

## Abstract

This thesis presents a study of the legal status of a multinational enterprise, LG Electronics (Thailand) Co., Ltd., "LG Thai" under International Laws. Due to the fact that LG Thai was incorporated under Thai Corporate laws, it is obvious that LG Thai has a connecting point with Thailand by Thai laws. However, its head quarter is located in the Republic of Korea and its majority shareholders held by Korean nationals, LG Thai has a substantive connecting point in economic relations with Republic of Korea especially of is the beneficial of Korean nationals. Consequently, LG Thai possesses two nationalities: Thai nationality in general case and Korean nationality in special case. Interestingly, LG Thai hardly claims Thai nationality in general case. Korean nationality is more effective in most cases.

The methodology of this study is based on documentary research and experiential research. The documentary research is from legal text books, and articles, International laws, Thai laws, Korean laws and corporate documents of LG Thai. The experiential research is from interview with the managements of LG Thai, professionals in International laws and Thai laws including discussions with personals in the field of Economic International law.

The study shows that the analysis of legal status of an entity with foreign elements needs to be considered in both of private law and public law. The study found that the legal status of LG Thai may be determined by its nationality or the nationality of its shareholders or its domicile or other factors.

Firstly, the problem of legal status, capacity and termination of legal status of LG Thai are subject to the principle of conflict of laws. Whether the conflict of law occurs in the legal system of Civil law or Common law, as the case may be, it will turn out to be the only solution that the beginning of legal status of LG Thai will be considered by Korean law because LG Thai has Korean nationality and its domicile is located in territory of Republic of Korea. Then, the capacity and termination of legal status of LG Thai is determined by Korean law. In the case of liquidation, LG Thai can not request to

the Thai Court (Section 4 quinqué of Civil Procedure Code) but the request of liquidation according to the decision of Korean Court regarding termination of its legal status could be brought to Thai Court for the recognition and enforcement. Thai Court may recognize and enforce if they find the decision of Korean Court complying with the general principle of Private International Law (the judgment of Supreme Court No. 585/2461).

Secondly, the legal status of LG Thai under public law will be considered in both situations of general case and special case. In general case, it is considered under the general principle of Private International Law. The legal status is considered by nationality of the country that the juristic person was incorporated within (Barcelona Traction case). Therefore, LG Thai possesses Thai nationality in general case. But in special case, LG Thai will be an alien under foreign business law. The treaty between Thailand and Republic of Korea also specify the nationality of LG Thai under the general principle of Private International law which turn out to be that the legal status of LG Thai under the treaty is not Korean nationality.

Thirdly, the right of access to market of an alien is a juristic relation under public law. It will be considered under the law of which country is applicable to specific relations. Therefore, the market access right of LG Thai is juristic relation between LG Thai and Thailand; such relation will be subject to the foreign business law of Thailand; unless, such the market access right is specified elsewhere. Presently, the right of running the business of LG Thai in territory of Thailand is subject to Section 12 of the Foreign Business Act B.E. 2542 because of LG Thai has retained the promotion investment license from the government of Thailand but LG Thai can not utilize its right under the treaty between Thailand and Republic of Korea.

Fourthly, the corporate social responsibility of LG Thai is subject to the general principle of Private International Law. The study found that LG Thai has the responsibility to Thailand under public law of Thailand because Thailand is the host country. While the responsibility of LG Thai to private sector is subject to conflict of law. The private sector in this case will be the customers of LG Thai who has either domicile in territory of Thailand or out side Thailand including the third party who have any effect from the

performance of LG Thai. For the contractual responsibility of LG Thai, it will be subject to the conditions of each contract but a wrongful act of LG Thai will be subject to the law of tort as specified by conflict of law. The contractual responsibility of LG Thai and a wrongful act will be bound its head quarter under the principle of Piercing the Corporate Veil.

Fifthly, the study regarding the right of access to judicial process of LG Thai found that LG Thai has the right to access to judicial process both in court and arbitration which is specified by civil procedure code of each country or the regulation of each of arbitration or the provision of any treaty as the case may be. Moreover, such judicial processes both in court and arbitration are subject to the general principle of Private International Law. The enforcement of award of arbitrator between LG Thai and the party is subject to Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (New York Convention). Consequently, the request to Thai Court regarding the recognition and enforcement of award of arbitrator will be subject to the special law which is arbitration law.

Lastly, the consideration of international execution issue, on the day of writing this thesis, found that Thailand is still not the party of any treaty then the recognition and enforcement of the judgment of the court will be subject to the general principle of Private International Law and such principle is the principle of the legitimacy of the judicial act and reciprocity.