

Client Alert

November 2020

Ministry of Commerce Issues New Ministerial Regulations on Trade Remedy Measures

Following the amendment to the Anti-Dumping and Countervailing Act, B.E. 2542 (1999) ("**AD Act**") in May 2019 to include "anti-circumvention" measures in order to prevent the circumvention of the use of trade remedy measures, the Ministry of Commerce published in the Government Gazette in October 2020 three Ministerial Regulations to accommodate this new measure.

Under the AD Act, in order to protect the domestic industry, Thailand may impose certain trade remedy measures if certain trade conditions are met. For example, if a foreign exporter/ manufacturer exports certain goods into Thailand at a dumped price (in general, it is considered "dumping" if a foreign exporter/manufacturer sells goods abroad at a lower price than in its country of origin), and such action results in material injury to the Thai industry, the Thai government may impose an anti-dumping duty in addition to customs duty on the future importation of such goods into the Kingdom.

As trade remedy measures are normally imposed on a country-by-country basis, there has been evidence of practice from around the world for the ways in which to circumvent this type of measure. This includes:

1. importing parts instead of finished goods and assembling them in the country;
2. importing slightly modified goods so that it falls under a different HS-Code on which there is no imposition of trade remedy measures;
3. selling of goods via a third country to which anti-dumping measures are not imposed.

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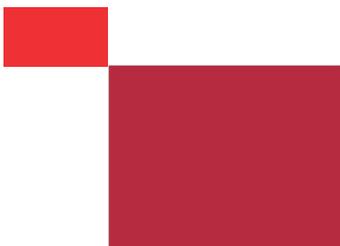
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The amendment of the AD Act would allow the Thai government to take action against the circumvention of trade remedy measures. The three new Ministerial Regulations¹ stipulates (i) the details that must be disclosed as a result of trade remedy investigations including anti-circumvention investigation, (ii) the rights of

¹ 1. Ministerial Regulation: Disclosure of the Information Relating to the Consideration of Anti-Dumping and Subsidy and Circumvention of Anti-Dumping and Countervailing Measures

2. Ministerial Regulation: Procedure to Protect the Benefit of the Interested and Related Parties in Dumping, Subsidy, and Circumvention of Anti-Dumping and Subsidy Measures Investigation

3. Ministerial Regulation: Consideration of the Reasonable Ground or Economic Reason; the Undermining Effect of the Use of Measure relating to Price, Quantity; and Evidence of Dumping or Subsidy





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the interested and related parties in dumping, subsidy, and circumvention of anti-dumping and subsidy measures investigations, and (iii) the factors that must be considered to determine whether there is a circumvention of dumping or subsidy measure.

Now that these Ministerial Regulations are in place to support the use of anti-circumvention measures, we expect to see this measure being utilized in the near future.

For more information on this matter, kindly contact our team at Baker McKenzie.