

# Trade Digest

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## Thailand and the Special 301 Report

The Office of the United States Trade Representative (USTR) has recently released its 2017 Special 301 Report, which evaluates the effectiveness and adequacy of US trade partners' intellectual property rights (IPR) protection and enforcement. In this latest report, Thailand remains on the Priority Watch List (PWL), alongside 10 other countries including China, India, and Indonesia. While the PWL status itself is cause for concern, the report also recognized the Thai Government's efforts to improve its IPR protection and enforcement through various initiatives, including the establishment of the National Committee on Intellectual Property Policy and attempts to expedite the patent and trademark applications process. It is expected that the US may revise Thailand's status to the less concerning Watch List (WL) in due time if Thailand continues with its commitments to improving its IPR system.

Nonetheless, while the abovementioned initiatives from the Thai Government were appreciated by the USTR in the report, there remain a number of issues to be addressed. Major concerns cited in the report include, among other things, a lack of effective enforcement against counterfeit and pirated goods, extensive use of unlicensed software, and a long backlog of patent applications. It was also indicated in the report that the Copyright Act B.E. 2537 (1994) also provides insufficient protection against the circumvention of technological protection measures (TPM) and the unauthorized modification of rights management information (RMI). In addition, concerns over the misuse of the new Cyber Security laws were also mentioned in the report.

The Special 301 Report is prepared annually by the USTR in pursuance of the Trade Act of 1974. Countries with IPR concerns are categorized into different statuses in this report, depending on the severity of the problem. If a country is categorized as a Priority Foreign Country (PFC)—a status given to a country with serious intellectual property rights deficiencies—then an investigation is required and such country is subject to retaliation under Section 301 of the Trade Act if any misconduct is found. Thailand's current status, PWL, is one step above the PFC.

Having strong IPR protection not only helps strengthen trade relations with foreign countries, but also stimulates more innovations within the country. Nevertheless, sensitive issues such as affordable access to medicines and fair use of copyright protected works also need to be taken into account in order to achieve a well-balanced IPR regime.

## Local Economy, Smart SMEs and the CLMV Group of Countries

In late April, Ms. Wiboonluk Ruamruk, the Permanent Secretary of the Ministry of Commerce, announced the cabinet's approval for funding of 2 billion Baht to be allocated to seven economic and business stimulus programs. The focus of the programs are entrepreneurship and local economy development, which will be administered by the Ministry of Commerce. For these new programs, the government will continue to connect Thailand's local economy with those of Cambodia, Laos, Myanmar and Vietnam (CLMV countries).

The local economy, also known as community level economy, has always been the focal point of the government's regional economic policy. It emphasizes socio-economic development at the grass-roots level. In a statement made by Mr. Sonthirat Sonthi-Jirawong, the Deputy Commerce Minister, the Ministry will continue to support the trade of local produce through the establishment of community markets and exchanges. Markets situated near border crossings will be given priority in order to expand the footprint of Thai products in CLMV countries.

On the matter of entrepreneurship development, it will be spearheaded by the New Economy Academy, an institution set to be launched at the beginning of this year by the Ministry of Commerce. Apart from its original goal of fostering digitalized or smart SMEs, the new scheme outlines CLMV penetration as another key objective.

During the tenure of the current government, it has committed to support Thai businesses investing, trading and doing business with CLMV countries. The Ministry of Commerce's newly introduced SME and

A silhouette of a city skyline against a bright, orange sunset sky. The sun is low on the horizon, creating a strong glow and casting long shadows. The buildings are dark against the light sky.

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local economy program will be an addition to several previously launched CLMV-centric policies. Such policies include the Special Economic Zone program, which aimed to promote investment and land-based trade in borderline areas, resulting in border provinces and regional economies being expected to benefit the most.

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If you have any comments or questions regarding Trade Digest or any matters discussed herein, or if you are interested in finding out more about Bolliger & Company (Thailand) services, please contact any of the persons below:

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