

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

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### **Legislation Progress**

A list of double tax treaties as of September 8, 2009 which Thailand has concluded with 53 countries is available at the Library.

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

#### **Air, Alien, Company and Construction**

- 1.. Ministerial regulations dated 27/8/09 fixing minimum capital and period of time for bringing or sending minimum capital into Thailand (No. 3).
2. Ministerial regulations dated 19/10/09 prescribing building subject to usage control.
3. Ministerial regulations dated 21/12/09 prescribing bases and procedures on requiring owner, person effecting registration of aircraft, or air navigation operator to collect passenger service charge.
4. Ministerial regulations dated 21/12/09 reducing rates of fees for partnership and limited company in exclusive development zone.
5. Ministerial regulations dated 29/12/09 exempting rates of fees for factory business operator whose factory is located within Narathiwat, Pattani and Yala Provinces.
6. Ministerial regulations dated 30/12/09 exempting rates of fees for hotel business operation.
7. Notification of Office of Central Board Governing Prices of Goods and Services dated 24/11/09 fixing period of time for supervising and monitoring movement of prices of goods and services as a special case (No. 23).

#### **Duty and Tax**

1. Notification of Director-General of Revenue Department dated 3/7/09 re bases, procedures and conditions respecting transfer of certain parts of businesses of public limited companies or limited companies for exemption of taxes and duties.
2. Notification of Director-General of Revenue Department (No. 181) dated 22/10/09 re bases, procedures and conditions respecting exemption of income tax on interest on deposits at bank in the Kingdom payable on demand of savings category.
3. Notification of Ministry of Finance dated 21/9/09 re bases and conditions respecting exemption of tax on hydrocarbon solvent used in various industries.
4. Notification of Ministry of Finance dated 21/9/09 re bases and conditions respecting reduction of rates of excise tax on gasohol and diesel oil containing biodiesel.

5. Notification of Ministry of Finance dated 21/9/09 re bases and conditions on exemption of tax on unleaded gasoline imported for sale to persons granted immunity under obligations Thailand has had with United Nations or under international law or under contracts concluded with international communities or under diplomatic agreement on reciprocal basis.
6. Notification of Ministry of Finance dated 21/9/09 re bases and conditions on exemption of tax on diesel oil sold within contiguous zone of the Kingdom.
7. Notification of Ministry of Finance dated 21/9/09 re bases and conditions on reduction of excise tax for Bituminous mixture products used as fuel in producing electricity and all electricity of which is sold to EGAT.
8. Regulation of Excise Department dated 21/9/09 re exemption from tax for diesel oil which is sold in contiguous area of the Kingdom
9. Notification of Ministry of Finance dated 29/12/09 re exemption of customs duty and tax for Asean-Republic of India free trade zone.
10. Order of Revenue Department dated 6/10/09 re payer of assessable income under Section 40 of Revenue Code to deduct tax at source (leasing).

#### **Energy, Export & Import and Finance**

1. Ministerial regulations dated 15/7/09 prescribing qualifications, duties and number of person responsible for energy.
2. Notification of Exchange Control Officer dated 4/8/09 re bases and procedures respecting currency exchange (No.19).
3. Notification of the Energy Regulatory Commission dated 12/10/09 re rules, procedures and conditions for commencement of power business.
4. Notification of Bank of Thailand No. Sor.Nor.Sor.26/2552 dated 17/12/09 prescribing 13 August 2010 shall be another additional holiday of financial institutions.

#### **Industry and Investment**

1. Notification of Ministry of Industry dated 29/9/09 re preparation of report on study and measures for prevention and rectification of environmental quality impacts and safety.
2. Notification of Ministry of Industry dated 29/9/09 re work safety protection measures (No. 4).
3. Notification of Ministry of Industry dated 15/9/09 re factory required to have waste water treatment system must install special tool or equipment and additional tool or equipment (No.4).
4. Notification of Ministry of Industry dated 14/9/09 re projects or activities concerning industry which may cause serious impacts to communities in term of environmental quality, natural resources and health.
5. Notification of the Board of Investment No. 11/2552 dated 15/10/09 granting additional rights and privileges for investment in skill, technology and innovation (STI).
6. Notification of the Board of Investment No. 12/2552 dated 15/10/09 re special measures accelerating investment during investment years 2008-2009.

### **Labor and Public Health**

1. Notification of Ministry of Labor dated 6/10/09 re prescription of categories, types, sizes, number of employees, proportion of number of trainees to total number of employees and localities where business operators are required to remit contributions to skill development fund.
2. Notification of Ministry of Labor dated 6/10/09 re rates of contributions, method of collection of contributions, minimum and maximum wages used as basis for computation of contributions to skill development fund.
3. Ministerial regulations dated 19/11/09 prescribing bases, procedures and conditions on registration of place of manufacture of medical device.
4. Ministerial regulations dated 19/11/09 prescribing bases, procedures and conditions on registration of place of importation of medical device.
5. Notification of the National Health Commission dated 27/9/09 re the statute on national health system.
6. Notification of Wage Committee dated 25/12/09 re minimum wage rates (No.3).

### **Map Ta Phut & Mining**

1. Regulations of the Office of the Prime Minister dated 12/1/10 on coordination of recommendation by the independent organization on projects or activities likely to cause severe impacts on the communities.
2. Notification of Ministry of Natural Resource and Environment dated 29/12/09 prescribing rules, methods, procedures and guideline for preparation of an environmental impact analysis report for a project or activity that may cause severe impacts on community in respect of environmental quality, natural resources and health.
3. Notification of Ministry of Natural Resource and Environment dated 13/11/09 prescribing standard of concentration of odor of waste air emitted from pollution source.
4. Notification of Ministry of Natural Resource and Environment dated 13/11/09 designating certain types and sizes of industrial factory as a pollution source whose concentration of odor of waste air emitted into the atmosphere must be controlled.
5. Notification of Ministry of Natural Resource and Environment dated 20/12/09 designating a new power plant as a pollution source whose emission of waste air into the atmosphere must be controlled.
6. Notification of Ministry of Natural Resource and Environment dated 20/12/09 prescribing standard for controlling the emission of waste air from a new power plant.

### **Telecommunication**

1. Notification of National Telecommunication Commission dated 28/7/09 re bases respecting services on mobile number portability.
2. Notification of National Telecommunication Commission dated 24/9/09 re communication radio equipment for broadband wireless access (BWA) business using IMT-2000 OFDMA TDD WMAN technology.

3. Notification of National Telecommunication Commission dated 24/9/09 re radio frequency plan of broadband wireless access (BWA) business of radio frequency range 2300-2400 MHz.

**Summary of laws and general matters approved by the resolutions of the Cabinet as of December 2009**

1. Approved master plan of information and communication technology (No. 2) of Thailand B.E. 2552-2556. (0508)
2. Acknowledged the resolution of the National Environmental Board No. 2/2552 and approved the master plan for natural environmental preservation for the period of 5 years B.E. 2552-2556. (0508)
3. Acknowledged the progress of implementing plan to build MRTA purple line (Bangyai-Bangsue) (1108)
4. Approved the draft negotiation framework on overlapping sea claims of Thailand, Malaysia and Vietnam. (1108)
5. Acknowledged the operation of One Stop One Start Investment Center (OSOS) on 4 January 2010. (2508)
6. Approved the proposed guidelines for setting target and promotion of cogeneration power. (0809)
7. Acknowledged the report on results of the performance under the scope of development and resolution to the impacts from industry in Map Ta Phut. (0809)
8. Approved PTTEP (Thailand) Co., Ltd. transfers right, benefit and obligation under the petroleum concession no. 2/2549/70 to Mitsui Oil Exploration Co., Ltd. at the rate of 4% of the concession. (2209)
9. Approved loan to the State Railway of Thailand in the amount of 98 million baht to be used in the construction of the elevated path linking the Phayathai skytrain station and Petchburi subway station as proposed by the Ministry of Transport in accordance with the Cabinet resolution dated 10 March 2009. (2209)
10. Approved the draft of the Natural Gas Purchasing Agreement in block B-17, C-19 and B-17-01 of Joint Development Area (JDA) between the Malaysia Thailand Joint Authority (MTJA) and the operator PC JDA Limited and PTTEP International Limited as gas seller and PTT Plc as gas buyer. (2209)
11. Approved the Ministry of Foreign Affairs' proposed draft speech for the President of the Japan-Mekong Ministerial Meeting and also draft joint public announcement for the foreign ministry meeting under the Emerald Triangle cooperative framework. (2209)
12. Approved results of the meeting of the Committee of Economic Ministers as follows: (0610)
  - 12.1 Complaint filed with the Central Administrative Court to enforce the State to satisfy all procedures under Section 67 of the Constitution.
  - 12.2 Mission of the Southern Seaboard Development Committee to be reviewed.
  - 12.3 Scope of study of Suvarnabhumi Airport and Donmuang Airport and guideline to use the Donmuang Airport.

13. Approved the extension of Cabinet resolution concerning the procurement by electronics. (0610)
14. Approved results of the meeting of the Eastern Seaboard Development Committee No. 3/2552 as follows: (0610)
  - 14.1 Sustainable development in Rayong.
  - 14.2 Provision of quality and thorough basic economic and social services.
  - 14.3 Supervision of investment projects in Map Ta Phut areas in compliance with Section 67 paragraph 2 of the Constitution.
  - 14.4 Integrated town-plan of Map Ta Phut.
15. Approved the use of arbitration in settlement of disputes in the civil works construction contract, project management and supervision consultant employment contract of the purple line project, Bangyai-Bangsue. (1310)
16. Approved investment projects under "Thailand: Investing from Strength to Strength 2012". (1310)
17. Acknowledged the progress of 3G organizational network project. (1310)
18. Acknowledged result of the 2<sup>nd</sup> Neighboring Countries Economic Development Cooperation Meeting 2009. (1310)
19. Acknowledged result of the meeting of the Joint Public-Private Sector Committee to Resolve Economic Problems No. 7/2552 re progress subsequent to the complaint filed with the Central Administrative Court to enforce the State to fully comply with the procedures provided in Section 67 of the Constitution. (2710)
20. Approved resolution of the National Environmental Board reviewing the Cabinet resolution dated 1 August 2000 re registration of wetland areas which are international importance, national importance and measures for wetland conservation. (0311)
21. Approved the draft treaty of BIMSTEC Convention on Combating International Terrorism, Transnational Organized Crime and Illicit Drug Trafficking to be signed in the BIMSTEC Ministerial Meeting in Myanmar. (0311)
22. Approved the frame of negotiation for transport cooperation under ASEAN. (1011)
23. Approved result of the meeting of the Eastern Seaboard Development Committee No. 4/2552 re urgent guidelines for solving problems in Map Ta Phut include scope of work which primarily stresses on troubles of the public, progress of operations for solving problems in respect of pollution, public health, quality of community life and tap water. (1711)
24. Approved actions to be taken for 76 projects in Map Ta Phut (1711)
25. Acknowledged result of inspection of the areas to obtain grievances from the people who suffered from the industrial development of Map Ta Phut, Rayong Province. (1711)
26. Acknowledged the order issued by Mr. Kobsak Sabhavas, The Deputy Prime Minister, Chairman of the Eastern Seaboard Development Board No. 1/2552 appointing the working group to solve the urgent problem of Map Ta Phut. (1711)

27. Approved the Ministry of Energy to issue petroleum concessions under Section 22(1) of the Petroleum Act, B.E. 2514 to the applicants under the Invitation No. 20. (2411)
28. Acknowledged the development of mass rapid transit industry and related industries in Thailand (2411)
29. Reviewed the Cabinet resolution dated 28 July 2009 re contract made between the government and private party and acknowledged the comments of the meeting regarding the restriction of using arbitration for resolving the current dispute and to urgently clarify to the related state agencies that the Cabinet resolution dated 28 July 2009 does not prohibit to the state agencies to use the arbitration for resolving disputes. Assigned the President of the Thai Trade Representative to collect the arbitration procedures for resolving disputes and forward them to the Cabinet. (2411)
30. Acknowledged result of the meeting of a workgroup on solving urgent problems of Map Ta Phut and approved in principle the implementation of 4 projects to solve urgent problems in Map Ta Phut and pollution control areas in Rayong in the fiscal years 2010-2012. (0112)
31. Approved Thailand to be member of International Renewable Energy Agency (IRENA) (0112)
32. Approved guidelines for solving problems of concession contracts between private sector parties, TOT Plc and CAT Plc. (0812)
33. Approved draft amendment (No. 1) to the Production Sharing Contract on the extension of time for petroleum exploration for block B-17-01 in JDA for another 3 years, to PTT Exploration and Production International Ltd. and PC JDA Limited. (0812)
34. Acknowledged result of the meeting of the Committee of Economic Ministers No. 18/2552 re progress of the complaint filed with the Administrative Court to enforce the State to fully comply with the provision of Section 67 of the Constitution. (2212)
35. Approved the guidelines for solving and alleviating impacts on 67 projects as a result of the suspension order of the Supreme Administrative Court. (2212)
36. Approved the improvement of composition and duties of the Committee on Consideration of Increase in Role of Private Party in PPP's Form. (2212)
37. Acknowledged the National Energy Policy Committee's resolution No. 7/2552 approving the contract for purchase of gas from Zawtika field, Myanmar and also approved an arbitration clause in the contract. (2912)
38. Acknowledged result of the meeting of the Joint Public-Private Sector Committee to Resolve Economic Problems No. 9/2552 on the following matters: (2912)
  - 38.1 Progress of tax incentive measures.
  - 38.2 Progress of the complaint filed with the Administrative Court to enforce the State to fully comply with Section 67 of the Constitution.
39. Approved in principle the Ministry of Finance's draft of the announcement on both exemption and reduction of tariff for the ASEAN-Australia-New Zealand Free Trade Area. (2912)
40. Approved in principle the financial support for ASEAN Intergovernmental Commission on Human Rights. (2912)