



Open Letter to the Thai Prime Minister

22 Feb., 2022

Re. Request for the Prime Minister to Endorse the Draft Act to Regulate the Integrated Management of Clean Air For Health B.E....drafted & submitted by the Thailand Clean Air Network

Dear General Prayut Chan-o-cha, Prime Minister of Thailand

This is with regards to the pain and suffering inflicted on Thai citizens due to air pollution, specifically fine particulate matter 2.5, which has been an ongoing problem that affects Bangkok and other regions of the country. Air pollution is a chronic problem that has become more acute in many parts of Thailand. Thais have had to suffer from breathing air laced with elevated toxins for an extended period, and at levels that exceed the recommended levels set by the WHO - which are levels deemed to be safe for human health. This has been the cause of illness and acute fatalities linked to respiratory, heart and cerebrovascular disease. Air pollution has also been linked to chronic disease such as cancer and diabetes. There has been devastating impact on vulnerable groups, which include children, pregnant women, the elderly, the sick and those whose work require them to be outdoors. People within these vulnerable groups are relatively much more at risk than the common person.

However, responsible authorities are unable to address this problem in a definitive way. They lack the ability to manage this in a completely integrated manner. They have been constantly fixated to only address the repercussion of the problem, rather than to address the root cause of air pollution. Existing legislations are also unable to adequately address these above-mentioned issues. Each governmental ministry is preoccupied with only handling the immediate issue at hand, rather than to seek solutions needed to sustainably manage this problem. Most critically, the underlying structural issue has been completely ignored, and this is the very reason why the problem of air pollution remains unresolved. The Thailand Clean Air Network, alongside affected Thai citizens, see a critical need for a reform legislation that will bring about a system to effectively manage and regulate clean air in line with standards set by the WHO and the United Nations. This will, thereby, ensure that Thais will, at the very least, have a chance of having good health and longevity.


The Thailand Clean Air Network, alongside affected Thai citizens, would like to request that the Prime Minister please endorse the Draft Act to Regulate the Integrated Management of Clean Air For Health B.E....as drafted & submitted by the Thailand Clean Air Network, and the reasons are provided as follows:



Background:

1. **Thailand Clean Air Network** comprise of academic volunteers from a multi-disciplinary background, together with social activists, who formed a coalition in order to develop a body of knowledge and to disseminate accurate information to the general public about the health impact of air pollution. The group works collaboratively with all stakeholders and has received some partial funding support from the Thailand Health Foundation.
2. **Based on academic research & field work**, the group found that the biggest obstacle to addressing air pollution effectively is the underlying structural problem. In other words, the tendency of responsible agencies to fixate only on addressing the repercussion of air pollution, the lack of integration amongst responsible agencies and, the lack of enforcement of existing regulations. This all stems from the fact that existing legislation and their various responsible ministries are all too dispersed in terms of their roles and responsibilities. Specifically, the Ministry of Industry is responsible for air pollution from factories, the Ministry of Transport is responsible for vehicle pollution, the Ministry of Energy is responsible for the automotive emissions standards for vehicle exhaust emissions and the Ministry of Natural Resources and Environment is responsible only for controlling air pollution. However, the latter is not focused on the critical overarching objective which is to manage clean air. Clean air is, ultimately, the first precondition of life and the universal right to life, without which, we will all risk premature death.
3. **Our academic volunteers and civil society groups have undertaken extensive and prolonged research in this area, and the results are aligned with the findings of the World Health Organization.** This is that the problem with air pollution, particularly PM 2.5, is one of the leading causes of premature death. Thailand's air quality standards are very much substandard compared to countries in a similar phase of economic development globally. According to the World Air Quality 2020 report, which does a regional ranking of countries in terms of poor air quality, Thai cities featured as amongst the top 10 out of 15 cities in the region with the worst air quality in Southeast Asia. Thai laws have not been revised to encompass the concept of public health and furthermore, enforcement has been ineffective. Thai citizens, therefore, are left to suffer the impact from high concentration of PM 2.5, particularly in Bangkok and the northern region of Thailand
4. **Between 2019 and 2022, there have been five legislative drafts submitted by various groups** listed herein sequentially based on when they were submitted to the Thai Parliament as follows:
 - Version 1: Version submitted by the general public as drafted by the Thai Chamber of Commerce (this version was rejected by the Prime Minister)
 - Version 2: Version submitted by the Bhumjaithai Party (this version was rejected by the Prime Minister)

- Version 3: Version submitted by M.P. Pada Vorakanon who is affiliated with the Palang Pracharat Party (currently being reviewed by the Prime Minister)
- Version 4: Version submitted by the general public as drafted by the Thailand Clean Air Network (currently awaiting verification of the public signatories by Parliament and the Department of Provincial Administration)
- Version 5: Version drafted by the Pheu Thai Party (currently awaiting consideration by the Thai Parliament)

 **Draft legislation which we request the Prime Minister to endorse** is this fourth version of the Draft Clean Air Act (full name: “Draft Act to Regulate the Integrated Management of Clean Air for Health B.E. ...”). This draft legislation was submitted under the Act to Submit Petition for Introducing the Law, and was supported by over 26,500 public signatories and submitted to the Thai Parliament on 21 January, 2022.

1. **Defining feature of the Draft Clean Air Act as drafted by the Thailand Clean Air Network**

differs from the other draft legislation submitted as follows:

- **It is an innovative legislation** that elevates the concept from controlling air pollution to the management of clean air; and thus introduces a paradigm shift to encompass concepts which are broader and much more in-depth in scope than what exists in current Thai legislation.
- **Reform legislation** that deals with the underlying structural issue. Specifically, this legislation addresses the problem of responsible entities that currently work in silos and are segregated by the pollution source (industrial – vehicle – forest fire - agriculture burning – transboundary haze), rather than be organized in an integrated manner to combine environmental and public health issues.
- **This draft legislation creates an equitable balance between directive from the top (i.e., top-down approach) with working collaborative with people on the ground (i.e., bottom-up approach)** between the central administration and provincial administration of the government and with civil society at large and local communities.
- **This draft legislation emphasizes on the provision of economic incentives (aka. carrots) that avails opportunities to incentivize polluters to self-adjust their current operations.** This is made possible through the provision of various environmental law construct such as the clean air fund, haze management fees, and the formulation and assignment of the right to emit toxic haze, etc. This would help ease the process to incentivize economic actors to adapt production practices to be much more environmentally friendly. In turn, this will help lead to the adoption of a green economy at a macro level.

This is because polluters would be supported as they reduce their emissions. The Thai government will also benefit from additional fiscal revenue source. Additionally, victims will be supported as they seek damages from the impact of air pollution on their health, and this is particularly relevant for the vulnerable groups (i.e., children, pregnant women, the sick, the elderly and those whose work require them to be exposure to the elements).

- **This draft legislation manages transboundary haze** through employing the polluter pay principle that places the responsibility on polluters whose activities across the border causes pollutant emissions that have adverse impact on the health of people in the Kingdom of Thailand. This is in line with international law, as well as, domestic legislation issued by member states in ASEAN in handling transboundary haze, which are enacted without adversely impacting upon the relationship amongst ASEAN member states.
- **This draft legislation encompasses principles that are accepted internationally and has received strong support for the innovative and creative nature of this draft legislation.** Dr. David R. Boyd, who is the UN Special Rapporteur on Human Rights and the Environment, sent a video clip in which he urged the Thai Government to consider endorsing and enacting this draft clean air act that has been drafted by the Thailand Clean Air Network. Specifically, Dr. Boyd complimented this draft legislation for its “reformative and innovative” approach and also stated that this draft legislation would address the air pollution problem in Thailand, particularly PM 2.5, which is a leading cause of premature death according to the World Health Organization. Furthermore, Radio France Internationale (or RFI) - an international radio broadcaster with coverage in Paris and around the world - has, in their coverage, categorized air pollution as a real public health issue in Thailand. RFI had also referenced the role of the Thailand Clean Air Network in drafting this citizen-driven legislation.



2. **By its nature as a reform legislation, the Thailand Clean Air Network has also previously submitted this draft Clean Air Act, as drafted by the Thailand Clean Air Network, to the Thai Law Reform Commission for urgent consideration.** This Thai Law Reform Commission is chaired by Professor Emereritus Borwornsak Uwanno. This draft legislation was submitted to the Thai Law Reform Commission in early 2021. This preceded when public signatory support was solicited for this draft legislation and its subsequent submission to the Thai Parliament, which took place on 21 January, 2022.

In the event that any draft finance-related legislation was rejected:

1. **No explanation was provided for rejecting any draft legislation on this ground.** In all cases where draft legislation had been rejected by the Prime Minister, no formal explanation has ever been publicly provided. This has led to countless speculation by both the general public and amongst the Thai politicians.
2. **The assumption that all draft legislation declared to be a finance-related legislation will always be rejected.** One speculation is that any legislation, that is deemed to be a finance-related legislation, will always be rejected. This has led to efforts to only submit ineffective draft legislations that are devoid of the use of any public funds, and are thus useless in terms of their actual enforcement.
3. **The scope of any finance-related legislation is very wide and all encompassing.** Section 134 of the Thai Constitution B.E. 2560 defines a very broad scope that encompasses all matters to fall within the confines of a finance-related legislation. In other words, it is almost an exception rather than the norm for any Thai law to not be deemed as a finance-related legislation.
4. **Although deemed a finance-related legislation but if it is not a financial burden to the Thai government, that legislation will still be rejected.** In the case of this draft clean air act – as drafted by the Thailand Clean Air Network – it not only does not create a financial burden on the Thai government, but actually creates an avenue for the government to generate additional fiscal revenue.
5. **The people have the right to know if the responsible line ministry has provided advice to the Prime Minister against accepting this draft legislation.** The Prime Minister does not provide any formal public explanation for the reasons in rejecting any draft legislation. As such, this creates a public misconception that the responsible line ministry was in agreement to proceed ahead, but it is the Prime Minister who ultimately opted to reject the draft legislation.
6. **The responsible line ministry has confirmed their position to extract certain aspects of the draft clean air act to include in the amendment to the Thai Environmental Act.** This position contravenes with the very essence of this draft legislation being a reform legislation and by its very nature requires a separate legislation to be enacted.

This draft legislation is beneficial to the Thai government:

Should this draft legislation be enacted, the Thai government would benefit in a number of ways. First, through earning the respect of the Thai constituency for prioritizing legislative reform in the country. Thai citizens will have good health from living in a clean and healthy environment. This would help to reduce

the country's inequality. It would also send the right signal to the private sector to seize this opportunity to adapt their production process in order to produce goods and services that are environmentally friendly. It would also ignite innovation within the technology industry and create opportunities for new creative economy that would help elevate Thailand's competitiveness at a global stage. Finally, it would also create a very positive image for Thailand in the eyes of the international community. The impact of all of this will undoubtedly lead to an increase in public opinion towards the Thai government.

Should there be need for additional information or if there are any questions, the Thailand Clean Air Network stands poised and ready to support and collaborate the government in due course.

For your consideration.

Sincerely

Thailand Clean Air Network

Attached

1. Draft Act to Regulate the Integrated Management of Clean Air for Health B.E....
2. Record of Intent: Draft Act to Regulate the Integrated Management of Clean Air for Health B.E....

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