DELOS
dispute resolution

GUIDE TO ARBITRATION PLACES (GAP)

THAILAND

CHAPTER PREPARED BY

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FOR FURTHER INFORMATION

GAP TABLE OF CONTENTS | GAP TRAFFIC LIGHTS FOR ALL JURISDICTIONS | FULL GAP ONLINE

EN DELOS MODEL CLAUSES
ES DELOS CLÁUSULAS MODELO
FR DELOS CLAUSES TYPES
PT DELOS CLÁUSULAS MODELO

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JURISDICTION INDICATIVE TRAFFIC LIGHTS

9. Law
   a. Framework
   b. Adherence to international treaties
   c. Limited court intervention
   d. Arbitrator immunity from civil liability
10. Judiciary
11. Legal expertise
12. Rights of representation
13. Accessibility and safety
14. Ethics

Evolution of above compared to previous year

15. Tech friendliness
16. Compatibility with the Delos Rules

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There have not been any material changes requiring an update to this chapter (including the traffic lights) since the date of the latest version. Nonetheless, please note that this chapter does not constitute legal advice and its authors, the contributing law firm and Delos Dispute Resolution decline any and all responsibility.

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IN-HOUSE AND CORPORATE COUNSEL SUMMARY

Key places of arbitration in the jurisdiction?	Bangkok
Civil law / Common law environment? (if mixed or other, specify)	Thailand operates under a civil law system
Confidentiality of arbitrations?	Confidentiality is typically ensured through party agreements in a specific confidentiality clause or by reference to the relevant provisions of the rules of the arbitral institution e.g. Thai Arbitration Institute (TAI) or Thailand Arbitration Center (THAC)
Requirement to retain (local) counsel?	Parties are not required to retain local counsel. They can appoint foreign counsel to represent them, though there are specific restrictions on foreign lawyers if the governing law is Thai law or if the award is to be enforced in Thailand. Parties can also be self-represented.
Ability to present party employee witness testimony?	There are no specific restrictions on a party employee testifying as a witness. The arbitral tribunal has broad discretion to determine the admissibility and weight of evidence.
Ability to hold meetings and/or hearings outside of the seat and/or remotely?	Yes. The tribunal has the discretion to hold meetings, hearings, or evidence inspections at any location it deems appropriate, including remotely, even if a party objects.
Availability of interest as a remedy?	Yes. The arbitral tribunal can award interest as a remedy.
Ability to claim for reasonable costs incurred for the arbitration?	Yes, the arbitral tribunal can determine the allocation of fees and expenses related to the proceedings. However, it is important to note that, under Thai law, the right to recover attorneys' fees is generally not recognized unless there is an express provision for it in the arbitration agreement.
Restrictions regarding contingency fee arrangements and/or third-party funding?	- Contingency fee arrangements are prohibited. - No specific laws or regulations that govern or restrict Third-Party Funding (TPF). In practice, as of the date of this publication, the use of TPF arrangements is limited in Thailand.
Party to the New York Convention?	Yes, Thailand is a party to the 1958 New York Convention.
Party to the ICSID Convention?	Thailand has signed, but not yet ratified, the ICSID Convention.
Compatibility with the Delos Rules?	The Delos Rules are generally suitable for Thai-seated arbitration and compatible with the Thai Arbitration Act. The only material enforcement sensitivities concern interim relief, anti-suit orders, the validity of pre-award waivers of recourse, and legal cost recovery.

	With careful drafting (particularly on legal fees) and an understanding that Thai courts remain relevant for interim measures, the Delos framework can be used in Thailand without structural legal risk.
Default time-limitation period for civil actions (including contractual)?	Under Thai law, the applicable civil statute of limitations depends on the nature of the claim, such as: • General claims: The statute of limitations is 10 years from the date the claim becomes enforceable. • Commercial claims: For merchants, industrialists, manufacturers, artisans, and those engaged in industrial arts—such as claims for delivery of goods, performance of work, or management of another's affairs—the limitation period is 2 years from the date the claim becomes enforceable. • Transportation-related claims: For carriers of passengers or goods, or messengers, regarding fare, freight, hire, fees, and related disbursements, the limitation period is 2 years from the date the claim becomes enforceable. • Interest arrears: Claims for unpaid interest can be brought within 5 years. • Wrongful acts (torts): The limitation period is 1 year from the date the injured party becomes aware of both the wrongful act and the identity of the person liable for compensation.
Other key points to note?	Φ
World Bank, Enforcing Contracts: *Doing Business* score for 2020, if available?	67.9
World Justice Project, Rule of Law Index: *Civil Justice* score for 2025, if available?	0.50

ARBITRATION PRACTITIONER SUMMARY

Date of arbitration law?	The current law is the Arbitration Act B.E. 2545 (2002), which was last revised by the Arbitration Act (No. 2) B.E. 2562 (2019) to facilitate international arbitration.
UNCITRAL Model Law? If so, any key changes thereto? 2006 version?	The Thai Arbitration Act is largely based on the 1985 UNCITRAL Model Law. Key changes include its application to all types of arbitration (not just commercial ones) and both domestic and international proceedings, unlike the UNCITRAL Model Law.
Availability of specialised courts or judges at the key seat(s) in the jurisdiction for handling arbitration-related matters?	There are no specialized arbitration courts in Thailand. However, Thai courts are generally familiar with cases involving arbitration matters.
Availability of *ex parte* pre-arbitration interim measures?	Yes, a party can petition a court for *ex parte* interim measures before or during arbitration.
Courts' attitude towards the competence-competence principle?	Thailand recognizes the doctrine of separability, meaning an arbitration clause is considered separate from the main contract. An arbitral tribunal can rule on its own jurisdiction, even if the main contract's validity is challenged.
May an arbitral tribunal render a ruling on jurisdiction (or other issues) with reasons to follow in a subsequent award?	An arbitral award, including a ruling on jurisdiction, must state the reasons for its decisions unless the parties agree otherwise. The reasons are a mandatory requirement.
Grounds for annulment of awards additional to those based on the criteria for the recognition and enforcement of awards under the New York Convention?	The grounds for annulment of awards in Thailand are essentially the same as the grounds for refusing recognition and enforcement under the New York Convention. There are no additional grounds specified.
Do annulment proceedings typically suspend enforcement proceedings?	No, the initiation of annulment proceedings does not automatically suspend enforcement. The court has the discretion to adjourn the enforcement decision and may require the party seeking annulment to provide security.
Courts' attitude towards the recognition and enforcement of foreign awards annulled at the seat of the arbitration?	The annulment of a foreign award at its seat does not automatically preclude enforcement in Thailand. While it is a ground for refusal, the Thai court has the discretion to still enforce the award.
If an arbitral tribunal were to order a hearing to be conducted remotely (in whole or in part) despite a party's objection, would such an order affect the recognition or enforceability of an ensuing award in the jurisdiction?	No, it is unlikely to affect enforceability. The law grants the arbitral tribunal broad discretion to hold hearings, including remotely, as long as it determines it is a suitable and fair way to proceed.

Key points to note in relation to arbitration with and enforcement of awards against public bodies at the jurisdiction?	ϕ
Is the validity of blockchain-based evidence recognised?	Yes, the validity of blockchain-based evidence is recognized under the Electronic Transactions Act B.E. 2544 (2001). This act establishes the legal status of electronic data, and its broad definition of "electronic data messages" includes any data created or stored by electronic means. Therefore, an arbitrator or court should not reject evidence simply because it is in an electronic format, including data on a blockchain.
Where an arbitration agreement and/or award is recorded on a blockchain, is it recognised as valid?	The Thai Arbitration Act requires an arbitration agreement to be in writing and signed, but it allows for modern methods such as the "exchange of information with electronic signatures." If a blockchain record meets these criteria, it could potentially be considered valid.
Would a court consider a blockchain arbitration agreement and/or award as originals for the purposes of recognition and enforcement?	For recognition and enforcement, the law requires the original or certified copy of the award and the arbitration agreement. The Electronic Transactions Act gives electronic data messages the same legal status as written documents and prohibits courts from denying the evidentiary value of electronic data solely because of its format. Therefore, a blockchain record that meets the legal criteria for an electronic data message should be able to be used for recognition and enforcement.
Other key points to note?	Arbitration awards cannot be appealed on their merits. The only way to challenge an award is through a motion for annulment.

JURISDICTION DETAILED ANALYSIS

1. The legal framework of the jurisdiction

1.1 Is the arbitration law based on the UNCITRAL Model law? 1985 or 2006 version?

Yes, Thailand Arbitration Act B.E. 2545 (2002) ("**Thai Arbitration Act**") is largely based on the UNCITRAL Model Law, generally aligning with the 1985 version.

1.1.1 If yes, what key modifications if any have been made to it?

Some key modifications and differences include:

- The UNCITRAL Model Law applies to international commercial arbitration, whereas Thai Arbitration Act applies to both domestic and international arbitrations.
- Thai Arbitration Act covers all types of arbitrations conducted in Thailand, not just commercial ones.

1.2 When was the arbitration law last revised?

The Thai Arbitration Act was last substantively revised by the Arbitration Act (No. 2) B.E. 2562 (2019). This amendment came into effect on 15 April 2019. Its primary objective was to facilitate international arbitration in Thailand by facilitating the process for foreign arbitrators to obtain visas and work permits by allowing them to receive a certification letter from recognized arbitration institutions (like the Thai Arbitration Institute (TAI) or the Thailand Arbitration Center (THAC)), and provided mechanisms for foreign delegates to participate in arbitration proceedings in Thailand.

While this was the last major revision to the Thai Arbitration Act itself, it is worth noting that arbitral institutions like the Thai Arbitration Institute (TAI) frequently update their own arbitration rules to align with international best practices. For example, the TAI's rules had an Amendment that took effect on 1 September 2023.

2. The arbitration agreement

2.1 How do the courts in the jurisdiction determine the law governing the arbitration agreement?

Under the Thai Arbitration Act the arbitral tribunal will decide the dispute based on the rules of law chosen by the parties involved. If the parties do not choose a law, the arbitral tribunal will apply the law of Thailand. However, in cases of a conflict of laws, the tribunal will apply the conflict of laws rules it considers applicable (referring to the Conflict of Laws Act B.E.2481(1938). The parties can also explicitly state that the arbitral tribunal has the power to decide on the basis of good faith and fairness. Thai courts will uphold written arbitration agreements unless the agreement is deemed to be contrary to Thailand's public policy or good morals.[1]

For clarity, under Thai law, public order protects the collective interests of society—such as state security and economic stability—while good morals refer to generally accepted ethical standards like fairness and human dignity; any act or contract violating these principles (e.g., exploitative or immoral agreements) is considered void, and courts assess such violations case-by-case to ensure protection of societal and ethical norms.

2.2 In the absence of an express designation of a 'seat' in the arbitration agreement, how do the courts deal with references therein to a 'venue' or 'place' of arbitration?

If an arbitration agreement does not clearly specify the legal "seat" of arbitration but refers only to a "venue" or "place," Thai courts will interpret the agreement based on the parties' intent and the overall context. The

[1] Thai Supreme Court Ruling No. 3368/2552.

court may treat the mentioned venue/place as the legal seat if it appears that the parties intended it to be so, especially if there are no other indicators suggesting a different seat.

2.3 Is the arbitration agreement considered to be independent from the rest of the contract in which it is set forth?

Yes, Thailand fully recognizes the doctrine of separability (also known as the autonomy of the arbitration agreement). This principle is explicitly stipulated in the Thai Arbitration Act establishes that the arbitration clause is an agreement separate from the main contract.[2] Consequently, the invalidity, unenforceability, or termination of the main contract does not automatically render the arbitration agreement invalid or ineffective.

This doctrine is crucial as it allows an arbitral tribunal to retain its jurisdiction to decide disputes, even when the validity of the main contract is challenged. The tribunal can therefore rule on whether the main contract is void or invalid, without its authority to do so being undermined, unless the arbitration clause itself is found to be void, invalid, or unenforceable.

2.4 What are formal requirements (if any) for an enforceable arbitration agreement?

The formal requirements for an enforceable arbitration agreement under Thai law are primarily outlined in the Thai Arbitration Act, which stipulates that the agreement must be in writing and signed by both parties. While a written form is mandatory, the law is flexible enough to accommodate modern communication methods and certain procedural acknowledgments for the validity of arbitration agreements. The Act provides for several widely accepted exceptions where the "in writing" requirement is met without a traditional wet signature:

- If the agreement is contained in documents exchanged between the parties by way of letters, faxes, telegrams, telexes, the exchange of information with electronic signatures, or by other means that record such an agreement.
- If a contract clause is invoked in a claim or defence and the counterparty does not deny it, then an arbitration agreement shall be deemed to exist.[3]

2.5 To what extent, if at all, can a third party to the contract containing the arbitration agreement be bound by said arbitration agreement?

In Thailand, whenever a claim or liability is transferred, any existing arbitration agreement related to that claim or liability also binds the transferee. This is stipulated in Section 13 of the Arbitration Act B.E. 2545 (2002).

Although an arbitration agreement is independent of the main contract and not merely an accessory, it forms a crucial part of the main contract once established. It serves the interests of both the main contract and its parties. Therefore, if there's a change in the parties to the main contract due to the transfer of a claim or liability, the arbitration clause should likewise be transferred to the new transferee, along with the claim or liability itself.[4]

2.6 Are there restrictions to arbitrability? In the affirmative:

2.6.1 Do these restrictions relate to specific domains (such as anti-trust, employment law etc.)?

Arbitrability restrictions under Thai law are not tied to specific legal domains but rather to the nature of the dispute. While the Thai Arbitration Act doesn't explicitly list non-arbitrable matters, the general

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2 Section 11of the Arbitration Act B.E. 2545 (2002).

3 Section 11 Paragraph 2 of the Arbitration Act B.E. 2545 (2002).

4 Thai Supreme Court Ruling No.5448/2534.

understanding in Thai jurisprudence is that if a dispute involves public policy issues that are reserved for the exclusive jurisdiction of the state or its agencies, it cannot be arbitrated.

Examples of such disputes typically include, but are not limited to:

- Criminal matters.
- Family law matters such as divorce or child custody.
- Certain labor disputes where specific laws grant exclusive jurisdiction to the Labor Court.
- Bankruptcy and rehabilitation proceedings.

2.6.2 Do these restrictions relate to specific persons (*i.e.,* State entities, consumers etc.)?

The Thai Arbitration Act does not contain a specific list of persons who are restricted from arbitration. The restrictions arise from broader legal principles that impact certain parties and the nature of the disputes they are involved in.

3. Intervention of domestic courts

3.1 Will the courts stay litigation if there is a valid arbitration agreement covering the dispute?

If a party commences litigation in a Thai court regarding a dispute covered by a valid arbitration agreement, the Thai court **shall strike the case**. This is provided that the party against whom the legal proceedings are commenced files a motion to strike the case no later than the date of submitting their statement of defence, and the court finds the arbitration agreement to be valid, operative, and capable of being performed.[5]

3.2 How do courts treat injunctions by arbitrators enjoining parties to refrain from initiating, halt or withdraw litigation proceedings?

The Thai Arbitration Act does not explicitly grant arbitrators the power to issue anti-suit injunctions. While arbitrators may issue interim measures, parties seeking temporary orders or injunctions before or during arbitral proceedings generally need to apply to the Thai courts for such relief. This means that if a party wants an enforceable order to enjoin another party from initiating, halting, or withdrawing litigation, they typically must apply to the Thai court.

While institutional arbitration rules [6]often empower arbitral tribunals to issue interim measures, including those related to court proceedings, such orders by an arbitral tribunal are generally not directly enforceable by themselves in Thailand. For such an order to be effective and binding, a party would usually still need to seek an enforcement order from the competent Thai court, or the court's assistance in compelling compliance.[7]

3.3 On what ground(s) can the courts intervene in arbitrations seated outside of the jurisdiction? (Relates to anti-suit injunctions/anti-arbitration injunctions or orders, but not only)

Thai courts generally only limit their intervention in arbitrations seated outside the jurisdiction to matters concerning the recognition and enforcement of foreign awards under the New York Convention [8]or requests for interim measures [9]in support of foreign arbitrations.

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5 Section 16 of the Arbitration Act B.E. 2545 (2002).

6 Article 39 of The Arbitration Rules, the Thai Arbitration Institute, Office of the Judiciary (2017), available at: https://tai.coj.go.th/en/content/article/detail/id/2197/iid/18875

7 Section 16 of the Arbitration Act B.E. 2545 (2002).

8 Chapter 7 of the Arbitration Act B.E. 2545 (2002).

9 Section 16 of the Arbitration Act B.E. 2545 (2002).

4. The conduct of the proceedings

4.1 Can parties retain foreign counsel or be self-represented?

Yes, they can but subject to some conditions. Parties are permitted to appoint one or more foreign nationals to act as their representatives in an arbitration or they can represent themselves in the arbitration proceeding. There is no requirement for representatives to hold a legal license (but such foreign nationals need to obtain a certificate performing work as a foreign counsel. The certificate will be issued by relevant arbitration institute (i.e. TAI or THAC)), whether from Thailand or any other jurisdiction, in order to participate in arbitration proceedings.

However, there are important limitations regarding work permits for foreigners providing legal services. A foreign national can only act as an arbitrator or representative if:

- The governing law of the dispute is not Thai law.
- The arbitral award is not to be enforced in Thailand.[10]

If a foreign national works without authorization, they can be fined and deported. Employers who hire unauthorized foreign workers also face significant fines. [11]

Regarding self-representation, the Thai Arbitration Act does not prohibit self-representation. A party to an arbitration can choose to represent themselves without appointing legal counsel.

4.2 How strictly do courts control arbitrators' independence and impartiality? For example, does an arbitrator's failure to disclose suffice for the court to accept a challenge or do courts require that the undisclosed circumstances justify this outcome?

The courts control arbitrators' independence and impartiality, but they don't automatically accept a challenge just because of a failure to disclose. The arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to his impartiality or independence. This means it's not enough to simply claim a lack of impartiality; there must be objective circumstances that support the claim. The Act also states that a prospective arbitrator shall disclose any circumstances likely to give rise to justifiable doubts. This establishes a duty to disclose, and a failure to do so can be a key piece of evidence in a challenge. However, the core of the challenge is the existence of the justifiable doubts themselves, not merely the non-disclosure. [12]

A party can challenge an arbitrator with the arbitral tribunal first. If the challenge is unsuccessful, the party can then request the competent court to decide on the challenge. The court's role is to examine the challenge and then issue an order either accepting or dismissing the challenge. This examination suggests the court will weigh the facts of the case, including the undisclosed circumstances, to determine if they truly create justifiable doubts about the arbitrator's impartiality or independence. [13]

4.3 On what grounds do courts intervene to assist in the constitution of the arbitral tribunal (in case of *ad hoc* arbitration)?

In ad hoc arbitrations, if the parties fail to agree on the appointment of arbitrators, or if an appointed arbitrator fails to act or is challenged, Thai courts can intervene to assist in the constitution of the arbitral tribunal. The specific grounds for court intervention are as follows:

Failure to Appoint a Sole Arbitrator

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10 Royal Decree Prescribing Works Relating to Occupation and Profession in which an Alien is Prohibited to Engage, No.3, B.E. 2543 (2000).

11 The Royal Ordinance on Managing the Work of Aliens B.E. 2560 (2017).

12 Section 19 of the Arbitration Act B.E. 2545 (2002).

13 Section 20 of the Arbitration Act B.E. 2545 (2002).

When the arbitral tribunal is to be composed of a sole arbitrator, and the parties are unable to agree on an appointment, either party can petition the competent court to issue an order appointing the arbitrator.

Failure to Appoint a Multi-Member Tribunal

When the tribunal consists of more than one arbitrator, court intervention can be requested if:

- A party fails to appoint their share of arbitrators within 30 days after receiving a request to do so from the other party.
- The appointed arbitrators fail to agree on and appoint the presiding arbitrator within 30 days of their own appointment.

Failure of the Appointing Body

Court intervention is also possible if the agreed-upon appointment procedure fails because:

- A party fails to follow the stipulated procedure.
- The parties or arbitrators fail to reach an agreement as required by the procedure.
- A third party or institution fails to perform its function as per the procedure.[14]

4.4 Do courts have the power to issue interim measures in connection with arbitrations? If so, are they willing to consider *ex parte* requests?

A party to an arbitration agreement can petition a competent court to issue provisional measures to protect their interests before or during arbitral proceedings. The court will grant such a request if it determines that it would have had the authority to issue a similar order had the case been litigated in court. The provisions for provisional measures under the Thai Civil Procedure Code apply to these situations.[15]

The law allows for such requests to be filed ex parte. This means that a party can ask for an interim measure without notifying the other party. However, if the court grants the order, the party who filed the motion must initiate the arbitral proceedings within 30 days of the court's order (or within another period specified by the court). If they fail to do so, the interim order will be automatically cancelled. [16]This requirement helps prevent a party from using court orders to gain an unfair advantage or to unnecessarily delay the arbitration process.

4.5 Other than arbitrators' duty to be independent and impartial, does the law regulate the conduct of the arbitration?

4.5.1 Does it provide for the confidentiality of arbitration proceedings?

While the Thai Arbitration Act does not explicitly contain provisions on confidentiality, the inherent nature and fundamental principle of arbitration dictate that proceedings are conducted confidentially. Access to arbitration hearings is typically restricted to the parties involved and their authorized representatives.

As the confidentiality is not automatically guaranteed. If confidentiality is a priority for the parties, they must ensure that it is expressly provided for in either the applicable arbitration rules or the arbitration agreement.

Confidentiality in arbitration is primarily established and ensured through:

- Agreements between the parties: Often stipulated in the arbitration agreement itself.
- Rules of the arbitral institution: Specific regulations governing the arbitration process.[17]

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14 Section 18 of the Arbitration Act B.E. 2545 (2002).

15 Section 16 Paragraph 1 of the Arbitration Act B.E. 2545 (2002).

16 Section 16 Paragraph 2 of the Arbitration Act B.E. 2545 (2002).

17 Article 36 of TAI Arbitration Rules and Article 87 of THAC Rules 2015.

The vast majority of arbitration cases remain confidential. Case records generally only become a matter of public record when their enforcement or setting aside is challenged in Thai courts. At this stage, the court filings related to the challenge/enforcement may become publicly accessible, though the underlying details of the arbitration itself might still be subject to confidentiality orders.

4.5.2 Does it regulate the length of arbitration proceedings?

Thai Arbitration Act does not prescribe a specific length for arbitration proceedings. However, institutional rules may set out timelines or expedited procedures for certain types of cases (e.g., THAC and TAI have expedited procedures). The principle of conducting proceedings efficiently is generally expected.

4.5.3 Does it regulate the place where hearings and/or meetings may be held, and can hearings and/or meetings be held remotely, even if a party objects?

The parties are free to agree on the place of arbitration. If there is no agreement, the arbitral tribunal will determine the location, taking into account the circumstances of the case, including the convenience of the parties. [18]

Unless the parties have agreed otherwise, the arbitral tribunal has the discretion to hold meetings, hearings, and inspections at any location it considers appropriate. This includes meetings for consultation, hearing witnesses (including experts), or inspecting evidence. This flexibility extends to the use of remote hearings and meetings. While the law doesn't explicitly mention virtual meetings, the broad authority given to the tribunal to "meet at any place it considers appropriate" is widely interpreted to allow for remote proceedings. The tribunal can decide to conduct a hearing remotely, even if a party objects, as long as it determines that it is a suitable and fair way to proceed.

4.5.4 Does it allow for arbitrators to issue interim measures? In the affirmative, under what conditions?

While the Thai Arbitration Act does not provide a mechanism for an arbitral tribunal to issue interim measures, local arbitration rules have a provision allowing tribunals to grant appropriate interim protection and require the requesting party to furnish suitable security for potential damages, emphasizing that a party's right to seek interim measures directly from a Thai court remains unrestricted.[19] Nonetheless, the rules do not specify the mechanisms for enforcing such interim measures when issued by an arbitral tribunal. It is also important to note that interim measures ordered by a court have broader applicability, extending their effect to third parties. In contrast, interim measures issued within an arbitration context, for instance by TAI, are typically effective only between the parties to the arbitration agreement.

4.5.5 Does it regulate the arbitrators' right to admit/exclude evidence? For example, are there any restrictions to the presentation of testimony by a party employee?

No, the Thai Arbitration Act does not specifically regulate an arbitrator's right to admit or exclude evidence. The Act grants the arbitral tribunal broad discretion in determining the admissibility, relevance, materiality, and weight of any evidence. There are no specific restrictions on the presentation of testimony by a party employee.

The arbitral tribunal explicitly has the power to determine the admissibility and weight of the evidence. This means the tribunal can decide what evidence is allowed to be presented and how much importance to give

[18] Section 26 of the Arbitration Act B.E. 2545 (2002).

[19] Article 39 of the Thailand Arbitration Institute Rules.

it.[20] This power is exercised within the broader principle that parties must be treated with equality and given a full opportunity to present their cases.[21]

4.5.6 Does it make it mandatory to hold a hearing?

Under the Thai Arbitration Act, the arbitral tribunal has the discretion to decide the format of the proceedings. Unless the parties have made a specific agreement to the contrary, the tribunal can choose to hold oral hearings for the presentation of evidence and arguments, or it can conduct the proceedings solely on the basis of documents and other written evidence. This flexibility allows the tribunal to manage the arbitration process in the most efficient manner possible, depending on the nature and complexity of the dispute.[22]

4.5.7 Does it prescribe principles governing the awarding of interest?

The Thai Arbitration Act does not explicitly prescribe principles for the awarding of interest.

The parties to an arbitration agreement are free to agree on a different interest rate. If there is no specific agreement, the arbitral tribunal will likely apply the statutory rate of the Thai Civil and Commercial Code, calculated from the date of the default until the date of full payment. The tribunal also has the discretion to determine the starting date for the calculation of interest.

4.5.8 Does it prescribe principles governing the allocation of arbitration costs?

Unless the parties agree otherwise, the arbitral tribunal determines the allocation of fees and expenses incidental to the arbitral proceedings, as well as the arbitrators' remunerations. This specifically excludes attorneys' fees and expenses. The tribunal's decision on these costs will be stipulated in the award.

If the fees, expenses, or remunerations are not fixed in the award, any party or the arbitral tribunal can petition a competent court for a ruling. The court will then determine the arbitration fees, expenses, and arbitrators' remunerations as it deems appropriate.

Additionally, institutions established for the settlement of disputes by arbitration are permitted to prescribe their own fees, expenses, and remunerations incidental to the arbitral proceedings. This means that if the arbitration is administered by an institution, its rules on costs will generally apply, unless the parties have specifically agreed otherwise.

4.6 Liability

4.6.1 Do arbitrators benefit from immunity from civil liability?

An arbitrator is not liable for any civil liabilities for acts performed in the course of their duty as an arbitrator. However, this immunity does not apply if the act is performed with intent or with gross negligence. [23]

4.6.2 Are there any concerns arising from potential criminal liability for any of the participants in an arbitration proceeding?

Beyond civil liability, the Thai Arbitration Act also outlines penalties for corrupt conduct:

- For Arbitrators: An arbitrator who wrongfully demands, accepts, or agrees to accept an asset or any other benefit for themselves or another person, in exchange for doing or omitting to do any act in

[20] Section 25 Paragraph 2 of the Arbitration Act B.E. 2545 (2002).

[21] Section 25 Paragraph 1 of the Arbitration Act B.E. 2545 (2002).

[22] Section 30 of the Arbitration Act B.E. 2545 (2002).

[23] Section 23 of the Arbitration Act B.E. 2545 (2002).

their duties, is subject to imprisonment for up to ten years, a fine not exceeding one hundred thousand baht, or both.[24]

- For Parties Offering Bribes: Anyone who gives, offers, or agrees to give an asset or any other benefit to an arbitrator to induce them to do, omit to do, or delay an act contrary to their duties, is also subject to imprisonment for up to ten years, a fine not exceeding one hundred thousand baht, or both.[25]

5. The award

5.1 Can parties waive the requirement for an award to provide reasons?

The arbitral award must provide reasons for its decisions, unless the parties have agreed otherwise.[26] This is a default rule that ensures transparency and allows the parties to understand the basis of the tribunal's findings.

5.2 What atypical mandatory requirements apply to the rendering of a valid award rendered at a seat in the jurisdiction?

Atypical mandatory requirements for a valid award under Thai Arbitration Act are as follows:

1. In writing and signed: The award must be made in writing and signed by the members of the arbitral tribunal. If there is more than one arbitrator, the signatures of the majority are sufficient, provided that the reason for any omitted signature is stated.[27]
2. Statement of reasons (unless waived): Unless the parties have agreed otherwise, the award must clearly state the reasons for the decisions. This requirement can be waived by mutual agreement of the parties. The award cannot decide on matters beyond the scope of the arbitration agreement or the relief sought, with exceptions for awards reflecting settlement agreements or awards fixing arbitration costs.[28]
3. Date and place of arbitration: The award must state the date it was made and the place of arbitration, and the award is legally deemed to have been made at this stated place.[29]
4. Notification to Parties: After the award is made, the arbitral tribunal is obliged to send a copy of the award to all parties. This ensures that all parties are duly informed of the decision.[30]

5.3 Is it possible to appeal an award (as opposed to seeking its annulment)? If yes, what are the grounds for appeal?

In Thailand, it is not possible to appeal an arbitral award on its merits. Instead of an appeal, the mechanism to challenge an arbitral award is through a motion for setting aside (annulment) filed with the competent court.[31]

5.4 What procedures exist for the recognition and enforcement of awards, what time-limits apply and is there a distinction to be made between local and foreign awards?

The recognition and enforcement of arbitral awards in Thailand generally follow a unified procedure, but there's a key distinction for foreign awards.

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24 Section 23 Paragraph 2 of the Arbitration Act B.E. 2545 (2002).

25 Section 23 Paragraph 3 of the Arbitration Act B.E. 2545 (2002).

26 Section 37 Paragraph 2 of the Arbitration Act B.E. 2545 (2002).

27 Section 37 Paragraph 1 of the Arbitration Act B.E. 2545 (2002).

28 Section 37 Paragraph 2 of the Arbitration Act B.E. 2545 (2002).

29 Section 37 Paragraph 3 of the Arbitration Act B.E. 2545 (2002).

30 Section 37 Paragraph 4 of the Arbitration Act B.E. 2545 (2002).

31 Section 40 of the Arbitration Act B.E. 2545 (2002).

Recognition and Enforcement Procedure

In Thailand, an arbitral award, regardless of the country in which it was made, must be submitted to the competent court through a petition for recognition. Once recognized, the award becomes binding on the parties and is enforceable in Thailand.[32]

The party seeking enforcement must file a petition for recognition with the competent court and provide the following documents:

1. Original or certified copy of the arbitral award.
2. Original or certified copy of the arbitration agreement.
3. Thai translation of both the award and the arbitration agreement, certified by an oath-taking translator, an official, or a Thai envoy/consul in the country where the documents were made.[33]

The court will promptly examine the application and render a judgment.

Time Limit

The petition for recognition of an arbitral award must be filed within three years from the day the award becomes enforceable.[34]

Grounds for Refusal of Enforcement

The court may refuse enforcement of an arbitral award (whether local or foreign) on grounds that are largely similar to those for setting aside an award. These include:

- Incapacity of a party to the arbitration agreement.
- Invalid arbitration agreement.
- Lack of proper notice or inability of a party to present their case.
- Award dealing with a dispute outside the scope of the arbitration agreement.
- Irregularities in the composition of the arbitral tribunal or the arbitral proceedings.
- The arbitral award has not yet become binding, or has been set aside or suspended by a competent court or under the law of the country where it was made.[35]

Distinction Between Local and Foreign Awards

While the general principle of recognition and enforcement applies to all awards, there's a crucial distinction for foreign awards:

- Foreign Awards: An arbitral award made in a foreign country will only be enforced by the competent court if it is subject to an international convention, treaty, or agreement to which Thailand is a party. The enforcement will apply only to the extent that Thailand has acceded to be bound by such instruments (e.g., the New York Convention).[36]
- Local Awards: Awards made within Thailand do not have this additional requirement related to international conventions.

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32 Section 41 of the Arbitration Act B.E. 2545 (2002).

33 Section 42 of the Arbitration Act B.E. 2545 (2002).

34 Section 42 of the Arbitration Act B.E. 2545 (2002).

35 Section 43 of the Arbitration Act B.E. 2545 (2002).

36 Section 41 Paragraph 2 of the Arbitration Act B.E. 2545 (2002).

5.5 Does the introduction of annulment or appeal proceedings automatically suspend the exercise of the right to enforce an award?

No, the introduction of annulment (setting aside) proceedings or a request for suspension of the award does not automatically suspend the exercise of the right to enforce an award in Thailand.

The Thai Arbitration Act gives the court discretion to suspend the enforcement proceedings if an application for annulment or suspension of the award has been made to a competent authority (either in Thailand for a domestic award, or in the seat of arbitration for a foreign award). The court may, if it considers it proper, adjourn the decision on the enforcement of the award and may also, upon the application of the party seeking enforcement, order the other party to provide appropriate security. [37]This means that while the court has the power to grant a stay of enforcement, it is not automatic and is subject to the court's discretion and the specific circumstances of the case.

5.6 When a foreign award has been annulled at its seat, does such annulment preclude the award from being enforced in the jurisdiction?

No, the annulment of a foreign arbitral award at its seat does not automatically preclude it from being enforced in Thailand. The court may refuse to enforce a foreign arbitral award if the party against whom it is invoked furnishes proof that the award has been set aside or suspended by a competent authority of the country in which, or under the law of which, that award was made.[38]

However, the Thai court is not obliged to refuse enforcement. The court has the discretion to still enforce the award, even if it was annulled at its place of origin. This provision gives the Thai court the final say on the enforceability of such awards within its jurisdiction.

5.7 Are foreign awards readily enforceable in practice?

A foreign arbitral award is enforceable in Thailand, but the process is not automatic. Its enforceability depends on whether it falls under an international treaty to which Thailand is a party, such as the **1958 New York Convention**.[39]

The party seeking enforcement must file a petition with a competent Thai court. This petition must be supported by the original award or a certified copy, along with the original arbitration agreement or a certified copy, and a certified Thai translation of both documents if they are not in Thai.[40]

The court will then review the request and the documents. While the law generally favors enforcement, the court may refuse to enforce the award on specific grounds, such as a party's incapacity, a lack of due process, or if the subject matter is not arbitrable under Thai law.[41]

6. Funding arrangements

6.1 Are there laws or regulations relating to, or restrictions to the use of contingency or alternative fee arrangements or third-party funding at the jurisdiction? If so, what is the practical and/or legal impact of such laws, regulations or restrictions?

Contingent Fee Arrangements: In Thailand, the Supreme Court has consistently ruled that contingent fee agreements are a violation of the Thai Law on Lawyer's Ethics[42] and are therefore unenforceable.

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37 Section 43 (6) of the Arbitration Act B.E. 2545 (2002).

38 Section 43 (6) of the Arbitration Act B.E. 2545 (2002).

39 Section 41 of the Arbitration Act B.E. 2545 (2002).

40 Section 42 of the Arbitration Act B.E. 2545 (2002).

41 Section 43 of the Arbitration Act B.E. 2545 (2002).

42 Supreme Court Ruling No 1047/2533, 1260/2543.

TPF vs. Contingent Fees: The key distinction is that a TPF funder is not a lawyer. Therefore, they are not subject to the Law on Thai Lawyer's Ethics. This means that, in theory, establishing a company to conduct TPF business could be possible.

There are no specific laws or regulations in Thailand that govern or restrict the use of third-party funding. However, the use of such agreements is subject to judicial review to determine if it is contrary to public order or good morals. If a third-party funding agreement is deemed not to be against public order or good morals, it could be considered a valid and enforceable contract between the parties.

Therefore, the practical and legal impact is that while there is no explicit ban, the enforceability of third-party funding agreements depends on a court's case-by-case assessment of the specific agreement's terms and circumstances.

7. Arbitration and technology

7.1 Is the validity of blockchain-based evidence recognised?

The validity of blockchain-based evidence is implicitly recognized under the Electronic Transactions Act B.E. 2544 (2001). This Act establishes the legal status of electronic data messages and electronic signatures. The definition of "electronic data messages" is broad, encompassing any data created, sent, received, stored, or processed by electronic means, regardless of its form (text, numbers, sound, image, etc.).[43] Therefore, an arbitrator should not reject the validity of data solely because it is in an electronic format. The Act also provides a framework for the admissibility and evidential value of electronic data in legal proceedings. This foundational law can be used to support the validity of transactions conducted using new technologies like blockchain.

7.2 Where an arbitration agreement and/or award is recorded on a blockchain, is it recognised as valid?

An arbitration agreement or award recorded on a blockchain can be recognized as valid. This is because the **Electronic Transactions Act** provides a legal basis for treating electronic data messages as being "in writing" and having the same legal effect as a paper document,[44] as long as the data is accessible and can be retrieved for future use. Therefore, an arbitration agreement or award stored on a blockchain, which is a type of electronic data message, can fulfil the "in writing" and other formal requirements under the Thai Arbitration Act. The Electronic Transactions Act serves as the legal tool that bridges the gap between traditional legal requirements and modern technology.

7.3 Would a court consider a blockchain arbitration agreement and/or award as originals for the purposes of recognition and enforcement?

The provided information indicates that the Electronic Transactions Act grants electronic data messages the same legal status and enforceability as written documents or evidence. The law provides principles that prevent courts from denying the evidential value of electronic data, including printed copies of such data, solely because it is electronic. Therefore, a blockchain record of an arbitration agreement or award, if it meets the legal criteria for an electronic data message, could be considered an original or its equivalent for the purpose of recognition and enforcement.

7.4 Would a court consider an award that has been electronically signed (by inserting the image of a signature) or more securely digitally signed (by using encrypted electronic keys

[43] Section 4 of the Electronic Transactions Act B.E. 2544 (2001).

[44] Section 8 of the Electronic Transactions Act B.E. 2544 (2001).

authenticated by a third-party certificate) as an original for the purposes of recognition and enforcement? (Please consider both hypotheses separately.)

1. Electronic Signatures

The Electronic Transactions Act of Thailand recognizes electronic signatures. The key to their legal validity is that the method used for signing must adequately identify the signatory and demonstrate their intent to be bound by the document. [45]This applies to simple electronic signatures, such as an image of a signature. While legally valid, a simple electronic signature may have a lower evidential weight in a court of law compared to a more secure method.

While there is no specific Supreme Court ruling on an arbitral award with this type of signature, courts have recognized electronic signatures as valid evidence in other contexts. [46]In an arbitration setting, a court would likely assess the specific circumstances to determine if the signature is reliable enough for enforcement.

2. Digital Signatures

A secure digital signature, which uses encrypted keys and is authenticated by a third-party certificate, is also recognized and granted legal validity under the same Act. [47]Consequently, a court would likely consider an award with a digital signature as an "original" for the purpose of recognition and enforcement. However, there is no specific Supreme Court ruling on an arbitral award with this type of signature.

8. Is there likely to be any significant reform of the arbitration law in the near future?

No. Based on recent developments, Thailand is not currently planning a comprehensive, overarching reform of the Thai Arbitration Act .

9. Compatibility of the Delos Rules with local arbitration law

The Delos Rules are generally compatible with the Thai Arbitration Act. The Thai statute's Model Law foundations provide a hospitable framework for the Delos Rules' key features, including party autonomy, competence-competence, separability, and flexible conduct of proceedings. The main areas requiring attention are:

1. *Interim measures and emergency arbitrator:* Tribunal-issued interim relief and emergency arbitrator decisions are not directly enforceable in Thailand without court assistance. Parties should be prepared to seek parallel or confirmatory relief from the Thai courts.
2. *Attorneys' fees:* A Delos costs award including attorneys' fees may face difficulty upon enforcement in Thailand unless the arbitration agreement expressly provides for recovery of legal costs.
3. *Waiver of recourse*: Article 16.1 of the Delos Rules provides for a waiver of recourse against an award insofar as such waiver is valid. Under Thai law, however, parties retain a mandatory statutory right to apply for the setting aside of an award under Section 40 of the Thai Arbitration Act. Any pre-award waiver of this remedy may therefore be considered invalid and incompatible with Thai mandatory law.

We should also highlight a practical difficulty in the implementation of the Delos Rules in Thailand. While the Delos Rules place no restriction on the nationality or professional qualification of party representatives, foreign representatives involved in any enforcement proceeding with a Thai nexus must obtain in Thailand the requisite certificate from TAI or THAC Parties should address this at the outset of any proceedings. However, a foreign national can only act as an arbitrator or representative if: (i) the governing law of the dispute is not Thai law; and (ii) the arbitral award is not to be enforced in Thailand.

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45 Section 8 of the Electronic Transactions Act B.E. 2544 (2001).

46 Supreme Court Ruling No 8089/2556, 6757/2560.

47 Section 26 of the Electronic Transactions Act B.E. 2544 (2001).

10. Further Reading

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ARBITRATION INFRASTRUCTURE AT THE JURISDICTION

Leading national, regional and international arbitral institutions based out of the jurisdiction, *i.e.*, with offices and a case team?	ϕ
Main arbitration hearing facilities for in-person hearings?	ϕ
Main reprographics facilities in reasonable proximity to the above main arbitration providers with offices in the jurisdiction?	ϕ
Leading local providers of court reporting services, and regional or international providers with offices in the jurisdiction?	ϕ
Leading local interpreters for simultaneous interpretation between English and the local language, if it is not English?	ϕ
Other leading arbitral bodies with offices in the jurisdiction?	ϕ