

N° 4368.

ALLEMAGNE ET SIAM

Traité d'amitié, de commerce et de navigation, avec protocole final, signés à Bangkok, le 30 décembre 1937, et échange de notes y relatif de la même date.

GERMANY AND SIAM

Treaty of Friendship, Commerce and Navigation, with Final Protocol, signed at Bangkok, December 30th, 1937, and Exchange of Notes relating thereto of the same Date.

No. 4368. — TREATY ¹ OF FRIENDSHIP, COMMERCE AND NAVIGATION
BETWEEN THE GERMAN REICH AND THE KINGDOM OF SIAM.
SIGNED AT BANGKOK, DECEMBER 30TH, 1937.

English, German and Siamese official texts communicated by the Permanent Representative of Siam to the League of Nations. The registration of this Treaty took place June 14th, 1938.

HIS MAJESTY THE KING OF SIAM and THE FÜHRER AND CHANCELLOR OF THE GERMAN REICH, 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 reciprocity, equity and mutual benefit, and for that purpose have named as their Plenipotentiaries, that is to say :

HIS MAJESTY THE KING OF SIAM :

Luang Pradist MANUDHARM (Pridi Banomyong), Minister of Foreign Affairs ;

THE FÜHRER AND CHANCELLOR OF THE GERMAN REICH :

Dr. Wilhelm THOMAS, Envoy Extraordinary and Minister Plenipotentiary at Bangkok ;

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 1.

1. There shall be constant peace and perpetual friendship between the Kingdom of Siam and the German Reich.

2. The nationals of either of the High Contracting Parties may freely enter the territory of the other, travel, reside and settle therein and, at any time, freely leave such territory, provided they observe the laws in force in the country. In this regard they shall be subjected to no other general or local restrictions or impositions of any kind than those that are or may be imposed upon nationals of the most-favoured nation. Not affected by these foregoing provisions shall be the right of either of the High Contracting Parties to enact passport regulations as well as the right, in each individual case, to deny nationals of the other Party permit of residence on account of conviction by a Court or for reasons of internal and external security of the State or of police control of the poor, public health and morals.

¹ The exchange of ratifications took place at Bangkok, February 26th, 1938.
Came into force February 26th, 1938.

3. The nationals of each of the High Contracting Parties shall be at liberty, equally with nationals of the State of residence in so far as may be permitted by local law or with nationals of the most-favoured nation, to engage, in the territory of the other, in religious, educational and charitable work and to carry on any commerce, manufacture, trade, industrial pursuits, profession, pursuits of study and research, to lease land for residential, commercial, industrial, religious, charitable and other lawful purposes and for use as cemeteries, to employ agents of their own choice, and generally to do anything incident to or necessary for trade, in particular also to own, lease or occupy houses, manufactories, warehouses and shops.

4. The nationals of either of the High Contracting Parties shall receive, in the territories of the other, the most constant protection and security for their persons and property and shall enjoy in this respect the same rights and privileges as are or may be granted to nationals of the State of residence on their submitting themselves to the conditions imposed upon nationals of the State of residence.

5. They shall, however, be exempt in the territories of the other from compulsory military service either on land, on sea, or in the air, in the regular forces, or in the national guard, or in the militia ; from all contributions in money or in kind, imposed in lieu of personal military service, and from all forced loans or military contributions. They shall not be subjected, in time of peace or in time of war, to military requisitions except as imposed upon nationals, and they shall reciprocally be entitled to compensation payable to nationals by the laws in force in the respective countries. With regard to the foregoing provisions, the nationals of each of the High Contracting Parties shall not be treated in the territories of the other less favourably than the nationals of the most-favoured nation.

6. The nationals of each of the High Contracting Parties shall enjoy in the territories of the other entire liberty of conscience, and, subject to the local laws, ordinances and regulations, shall enjoy the right of private or public exercise of their worship.

7. In all that relates to industrial pursuits, callings and professions, the nationals of each of the High Contracting Parties shall throughout the whole extent of the territories of the other on condition of reciprocity be placed on the same footing as the nationals of the most-favoured nation.

8. In all that concerns the acquisition, disposition and ownership of property rights of every description the nationals of each of the High Contracting Parties shall, throughout the whole extent of the territory of the other, on condition of reciprocity, be placed on the same footing as the nationals of the most-favoured nation.

Article 2.

1. The nationals of either of the High Contracting Parties shall enjoy, in the territory of the other, in every respect the same treatment and the same protection from the fiscal authorities and courts for their persons as well as for their properties, rights and interests in regard to charges (taxes and duties), fees, so far as they are substantially taxes, and other like charges, as the nationals of the State of residence.

2. The provisions of this Article shall be likewise applied to juristic persons and to the companies mentioned in Article 6.

Article 3.

The dwellings, warehouses, manufactories and shops and all other property of the nationals of each of the High Contracting Parties in the territories of the other, and all premises appertaining thereto used for purposes of residence or commerce, shall be respected. It shall not be allowable to proceed to make a domiciliary visit to, or a search of, any such buildings and premises, or to

examine or inspect books, papers, or accounts, except under the conditions and with the forms prescribed by the laws, ordinances and regulations for nationals of the State of residence.

Article 4.

1. In the event of either of the High Contracting Parties being compelled to place prohibitions or restrictions upon the importation or exportation of goods, it shall take into consideration the interests of the other in reasonable manner.

2. The foregoing provision shall not apply to the following prohibitions or restrictions on imports or exports as far as they are applicable to all countries alike or to countries in which the same conditions prevail :

(1) Prohibitions or restrictions upon implements of war, and in exceptional circumstances also other materials needed in war ;

(2) Prohibitions or restrictions for reasons of national or public security or public health ;

(3) Prohibitions or restrictions upon articles which are or may hereafter become the object of a monopoly exercised by or under the control of the State ;

(4) Prohibitions or restrictions for the protection of animals or plants against diseases or pests, or for the prevention of the degeneration and extinction of plants ;

(5) Prohibitions or restrictions upon articles similar to domestic articles whose internal production, consumption, sale or transport is forbidden or similarly restricted by national law.

Article 5.

1. The nationals 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 nationals of the State of residence, and with the nationals of the most-favoured nation, to choose and employ lawyers, advocates and representatives to pursue and defend their rights before such Courts.

2. Subject to reciprocity, there shall be no conditions or requirements imposed upon the nationals 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 nationals of the State of residence or to the nationals of the most-favoured nation.

Article 6.

1. Limited liability and other companies and associations, already or hereafter to be organized in accordance with the laws of either of the High Contracting Parties are authorized, in the territory of the other, to exercise their rights and appear in the Courts either as plaintiffs or defendants, subject to the laws of such other Party. Such companies and associations shall, upon the conditions laid down in the legislation of such country, especially upon obtaining the necessary authorization in those cases where such authorization is required by the laws of that country, have the liberty there to settle, to establish branches or agencies and to carry on their activities.

2. Subject to reciprocity, there shall be no conditions or requirements imposed upon such companies and associations organized 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 companies and associations or those of the most-favoured nation.

3. With regard to the right to carry on their activities, such companies and associations shall, on condition of reciprocity, enjoy the same treatment as is or may be granted to similar companies and associations of the most-favoured nation. They shall also be exempt from any forced loans.

4. In all that concerns the acquisition, disposition and ownership of property rights of every description, such companies and associations shall on condition of reciprocity be placed on the same footing as the companies and associations of the most-favoured nation.

Article 7.

As regards the transit of any article of commerce from or to the territory of one of the High Contracting Parties through the territory of the other, the High Contracting Parties shall apply the provisions of the Convention¹ and Statute on Freedom of Transit concluded at Barcelona on the 20th April, 1921.

Article 8.

1. The nationals of each of the High Contracting Parties shall have liberty freely to come with their ships and cargoes to all places, ports and rivers in the territories of the other which are or may be opened to foreign commerce and navigation, subject always to the laws of the country to which they thus come.

2. No duties of tonnage, harbour, pilotage, lighthouse, quarantine or other similar or corresponding duties of whatever nature, or under whatever denomination levied in the name or for the profit of the Government, public functionaries, private individuals, corporations or establishments of any kind shall be imposed in the ports of the territories of either country upon the vessels of the other country, which shall not equally and under the same conditions be imposed in the like cases on vessels of a third Power. Such equality of treatment shall apply reciprocally to the respective vessels, from whatever port or place they may arrive, and whatever may be their place of destination.

Article 9.

1. It is agreed that the Customs tariffs applicable to articles, the produce or manufacture of either of the High Contracting Parties imported into the territories of the other, shall be regulated by the internal laws of the country of importation.

2. In regard to the amount, the collection and the guaranteeing of Customs duties and charges, as well as in regard to all Customs formalities, the natural produce and manufacture of either High Contracting Party shall, on the exportation to or on importation into the territory of the other Party, be treated on the most-favoured-nation principle.

Article 10.

Whether for account of the State or of provinces, communes or bodies corporate, the charges imposed upon the production, manufacture or consumption of any article in the territory of either High Contracting Party shall not, on any pretext whatever, be higher or more burdensome for the products of the other Party than for the similar commodities of national production.

Article 11.

The nationals of each of the High Contracting Parties shall have in the territories of the other the same rights as nationals in regard to patents for inventions, designs, models, trade-marks, trade-names, protection against unfair competition and protection of copyright in literary and artistic works, upon fulfilment of the formalities prescribed by law.

¹ Vol. VII, page 11 ; Vol. XI, page 407 ; Vol. XV, page 305 ; Vol. XIX, page 279 ; Vol. XXIV, page 155 ; Vol. XXXI, page 245 ; Vol. XXXV, page 299 ; Vol. XXXIX, page 166 ; Vol. LIX, page 344 ; Vol. LXIX, page 70 ; Vol. LXXXIII, page 373 ; Vol. XCII, page 363 ; Vol. XCVI, page 181 ; Vol. CIV, page 495 ; Vol. CXXXIV, page 393 ; and Vol. CXLII, page 340, of this Series.

Article 12.

1. Each of the High Contracting Parties shall, subject to the provisions of Article 4, permit the importation or exportation of all merchandise which may be legally imported or exported, and also the carriage of passengers from or to their respective territories, upon the vessels of the other, and such vessels, their cargoes and passengers shall enjoy the same privileges as, and shall not be subject to any other or higher duties, charges or restrictions than national vessels and their cargoes and passengers.

2. The foregoing provision shall not apply to the special treatment accorded by either of the High Contracting Parties to the importation into its territory of fish caught by vessels of its own flag. Nevertheless, as regards catches caught by the vessels of either of the High Contracting Parties, the fish, on being imported into the territory of the other Party, shall not be treated less favourably than fish caught by vessels of any other nation.

Article 13.

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 to vessels of a third Power which shall not equally be granted to vessels of the other country; 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 14.

1. Any ship of war or merchant vessel of either of the High Contracting Parties which may be compelled by stress of weather, or by reason of any other distress, to take shelter in a port of the other, shall be at liberty to refit therein, to procure all necessary supplies, and put to sea again, without paying any dues other than such as would be payable by vessels of the most-favoured nation. In case, however, the master of a merchant vessel should be under the necessity of disposing of a part of his cargo in order to defray the expenses, he shall be bound to conform to the regulations and tariffs of the place to which he may have come.

2. If any ship of war or merchant vessel of one of the High Contracting Parties should run aground or be wrecked upon the coast of the other, the local authorities shall give prompt notice of the occurrence to the Consular Officer residing in the district or to the nearest Consular Officer of the other Power.

3. Such stranded or wrecked ship or vessel and all parts thereof, and all furniture and appurtenances belonging thereto, and all goods and merchandise saved therefrom, including those which may have been cast into the sea, or the proceeds thereof, if sold, as well as all papers found on board such stranded or wrecked ship or vessel, shall be given up to the owners or their agents, when claimed by them.

4. If such owners or agents are not on the spot, the aforesaid property or proceeds from the sale thereof and the papers found on board the vessel shall be delivered to the proper Consular Officer of the High Contracting Party whose vessel is wrecked or stranded, provided that such Consular Officer shall make claim within the period fixed by the laws, ordinances and regulations of the country in which the wreck or stranding occurred, and such Consular Officers, owners or agents shall pay only the expenses incurred in the preservation of the property, together with the salvage or other expenses which would have been payable in the case of the wreck or stranding of a vessel of the most-favoured nation.

5. The goods and merchandise saved from the wreck or stranding shall be exempt from all duties of the Customs unless cleared for consumption, in which case they shall pay ordinary duties.

6. In the case of a ship or vessel belonging to the nationals of one of the High Contracting Parties being driven in by stress of weather, run aground or wrecked in the territories of the other, the proper Consular Officer of the High Contracting Party to which the vessel belongs, shall, if the owners or their agents are not present, or are present but require it, be authorized to interpose in order to afford the necessary assistance to the nationals of his State.

Article 15.

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 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 16.

The Consular Officers of each of the High Contracting Parties residing in the territories of the other shall receive from the local authorities such assistance as can by law be given to them for the recovery of deserters from the vessels of the former Party, provided that this stipulation shall not apply to nationals of the High Contracting Party from whose local authorities assistance is requested.

Article 17.

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

2. They shall, however, not enter upon their functions until they shall have been admitted by the Government of that High Contracting Party, in the territory of which they are to perform their duty.

3. They shall be entitled, on condition of reciprocity, 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 representatives of the most-favoured nation.

Article 18.

1. In case of the death of a national of one of the High Contracting Parties in the territories 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.

2. In case of the death of a national of one of the High Contracting Parties in the territories 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.

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

Article 19.

It is understood by the High Contracting Parties that the stipulations contained in this Treaty do not in any way affect, supersede, or modify any of the laws, ordinances and regulations with regard to naturalization, immigration, police and public security.

Article 20.

The coasting trade and the national fisheries of both the High Contracting Parties are excepted from the provisions of the present Treaty, and shall be regulated according to the laws, ordinances and regulations of Siam and Germany respectively.

Article 21.

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

- (1) Favours granted or to be granted hereafter to an adjoining State to facilitate frontier traffic ;
- (2) Favours granted or to be granted hereafter to a third State in virtue of a Customs Union ;
- (3) Favours contractually granted or to be granted to a third State for the avoidance of double taxation or the mutual protection of revenue ;
- (4) Favours granted or to be granted hereafter to an adjoining State with regard to the navigation on or use of boundary waterways not navigable from the sea.

Article 22.

The High Contracting Parties agree that any dispute that may arise between them as to the proper interpretation or application of any of the provisions of the present Treaty shall, at the request of either Party, be referred to arbitration, and both Parties hereby undertake to accept as binding the arbitral award.

The Court of Arbitration to which disputes shall be referred shall be the Permanent Court of Arbitration at The Hague, unless in any particular case the High Contracting Parties agree otherwise.

Article 23.

The present Treaty shall, from the date of its coming into force, be substituted for the Treaty¹ of Friendship, Commerce and Navigation between the Kingdom of Siam and the German Reich signed at Bangkok on the 7th April, 1928, and from this date the said Treaty of 1928 and all arrangements and agreements subsidiary thereto concluded or existing between the High Contracting Parties shall cease to be binding.

Article 24.

1. The present Treaty shall remain in force for five years from the date on which it comes into effect.
2. After this period the Treaty may be denounced with a term of twelve months.
3. 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.

Article 25.

1. This Treaty shall be ratified, and the ratifications thereof shall be exchanged at Bangkok as soon as possible, and the said Treaty shall come into force on the date of the exchange of ratifications.

¹ Vol. LXXXV, page 337, of this Series.

2. The present Treaty is drawn up in duplicate in Siamese, German and English.

In witness whereof the undersigned, after having examined and found their respective full powers in good and due form, have signed this Treaty and affixed their seals thereto at Bangkok on the thirtieth day of the ninth month in the two thousand four hundred and eightieth year of the Buddhist Era, corresponding to the thirtieth day of December in the nineteen hundred and thirty-seventh year of the Christian Era.

On behalf of the Government
of the Kingdom of Siam :
(L. S.) Luang Pradist MANUDHARM.

On behalf of the Government
of the German Reich :
(L. S.) W. THOMAS.

Certified true copy :
Phya Rajawangsan,
Permanent Representative
accredited to the League of Nations.
Geneva, 14th June, 1938.

FINAL PROTOCOL.

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

1. It is understood that in all matters for which national treatment is provided in this Treaty, the nationals, products or vessels of either of the High Contracting Parties shall not be treated by the other less favourably than the nationals, products or vessels of any other country.

2. It is understood that the provisions of Article 10 shall not be deemed to preclude either of the High Contracting Parties from charging differing rates of licence fees for the sale of imported spirituous liquors and of spirituous liquors manufactured by or under licence from the State.

3. It is understood that the provisions of this Treaty as regards the most-favoured-nation treatment do not apply to favours which either High Contracting Party shall grant to a third State exclusively by virtue of Treaties of general importance open to all the States for adherence, which may be concluded after the coming into force of this Treaty, unless the other High Contracting Party shall grant the same favours.

In witness whereof the undersigned Plenipotentiaries have signed this Final Protocol and affixed their seals thereto at Bangkok on the thirtieth day of the ninth month in the two thousand four hundred and eightieth year of the Buddhist Era, corresponding to the thirtieth day of December in the nineteen hundred and thirty-seventh year of the Christian Era.

(L. S.) Luang Pradist MANUDHARM.
(L. S.) W. THOMAS.

Certified true copy :
Phya Rajawangsan,
Permanent Representative
accredited to the League of Nations.
Geneva, 14th June, 1938.

EXCHANGE OF NOTES.

MINISTRY
OF FOREIGN AFFAIRS.

I.

SARANROMYA PALACE, *December 30th, 1937.*

MONSIEUR LE MINISTRE,

With reference to Article I, paragraph 3, of the Treaty of Friendship, Commerce and Navigation between the Kingdom of Siam and the German Reich signed this day, I have the honour to place on record an understanding arrived at between us, that the regulations that are or may in future be issued by the High Contracting Parties generally concerning the employment of foreign labourers are not affected by the provisions of the said Article and paragraph.

I avail myself of this opportunity, Monsieur le Ministre, to renew to Your Excellency the assurance of my highest consideration.

(Signed) Luang Pradist MANUDHARM,
Minister of Foreign Affairs.

His Excellency
Dr. Wilhelm Thomas,
Envoy Extraordinary and Minister
Plenipotentiary of the German Reich,
Bangkok.

Certified true copy :
Phya Rajawangsan,
*Permanent Representative
accredited to the League of Nations.*
Geneva, 14th June, 1938.

II.

DEUTSCHE GESANDTSCHAFT.
German Legation.
BANGKOK.

BANGKOK, *December 30th, 1937.*

MONSIEUR LE MINISTRE,

With reference to Article I, paragraph 3, of the Treaty of Friendship, Commerce and Navigation between the German Reich and the Kingdom of Siam signed this day, I have the honour, under instructions from my Government, to place on record an understanding arrived at between us, that the regulations that are or may in future be issued by the High Contracting Parties generally concerning the employment of foreign labourers are not affected by the provisions of the said Article and paragraph.

I avail myself of this opportunity, Monsieur le Ministre, to renew to Your Excellency the assurance of my highest consideration.

(Signed) W. THOMAS,
German Minister.

His Excellency
Luang Pradist Manudharm,
Minister of Foreign Affairs,
Bangkok.

Certified true copy :
Phya Rajawangsan,
*Permanent Representative
accredited to the League of Nations.*
Geneva, 14th June, 1938.