

**Voluntary Report** – Voluntary - Public Distribution

**Date:** November 03,2019

**Report Number:** TH2019-0111

**Report Name:** Update on the Ban on Three Active Ingredients

**Country:** Thailand

**Post:** Bangkok

**Report Category:** Grain and Feed, Oilseeds and Products, Sanitary/Phytosanitary/Food Safety, Country/Regional FTA's, Trade Policy Incident Report, Trade Policy Monitoring, WTO Notifications

**Prepared By:** FAS Staff

**Approved By:** Russell Nicely

**Report Highlights:**

Update on latest moves by the relevant government agencies and affected stakeholders after the National Hazardous Substance Committee (NHSC) determined to ban three active ingredients on October 22, 2019. Also, it depicts an analysis of possible shutdown of several imported products as a result of this chemicals ban.

## Widespread Controversy Continues

After the National Hazardous Substance Committee (NHSC) determined to ban three active ingredients (AI), including Glyphosate, on October 22, 2019, widespread controversy over the bans continues. Groups of farmers and AI importers took legal steps to overturn the ban.

- On October 28, 2019, a group of farmers filed a petition to the Administrative Court against three government entities, including the NHSC, a committee at the Ministry of Public Health (MOPH) which initiated the ban campaign in 2017, and the Minister of Agriculture and Cooperatives. Meanwhile, the farmer group requested that the court overrule the government's ban. On October 29, the court called on some stakeholders and experts to provide information under its investigation process. The stakeholders told the court that the ban is not justified mainly because the process of banning is non-transparent, illegally conducted, and not a science-based consideration;
- On October 28, the Thai Agricultural Business People Association protested to the government against the ban, claiming that the ban will severely affect traders of these three AIs because the current stocks of imported AIs are large, at 30,000 metric tons. They also requested to delay the ban at least for one year;
- The Thai Prime Minister assigned the Ministry of Commerce to respond to USDA's concerns on the trade impact from banning glyphosate (<https://tna.mcot.net/view/ws6wmN>);
- The United States announced the partial revocation of the GSP preferential tariff rate for Thailand by one-third on October 26; there were intense reactions and criticism in Thai social media that saw the GSP cut as U.S. retaliation to the chemicals ban. However, both the Prime Minister and high-ranking officials in the Thai government later confirmed that the GSP cut was not due to the chemicals ban at all.

## The Thai Government's Relevant Agencies Continue to Move Forward to Complete the Banning Process

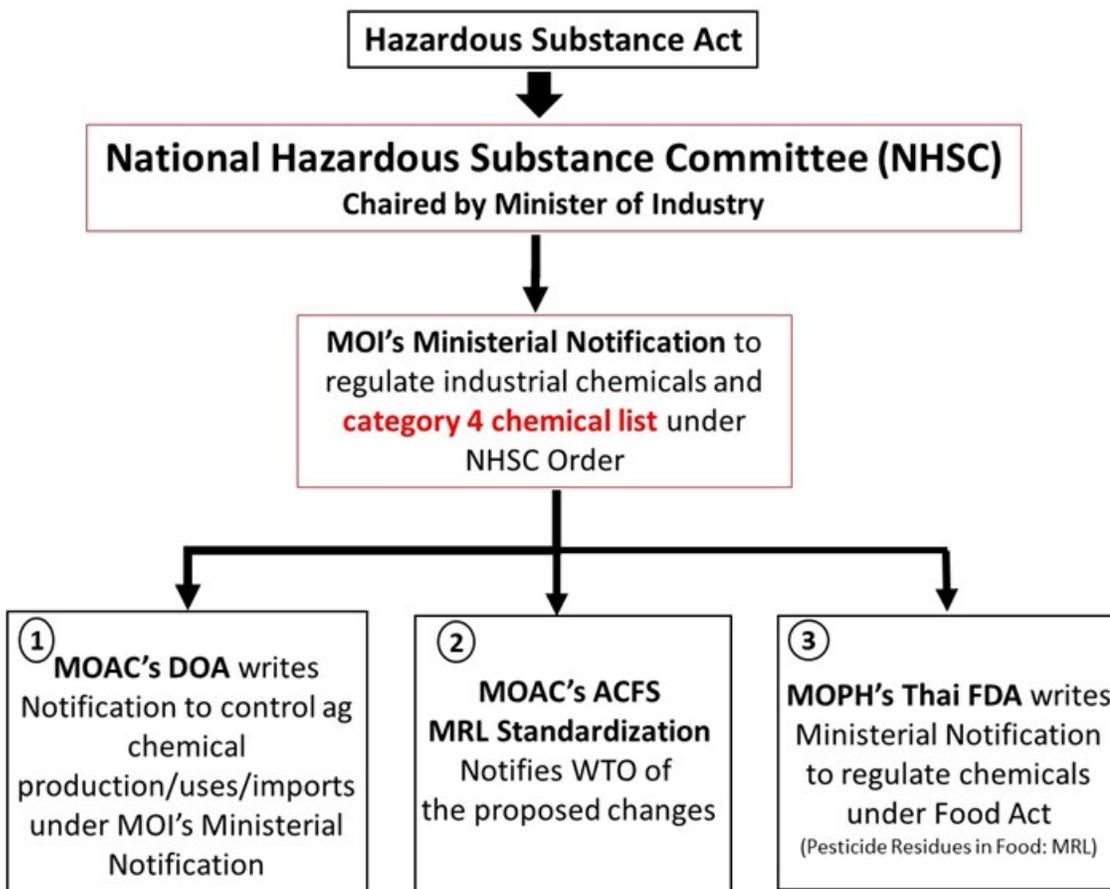
- Shortly after the ban was determined by NHSC, the Ministry of Industry (MOI) circulated among the responsible government agencies its draft notification that amends and adds the three AIs onto a list of category 4 chemicals, which is a "banned" category for use, production, and trade. In addition, the draft notification indicated a "30 day period" for importers, exporters, manufacturers and possessors to comply with the new order from authorized officials on management of these banned chemicals;
- As the main party responsible for enforcing the ban for use, production, and trade, the Department of Agriculture (DOA), under the Ministry of Agriculture and Cooperatives (MOAC), uploaded the draft to its website [http://www.doa.go.th/main/?page\\_id=7161](http://www.doa.go.th/main/?page_id=7161) for obtaining public opinions (this is considered to be a public hearing). The public hearing will be open until November 8, 2019. The next step is to compile all expressed opinions and report the result to the NHSC. According to a DOA official, although the NHSC has nothing to do with the result, this could impact the decision of the individual responsible government agencies (i.e., MOI, DOA, ACFS, and TFDA) in regulating the ban. However, it is anticipated that once the public hearing is completed, the MOI will proceed to submit the draft notification to NHSC for final approval and then publish in the official Royal

Gazette to activate the banning on December 1, 2019, to become fully effective on December 30, 2019;

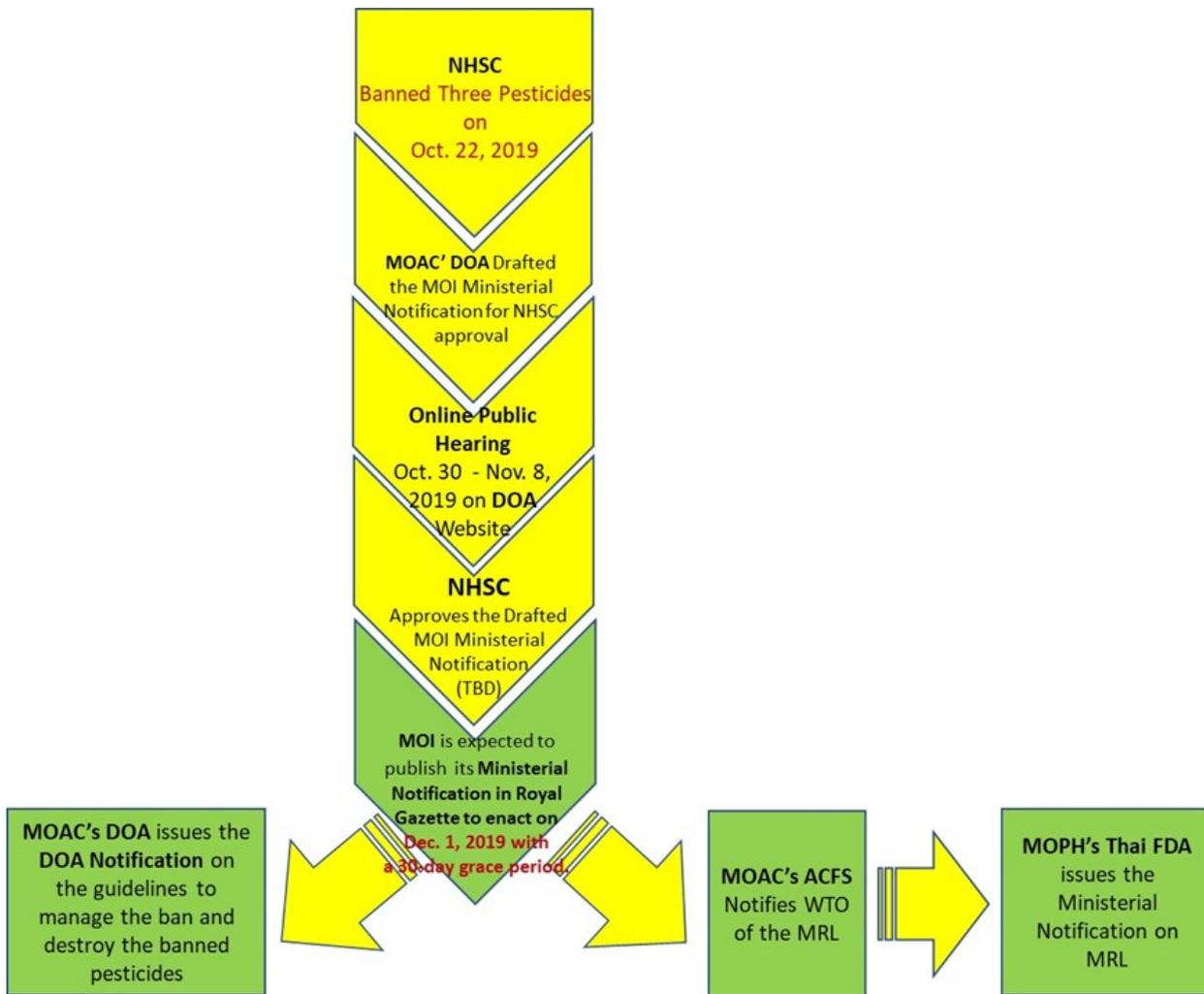
- The National Bureau of Agricultural Commodity and Food Standard (ACFS), an MOAC agency which is responsible for all agricultural standard setting, is supposed to add these three AIs onto its list of banned chemicals;
- Typically, once ACFS amends its list of banned chemicals in Thai Standard for MRLs, the TFDA will use the Thai standard for MRLs to amend MOPH notification on pesticide residues in food;
- According to sources, the process at ACFS is scheduled to complete in the first quarter of 2020. It is possible that TFDA may not wait for the ACFS process but instead might amend its regulation on their own to implement the zero tolerance for these three AIs in food and food products;

Below are two flow charts illustrating the structure of the Thai regulatory agencies and the timeline of the chemical ban and possible zero-tolerance application to food:

**Chart 1: Structure of Hazardous Substance Act and Food Act Regulatory**



**Chart 2: Timeline of the Ban for AIs and Possible Zero-Tolerance in Food**



**A Possible Shutdown of Several Imported Products Could Be Real**

Post indicated in previous reporting that the ban will definitively affect U.S. (and other countries’) agricultural exports to Thailand, especially soybeans, wheat, beans and pulses, fruit, vegetables, and other produce items for human consumption. According to some reports, 70 crops are treated with the chemical during the production cycle.

Post holds a stoppage in trade of crops using glyphosate is likely to happen, based on the fact that, under the current regulation, the TFDA cannot avoid the application of a zero tolerance MRL for these three AIs in all foods and agricultural products for human consumption if the AIs are banned due to Clause 2 and Clause 4 in the Appendix I document.

Appendix I is a copy of Ministry of Public Health Notification No. 387 B.E. 2560 (A.D. 2017) Re: Food Containing Pesticide Residues (Pesticide Residues in Food). Relevant clauses are Clause 2 and Clause 4: MOPH unofficial English translations are below:

Under Clause 2 para. 7 states the definition that *“Type 4 Hazardous Substance means the hazardous substance which is not allowed to be produced, imported, exported or possessed in accordance with the Notification of the Ministry of Industry on The List of Hazardous Substances issued under the Hazardous Substance Act B.E. 2535 (1992) and Hazardous Substance Act, B.E. 2551 (2008).”*

Under Clause 4 *“Food Containing Pesticide Residues shall be complied with standard that shall not contain any pesticide define as Hazardous Substances Type 4 under the Hazardous Substance Act B.E. 2535 (1992) and Hazardous Substance Act, B.E. 2551 (2008) prescribed in Annex 1 of this Notification....”*

End of Report.

**Attachments:**

[MOPH No 387 Pesticide Residues in Food\\_EN.pdf](#)