

Informed Counsel

Analysis of Recent Legal Developments in Thailand and Vietnam



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ENHANCING GOVERNMENT RELATIONS IN THAILAND

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The legislative process in Asia is increasingly opening up to public comment and participation. Smart companies take advantage of this by monitoring the latest developments and actively participating in informing, educating, and advocating knowledge with policymakers. By forming key relationships with policymakers, companies can improve their ability to successfully negotiate the bureaucratic obstacles that they may encounter when doing business in Thailand.

Background

Whether your company is involved in investments, trade, manufacturing, import and export, research and development, or sales and distribution, at some point you will be required to contact and work with Thai government officials in matters subject to the government's requirements or regulations. You will need to obtain or provide applications, permissions, requests, or reports for the different departments or divisions of the government agencies relevant to your industry. These procedures can be complicated and extremely time-consuming, even for relatively straightforward cases. And procedural headaches can become exacerbated when the objectives and needs of the public and private sectors differ, as they invariably do.

A number of activities can be used as tools to enhance understanding between the public and private sectors. These activities facilitate harmonization between governmental policies and business strategies and can help government agencies improve their methods of administration and legislation to benefit your company and the public. However, such practices vary greatly from country to country, in accordance with their own unique history, culture, tradition, and law. Thus, no one should expect to come up with a "one size fits all" formula when it comes to managing government relations. All government relations activities have to be localized, tested, implemented, and updated frequently, as governmental policies and officials are constantly changing.

As compared to many other jurisdictions in the region, our international clients have reported that their experience with government agencies and officials in Thailand has, in general, been productive. We often hear compliments from business travelers and officials visiting from overseas about the high level of hospitality and the warm welcome they experience when doing business in Thailand, despite occasional problems relating to communication, technical support, and of course, traffic jams. From the clerical staff to the executive level, the renowned "Thai smile" makes officials appear more approachable, helps to break the ice during awkward first meetings, and opens a bridge for strangers to become friends and business partners.

While this general atmosphere is conducive to private-public collaboration, companies must still take steps to ensure that their government relations activities are carried out effectively as part of a broader strategic initiative.

How Government Relations Are Formed

Government relations are formed through a combination of education and advocacy. By sharing experiences, concerns, difficulties, expectations, opinions, and information, government officials can take your company's views into consideration during the project

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planning or legislative process. Familiarizing yourself with officials and supporting projects or campaigns initiated by government agencies will be recognized and respected. The core of a government relations campaign rests on educating government officials and nurturing relationships or coalitions with government agencies, and all related activities should be based on this approach.

Government relations activities must be designed and tailored so that they align with your company's goals. However, at the end of the day, the most desirable results are win-win solutions for both sides. Typically, in government relations practice, the approach government agencies take is to offer knowledge and resources that assist companies in carrying out their duties more effectively. Consequently, your company, and the public, will reap the benefits from such thoroughly processed regulations and enhanced governmental services.

However, strong government relations do not occur overnight. Ongoing communication and collaboration is required to enable the structure and system of your company's government relations to slowly evolve over time.

Activities to Promote Government Relations

You may pursue either a proactive or a reactive approach in your activities for promoting government relations. Proactive activities generally include inquiries, consultations, courtesy visits, coalition building, training or sharing of information, and so forth. These proactive actions can be initiated either by a company or by an association representing a particular industry. Creativity and connection are the keys to success in initiating these proactive activities.

Reactive activities are usually launched in response to a certain situation created by either a government agency or a third party. These activities typically include contributions to an official project, responses to an inquiry or a request from a government agency, clarifications or explanations in response to news or speculation concerning your company, courtesy visits, or simply expressing appreciation for efforts exerted by a relevant department or third party.

One effective strategy to build successful government relations is to identify the correct government agencies and responsible officials you wish to approach. Typically, a government agency is divided into departments and divisions, with officials ranked in accordance with the hierarchical structure of their organization with specific authority and responsibilities delegated to them. Having access to the right channels and meeting with the right officials could save your company an inordinate amount of time and trouble. Thus, it is important to ensure the person you arrange to meet with is responsible for handling your concerns. They also must possess the experience, knowledge, and authority to deal with your concern.

It is also necessary to verify that the official is interested in meeting and discussing the issues that are being presented. This requires research beforehand, which can be conducted on the Internet or from official records. Traditional methods of research are also useful, such as using your connections to check the credibility and suitability of the officials or the agencies with people who work with them on a regular basis.

Meeting with Government Officials

Once a meeting has been set up, it is important to decide on the most appropriate way to conduct the meeting to reap the most benefit. Becoming familiar with the officials is a two-way process. A sincere, open, and professional intro-

duction that describes who you are, where you are from, who you represent, and your interests, is essential prior to inquiring about the information from the officials. In short, a positive first impression goes a long way to establishing strong relations. A negative impression could create unnecessary and unwanted future stumbling blocks.

Local language and customs should be taken into consideration at the meeting. You can avoid unnecessary difficulties and misunderstanding simply by employing the assistance of a local counsel to organize the meeting and to accompany you during the discussion.

Whether the meeting with a government official is formal or informal, the agenda must be clear. When government officials are approached by a representative from a private sector company, the first question the official wishes to have answered is what type of assistance is being sought. By not specifying your agenda, the response from the official may be reserved and noncommittal. However, a direct and open approach will usually be rewarded with a similar response.

Thus, becoming familiar with the relevant government agencies, and knowing the officials that you need to work with in the course of your business, will increase efficiency and facilitate the streamlining of your work.

Leveraging Ongoing Relationships

When representatives or designated personnel from your company work with certain officials over an extended period of time, close relationships and trust will inevitably be formed. The required time and procedures that the contact people need to expend to verify themselves and explain their agenda will be greatly reduced, although compliance with all the formalities is still required. However, news, invitations, and announcements are usually received much more rapidly from government agencies and in a more straightforward manner.

Although all the laws and regulations are taken in context and adhered to stringently, the tips or practical guidelines provided by officials could be critical factors and make a big difference in practice. Some laws and regulations are vague, leaving government officials open to exercise their discretion on how to use such laws or regulations and how to interpret and apply them in real-life situations.

In many cases, it is helpful to consult with government agencies on the interpretation of the laws and regulations to understand the exact objectives and to define the meaning behind the wording. Government relations are also useful in seeking remedies for unclear situations or in dealing with an unprecedented case. In practice, there are alternatives that only the responsible officials and a few practitioners would have knowledge of, and it is this know-how that sometimes gives you the advantage you need.

Conclusion

While it is undoubtedly in your best interest to promote and develop government relations, these relationships should only be encouraged in regard to genuine business practice. No one should expect a government official to breach their authority simply for the purpose of doing a favor or to adopt double standards.

Therefore, never assume that offering a bribe is socially acceptable in any jurisdiction. Rewards, gifts, privileges, and other special treatments are highly sensitive issues, and government relations should run parallel with compliance and good governance. Similarly, strategies and activities to form government relations must also comply with local laws, as well as international laws. It is important to be mindful of these issues and to draw the line in accordance with what you can and cannot do, and to ensure that all personnel in your company adhere strictly to these rules. 