No. 7870

THAILAND
and
FEDERAL REPUBLIC OF GERMANY

Treaty concerning the promotion and reciprocal protection of investments (with Protocol). Signed at Bangkok, on 13 December 1961

Official texts: English, Thai and German.

Registered by Thailand on 4 August 1965.

THAÏLANDE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

Traité relatif à l'encouragement et à la protection réciproque des investissements (avec Protocole). Signé à Bangkok, le 13 décembre 1961

Textes officiels anglais, thaï et allemand.

Enregistré par la Thaïlande le 4 août 1965.

No. 7870. TREATY[1] BETWEEN THE KINGDOM OF THAILAND AND THE FEDERAL REPUBLIC OF GERMANY CONCERNING THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS. SIGNED AT BANGKOK, ON 13 DECEMBER 1961

The Kingdom of Thailand and the Federal Republic of Germany,

Desiring to intensify economic cooperation between both States,

Intending to create favourable conditions for investments by nationals or companies of each State in the territory of the other State, and

Recognizing that a contractual protection of such investments is apt to stimulate private business initiative and to increase the prosperity of both nations,

Have agreed as follows :

Article 1

(1) Each Contracting Party will endeavour to admit in its territory in accordance with its legislation the investment of capital by nationals or companies of the other Contracting Party, to promote such investments as far as possible, and to give sympathetic considerations to the granting of any relevant permits required.

(2) Investments owned by, or under the management or effective control of, nationals or companies of each Contracting Party shall in the territory of the other Contracting Party not be treated less favourably by that Party than it treats investments of its own nationals or companies or investments of nationals or companies of any third State.

Article 2

Neither Contracting Party shall, in its territory, subject to discriminatory treatment any activities carried on in connexion with investments including the management, use or enjoyment of such investments by nationals or companies of the other Contracting Party.

[1] Came into force on 10 April 1965, one month after the date of the exchange of the instruments of ratification which took place at Bonn on 10 March 1965, in accordance with article 14 of the Treaty.

Article 3

(1) Investments by nationals or companies of either Contracting Party shall enjoy the most constant protection and security in the territory of the other Contracting Party.

(2) Nationals or companies of either Contracting Party shall not be subjected to expropriation of their investments in the territory of the other Contracting Party except for the public benefit and against just compensation. Such compensation shall be actually realizable, freely transferable, and shall be made without undue delay. Adequate provision shall have been made at or prior to the time of the expropriation for the determination and the giving of such compensation. The legality of any such expropriation and the amount of compensation shall be subject to review by due process of law.

(3) Nationals or companies of either Contracting Party, who, owing to war or other armed conflict, revolution or revolt in the territory of the other Contracting Party suffer the loss of investments situate there, shall be accorded treatment no less favourable by such other Contracting Party than that Party accords to its own nationals or companies, as regard restitution, indemnification, compensation or other valuable consideration. With respect to the transfer of such payments, each Contracting Party shall accord to the requests of nationals or companies of the other Contracting Party a treatment no less favourable than is accorded to comparable requests made by nationals or companies of any third State.

(4) The provisions of paragraphs 1, 2 and 3 above shall likewise apply to returns from investments.

Article 4

Each Contracting Party shall guarantee to nationals or companies of the other Contracting Party the transfer of the capital of the returns from it and, in the event of liquidation, of the proceeds from such liquidation.

Article 5

If a claim arising out of a guarantee given for an investment is asserted against a Contracting Party, the latter shall, without prejudice to its rights under Article 11, be authorized on the conditions stipulated by its predecessor in title to exercise the rights having been assigned to such party by law or having been ceded to it by the predecessor in title (devolved interest). As regards the transfer of payments to be made by virtue of the devolved interest to the Contracting Party concerned, paragraphs 2 and 4 of Article 3 as well as Article 4 shall apply *mutatis mutandis*.

Article 6

(1) Transfers under paragraphs 2, 3 or 4 of Article 3, under Article 4 or Article 5 shall be made without delay and at the rate of exchange effective on the day the transfer is made.

(2) The rate of exchange within the meaning of paragraph 1 above shall be based on the par value agreed with the International Monetary Fund and shall be within the margins above or below parity as permitted under section 3 of Article IV of the Articles of Agreement of the International Monetary Fund.[1]

(3) If at the date of transfer no rate of exchange within the meaning of paragraph 2 above exists in respect of the Contracting Party concerned, the market rate for a freely convertible currency shall apply.

Article 7

If the legislation of either Contracting Party or international obligations existing at present or established hereafter between the Contracting Parties in addition to the present Treaty, result in a position entitling investments by nationals or companies of the other Contracting Party to a treatment more favourable than is provided for by the present Treaty, such position shall not be affected by the present Treaty. Each Contracting Party shall observe any other obligation it may have entered into with regard to investments within its territory by nationals or companies of the other Contracting Party.

Article 8

(1) For the purpose of this Treaty, the term " investment " shall comprise every kind of asset and more particularly, though not exclusively :

a) movable and immovable property as well as any other rights *in rem*, such as mortgages, liens, pledges, usufructs and similar rights;

b) shares or other kinds of interest in companies;

c) rights of action for money or for any performance having an economic value;

d) copyrights, patents, trade-marks, trade-names and goodwill;

e) business concessions under public law.

Any alteration of the form in which assets are invested shall not affect their classification as investment.

[1] United Nations, *Treaty Series*, Vol. 2, p. 39.