

## Abstract

The General Agreement on Trade in services, Uruguay Round was finished on 15<sup>th</sup> December 1993 and the General Agreement on Trade in Services (GATS) has been established. This Agreement aims to set rules and regulations on international trade in services where all member countries have obligations under the GATS to participate in preparing the free trade agreement as the progressive liberalization approach. The negotiation will be held within 5 years after the conclusion of the previous negotiation.

Thailand has joined the GATS since the beginning and obligated the free trade agreement covering 12 services including the business service. According to the free trade agreement on the business service under the GATS, Thailand has to allow aliens to conduct businesses in Thailand as it is considered a form of services provided by the member countries. Business units will be established in the territories of the member countries called "Commercial Presence". With the obligations on the free trade agreement in the business service, Thailand has to issue the law to control the alien business operation in Thailand named the Alien Business Operation Act B.E. 2542 (1999).

This thesis aims to study the obligations of Thailand on the free trade agreement in the business service, both obligations on general principles and on schedule of specific commitments, and the Foreign Business Act B.E. 2542 (1999) which is the Parent Law for controlling the alien business operation in Thailand. This thesis also aims to study laws relating to the alien business operation in the US, Canada and China for the purpose of

studying the supervisory approach of the alien business operation and criteria on considering juristic person nationality under foreign laws. The results will be used as the guideline for amending laws on controlling the alien business operation in Thailand in the future.

It is found from the study that most aliens who conduct businesses in Thailand use names of other persons instead of their names. Thais hold shares of companies to conceal real shareholders in order to avoid laws; or aliens, with loopholes, hold shares of Thai juristic persons which conduct specific businesses in which aliens are not entitled to hold shares exceeding 49%. Such businesses have conditions that aliens have higher voting rights in the shareholder meetings than Thais who are majority or that aliens have the power of control on such juristic person. These are considered an important obstacle for controlling the alien business operation in Thailand and leading the control less efficient and not in accordance with the purpose of the Foreign Business Act B.E. 2542 (1999). This Act aims to control the alien business operation and reserve specific businesses for Thais only.

This thesis proposes the recommendations regarding laws that of the Foreign Business Act B.E. 2542 (1999) should be amended. Therefore, this Act will be able to control the alien business operation in Thailand more efficiently. Hence, the problems on alien's law avoidance or on using loopholes to conduct business under names of other persons will be decrease.