

C670737 : MAJOR LAW

KEY WORD : EDI / ELECTRONIC DATA INTERCHANGE / CONTRACT BY ELECTRONIC MEANS

SUPIT POSAYANOND : LEGAL PROBLEMS ON INTERNATIONAL SALE CONTRACT :
FORMATION OF CONTRACT AND ENFORCEMENT BY ELECTRONIC MEANS. THESIS
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We are at the point of stepping into the globalization era, electronic data interchange (EDI) has played an important role in business transaction. This raises concerns among the user whether the EDI will be legally enforceable, and when and how the commercial contract is formed. According to the comparative study of Thai laws, international trade laws ; UNCITRAL Model Law on Electronic Commerce, United Nations Convention on Contracts for the International Sale of Goods (1980) and relevant laws in other countries such as United Kingdom and the United States, it has been found that, in international trade, the problems are the existing laws still rely on documents, being signed for later legal enforcement, the lack of confidence of a judge in the reliability of the computer records as well as the lack of the methods of proof in the records "reliability". The reliability of the records depends on the methods of the security measures to protect the EDI information.

The study reveals that the rules of the formation of contract in international laws and Thai laws are similar ; both apply the acceptance rules. The formation of contracts by electronic means may use two systems whereby the data of the offering party go to available the recipient or at least when it enters an information system outside the control of the originator as stated in Articles 14 and 15 of Model Law on Electronic Commerce. As for writing and signature, Thai laws provide that the performance done as a matter of form and legal evidence enforceable by action. It is found that the above mentioned are obstacles to development of electronic trade. To deal with these problems, the United Nations, by UNCITRAL, has taken an effort to stimulate various nations to amend their laws to conform with the Electronic Data Interchange. Regarding the signature, it is stated that the authentication has legal value and status if the signature can identify or indicate the operators and contains reliable methods. The electronic certification of the information can be achieved in various means by encoding, decoding, using the passwords and the identification of the physical characteristics of the operator. These methods are also designed to protect the security of the information. When we can prove the reliability of the information's security system and computer programme are perfect which will allow electronic evidence to be used as evidence in legal proceedings. So the author would like to suggest that we should enact special law on electronic commerce that governs the above subjects and also deals with the following : the interchange agreement on EDI, acknowledgement of receipt of messages and liability for failure in communication.

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