

N° 1303.

ESPAGNE ET SIAM

Traité d'amitié, de commerce et de navigation avec protocole concernant la juridiction applicable dans le Royaume de Siam aux ressortissants espagnols et autres jouissant de la protection de l'Espagne. Signé à Madrid, le 3 août 1925.

SPAIN AND SIAM

Treaty of Friendship, Commerce and Navigation, with Protocol concerning Jurisdiction applicable in the Kingdom of Siam to Spanish Subjects and Others entitled to the Protection of Spain. Signed at Madrid, August 3, 1925.

No. 1303. — TREATY¹ OF FRIENDSHIP, COMMERCE AND NAVIGATION
BETWEEN THE KINGDOM OF SPAIN AND THE KINGDOM OF
SIAM. SIGNED AT MADRID, AUGUST 3, 1925.

*Texte officiel anglais communiqué par le ministre de Siam à Paris, délégué permanent du Siam
auprès de la Société des Nations. L'enregistrement de ce traité a eu lieu le 24 septembre 1926.*

HIS MAJESTY THE KING OF SPAIN and HIS MAJESTY THE KING OF SIAM, being desirous of strengthening the relations of amity and good understanding which happily exist between the two States, and being convinced that this cannot be better accomplished than by revising the Treaties hitherto existing between the two countries, have resolved to complete such revision, based upon the principles of equity and mutual benefit, and for that purpose have named as their Plenipotentiaries, that is to say :

HIS MAJESTY THE KING OF SPAIN :

His Excellency Sr. D. Fernando ESPINOSA DE LOS MONTEROS Y BERMEJILLO, Under-Secretary in charge of the Ministry of State ;

HIS MAJESTY THE KING OF SIAM :

His Excellency PHYA SARBAKICH PRIJA, His Envoy Extraordinary and Minister Plenipotentiary at Madrid ;

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following Articles :

Article I.

There shall be constant peace and perpetual friendship between the Kingdom of Spain and the Kingdom of Siam.

Article II.

The High Contracting Parties agree that, in case any difference shall arise between them which cannot be settled by simple agreement or by diplomatic means, they will submit the difference to one or more arbitrators chosen by them, or to the Permanent Court of International Justice² at The Hague. The latter will acquire jurisdiction over the matter by means of a common agreement between the two Parties, or in case of a failure to agree, by the simple request of either Party.

¹ L'échange des ratifications a eu lieu à Madrid, le 28 juillet 1926.

² Vol. VI, page 379 ; vol. XI, page 404 ; vol. XV, page 304 ; vol. XXIV, page 152 ; vol. XXVII, page 416 ; vol. XXXIX, page 165 ; vol. XLV, page 96 ; vol. L, page 159, et vol. LIV, page 387, de ce recueil.

¹ TRADUCTION. — TRANSLATION.N^o 1303. — TRAITÉ ² D'AMITIÉ, DE COMMERCE ET DE NAVIGATION
ENTRE LE ROYAUME D'ESPAGNE ET LE ROYAUME DE SIAM.
SIGNÉ A MADRID, LE 3 AOUT 1925.

English official text communicated by the Siamese Minister at Paris, Permanent Delegate of Siam accredited to the League of Nations. The registration of this Treaty took place September 24, 1926.

SA MAJESTÉ LE ROI D'ESPAGNE et SA MAJESTÉ LE ROI DE SIAM, désireux de resserrer les liens d'amitié et de bonne entente déjà heureusement existants entre les deux Etats, et convaincus que cet objet ne saurait être mieux atteint que par la revision des traités conclus précédemment entre les deux Etats, ont résolu de procéder à cette revision dans un esprit d'équité et à l'avantage mutuel des deux Parties, et ont désigné, à cet effet, pour leurs plénipotentiaires :

SA MAJESTÉ LE ROI D'ESPAGNE :

Son Excellence M. D. Fernando ESPINOSA DE LOS MONTEROS Y BERMEJILLO, sous-secrétaire chargé du Ministère d'Etat ;

SA MAJESTÉ LE ROI DE SIAM :

Son Excellence PHYA SARBAKICH PRIJA, envoyé extraordinaire et ministre plénipotentiaire de Sa Majesté le Roi de Siam à Madrid ;

Qui, après s'être communiqué leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes :

Article premier.

Il y aura paix constante et amitié perpétuelle entre le Royaume d'Espagne et le Royaume de Siam.

Article II.

Les Hautes Parties contractantes conviennent que, dans le cas où un différend survenu entre elles ne pourrait être réglé par simple accord ou par la voie diplomatique, elles soumettront ce différend à un ou plusieurs arbitres choisis par elles, ou à la Cour permanente de Justice internationale³ de La Haye. La Cour permanente de Justice internationale sera saisie du litige en vertu d'un accord entre les deux Parties ou, si cet accord ne peut être réalisé, par la simple requête de l'une ou l'autre des Parties.

¹ Traduit par le Secrétariat de la Société des Nations.

¹ Translated by the Secretariat of the League of Nations.

² The exchange of ratifications took place at Madrid, July 28, 1926.

³ Vol. VI, page 379 ; Vol. XI, page 404 ; Vol. XV, page 304 ; Vol. XXIV, page 152 ; Vol. XXVII, page 416 ; Vol. XXXIX, page 165 ; Vol. XLV, page 96 ; Vol. L, page 159, and Vol. LIV, page 387, of this Series.

Article III.

The subjects of each of the High Contracting Parties, upon submitting themselves to the laws and regulations there in force, shall have liberty to enter, travel and reside in the territories and possessions of the other, and in these territories and possessions to carry on trade, commerce and manufacture ; to engage in religious, educational and charitable work ; to employ agents, and to lease land or buildings, upon the same terms as the subjects of the most favoured nation.

In all that relates to the acquisition, possession and disposition of property rights of every description, the subjects of each of the High Contracting Parties shall, throughout the whole extent of the territories and possessions of the other, be placed in all respects on the same footing as the subjects or citizens of the most favoured nation.

The subjects of each of the High Contracting Parties shall not be compelled to pay any internal charges or taxes other or higher than those which now are or hereafter may be exacted from the subjects of the most favoured nation.

The subjects of each of the High Contracting Parties shall receive in the territories and possessions of the other the most constant protection and security for their persons and property and, on their submitting themselves to the conditions imposed upon native subjects, shall enjoy in this respect the same rights and privileges as now are or hereafter may be granted to such native subjects.

The subjects of the High Contracting Parties shall, however, be exempt in the territories and possessions of the other from compulsory military service either on land or sea, in the regular forces or in the national guard, or in the militia, as well as from all contributions imposed in lieu of personal military service, and from all forced loans or military exactions or contributions.

The subjects of each of the High Contracting Parties shall enjoy in the territories and possessions of the other, entire liberty of conscience, and, subject to the laws, ordinances and regulations there in force, shall enjoy the right of exercise of their worship.

Article IV.

The dwellings, warehouses, manufactories, shops, and all other buildings of the subjects of each of the High Contracting Parties in the territories of the other, together with all premises used in connection therewith for purposes of residence or commerce, shall be exempt from visits and searches, and from examinations or inspections of books, papers or accounts therein located, except under the conditions and with the forms prescribed by the laws, ordinances, and regulations applying to native subjects.

Article V.

There shall be reciprocally full and entire freedom of commerce and navigation between the territories and possessions of the two High Contracting Parties.

The subjects of either of the High Contracting Parties shall have liberty freely and securely to come with their ships and cargoes to all places, ports and rivers in the territories and possessions of the other, which are or may hereafter be opened to foreign commerce and navigation.

Article VI.

The High Contracting Parties agree not to obstruct mutual commerce between the two countries by the prohibition of or by restrictions placed upon the importation, exportation or transit of

any article, subject to the following exceptions, which, however, shall be applicable to all countries alike or such countries as are subject to the same conditions :

- (1) Prohibitions or restrictions upon munitions of war ;
- (2) Prohibitions or restrictions for reasons of public safety or public health ;
- (3) Prohibitions or restrictions upon articles which are or may hereafter become the object of Government monopoly ;
- (4) Prohibitions or restrictions for the protection of cattle or plants against disease, noxious insects or parasites ;
- (5) Prohibitions or restrictions with regard to articles similar to those domestic articles whose internal production, sale, or transport is forbidden or similarly restricted by the national law ;
- (6) Prohibitions or restrictions with regard to articles affecting the national economy, provided they are of a general character.

Article VII.

The subjects of each of the High Contracting Parties shall have free access to the courts of justice of the other in pursuit and defence of their rights ; they shall be at liberty equally with native subjects, and with the subjects or citizens of the most favoured nation, to choose and employ lawyers, advocates and representatives and to pursue and defend their rights before such courts. No conditions or requirements shall be imposed upon the subjects of either of the High Contracting Parties in connection with such access to the courts of justice of the other, which do not apply to native subjects or to the subjects or citizens of the most favoured nation.

Article VIII.

Limited liability and other companies and associations, organised according to the laws, and having a " *siège social* " within the territory, of either of the two High Contracting Parties, are authorized within the territory of the other, upon conforming to its laws, to exercise their rights, to carry on their business, and to appear in the courts as plaintiffs or defendants.

No conditions or requirements shall be imposed upon corporations, companies or associations organised in accordance with the laws of either High Contracting Party in connection with such access to the courts of justice of the other which do not apply to such native corporations, companies or associations or to the corporations, companies or associations of the most favoured nation.

Article IX.

The subjects of each of the High Contracting Parties shall enjoy, in the territories and possessions of the other, a perfect equality of treatment with the subjects or citizens of the most favoured nation, in all that relates to transit duties, warehousing, bounties, facilities, the examination and appraisement of merchandise, and drawbacks.

Article X.

The Kingdom of Spain recognizes that the principle of national autonomy should apply to the Kingdom of Siam in all that pertains to the rates of duty on importations and exportations of

merchandise, drawbacks, and transit and all other taxes and impositions; and, subject to the condition of equality of treatment with all other nations in these respects, Spain agrees to assent to increases by Siam in its tariff to rates higher than those established by existing treaties, on the further condition, however, that all other nations entitled to claim special tariff treatment in Siam, assent to such increases freely and without the requirement of any compensatory benefit or privilege.

Article XI.

With respect to import duties on articles produced and coming from the territory of either of the High Contracting Parties, Siam agrees to accord to Spain most-favoured-nation treatment, and Spain agrees to accord to Siam for rice and tin ore most-favoured-nation treatment and for all other articles to apply the second column of the Spanish tariff or the corresponding column of future tariffs.

No other or higher duties, taxes or charges of any kind shall be imposed in the territories and possessions of either of the High Contracting Parties in respect of any article exported to the territories and possessions of the other, than such as are or may be payable in respect of a like article exported to any other foreign country.

Article XII.

In all that concerns the entering, clearing, stationing, loading and unloading of vessels in the ports, basins, docks, roadsteads, harbours, or rivers of the two countries, no privilege shall be granted by one High Contracting Party to vessels of a third Power which shall not equally be granted to the vessels of the other High Contracting Party; the intention of the High Contracting Parties being that, in these respects, the vessels of each shall receive the treatment accorded to vessels of the most favoured nation.

Article XIII.

The coasting trade of both of the High Contracting Parties is excepted from the provisions of the present Treaty, and shall be regulated according to the laws, ordinances and regulations of Spain and its possessions, and Siam, respectively.

It is, however, understood that Siamese subjects and vessels in the territories and possessions of Spain and Spanish subjects and vessels in the territories and possessions of the Kingdom of Siam shall enjoy in this respect the rights which are or may be granted under such laws, ordinances and regulations to the subjects, citizens or vessels of other nations.

Article XIV.

If a ship of war or merchant vessel of either of the High Contracting Parties has stranded or been wrecked in the waters or harbours of the other State, the ship or vessel, her passengers and cargo shall enjoy the same favours and immunities as those which the laws and regulations of the latter state grant, or may grant in analogous cases, to national ships or to those of the most favoured nation. Aid and assistance shall be rendered to the captain and crew in the same measure as to the subjects or citizens of the most favoured nation. The merchandise which has been saved from a merchant ship or vessel of one of the Contracting Parties which has been stranded or wrecked, shall not be subject to any Customs duty in the territory of the other Contracting Party unless it is cleared for consumption in the latter State.

Article XV.

The vessels of war of each of the High Contracting Parties may enter, remain and make repairs in those ports and places of the other to which the vessels of war of other nations are accorded access ; they shall there submit to the same regulations and enjoy the same honours, advantages, privileges and exemptions as are now, or may hereafter be, conceded to the vessels of war of any other nation.

Article XVI.

The subjects of each of the High Contracting Parties shall enjoy, in the territories and possessions of the other, upon fulfilment of the formalities prescribed by the laws, the same protection as native subjects, or the subjects or citizens of the nation most favoured in these respects, in regard to patents, trademarks, tradenames, designs and copyrights.

Article XVII.

Each of the High Contracting Parties may appoint Consuls-General, Consuls, Vice-Consuls, and other Consular Officers or Agents, to reside in the towns and ports of the territories and possessions of the other where similar officers of the other Powers are permitted to reside.

Such Consular Officers and Agents, however, shall not enter upon their functions until they shall have been approved and admitted by the Government to which they are sent.

They shall be entitled to exercise all the powers and enjoy all the honours, privileges, exemptions and immunities of every kind which are or may be accorded to consular officers of the most favoured nation.

Article XVIII.

In case of the death of a subject of one of the High Contracting Parties in the territories or possessions of the other without having, in the country of his decease, any known heirs or testamentary executors by him appointed, the competent local authorities shall at once inform the nearest Consular Officer of the nation to which the deceased belonged, in order that necessary information may be immediately forwarded to parties interested.

In case of the death of a subject of one of the High Contracting Parties in the territories or possessions of the other without leaving, at the place of his decease, any person entitled by the laws of his country to take charge of and administer the estate, the competent Consular Officer of the State to which the deceased belonged, shall, upon fulfilment of the necessary formalities, be empowered to take custody of and administer the estate in the manner and under the limitations prescribed by the laws of the country in which the property of the deceased is situated.

The foregoing provision shall also apply in case of a subject of one of the High Contracting Parties dying outside the territories and possessions of the other, but possessing property therein, without leaving any person there entitled to take charge of and administer the estate.

It is understood that in all that concerns the administration of the estates of deceased persons, any right, privilege, favour, or immunity which either of the High Contracting Parties has actually granted, or may hereafter grant, to the consular Officers of any other foreign State, shall be extended immediately and unconditionally to the consular officers of the other High Contracting Party.

Article XIX.

The stipulations contained in the present Treaty do not affect, supersede or modify any of the laws, ordinances or regulations of the High Contracting Parties, now in force or hereafter enacted, with regard to immigration, police or public security.

None of the provisions of the present Treaty are to be interpreted in a manner which will detract from the enjoyment of jurisdictional or fiscal autonomy which the present Treaty confers upon Siam.

Article XX.

The present Treaty shall, from the date of the exchange of ratifications thereof, be substituted for all former Treaties, Conventions and Agreements made between the two High Contracting Parties. From that date, all former Treaties, Conventions and Agreements between the two High Contracting Parties shall cease to be binding, including the Treaty of Friendship, Commerce and Navigation¹ between Spain and Siam, signed at Bangkok on February 23, 1870, and the Additional Articles relating to the Importation and Sale of Spirituous Drinks of 24 May 1884.

With respect to the importation into Siam of wine, beers, and all other alcoholic beverages, whatever privileges are, or may be granted by Siam in the form of special duties or favours to particular nations, shall be extended automatically to Spain regardless of any differences in alcoholic content.

Article XXI.

None of the provisions of the present Treaty by which Spain agrees to grant to Siam most-favoured-nation treatment, shall be invoked by Siam with respect to special concessions made, or to be made, by Spain to Portugal, to the Spanish zone in Morocco, or to the Hispano-American Republics.

Article XXII.

The present Treaty shall come into effect on the date of the exchange of ratifications. It shall remain binding until the expiration of six months from the day on which either of the High Contracting Parties shall have denounced it. It is clearly understood, however, that such denunciation shall not have the effect of reviving any of the Treaties, Conventions, Arrangements or Agreements abrogated by the present Treaty.

The present Treaty shall take effect in Siam and in Spain and its possessions.

Article XXIII.

This Treaty shall be ratified and the ratifications thereof shall be exchanged at Madrid as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the present Treaty and have thereunto affixed their seals.

Done in duplicate in the English language, at Madrid, this third day of August in the nineteen hundred and twenty-fifth year of the Christian Era, corresponding to the third day of the fifth month in the two thousand four hundred and sixty-eighth year of the Buddhist Era.

(Seal) Fernando ESPINOSA DE LOS MONTEROS Y BERMEJILLO.

(Seal) PHYA SARBAKICH PRIJA.

Certifié conforme :

Phya Sarbakich Prija.

¹ *British and Foreign State Papers*, Vol. 61, page 483.

ANNEX.

PROTOCOL CONCERNING JURISDICTION APPLICABLE IN THE KINGDOM OF SIAM TO SPANISH SUBJECTS AND OTHERS ENTITLED TO THE PROTECTION OF SPAIN.

At the moment of proceeding this day to the signature of the new Treaty of Friendship, Commerce and Navigation between the Kingdom of Spain and the Kingdom of Siam, the Plenipotentiaries of the two High Contracting Parties have agreed as follows :

Article I.

The system of jurisdiction heretofore established in Siam for Spanish subjects and the privileges, exemptions and immunities now enjoyed by Spanish subjects in Siam as a part of or appurtenant to the said system, shall absolutely cease and determine on the date of the exchange of ratifications of the above-mentioned Treaty, and thereafter all Spanish subjects, persons, corporations, companies and associations shall be subject to the jurisdiction of the Siamese Courts.

Article II.

Until the promulgation and putting into force of all the Siamese Codes, namely, the Penal Code, the Civil and Commercial Code, the Codes of Procedure and the Law for Organization of Courts, and for a period of five years thereafter, but no longer, Spain, through its diplomatic and consular officials in Siam, whenever in its discretion it deems it proper so to do in the interests of justice, by means of a written requisition addressed to the judge or judges of the Court in which such case is pending, may evoke any case pending in any Siamese Court, except the Supreme or Dika Court, in which a Spanish subject, person, corporation, company or association, is defendant or accused.

Such case shall then be transferred to the said Diplomatic or Consular Official for adjudication, and the jurisdiction of the Siamese Court over such case shall thereupon cease. Any case so evoked shall be disposed of by the said diplomatic or consular official in accordance with the laws of Spain properly applicable, except that as to all matters coming within the scope of Codes or Laws of the Kingdom of Siam regularly promulgated and in force, the rights and liabilities of the parties shall be determined by Siamese Law.

For the purpose of trying such cases and of executing any judgments which may be rendered therein, the jurisdiction of the Spanish diplomatic and consular officials in Siam is continued.

Should Spain perceive, within a reasonable time after the promulgation of the said Codes, any objection to the said Codes, namely, the Penal Code, the Civil and Commercial Code, the Codes of Procedure and the Law for the Organization of Courts, the Siamese Government will endeavour to meet such objections.

Article III.

Appeals by Spanish subjects, persons, corporations, companies and associations from judgments of courts of first instance in cases to which they may be parties, shall be adjudged by the Court of Appeal at Bangkok.

An appeal on a question of law shall lie from the Court of Appeal at Bangkok to the Supreme or Dika Court.

A Spanish subject, person, corporation, company or association, who is defendant or accused in any case arising in the provinces, may apply for change of venue and should the Court consider

such change desirable, the trial shall take place either at Bangkok or before the judge in whose Court the case would be tried at Bangkok.

The provisions of this Article shall remain in force so long as the right of evocation continues to exist in accordance with Article II.

Article IV.

In order to prevent difficulties which may arise from the transfer of jurisdiction contemplated by the present Protocol, it is agreed :

(a) All cases in which action shall be taken subsequently to the date of the exchange of ratifications of the above-mentioned Treaty, shall be entered and decided in the Siamese Courts, whether the cause of action arose before or after the date of the said exchange of ratifications ;

(b) All cases pending before the Spanish diplomatic and consular officials in Siam on the said date shall take their usual course before such officials until such cases have been finally disposed of, and the jurisdiction of the Spanish diplomatic and consular officials shall remain in full force for this purpose.

In connection with any case coming before the Spanish diplomatic or consular officials under clause (b) of Article IV, or which may be evoked by said officials under Article II, the Siamese Authorities shall upon request by such diplomatic or consular officials lend their assistance in all matters pertaining to the case.

In witness whereof the undersigned Plenipotentiaries have hereto signed their names.

Done at Madrid, in duplicate, this third day of August in the nineteen hundred and twenty-fifth year of the Christian Era, corresponding to the third day of the fifth month in the two thousand four hundred and sixty-eighth year of the Buddhist Era.

Fernando ESPINOSA DE LOS MONTEROS Y BERMEJILLO.
PHYA SARBAKICH PRIJA.

Certifié conforme :
Phya Sarbakich Prija.