

Tuesday, January, 25, 2011  Courtesy of Drew Noyes and PAPP Co., Ltd. Law Office, Pattaya, Thailand

Treaty of Amity Between Thailand and the USA

by Drew Noyes

In 1998 I qualified under the Treaty of Amity to do business in Thailand. I am authorized by the Dept. of Commercial Registration (now called Dept. of Business Development) to do almost any business a Thai citizen can do with very few exceptions. If you are an American business person I strongly urge you to see if you qualify and if so, take full advantage of its many benefits. Contact me Drew Noyes, Managing Director of PAPP Co., Ltd. if you have any questions. drewnoyes@gmail.com. See the attachment below for the Treaty benefits.

How do I register for the Treaty of Amity Benefits as an American Company?

The Treaty of Amity and Economic Relations between the United States of America and the Kingdom of Thailand. The Treaty of Amity was signed on May 29, 1966 and secured two major trade advantages for the U.S.

1. The Treaty permits American companies to maintain a majority shareholding or to wholly own its company, branch office or representative office located in Thailand.
2. American companies receive national treatment, meaning U.S. firms may engage in business on the same basis as Thai companies, and are exempt from most of the restrictions on foreign investment imposed by the Alien Business Law of 1972.

Existing restrictions on American investment:

1. Owning land;
2. Engaging in the business of inland communication;
3. Engaging in inland transportation and communication industries;
4. Engaging in fiduciary functions;
5. Engaging in banking involving depository functions;
6. Engaging in domestic trade in indigenous agricultural products;
7. Exploiting land or other natural resources;

Some U.S. businesses continue to pursue joint ventures with Thai partners and permit them to have a majority stake because of their familiarity with the Thai economy and local regulations.

Application Process

1. Register your business at the Ministry of Commerce
2. Obtain a "Certification document" at the U.S. Commercial Service, Bangkok
3. Submit "Certification document" and all [required documents](#) to the Ministry of Commerce

Note: Process takes about five weeks to complete

Contact Information

U.S. Commercial Service American Embassy

GPF Witthayu Tower A,

3rd Floor, Suite 302

93/1 Wireless Road

Bangkok 10330

Thailand

Tel: (662) 205-5090

Fax: (662) 255-2915

Email: bangkok.office.box@NOSPAM.mail.doc.gov

Department of Business Development

Ministry of Commerce

44/100 Moo 1,

Nonthaburi 1 Rd (Sanam Binnam),

Bangkrasor, Muang
Nonthaburi 11000
Thailand
Tel: (662) 547-4458-9, 547-4462-4
Fax: (662) 547-4459, 547-4463
www.thairegistration.com

TREATY OF AMITY AND ECONOMIC RELATIONS

BETWEEN

THE KINGDOM OF THAILAND AND THE UNITED STATES OF AMERICA

The Kingdom of Thailand and the United States of America, desirous of promoting friendly relations traditionally existing between them and of encouraging mutually beneficial trade and closer economic and cultural intercourse between their peoples, have resolved to conclude a Treaty of Amity and Economic Relations, and for that purpose have appointed as their Plenipotentiaries:

HIS MAJESTY THE KING OF THAILAND:

His Excellency THANAT KHOMAN,
Minister of Foreign Affairs of the Kingdom of Thailand; and

THE PRESIDENT OF THE UNITED STATES OF AMERICA:

His Excellency GRAHAM MARTIN,
Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Thailand;

Who, having communicated to each other their full powers found to be in due form, have agreed as follows:

ARTICLE I

1. Nationals of either Party shall, subject to the laws relating to the entry and sojourn of aliens, be permitted to enter the territories of the other Party, to travel therein freely, and to reside at places of their choice and in particular to enter the territories of the other Party and to remain therein

of the purpose of: (a) carrying on trade between the territories of the two Parties and engaging in related commercial activities; or (b) developing and directing the operations of an enterprise in which they have invested or are actively in process of investing a substantial amount of capital. Each Party reserves the right to exclude, restrict the movement of, or expel aliens on grounds relating to public order, morals, health and safety. The provisions of (b) above shall be construed as extending to a national of either Party seeking to enter the territories of the other Party solely for the purpose of developing and directing the operations of an enterprise in the territories of such other Party in which his employer has invested or is actively in the process of investing a substantial amount of capital, provided that such employer is a national or company of the same nationality as the applicant and that the applicant is employed by such national or company in a responsible capacity.

2. Nationals of either Party within the territories of the other Party shall receive the most constant protection and security, in no case less than that required by international law. When any such national is in custody, he shall in every respect receive reasonable and humane treatment; and on his demand the diplomatic or consular representative of his country shall be immediately notified and accorded full opportunity to safeguard his interests. He shall be promptly informed of the accusations against him, and allowed ample facilities to defend himself.

3. Nationals of either Party shall enjoy in the territories of the other Party entire liberty of conscience, and, subject to applicable laws, ordinances and regulations, shall enjoy the right of private and public exercise of their worship.

ARTICLE II

1. Companies constituted under the applicable laws and regulations of

either Party shall be deemed to have the nationality of that Party and shall have their juridical status recognized within the territories of the other Party. As used in the present Treaty, "companies" means:

(a) with reference to Thai companies: juristic persons under Thai laws, whether or not with limited liability and whether or not for pecuniary profit;

(b) with reference to United States companies: corporations, partnerships, companies, and other associations, whether or not with limited liability and whether or not for pecuniary profit.

2. Nationals and companies of either Party shall have free access to courts of justice and administrative agencies within the territories of the other Party, in all degrees of jurisdiction, both in the defense and in the pursuit of their rights. Such access shall be allowed upon terms no less favorable than those applicable to nationals and companies of such other Party or of any third country, including the terms applicable to requirements for deposit of security. It is understood that companies not engaged in activities within the country shall enjoy the right of such access without any requirement of registration or domestication.

3. Contracts entered into between nationals and companies of either Party and nationals and companies of the other Party, that provide for the settlement by arbitration of controversies, shall not be deemed unenforceable within the territories of such other Party merely on the grounds that the place designated for the arbitration proceedings is outside such territories or that the nationality of one or more of the arbitrators is not that of such other Party. No award duly rendered pursuant to any such contract, and final and enforceable under the laws of the place where rendered, shall be deemed invalid or denied effective means of

enforcement within the territories of either Party merely on the grounds that the place where such award was rendered is outside such territories or that the nationality of one or more of the arbitrators is not that of such Party. ARTICLE III

1. Each Party shall at all times accord fair and equitable treatment to nationals and companies of the other Party, and to their property and enterprises; shall refrain from applying unreasonable or discriminatory measures that would impair their legally acquired rights and interests; and shall assure that their lawful contractual rights are afforded effective means of enforcement, in conformity with the applicable laws.

2. Property of nationals and companies of either Party, including direct or indirect interests in property, shall receive the most constant protection and security within the territories of the other Party. Such property shall not be taken without due process of law or without payment of just compensation in accordance with the principles of international law.

3. The dwellings, offices, warehouses, factories, and other premises of nationals and companies of either Party located within the territories of the other Party shall not be subject to entry or molestation without just cause. Official searches and examinations of such premises and their contents shall be made only according to law and with careful regard for the convenience of the occupants and the conduct of business.

ARTICLE IV

1. Nationals and companies of either Party shall be accorded national treatment with respect to establishing, as well as acquiring interests in, enterprises of all types for engaging in commercial, industrial, financial and other business activities within the territories of the other Party.

2. Each Party reserves the right to prohibit aliens from establishing or

acquiring interests, or to limit the extent to which aliens may establish or acquire interests, in enterprises engaged within its territories in communications, transport, fiduciary functions, banking involving depository functions, the exploitation of land, or other natural resources, or domestic trade in indigenous agricultural products, provided that it shall accord to nationals and companies of the other Party treatment no less favorable in this connection than that accorded nationals and companies of any third country.

3. The provisions of paragraph 1 do not include the practice of professions, or callings reserved for the nationals of each Party.

4. Enterprises which are or may hereafter be established or acquired by nationals and companies of either Party within the territories of the other Party and which are owned or controlled by such nationals and companies, whether in the form of individual proprietorships, direct branches or companies constituted under the laws of such other Party, shall be permitted freely to conduct their activities therein upon terms no less favorable than like enterprises owned or controlled by nationals of such other Party or of any third country.

5. Nationals and companies of either Party shall enjoy the right to control and manage the enterprises which they have established or acquired within the territories of the other Party, and shall be permitted without discrimination to do all things normally found necessary and proper to the effective conduct of enterprises engaged in like activities.

6. Nationals and companies of either Party shall be permitted, in accordance with the applicable laws, to engage, within the territories of the other Party, accountants or other technical experts, executive personnel, attorneys, agents and other specialists of their choice. Moreover, such nationals and companies shall be permitted to engage accountants and

other technical experts, regardless of the extent to which they may have qualified for the practice of a profession within the territories of such other Party, for the particular purpose of making examinations, audits and technical investigations for internal purposes exclusively for, and rendering reports to, such nationals and companies in connection with the planning and operation of their enterprises within such territories.

ARTICLE V

1. Nationals and companies of either Party shall be accorded national treatment within the territories of the other Party with respect to: (a) leasing immovable property needed for their residence or for the conduct of activities pursuant to the present Treaty; (b) purchasing and otherwise acquiring movable property of all kinds, subject to any limitations on acquisition of shares in enterprises that may be imposed consistently with Article IV; and (c) disposing of property of all kinds by sale, testament or otherwise.

2. Nationals and companies of either Party shall have within the territories of the other Party the same right as nationals and companies of that other Party in regard to patents for invention, trade marks, trade names, designs and copyright in literary and artistic works, upon compliance with the applicable laws and regulations, if any.

ARTICLE VI

1. Nationals and companies of either Party shall not be subject to the payment of taxes, fees or charges within the territories of the other Party, or to requirements with respect to the levy and collection thereof, more burdensome than those borne by nationals, residents and companies of any third country. In the case of nationals of either Party residing within the territories of the other Party, and of companies of either Party engaged in

trade or other gainful pursuit or in non-profit activities therein, such taxes, fees, charges and requirements shall not be more burdensome than those

borne by nationals and companies of such other Party.

2. Each Party, however, reserves the right to: (a) extend specific tax advantages only on the basis of reciprocity, or pursuant to agreements for the avoidance of double taxation or the mutual protection of revenue: and (b) apply special provisions in extending advantages to its nationals and residents in connection with joint returns by husband and wife, and as to the exemptions of a personal nature allowed to non-residents in connection with income and inheritance taxes.

3. Companies of either Party shall not be subject, within the territories of the other Party, to the payment of taxes upon income not attributable to sources within such territories, or upon transactions or capital not attributable to the operations and investments thereof within such territories.

4. The foregoing provisions shall not prevent the levying, in appropriate cases, of fees relating to the accomplishment of police and other formalities, if these fees are also levied on nationals of all third countries. The rates for such fees shall not exceed those charged such nationals of any third country.

ARTICLE VII

1. Neither Party shall apply restrictions on the making of payments, remittances, and other transfers of funds to or from the territories of the other Party, except (a) to the extent necessary to assure the availability of foreign exchange for payments for goods and services essential to the health and welfare of its people, or (b) in the case of a member of the International Monetary Fund, restrictions specifically requested or approved by the Fund.

2. If either Party applies exchange restrictions, it shall make reasonable provision for the withdrawal in foreign exchange in the currency of the other Party, of: (a) the compensation referred to in Article III, paragraph 2, of the present Treaty; (b) earnings, whether in the form of salaries, interest, dividends, commissions; royalties, payments for technical services, or otherwise; and (c) amounts for amortization of loans, depreciation of direct investments and capital transfers, giving consideration to special needs for other transactions. If more than one rate of exchange is in force, the rate applicable to such withdrawal shall be a rate which is specifically approved by the International Monetary Fund for such transactions.

3. Either Party applying exchange restrictions shall in general administer them in a manner not to influence disadvantageously the competitive position of the commerce, transport or investment of capital of the other Party in comparison with the commerce, transport or investments of any third country. ARTICLE VIII

1. Each Party shall accord to products of the other Party, from whatever place and by whatever type of carrier arriving, and to products destined for exportation to the territories of such other Party, by whatever route and by whatever type of carrier, treatment no less favorable than that accorded like products of, or destined for exportation to, any third country, in all matters relating to: (a) customs duties, as well as any other charges, regulations and formalities levied upon or in connection with importation and exportation; and (b) internal taxation, sale, distribution, storage and use. The same rule shall apply with respect to the international transfer of payments for imports and exports.

2. Neither Party shall impose restrictions or prohibitions on the importation of any product of the other Party, or on the exportation of any product to

the territories of the other Party, unless the importation of the like product of, or the exportation of the like product to, all third countries is similarly restricted or prohibited.

3. If either Party imposes quantitative restrictions on the importation or exportation of any product in which the other Party has an important interest:

(a) It shall, upon request, inform the other Party of the approximate total amount of the product, by quantity or value, that may be imported or exported during a specified period, and of any change in such amount or period; and

(b) If it makes allotments to any third country, it shall afford such other Party a share proportionate to the amount of the product, by quantity or value, supplied by or to it during a previous representative period, due consideration being given to any special factors affecting the trade in such product.

4. Either Party may impose prohibitions or restrictions on sanitary or other customary grounds of a non-commercial nature, or in the interest of preventing deceptive or unfair practices, provided such prohibitions or restrictions do not arbitrarily discriminate against the commerce of the other Party.

5. Either Party may adopt measures necessary to assure the utilization of accumulated inconvertible currencies or to deal with a stringency of foreign exchange. However, such measures shall deviate no more than necessary from a policy designed to promote the maximum development of nondiscriminatory international trade and to expedite the attainment of a balance of payments position which will obviate the necessity of such measures.

6. Each Party reserves the right to accord special advantages: (a) to

products of its national fisheries; (b) to adjacent countries in order to facilitate frontier traffic; or (c) by virtue of a customs union or a free trade

area of which either Party may become a member, or of an interim agreement leading to the formation of a customs union or free trade area which either Party may enter into. Each Party, moreover, reserves rights and obligations it may have under the General Agreement on Tariffs and Trade, and special advantages it may accord pursuant thereto.

ARTICLE IX

1. In the administration of its customs regulations and procedures, each Party shall : (a) publish all requirements of general application affecting importation and exportation; (b) apply such requirements in a uniform, impartial and reasonable manner; (c) refrain, as a general practice, from enforcing new or more burdensome requirements until after public notice thereof; and (d) allow appeals to be taken from rulings of the customs authorities. Moreover, the customs authorities of each Party shall not impose greater than nominal penalties for infractions resulting from clerical errors or from mistakes made in good faith as deemed appropriate by the customs authorities.

2. Nationals and companies of either Party shall be accorded treatment no less favorable than that accorded nationals and companies of the other Party, or of any third country, with respect to all matters relating to importation and exportation.

3. Neither Party shall impose any measure of a discriminatory nature that hinders or prevents the importer or exporter of products of either Party from obtaining marine insurance on such products in companies of the other Party.

ARTICLE X

1. Between the territories of the two Parties there shall be freedom of

commerce and navigation.

2. Vessels under the flag of either Party, and carrying the papers required by its law in proof of nationality, shall be deemed to be vessels of that Party both on the high seas and within the ports, places and waters of the other Party.

3. Vessels of either Party shall have liberty, on equal terms with vessels of the other Party and with vessels of any third country, to come with their cargoes to all ports, places and waters of such other Party open to foreign commerce and navigation. Such vessels and cargoes shall in all respects be accorded national treatment and most-favored-nation treatment within the ports, places and waters of such other Party, but each Party may reserve exclusive rights and privileges to its own vessels with respect to the coasting

trade, inland navigation and national fisheries. 4. Vessels of either Party shall be accorded national treatment and most-favored-nation treatment by the other Party with respect to the right to

carry all products that may be carried by vessel to or from the territories of such other Party, and such products shall be accorded treatment no less favorable than that accorded like products carried in vessels of such other Party, with respect to: (a) duties and charges of all kinds; (b) the administration of the customs; and (c) bounties, drawbacks and other privileges of this nature.

5. Vessels of either Party that are in distress shall be permitted to take refuge in the nearest port or haven of the other Party, and shall receive friendly treatment and assistance.

6. The term "vessels", as used herein, means all types of vessels, whether privately or publicly owned or operated, but this term does not, except with reference to paragraphs 2 and 5 of the present Article, include fishing vessels or vessels of war.

ARTICLE XI

1. Each Party undertakes (a) that enterprises owned or controlled by its Government, and monopolies or agencies granted exclusive or special privileges within its territories, shall make their purchases and sales involving either imports or exports affecting the commerce of the other Party solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale; and (b) that nationals, companies and commerce of such other Party shall be afforded adequate opportunity, in accordance with customary business practice, to compete for participation in such purchases and sales.

2. Each Party shall accord to nationals, companies and commerce of the other Party fair and equitable treatment, as compared with that accorded to nationals, companies and commerce of any third country, with respect to: (a) the governmental purchase of supplies; (b) the awarding of concessions and other government contracts; and (c) the sale of any service by the Government or by any monopoly or agency granted exclusive or special privileges.

ARTICLE XII

1. The present Treaty shall not preclude the application of measures:

- (a) regulating the importation or exportation of gold or silver;
- (b) regulating to fissionable materials, their radio-active by-products, or the sources thereof; (c) regulating the production of or traffic in arms, ammunition and implements of war, or traffic in other materials carried on directly or indirectly for the purpose of supplying a military establishment;
- (d) regulating, on a non-discriminatory basis, military requisition of supplies and implements of war in time of emergency or in time of war;
- (e) necessary to fulfill the obligations of either Party for the maintenance or

restoration of international peace and security, or necessary to protect its essential security interests; or

(f) denying to any company in the ownership or direction of which nationals of any third country or countries have directly or indirectly the controlling interest, the advantages of the present Treaty, except with respect to recognition of juridical status and with respect to access to courts of justice and to administrative tribunals and agencies.

2. The present Treaty does not accord any right to engage in political activities.

3. The most-favored-nation provisions of the present Treaty relating to the treatment of goods shall not extend to advantages accorded by the United States of America or its territories and possessions, irrespective of any future change in their political status, to one another, to the Republic of Cuba, to the Republic of the Philippines, to the Trust Territory of the Pacific Islands or to the Panama Canal Zone.

4. The provisions of the present Treaty as regards the most-favored-nation treatment do not apply to:

(a) favors now granted or which may hereafter be granted to neighboring States with regard to navigation on or use of boundary waterways not navigable from the sea; or

(b) favors now granted or which may hereafter be granted in virtue of national legislation on the promotion of industrial investment.

ARTICLE XIII

1. Each Party shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such representations as the other Party may make with respect to any matter affecting the operation of the present Treaty.

2. Any dispute between the Parties as to the interpretation or application of the present Treaty, not satisfactorily adjusted by diplomacy or other pacific means, shall be submitted, at the request of either Party, to a panel of arbitrators for settlement in accordance with applicable principles of international law. The panel shall be composed of three members, one selected by each Party and the third chosen by the members selected by the Parties. In the event the members selected by the Parties are unable to agree upon the third member within one month, the third member shall be one who is designated by the Secretary General of the United Nations at the request of either Party.

ARTICLE XIV

1. The present Treaty shall be ratified, and the ratifications thereof shall be exchanged at Washington, D.C. as soon as possible.

2. The present Treaty shall enter into force one month after the date of exchange of ratifications. Thereupon it shall replace and terminate the Treaty of Friendship, Commerce and Navigation signed at Bangkok on November 13, 1937.

3. The present Treaty shall remain in force for ten years and shall continue in force thereafter until terminated as provided herein.

4. Either Party may, by giving one year's written notice to the other Party, terminate the present Treaty at the end of the initial ten-year period or at any time thereafter.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Treaty and have affixed hereunto their seals.

DONE in duplicate, in the Thai and English languages, both equally authentic, at Bangkok, this twenty-ninth day of May in the two thousand five hundred and ninth year of the Buddhist Era, corresponding to the one thousand nine hundred and sixty sixth year of the Christian Era.

For the Kingdom of Thailand:

(Signed) Thanat Khoman

For the United States of America:

(Signed) Graham Martin

Source: The Royal Thai Embassy, Washington, D.C.

www.thaiembdc.org/politics/thaius/1966taer.htm