASEAN Comprehensive Investment Agreement also includes provisions regarding mining and quarrying.

Law stated - 4 April 2025

FINANCING

Principal sources of financing

What are the principal sources of financing available to private parties carrying on mining activities? What role does the domestic public securities market play in financing the mining industry?

Domestic and foreign financial institutions are the principal sources of financing for mining projects, by way of loans on standard commercial terms.

Public and private limited companies (with the consent of the Stock Exchange of Thailand (SET)) may issue debentures. Public limited companies may apply to be listed on the SET, in accordance with SET-prescribed rules.

Law stated - 4 April 2025

Direct financing from government or major pension funds

Does the government, its agencies or major pension funds provide direct financing to mining projects?

Generally, no. However, the Association of Southeast Asian Nations (ASEAN) Potash Mining project originated from cooperation among the ASEAN member countries and the Ministry of Finance of Thailand holds 20 per cent of its shares, while other ASEAN member states hold 11.46 per cent of its shares.

Law stated - 4 April 2025

Security regime

Please describe the regime for taking security over mining interests.

A licence for mining activities granted by a governmental agency cannot be mortgaged, pledged or assigned as security under Thai law. Rights under a mining lease are not subject to the execution of a judgment.

Law stated - 4 April 2025

RESTRICTIONS

Importation restrictions

What restrictions are imposed on the importation of machinery and equipment or services required in connection with exploration and extraction?

The importation of machinery and equipment is subject to customs duty, at the rates prescribed in the Customs Tariff, and VAT. Exemptions may be granted by the Board of Investment for promoted projects or under concession terms. There is no specific local content requirement.

Law stated - 4 April 2025

Standard conditions and agreements

Which standard conditions and agreements covering equipment supplies are used in your jurisdiction?

International Federation of Consulting Engineers contracts are often used, with desired variation by parties, in infrastructure and construction projects in Thailand. In practice, international engineering, procurement and construction contracts are split into offshore supply agreements ('sales of goods agreements' not subject to withholding tax or stamp duty) and onshore hire of work contracts (subject to withholding tax and stamp duty).

Law stated - 4 April 2025

Mineral restrictions

What restrictions are imposed on the processing, export or sale of minerals? Are there any export quotas, licensing or other mechanisms that prevent producers from freely exporting their production?

Mineral processing must be conducted in accordance with the approved flow sheet and mineral processing procedure under the supervision of a licensed engineer.

The types of and conditions applicable to minerals requiring a licence to be imported into Thailand and prohibited from being exported are referred to in the Ministry of Industry (MOI)'s notifications. In the latest MOI Notification regarding the Specification of Type and Condition of Minerals Prohibited from Export Outside the Kingdom or Continental Shelf B.E. 2564 (2021), minerals prohibited from export include: gold ore, other ores containing gold, and gold alloy produced from metallurgical processes and coal.

Law stated - 4 April 2025

Import of funds restrictions

What restrictions are imposed on the import of funds for exploration and extraction or the use of the proceeds from the export or sale of minerals?

Exchange control regulations are administered by the Bank of Thailand (BOT) on behalf of the Ministry of Finance, under the Exchange Control Act, BE 2485 (1942). Approvals to repatriate capital and profits are discretionary and approvals are granted as a matter of routine by the BOT. Currently, commercial banks are authorised to process most applications to purchase foreign currency. Foreign currency accounts may be established abroad and in Thailand.

Generally, the proceeds from the export sale of minerals must be repatriated within 360 days.

Law stated - 4 April 2025

ENVIRONMENT

Principal applicable environmental laws

What are the principal environmental laws applicable to the mining industry? What are the principal regulatory bodies that administer those laws?

The National Environment Protection and Promotion Act, BE 2535 (1992), as amended (Environmental Act), is the principal law for managing environmental issues, including water, air and noise pollution, hazardous waste and conservation of natural resources. In addition, the Environmental Act requires both private and public sectors to prepare an environmental impact assessment (EIA) or environmental and health impact assessment (EHIA) report for the prescribed operations or activities and provides for the establishment of an environmental fund. It is administered by the Office of Natural Resources and Environmental Policy and Planning), the Department of Pollution Control, and the Department of Environmental Quality Promotion. While some mining projects may not be required to conduct an EIA or an EHIA, the Minerals Act and its sub-regulations still impose obligations on them to ensure social and environmental protection and correction.

Moreover, Thailand is proactively enhancing the development of comprehensive environmental legislation to address environmental and public health issues, including emissions of pollutants, greenhouse gases, and other environmental concerns that may require further regulatory obligations for mining operators.

Law stated - 4 April 2025

Environmental review and permitting process

What is the environmental review and permitting process for a mining project? How long does it normally take to obtain the necessary permits?

The Constitution stipulates that any project or activity that may have a severe adverse impact on the environment may not be carried out unless the potential impact on environmental quality and health of the people in the surrounding community has first been studied and evaluated. The community rights are also protected thereunder.

Corresponding to this, the Environmental Act provides that projects or activities that may have an impact on the environment may be required to carry out and submit either an EIA

report or an environmental and EHIA report, depending on the type and size of the project. The consideration period for the EIA and EHIA reports is approximately 75 working days.

Most mining projects require an EIA report to be submitted with the mining lease application. Certain mining activities require an EHIA report submission, for example, seabed mines and underground mines with collapsing structures without appropriate support and no substitute form inserted to prevent the collapse (all sizes).

Certain mining projects, such as sand or silica sand, marl and kaolin mining, are not required to conduct the reports. However, there are other preventive and corrective measures for these types of mining activities, as prescribed under the sub-regulations.

The Minerals Act includes numerous provisions for environmental review, by both existing and new government agencies.

Law stated - 4 April 2025

Sustainability

Do government agencies or other institutions in your jurisdiction provide incentives or publish environmental and social governance (ESG) guidelines for green projects?

Thailand, as a member of the Association of Southeast Asian Nations (ASEAN) has participated in the ASEAN Corporate Governance Scorecard programme since 2012. Under this programme, administered by the Thailand Institute of Directors, ESG-related questions were added and additional bonuses and penalties relating to ESG were included in the 2024 revision. Establishing ESG policies, designated resources, linkages between executive director and senior management remuneration and sustainability performance, disclosure and transparency over climate-related risks and opportunities, sustainability reporting, stakeholder management would lead to bonus points, while engagement in greenwashing activities would invite penalties.

Regulators of the financial sector have established a working group on sustainable finance and financial institutions have started to integrate ESG into their strategies. The Bank of Thailand (BOT) and the Thai Bankers Association have jointly signed a memorandum of understanding to shift towards responsible lending. The National Economic and Social Development Guidelines No. 13 (2023–2027) is the main policy that has been implemented to promote an environmentally friendly society and economy. In 2023, the BOT and Securities and Exchange Commission launched Thailand taxonomy phase 1 that serves as a common framework for classifying economic activities that meet sustainability goals. In addition, the Ministry of Industry (MOI) has introduced the concept of 'green industry', where different levels of the green industry are eligible to receive benefits from the MOI, and the Industrial Estate Authority of Thailand also acknowledges the importance of the green industry and provides benefits to companies that can become part of it.

Law stated - 4 April 2025

Closure and remediation process

What is the closure and remediation process for a mining project? What performance bonds, guarantees and other financial assurances are required?

Under the Minerals Act, the mining lease holders are responsible for the restoration of mining areas according to plans for the restoration, development, utilisation and monitoring of the impact on the environment and people's health during mining and after the closure of the mine, as approved by the Minerals Committee, and placement of security for restoration, and insurance (in the case of Categories 2 and 3 mining).

Law stated - 4 April 2025

Restrictions on building tailings or waste dams What are the restrictions for building tailings or waste dams?

For waste dams, there are no specific regulations on the operation and management of waste dams. However, further details as to the operation, management, inspection and alarm systems in regard to the management of waste as a result of the mining operation, including tailings and waste dams, must be included in the environmental impact assessment report conducted by the mining operator.

Law stated - 4 April 2025

HEALTH AND SAFETY, AND LABOUR ISSUES

Principal health and safety, and labour laws

What are the principal health and safety, and labour laws applicable to the mining industry? What are the principal regulatory bodies that administer those laws?

The principal health and safety laws are the National Environment Protection and Promotion Act, BE 2535 (1992), as amended and administered by the Office of Natural Resources and Environmental Policy and Planning and the Public Health Act, BE 2535 (1992), as amended and administered by the Public Health Commission. General labour laws are applicable to the mining industry and are administered by the Ministry of Labour (eg, the Labour Protection Act, BE 2541 (1998), the Civil and Commercial Code, the Social Security Act, BE 2533 (1990), and the Compensation Fund Act, BE 2537 (1994)).

The Minerals Act provides more comprehensive oversight of health and safety matters applicable to the mining industry.

Law stated - 4 April 2025

Management and recycling of mining waste

What are the rules related to management and recycling of mining waste products? Who has title and the right to explore and exploit mining waste products in tailings ponds and waste piles?

Under the Environmental Act, the municipality where a mine is located is responsible for managing solid waste disposal from mining activities or contracting out such services to the private sector. The rights to explore and exploit mining waste products in tailings and waste piles belong to the mining leaseholder or a sub-lessor with the requisite licence under the Minerals Act or supporting regulations.

Law stated - 4 April 2025

Use of domestic and foreign employees

What restrictions and limitations are imposed on the use of domestic and foreign employees in connection with mining activities?

All mining activities are subject to general labour laws. The employment of foreign individuals is subject to the laws and procedures regarding visas and work permits.

The Emergency Decree on Administration of Aliens Working, BE 2560 (2017), and its amendments, require that every foreign national working in Thailand obtains a work permit, with certain exceptions.

Law stated - 4 April 2025

SOCIAL AND COMMUNITY ISSUES

Community engagement and CSR

What are the principal community engagement or corporate and social responsibility (CSR) laws applicable to the mining industry? What are the principal regulatory bodies that administer those laws?

Thailand does not have CSR laws, although mining lease holders must pay a special contribution to the state and this contribution can be used for local development, and research regarding minerals. Apart from that, the mining lease holders must offer special benefits to the state for use in development, training, site visits, research projects, scholarships for state officers and for general government benefits.

Further, Thailand is actively developing and introducing more environmental laws aimed at addressing environmental and public health concerns, including emissions of pollutants, greenhouse gases, and other environmental impacts. These developments may impose additional obligations on mining operators.

Law stated - 4 April 2025

Rights of aboriginal, indigenous or disadvantaged peoples

How do the rights of aboriginal, indigenous or currently or previously disadvantaged peoples affect the acquisition or exercise of mining rights?

This issue is not applicable in Thailand.

Law stated - 4 April 2025

International law

What international treaties, conventions or protocols relating to CSR issues are applicable in your jurisdiction?

The Association of Southeast Asian Nations Minerals Cooperation Action Plan 2016–2025 (AMC AP-111) promotes environmentally and socially sustainable mineral development.

Law stated - 4 April 2025

ANTI-BRIBERY AND CORRUPT PRACTICES

Local legislation

Describe any local legislation governing anti-bribery and corrupt practices.

Thailand's primary legislation covering anti-bribery and corrupt practices is the Act Supplementing the Constitution Relating to the Prevention and Suppression of Corruption, BE 2561 (2018). Thailand has continued to refine other laws, such as the Anti-Money Laundering Act, BE 2542 (1999), to encourage transparency and fulfil obligations under the United Nations Convention against Corruption (ratified in 2011). The National Anti-Corruption Commission, the Public Sector on Anti-Corruption and the Attorney General's Office are all empowered to investigate and prosecute possible cases of corrupt practices.

Law stated - 4 April 2025

Foreign legislation

Do companies in your country pay particular attention to any foreign legislation governing anti-bribery and foreign corrupt practices in your jurisdiction?

Companies in Thailand pay great attention to bribery and corruption issues. Many companies issue internal rules for employees to follow, such as the announcement of the Anti-Bribery and Corruption Policy of many Thai companies, which is in accordance with the Act Supplementing the Constitution Relating to the Prevention and Suppression of Corruption, BE 2561 (2018) and the Anti-Money Laundering Act, BE 2542 (1999). These internal policies may also include compliance with laws of other countries (eg, the US Foreign Corrupt Practices Act and UK Bribery Act).

Law stated - 4 April 2025

Disclosure of payments by resource companies

Has your jurisdiction enacted legislation or adopted international best practices regarding disclosure of payments by resource companies

to government entities in accordance with the Extractive Industries Transparency Initiative (EITI) Standard?

Thailand has initiated steps to become a member of and become compliant with the EITI, but has not yet acceded to it.

Law stated - 4 April 2025

FOREIGN INVESTMENT

Foreign ownership restrictions

Are there any foreign ownership restrictions in your jurisdiction relevant to the mining industry?

Foreign majority-owned companies wishing to operate a mining business must obtain a foreign business licence under the Foreign Business Operation Act. Under this law, it is possible to grant mineral rights to a foreign company under a special agreement. The majority foreign-owned company can operate a mining business only if at least 40 per cent, or (with the approval of the Cabinet) 25 per cent, of the capital is held by Thai nationals or Thai entities and at least two-fifths of the directors are Thai nationals. However, government policy is not to grant mineral rights to foreign nationals (including companies in which ownership is majority owned by foreign nationals).

The Land Code, BE 2497 (1954) prescribes a restriction on ownership of land by foreigners (including Thai entities with foreign shareholders holding more than 49 per cent of the shares or in which more than half of the shareholders are foreigners). There is no restriction on foreigners leasing land. If the land is forest land, more than two-thirds of the shareholders or partners must be Thai nationals holding more than half of the total number of shares, and its authorised person must be Thai.

Law stated - 4 April 2025

INTERNATIONAL TREATIES

Applicable international treaties

What international treaties apply to the mining industry or an investment in the mining industry?

Investment in a mining project may qualify for investment protection under a bilateral investment treaty. Thailand is currently a party to 36 bilateral investment treaties. Thailand is also party to the 2009 Association of Southeast Asian Nations Comprehensive Investment Agreement. Mining and quarrying, and services incidental to them, are listed as one of the designated sectors to which the 2009 agreement applies.

Law stated - 4 April 2025

UPDATE AND TRENDS

Recent developments

What were the biggest mining news events over the past year in your jurisdiction and what were the implications? What are the current trends and developments in your jurisdiction's mining industry (legislation, major cases, significant transactions)?

Thailand has recently identified a 10 billion ton reserve of potash in 10 areas across the Northeast of Thailand, which supports the fertiliser production industry and further aids in the development of electric vehicle batteries. The use of potash in the development of EV batteries is currently in the R&D phase.

Three approved potash mining projects that received their mining leases some time ago are currently drawing significant attention from the Thai public. One investor is preparing to commence potash mining operations, while another, funded by the government and Association of Southeast Asian Nations member states, is facing financial constraints. The third project is currently awaiting investment collaboration from the Chinese government.

Law stated - 4 April 2025