

## **CHANDLER & THONG-EK LAW OFFICES LTD.**

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### **Legislation Progress**

A list of double tax treaties as of May 31, 2010 which Thailand has concluded with 53 countries is available at the Library.

### **The following important legislation was published in the Government Gazette:**

#### **Alien, Bank, Commerce and Communication**

1. Notification of Land Transport Department dated 18 January 2010 fixing value of damages of property arisen from accidents occurred from transportation when licenses to operate transport business is required to file accident report to registrar.
2. Ministerial regulation dated 22 April 2010 abrogating the fixing of rates of tourist visa fees for aliens temporarily.
3. Notification of Bank of Thailand dated 11 March 2010, No. Sor.Nor.Sor.1/2553 re criteria on application for permission to set up additional branches, and on operation of business of additionally set up branch of foreign commercial bank.
4. Notification of National Telecommunication Commission dated 11 January 2010 re bases on deduction of income before computation of fees for license to operate telecommunication business of type three and license to provide internet service of type three.

#### **Duty and Tax**

1. Notification of Ministry of Finance dated 19 February 2010 re reducing of rates and exemption of customs duty under Section 12 of Royal Proclamation on Customs Tariff (No. 15) for goods imported for manufacture or assembly as equipment for use in petroleum business which are then used in the joint development zone.
2. Notification of Director-General of Revenue Department dated 27 January 2010 re bases, procedures and conditions on importation or sale of diamond, gem, ruby, emerald, topaz, garnet, opal, zircon, lapis lazuli, jade and precious stones of the same nature, including imitations thereof or those reconstructed, specifically not yet assembled as mounted articles or ornaments, for use in making precious stones which are decorations or any utensils, and importation or sale of white gold, platinum, silver, palladium, specifically not yet assembled as ornaments, of registered operator, which are to be granted value added tax exemption.
3. Order of Revenue Department No. Por. 138/2553 dated 10 February 2010 re filing returns and paying value added tax from sale of property by auction of registered operator under Section 83/5 of Revenue Code.
4. Royal decree issued under Revenue Code (No. 495) dated 21 April 2010 granting the rights and privileges on tax and duty to the debtor and the creditor who is a financial institution or other creditors in certain cases, which is executed during 1 January 2010 until 31 December 2010.

5. Royal decree issued under Revenue Code (No. 496) dated 21 April 2010 exempting value added tax, specific business tax, and stamp duty for the business operators who are a public limited company or a limited company for the transfer of certain parts of business to each other in certain cases, which is made during 1 January 2010 until 31 December 2010.

### **Energy and Export & Import**

1. Regulations of Energy Business Supervision Committee dated 20 November 2009 governing bases on prevention of amalgamation of businesses which may cause monopoly, reduction of competition, or restriction of competition in providing energy services B.E. 2552.
2. Ministerial regulations dated 15 February 2010 prescribing bases, procedures and conditions on application for license and issuance of license to manufacture, export or import agricultural products under required standards.
3. Ministerial regulations dated 6 November 2009 governing fuel oil service station.

### **Investment**

1. Regulation of the Office of the Board of Investment No. 1/2553 dated 17 March 2010 re timing for performing the work of investment promotion.
2. Notification of the Board of Investment No. 1/2553 dated 5 January 2010 re policy on granting investment promotion to small and medium enterprises (SMEs).

### **Labor, Land and Public Health**

1. Notification of Food and Drug Administration dated 15 January 2010 re bases, procedures and conditions on report of dissolution of business, quantity and place of storage of medical devices remaining after dissolution of business, not renewing, or rejection of application for renewal of certificate of registration of place of business, license, or details acknowledgement note.
2. Notification of Food and Drug Administration dated 22 March 2010 re bases on consideration of certificate of manufacturer showing details of analysis of medicines being pharmaceutical chemical products and semi-finished pharmaceutical chemical products imported into the Kingdom.
3. Notification of Label Committee No. 29, dated 4 March 2010 prescribing products containing asbestos compound as goods subjected to label control.
4. Notification of Wage Committee dated 11 March 2010 re minimum wage rate (No. 4).
5. Notification of Ministry of Public Health (No. 19) dated 27 February 2010 designing names or categories of public places where there must be provided non-smokers health protection, and designating any or all parts of said public places as smoking area or non-smoking area, under Non-Smokers Health Protection Act.
6. Regulation of Department of Employment dated 13 August 2009 re criteria for permission of work of aliens.

### **Miscellaneous**

1. Notification of Ministry of Interior dated 10 March 2010 re list of countries the subjects of which may apply for visa at permitted channels of immigration houses (No.4).

2. Ministerial regulations dated 29 March 2010 prescribing bases and conditions on displaying of picture of symbol for advertising or public relations of alcoholic beverages.
3. Notification of the Registrar dated 20 November 2009 re bases, procedures and conditions for issuance of preference shares of life insurance and insurance against loss companies.
4. Royal decree on Royal Pardon B.E. 2553 dated 14 May 2010.
5. Notification of Ministry of Finance dated 18 January 2010 prescribing other businesses relating to securities as securities business (No. 3)

**Summary of interesting laws and general matters approved by the resolutions of the Cabinet as of May 2010**

1. Approved draft royal decree issued under Revenue Code designating the Bank of Thailand as the borrower and lender of securities. (0501)
2. Approved the exemption for the transferors and the transferees of securities placed as security for forward contracts from income tax, value added tax, specific business tax and stamp duty, in order to stabilize forward contract transactions and to eliminate double tax collection. (0501)
3. Approved the issuance of the regulations of the Office of Prime Minister re coordination for giving opinions by independent organization in projects or activities that may cause serious impact on communities. (1201)
4. Approved the permission of private party to participate in investment in the purple route Bangyai-Bang Sue in PPP Gross Cost form. (1201)
5. Ordered the Committee under Section 13 of the Act Governing Private Sector Participation in or Operation of State Activities B.E. 2535 to accept opinions of the Economic Ministers Council in support of preparation of the draft invitation and TOR, which includes suitable guidelines for transfer of the rapid transit system to the State, selection of proposals of private parties interested in investment, imposition of conditions for service evaluation and implementation of the contract. (1201)
6. Approved the principle of the Food Industry Master Plan B.E. 2010-2014. (1201)
7. Approved the proposal of the Ministry of Foreign Affairs proposing the Foreign Affairs Minister to jointly draft the authority framework of the high level task force on connection among ASEAN and draft the revised MOU on the establishment of the ASEAN Foundation. (1201)
8. Acknowledged the National Energy Policy Commission's resolutions on three matters as proposed by the Ministry of Energy as follows: (1901)
  - 8.1 Gas provision plan 2008-2021
  - 8.2 Guidelines for operation of the community development fund in the areas surrounding power plants
  - 8.3 Draft memorandum of understanding on power purchase from Nam Ngum 3
9. Approved the Coordinating Committee for Giving Opinions by the Independent Organization chaired by Anand Panyarachun. (1901)
10. Acknowledged the progress in solving problems of 65 projects required to proceed with Section 67 paragraph two. From the information as of January 22, 2010, 42 projects (11 in

- operation, 9 construction completed and 22 under construction) were classified as (a) 19 projects having sufficient reasons to request exemption from temporary protection (b) 15 projects requesting for exemption from the order due to its pending construction and (c) 8 projects seeking other reasons for exemption from the court order. In summary 30 projects had filed the request with the court. (2601)
11. Approved ACMECS single visa – ASV between Thai government and Cambodian government. (2601)
  12. Assigned the Ministry of Information and Communication Technology to be responsible for the consideration of facts and problems regarding the rate of high-speed internet access (broadband internet) of people which is currently low. (0202)
  13. Assigned the Ministry of Information and Communication Technology to be responsible for the consideration of ways to effectively solve problems in the telecommunications concession contract in order to ensure fair business competition. (0202)
  14. Granted Thai Airways International Public Company Limited to apply the arbitration clause in order to settle the dispute of the loan agreement for payment of six airbus A330-300 within the determined time. (2302)
  15. Approved the Minister of Foreign Affairs to sign the Memorandum of Association among the Bay of Bengal Initiative for Multi-Sectors Technological and Economic Cooperation (BIMSTEC) Member Countries Concerning Establishment of a BIMSTEC Centre of Weather and Climate. (2302)
  16. Endorsed in principle the ministerial regulation specifying criteria, methods and conditions used in the evaluation of damages caused from additional imports and another ministerial regulation specifying criteria, methods and conditions used in distributing the diagnostic of the safeguard measures. (0203)
  17. Approved the central budget under the budget from Fiscal Year 2010, an amount of 30,000,000 baht, for public relation activities of ASEAN TV. (0203)
  18. Approved the draft ministerial regulation specifying the accounting profession's security for liability to third party. (0903)
  19. Approved in principle to assist the Ministry of Finance, via Neighboring Countries Economic Development Cooperation Agency (Public Organization) (NEDA), to provide financial support to Lao People's Democratic Republic for improvements for R3 road. (0903)
  20. Approved the extension of period for consideration of the amendment of the concession of TOT Plc. and CAT Telecommunication Plc. according to the guideline under the Act Governing Private Sector Participation in or Operation of State Activities B.E. 2535 by 60 days. (0903)
  21. Approved the draft MOU and assigned EGAT to cause such MOU to be signed between EGAT and investors. The Cabinet also approved in principle allowing EGAT to revise the conditions in Tariff MOU in the draft preparation stage because it is the hydro project in the type of Run-Off River, for the purpose of reasonable practical result, provided that the revision must not affect the electricity payment rate. (2303)
  22. Approved Thailand's Power Development Plan (PDP 2010), and ordered PTT Plc to prepare the gas provision plan in compliance with the PDP 2010 and submit the plan to the Committee for consideration. The Cabinet also ordered the Energy Policy and Planning Office to revise the adder in consistence with the development of the renewable power technology, and submit it to the National Energy Policy Committee for approval. (2303)

23. Approved in principle the application to be the host of the World Expo 2020 of Thailand. (2004)
24. Approved Thai Airways International Public Company Limited to apply the arbitration clause for settlement of dispute for the employment contract of ARG/US Pros to inspect and certify IOSA standard. (2704)
25. Approved the project to improve Banglang Hydro Power Plant, Engine Nos. 1-3 of Electricity Generating Authority of Thailand in the amount of Baht 2,426.28 million. (0405)
26. Approved the use of arbitration clause for settlement of dispute for improving water transmission tunnel contract and project for improving water master plan No. 8. (0405)
27. Approved the relaxation for utilizing 1A, 1AR and 1B watershed areas for limestone mining (for cement industry) of Siam Cement (Thungsong) Co., Ltd. (0405)
28. Approved the relaxation for utilizing 1B watershed area for renewal of mining lease for limestone (for construction industry) of Sila-aree Co., Ltd. and Chutiwan Limited Partnership in Nakornsrihammaraj. (1105)
29. Approved the extension of time for reduction of fee for registration of rights and juristic acts under the property stimulation measures. (2505)
30. Acknowledged the resolution of the Committee on Solving Urgent Problems of Map Ta Phut No. 1/2553. (2505)
  - 30.1 Acknowledged the progress of the projects for solving urgent problems in Map Ta Phut and nearby areas.
  - 30.2 Assign the municipality of Map Ta Phut to request an extension of time for disposal of garbage from landfills from the Ministry of Interior.
  - 30.3 Assign Rayong Public Health to prepare the information of medical personnel in order to know the current number and estimated future number to sufficiently support public service.
  - 30.4 Assign the Secretary to cooperate with relevant agencies to review details of the Environment Quality Watch System Development Plan within existing budget.
  - 30.5 Assign the Industrial Estate Authority of Thailand, the Department of Industrial Works of Rayong province and related agencies to cooperate with private sector, industrial operators in the areas to take social responsibility.