

Memorandum of Principles and Reasons Pertaining to the Ministerial Regulation Prescribing the Minimum Capital and Period for Bringing or Remitting Minimum Capital into Thailand (No. 2) B.E. 2547 (2003)**Translation****Principles**

Prescribing the period for bringing or remitting minimum capital into Thailand for foreigners who operate businesses in Thailand pursuant to bilateral treaties to which Thailand is a party, being a treaty which provides exceptional rights to nationals of the counterparty as exchange of consideration.

Reasons

Whereas Thailand is under an obligation to comply with bilateral treaties to which Thailand is a party, being treaties which provide exceptional rights to nationals of counterparties as exchange of consideration; however, since the Ministerial Regulation Prescribing the Minimum Capital and Period for Bringing or Remitting Minimum Capital into Thailand which is in force at present is still inconsistent with such obligations, it is therefore necessary to issue this Ministerial Regulation

Ministerial Regulation (No.2)
Prescribing the Minimum Capital and Period for Bringing and
Remitting Minimum Capital into Thailand (No. 2), B.E. 2547 (2004)

By virtue of Section 14 and Section 46 of the Foreign Business Act, B.E. 2542 (1999), which is an Act containing certain provisions relating to the restriction of rights and liberties of the people, which Section 29 in conjunction with Section 35 and Section 50 of the Constitution of the Kingdom of Thailand allow to be done by virtue of law, the Minister of Commerce hereby issues the Ministerial Regulation as follows:

Clause 1

The provision in clause 4 of the Ministerial Regulation Prescribing The Minimum Capital and Period for Bringing and Remitting Minimum Capital into Thailand, B.E. 2545 (2002), shall be repealed and replaced by the following provision:

“Clause 3

Subject to Section 3/1, a foreigner who is a natural person or juristic person not being registered in Thailand shall bring or remit minimum capital in foreign currency into Thailand in satisfaction of the rules prescribed clause 1 or clause 2, as the case may be, within three years as from the commencement of business operations under Section 14 paragraph one or as from the license date under Section 14 paragraph two, provided that in the first three months not less than twenty-five percent of the minimum capital shall be brought or remitted and such amount shall be not less than fifty percent within one year. The remaining sum shall be brought or remitted in an amount not less than twenty-five percent of the minimum capital each year.

In the case where the period of business operation is less than three years, minimum capital in foreign currency shall be brought or remitted into Thailand within six months as from the date of commencement of business operations under Section 14 paragraph one or as from the date of license under Section 14 paragraph two.”

Clause 2

The following provisions shall be added as clause 3/1 and clause 3/2 of the Ministerial Regulation Prescribing the Minimum Capital and Period for Bringing or Remitting Minimum Capital into Thailand, B.E. 2545 (2002):

“Clause 3/1

A foreigner under clause 3 who operates a business in Thailand pursuant to a bilateral treaty to which Thailand is a party, being a treaty which provides exceptional rights to nationals of the counterparty as exchange of consideration, shall bring or remit minimum capital in foreign currency into Thailand in satisfaction of clause 1 or clause 2, as the case may be, within 5 years as from the day which this Ministerial Regulation comes into force.

Clause 3/2

A foreigner who is a juristic person registered in Thailand and who operates a business in Thailand pursuant to a bilateral treaty to which Thailand is a party, being a treaty which provides exceptional rights to nationals of the counterparty as exchange of consideration, if it appears that such person does not have the minimum capital in the amount specified by the rules in clause 1 or clause 2, as the

case may be, on the date of commencement of business operation or the date of receipt of certificate, minimum capital in foreign currency shall be brought or remitted into Thailand in satisfaction of such rules within 5 years as from the day which this Ministerial Regulation comes into force.”

Clause 3

A foreigner who operates a business in Thailand pursuant to a bilateral treaty which Thailand is a party, being a treaty which provides exceptional rights to nationals of the counter party as exchange of consideration prior to the entry into force of this Ministerial Regulation, but not having yet brought or remitted minimum capital in foreign currency into Thailand in satisfaction of the rules prescribed in clause 1 or clause 2, as the case may be, shall undertake to satisfy such rules within 5 years as from the day which this Ministerial Regulation comes into force.

Given on the 14th day of July B.E. 2547 (2003)

Signed by Mr. Watana Muangsook

Minister of Commerce

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