

Enforcing Contracts Questionnaire – Thailand

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Dear Contributor,

We would like to thank you for your participation in the *Doing Business* project. Your expertise in the field of contract enforcement in Thailand is essential to the success of the *Doing Business* report, one of the four flagship publications of the World Bank Group that benchmarks business regulations in 189 economies worldwide. The Enforcing Contracts indicator, which measures the time and cost to resolve a standardized commercial dispute as well as a series of good practices for the judiciary, is one of the 11 indicator sets published by the *Doing Business* report.

The report attracts much attention around the world. The latest edition, *Doing Business 2016: Measuring Regulatory Quality and Efficiency*, introduced improvements in 6 of 11 *Doing Business* indicator sets. It received over 7,000 media citations within just 3 weeks of its publication on October 27, 2015 and 31.4 million twitter accounts were reached within that same period. The coverage spanned major global, regional and local media outlets, from print and broadcast to the web. The *Doing Business* website had over 1 million page views and nearly 60,000 downloads within 3 weeks of the report's launch.

Governments worldwide read the report with interest every year, and your contribution makes it possible for the *Doing Business* project to disseminate the regulatory best practices that continue to inspire their regulatory reform efforts. Since 2010, economies worldwide have implemented 75 reforms making it easier to resolve a standardized commercial dispute through the courts. In 2014/15, 11 economies implemented such reforms.

We are honored to be able to count on your expertise for *Doing Business 2017*. Please do the following in completing the questionnaire:

- Review the assumptions of the case study before updating last year's information in the questionnaire.
- Describe in detail any reform that has affected the process of enforcing contracts since June 1, 2015.
- Be sure to update your name and address if necessary, so that we can mail you a complimentary copy of the report.
- Kindly return the questionnaire to Christian De la Medina at DBEnforcingContracts@worldbank.org.

We thank you again for your invaluable contribution to the work of the World Bank Group.

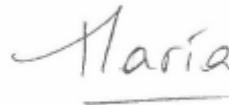
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Please e-mail me an electronic copy of the report and my certificate of appreciation, rather than mailing me a paper copy.

Referrals: Please help us expand our list of contributors by referring us to other experts in the private or public sector (lawyers, notaries, public officials or any expert on this field) who can respond to the questionnaire.

First name	Last name	Position	Firm	Address	Phone	E-mail
[]	[]	[]	[]	[]	[]	[]
[]	[]	[]	[]	[]	[]	[]

1. Case Study Assumptions

Two domestic companies – Seller and Buyer – conclude a contract for the sale of some custom-made goods. Further to such contract, Seller agrees to sell to Buyer, and Buyer agrees to buy from Seller, custom-made furniture. Upon delivery of the goods, Buyer alleges that the goods are of inadequate quality, and refuses to pay. Seller insists that the goods are of adequate quality and demands payment of the contract price. Since the goods were custom-made for Buyer, Seller cannot sell them to a third party. Following Buyer's refusal to pay, Seller sues Buyer. The court decides 100% in favor of Seller, and orders Buyer to pay the contract price.

1. Both Seller and Buyer are domestic companies, located in Bangkok.
2. Seller sues Buyer to recover the amount due under the contract. The value of the claim is: THB 343,967.
3. The court deciding the case is located in Bangkok and is the first instance court with jurisdiction over commercial claims of THB 343,967.
4. Seller fears that Buyer may dissipate assets, move assets out of the jurisdiction or become insolvent. Therefore, if such a procedure is allowed before the competent court, Seller requests and obtains attachment of Buyer's movable assets (office equipment or vehicles) prior to obtaining a judgment.
5. Buyer opposes the claim, which is then disputed on the merits. An opinion on the quality of the goods delivered by Seller is required and is given by an expert during the court proceedings:
 - a. If it is standard practice in your country for Seller and Buyer to call their own expert witnesses, then each party calls one expert witness to provide an opinion on the quality of the goods delivered by Seller.
 - b. If it is standard practice in your country for the judge to appoint an independent expert to provide an opinion on the quality of the goods delivered by Seller, then the judge does so. It is assumed that no opposing expert testimony is provided.
6. Judgment is 100% in favor of Seller. Buyer is required to pay the agreed contract price to Seller.
7. Buyer does not appeal the judgment.
8. Seller starts enforcing the judgment when the period allocated by law for appeal expires. It is assumed that Buyer has no money in his bank accounts. As a result, Buyer's movable assets (office equipment or vehicles) are attached and stored in preparation for a public sale.
9. A public sale is organized, advertised and held to sell Buyer's movable assets. The assets are sold and the value of the claim is entirely recovered by Seller.

Definitions: for the purpose of this questionnaire, the terms below carry the following meaning:

1. Competent court means the court in Bangkok with jurisdiction over commercial disputes similar to the one described in the assumptions of the standardized case. If more than one court is competent, competent court means the court that is most likely to determine the outcome of the standardized case.
2. Expert witness means a witness with the required qualifications or experience to give an opinion on whether the goods delivered are of adequate quality. Expert opinion is required and provided prior to judgment.

Please provide your responses to the following sections taking into account the case study assumptions provided above. For your convenience, last year's answers are included in this questionnaire where available. Please note that they represent a unified answer based on all the answers we received from various contributors.

2. Reform Update

	Answer
Have there been any reforms since June 1 st , 2015 in domestic commercial litigation? For example: amendments to the civil procedural laws and/or enactment of new regulations, implementation of or changes to the case management system, introduction of automated solutions such as e-filing, e-notifications, etc., implementation of mediation/conciliation, substantial changes in arbitration law, introduction of small claims courts, creation of a new commercial court, or appointment of new judges.	-Click to Select-
If relevant, please describe the reform(s). Please include information on the date of adoption, publication and enforcement of the new law(s) or regulation(s).	
Are any such reforms expected between now and June 1 st , 2016? If so, please describe.	

3. Competent Court

	Answer	Comment
Does the Bangkok Civil Court have jurisdiction over the case described in Section 1, given the value of the claim set at THB 343,967?	-Click to Select-	

If the competent court has changed, please answer all questions in Sections 4, 5 and 6 assuming that the new court would hear that case.

4. Quality of Judicial Processes Index

4.1 Court Automation

Electronic Filing	
Can the initial complaint be filed electronically through a dedicated platform within the Bangkok Civil Court? Please answer "No" if it can only be filed by e-mail or fax.	<i>Last year: No</i> This year: -Click to Select- Comment:
When the initial complaint is filed electronically, must a hard copy be submitted as well?	Answer: -Click to Select- Comment:
Electronic Service of Process	
Can the initial complaint filed before the Bangkok Civil Court be served on the defendant electronically? If so, please specify how it is carried out (by e-mail, SMS/text, fax, etc.).	<i>Last year: No</i> This year: -Click to Select- Comment:
Electronic Payment of Court Fees	
Can court fees be paid electronically within the Bangkok Civil Court? Please select "Yes" if payment can be made through online banking.	<i>Last year: No</i> This year: -Click to Select- Comment:
Publication of Judgments	
Are judgments rendered at <u>all levels</u> in commercial cases made available to the general public through publication in official gazettes, in newspapers or on the internet/court website? If judgments are published online, please include a link to the relevant website.	<i>Last year: No</i> This year: -Click to Select- Comment:
Are judgments rendered in commercial cases at <u>the appellate and supreme court level</u> made available to the general public through publication in official gazettes, in newspapers or on the internet/court website? If judgments are published online, please include a link to the relevant website.	<i>Last year: No</i> This year: -Click to Select- Comment:

4.2 Court Structure & Proceedings

Specialized Commercial Court	
In Bangkok, is there a court, division or bench of a court dedicated solely to hearing commercial cases?	<i>Last year: No</i> This year: -Click to Select-
What is the name of this court, division or bench?	
What is the jurisdictional threshold (minimum claim value) for cases to be heard by this court, division or bench?	
Small Claims Court	
In Bangkok, is there a small claims court/division or a fast-track procedure for small claims?	<i>Last year: Yes</i> This year: -Click to Select-
<p><i>A small claims court is a court with limited jurisdiction to hear cases with relatively small amounts of money. These courts usually have relaxed rules of civil procedure, relaxed rules of evidence and are characterized by the use of plain language.</i></p>	
What is the name of this court or division?	
What is the law/regulation establishing such court/division or fast-track procedure? If possible, please include a link to the law.	
What is the maximum monetary amount for cases to be heard by this court/division or through this procedure?	
Is self-representation allowed within these proceedings?	
If small claims are resolved through a stand-alone court or division, please mention whether simplified rules of civil procedure apply.	
Pre-Trial Attachment	
Assuming that the plaintiff fears that the defendant may dissipate assets, move assets out of the jurisdiction or become insolvent, would the plaintiff be allowed to request and obtain attachment of the defendant's <u>movable</u> assets (office equipment or vehicles) within the same court and proceedings?	<i>Last year: Yes</i> This year: -Click to Select- Comment:
Assignment of Cases	
<p>How are new cases assigned to judges within the Bangkok Civil Court?</p> <input type="checkbox"/> Randomly, by the president of the court/section <input type="checkbox"/> By the president of the court/section at his own discretion <input type="checkbox"/> Randomly, by the court's registrar/clerk <input type="checkbox"/> By the court's registrar/clerk at his own discretion <input type="checkbox"/> Randomly, on the basis of the subject matter or court's schedule and caseload <input type="checkbox"/> Randomly, through an automated system <input type="checkbox"/> On the basis of some alphabetical criteria or on a rotational basis <input type="checkbox"/> Not randomly <input type="checkbox"/> Other, please explain	
Can the parties or their counsels influence the appointment of the judge or predict which judge will be assigned to their case with a high level of certainty?	Answer: -Click to Select- Comment:
Gender Equality	
According to the applicable civil procedure law, does a woman's testimony carry the same evidentiary weight in court as a man's in all types of court cases?	<i>Last year: Yes</i> This year: -Click to Select- Comment:
If not, in which kind of cases do they not carry the same weight (e.g. commercial, family, etc.)?	

4.3 Case Management

Time Standards for Civil Cases, Adjournments and Continuances	
In Thailand are there laws or other regulations setting overall time standards for key court events in a civil case?	<i>Last year: Yes</i> This year: -Click to Select- Comment:
If "Yes", which of these key events have specific deadlines set by law? Please mention the specific article of the applicable law/regulation and, if possible, <u>include a link to the material</u> . <input type="checkbox"/> Service of process – Legal basis: <input type="checkbox"/> First hearing – Legal basis: <input type="checkbox"/> Filing of the statement of defense – Legal basis: <input type="checkbox"/> Completion of the evidence period – Legal basis: <input type="checkbox"/> Time for the expert to deliver his opinion – Legal basis: <input type="checkbox"/> Deadline to submit final judgment – Legal basis: <input type="checkbox"/> Other, please explain	
Are these time standards respected in more than 50% of the cases?	<i>Last year: No</i> This year: -Click to Select- Comment:
Does the law also regulate the maximum number of adjournments or continuances that can be granted?	<i>Last year: No</i> This year: -Click to Select- Legal basis / comment:
Are adjournments limited to unforeseen and exceptional circumstances? Please select " No " if the judge has unlimited authority to grant continuances and can simply do so upon request of the parties, even if for no reason. Please select " Yes ", if the law lists the common causes for adjournments (e.g. death of party/lawyer, appointment of an expert, attempt to reach settlement) and/or if the law explicitly states that adjournments can only be granted in exceptional circumstances.	<i>Last year: No</i> This year: -Click to Select- Legal basis / comment:
If rules on adjournments exist, are they respected in more than 50% of the cases?	<i>Last year: n.a.</i> This year: -Click to Select- Comment:
Performance Measurement Mechanisms	
Are there reports that can be generated about the Bangkok Civil Court to monitor the court's performance, the progress of cases through the court and ensure compliance with the time standards mentioned above?	<i>Last year: No</i> This year: -Click to Select- Comment:
If "Yes", which of the following reports are made available online? These reports could be part of an annual report on the judiciary. <input type="checkbox"/> Time to disposition report (measures the time the court takes to dispose/adjudicate its cases) <input type="checkbox"/> Clearance rate report (measures the number of cases resolved vs. the number of incoming cases) <input type="checkbox"/> Age of pending cases report (provides a snapshot of all pending cases according to case-type, case-age, last action held and next action scheduled) <input type="checkbox"/> Single case progress report (provides a snapshot of the status of one single case) Please provide link, if possible:	
Pre-Trial Conference	
Is a pre-trial conference part of the case management techniques used before the Bangkok Civil Court? A <i>pre-trial conference</i> is a meeting presided by the judge and designed to narrow down contentious issues and evidentiary questions before the trial. Its purpose is to discuss the possibility of settlement and to expedite the trial process while discouraging unnecessary pretrial motions or other delay tactics.	<i>Last year: Yes</i> This year: -Click to Select- Legal basis / comment:
If "Yes", which issues would be discussed and which actions would take place in such pre-trial conference? <input type="checkbox"/> Scheduling, including time frame for filing motions and other documents with the court <input type="checkbox"/> Examination of case complexity and projected length of trial <input type="checkbox"/> Possibility of settlement or ADR	

- Exchange of witness list
- Discovery timeline/agreement on evidence
- Jurisdiction and other procedural issues
- Narrowing down contentious issues
- Other, please explain

Electronic Case Management System

If an electronic case management system is in place within the Bangkok Civil Court, please answer the following two questions.

Which of the following actions can **judges** perform through the electronic system?

- Access laws, regulations and case-law
- Automatic generation of a hearing schedule for all cases on the judge's docket
- Send notifications (e.g. emails) to lawyers
- Track status of a case on the judge's docket
- View and manage case documents (briefs, motions, etc.)
- Assistance with judgment writing
- Semi-automatic generation of court orders
- View court orders and judgments in a particular case
- Additional features, please explain

Which of the following actions can **lawyers** perform through the electronic system?

- Access laws, regulations and case-law
- Access forms to be submitted to the court
- Receive notifications (e.g. emails)
- Track the status of a given case (future hearings, deadlines, etc.)
- View and manage case documents (briefs, motions, etc.)
- File briefs and documents with the court
- Access court orders and decisions on a given case
- Additional features, please explain

4.4 Alternative Dispute Resolution

Arbitration	
In Thailand, is domestic commercial arbitration governed by a consolidated law or consolidated chapter/section of the applicable code of civil procedure encompassing substantially all aspects of arbitration? If "Yes", please indicate the name and year of publication of the law.	<i>Last year: Yes</i> This year: -Click to Select- Comment:
Are valid arbitration clauses or agreements usually enforced by the courts in Thailand? Please select " No " if courts would adjudicate a case despite the presence of a valid arbitration clause or agreement.	<i>Last year: Yes</i> This year: -Click to Select- Comment:
Are there any commercial disputes - aside from those that deal with public order or public policy - that cannot be submitted to arbitration in Thailand?	<i>Last year: No</i> This year: -Click to Select- Comment:
Please indicate whether any of the following disputes cannot be arbitrated: <input type="checkbox"/> Disputes involving immovable property <input type="checkbox"/> Intra-corporate disputes (e.g. disputes over decisions made by the executive bodies of a corporation or disputes involving shareholder arrangements) <input type="checkbox"/> Intellectual property disputes <input type="checkbox"/> Finance and banking activities (including securities transactions) <input type="checkbox"/> Disputes related to insolvency, bankruptcy or liquidation of a company <input type="checkbox"/> Employment disputes <input type="checkbox"/> Other, please explain	
Voluntary Mediation / Conciliation	
Is voluntary mediation/conciliation available in Thailand? Please select " Yes " only if the parties do not have to participate in the process unless they want to.	<i>Last year: Yes</i> This year: -Click to Select- Comment:
In Thailand, is mediation/conciliation governed by a consolidated law or consolidated chapter/section of the applicable code of civil procedure encompassing substantially all aspects of mediation/conciliation? If "Yes", please indicate the name and year of publication of the law.	<i>Last year: No</i> This year: -Click to Select- Comment:
Are there financial incentives for parties to attempt mediation/conciliation (i.e. refund of court filing fees, income tax credits, etc.).	<i>Last year: Yes</i> This year: -Click to Select- Legal basis / comment:

5. Time estimates

The following section includes questions relating to time estimates for different stages of a commercial case. In light of your experience with cases comparable to the standardized one, please indicate the number of calendar days that would usually be necessary in practice to resolve the standardized case.

If you updated the competent court in Section 3, please provide time estimates for the new court below.

5.1. Filing and service phase

This section measures the time it would take between the moment Seller (the plaintiff) decides to sue and the moment Buyer (the defendant) is served in the Bangkok Civil Court (assuming that both parties are domiciled in Bangkok).

			Answer
a. Before filing a lawsuit, the Seller tries to obtain payment out of court through a non-litigious demand letter. How long would this process take?			
b. How long would a lawyer take to write the initial complaint and gather all supporting documents needed for filing (including authenticating them, if required)?			
c. How long would it take to file the initial complaint with the court and serve the defendant?			
d. What are the main causes of delay during this phase? <input type="checkbox"/> Difficulties in locating the defendant for purposes of service <input type="checkbox"/> Slow service by bailiff, attorney or other <input type="checkbox"/> Availability of attorney <input type="checkbox"/> Inefficient postal service <input type="checkbox"/> Obtaining information from registrar's office (date of hearing, pre-assessment of the complaint, etc.) <input type="checkbox"/> Other, please explain			
	Last year (calendar days)	This year	Comment
In light of the above, is last year's estimate for the entire "filing and service" phase still accurate?	60	-Click to Select-	

5.2. Trial and judgment phase

This section measures the time it would take for the judgment to be rendered once the claim has been filed with the court and served on defendant.

			Answer
a. How long does it take, in practice, between the moment the case is filed and the moment a pre-trial conference is held? If pre-trial conferences do not take place in your country, please proceed to the next question.			
b. How long does it take, in practice, between the moment the case is filed and the moment the first hearing is held?			
c. How many hearings would be required, in practice, to resolve the standardized case study?			
d. When a hearing is postponed, or when more than one hearing would be necessary to resolve the case, how long would the parties have to wait for the next hearing?			
e. How long would an expert usually take in practice to deliver his or her opinion?			
f. How long would the judge take, in practice, to issue a written final judgment once the evidence period has closed?			
g. What is the time limit for appeal in Thailand?			
h. What are the main causes of delay during this phase? <input type="checkbox"/> Backlog of cases <input type="checkbox"/> Frequent adjournments <input type="checkbox"/> Waiting periods between hearings <input type="checkbox"/> Limited availability of experts and delays caused by the expert's activity <input type="checkbox"/> Other, please explain			

	Last year (calendar days)	This year	Comment
In light of the above, is last year's estimate for the entire "trial and judgment" phase still accurate?	260	-Click to Select-	

5.3 Enforcement of judgment phase

This section measures the time it would take the winning party, once the appeal period has elapsed, to: (i) start enforcing the judgment; (ii) seize the losing party's movable assets; (iii) organize a public sale with the seized assets; and (iv) recover the value of the claim.

	Answer		
a. How long does it take, in practice, to obtain an enforceable copy of the judgment and contact the relevant enforcement officer?			
b. How long does it take, in practice, to locate, identify and seize the losing party's movable assets (including the time necessary to obtain an order from the court to attach and seize the assets)?			
c. How long does it take, in practice, to advertise, organize and hold the public sale of the losing party's movable assets?			
d. If in practice more than one auction would be necessary to recover the value of the claim, how many days would pass between auctions?			
e. Once the auction is completed, how long will it take the winning party to recover the value of the claim?			
f. What are the main causes of delay during this phase? <input type="checkbox"/> Attaching the movable assets <input type="checkbox"/> Organization of the public auction <input type="checkbox"/> Waiting for the public sale to be held <input type="checkbox"/> Finding buyers for the goods <input type="checkbox"/> Other, please explain			
	Last year (calendar days)	This year	Comment
In light of the above, is last year's estimate for the entire "enforcement" phase still accurate?	120	-Click to Select-	

6. Cost estimates

The following section includes questions relating to cost estimates for different stages of a commercial case. In answering these questions, please express the estimates as a percentage of the value of the claim which, for *Doing Business 2017*, amounts to THB 343,967 (see Section 1).

Indicate all costs and expenses that Seller (the plaintiff) would have to incur to obtain and enforce the judgment.

- We are interested in all costs and expenses Seller (the plaintiff) must advance, regardless of the costs that Seller can recover at the end, when he wins the case.
- Please include official costs only.

If you updated the competent court in Section 3, please update the fees as they would apply in the new court.

6.1 Attorney fees

Please provide an estimate of the average attorney fees that would be charged by a local law firm to handle a case like the standardized scenario, taking into account the qualification and experience of the attorney required in your country for this case. Include the following:

- fees to handle the case up to judgment;
- fees for enforcement if a lawyer is commonly retained for this purpose;
- if applicable, value added tax or other taxes.

	Last year (% of the value of the claim)	This Year	Comment
Is last year's estimate still accurate?	10.0	-Click to Select-	

6.2 Court fees (up to judgment only)

Please provide the approximate average cost that would be incurred by Seller (the plaintiff), *bearing in mind the competent court for the standardized case*.

	Last year (% of the value of the claim)	This Year	Comment
Is last year's estimate still accurate?	6.5	-Click to Select-	
			Answer
a. In a case similar to the standardized case, what would be the fees to register the case (filing fees only)?			
b. What would be the fees for the issuance of the judgment?			
c. How much would a local expert charge if he or she had to work for 10 hours?			
d. What are other court fees that would need to be advanced by Seller?			

6.3 Enforcement fees

Please provide the approximate average cost that would be advanced by Seller (the plaintiff) for a case similar to the standardized case.

	Last year (% of the value of the claim)	This year	Comment
Is last year's estimate still accurate?	3.0	-Click to Select-	
			Answer
a. What are the fees for the registration of judgment?			
b. What are the fees for the attachment order?			
c. What are the fees for the auction (publicity, tax, enforcement officer, etc.)?			
d. Would Seller have to advance the fees for the organization of the public sale (or would the enforcement officer pay him or herself out of the proceeds of the public sale)?			
e. What are other enforcement fees that would need to be advanced by Seller?			

Thank you very much for completing the Enforcing Contracts questionnaire.

We sincerely appreciate your contribution to the *Doing Business* project.

The results will appear in the *Doing Business 2017* report and on our website: www.doingbusiness.org.

Your work will be gratefully acknowledged in both, if you wish.