

Guideline for Requesting Business Operations Certificate
According to Section 10 of Foreign Business Acts B.E.2542
Under Thai – Australia Free Trade Agreement

General Criteria for Requesting the Certificate according to Section 10

1. Evidence or Documents for Requesting the Certificate

- (1) Form to request the certificate Tor.6
- (2) Explanations of type of business
- (3) Evidence of juristic person registered in Thailand demonstrating names, capital, objective, location, name and nationality of directors and authorized directors
- (4) Letter to inform the proportion of shareholding between Thai people and foreigner, number of shares, type of shares that people with Australian nationality hold.
- (5) In case that the shareholders or major partners of persons who request for certificate are juristic person, shall submit the evidence or documents for proof of juristic persons demonstrating name, capital, objective, location, name and nationality of directors and authorized directors, name and nationalities of shareholders or details of partners.
- (6) Nationality certificate of persons who request for certificate in order to ask for the right from the Embassy of the country that is the party.
- (7) Copy of passport or foreigner' s ID card
- (8) Map of business locations in Thailand
- (9) Letter of power of attorney in case that other persons perform the duties.

2. The issuance of certificate must be within 30 days from the date obtaining the letter from foreigners

3. Criteria according to Thai – Australia Free Trade Agreement

3.1 Qualifications of Persons who have the Right to Request for Business Operations Certificate

The Persons who have the right to request for Business Operations Certificate under Thai – Australia Free Trade Agreement must have the following qualifications:

- (1) Be the juristic person established according to Thailand's law as registered ordinary partnership or limited partnership or company limited
- (2) The authorized directors must be Thai or Australia people and in case that the juristic person is registered ordinary partnership or limited partnership, the manager or managing partner must be Thai
- (3) The juristic persons' s shareholders must have the following qualifications:
 - All of them must be Australian people or Australian and Thai people
 - The juristic person established according to Australian's law must have more than 50 % of Australian shareholders.

The proportion of shareholding persons who request for certificate must be in compliance with the conditions of type of businesses under Thai – Australian Free Trade Agreement

- (4) The persons who request for certificate must have the ratio of debt to equity for no more than 3 : 1

3.2 Business under Thai – Australia Free Trade Agreement

There are 18 businesses under Thai – Australia Free Trade Agreement so when considering types of businesses and the attachments of the Foreign Business Act B.E.2542 and number of shares that Australian people can hold under this agreement, it turns out that there are 12 businesses that must request for certificate and there are 6 businesses that do not have to request for certificate as follows:

(1) Businesses that must request for certificate can be classified into 12 types according to List Two and List Three of this Act:

- (1.1) List Two : Group 3 (4) Mining (land and marine mining)
- (1.2) List Three (10) : Construction (Public Utilities Construction / Transportation Construction that uses special equipment, machinery, technology or expertise)
- (1.3) List Three (17) : Hotel business (Luxurious hotel and resort service)
- (1.4) List Three (19) : Restaurant (Full range of restaurant)
- (1.5) List Three (21) : Other categories of Service Business (1. General Consulting Service for ROH / branch or ROH's subsidiaries 2. Meeting Hall 3. International Product Exhibition Center 4. Wholesale and Retail service relevant to the sale and installation of the products manufactured by the

Australian juristic person established in Thailand 5. Education / Educational Institutes with science and technology expertise such as life sciences, bio – technology and nano technology 6. Fun Park and zoo service 7. Aquatic animal park service 8. Pier and Anchor service for tourism ships)

(1.1) List Two : Group 3 (4) Mining

No.	Business under Thai - Australia Free Trade Agreement	Condition	Australian people must hold shares of no more than
1	land and marine mining	1. Must be approved by Ministry of Industry 2. Must have two – fifth of directors that are Thai people	60 %

(1.2) List Three (10) : Construction

No.	Business under Thai - Australia Free Trade Agreement	Condition	Australian people must hold shares of no more than
1	Public Utilities Construction / Transportation Construction that uses special equipment, machinery, technology or expertise	1. Must be Public Utilities Construction / Transportation Construction that uses special equipment, machinery, technology or expertise 2. Have paid – up capital of at least 1,000 million bath	100 %

(1.3) List Three (17) : Hotel business

No.	Business under Thai - Australia Free Trade Agreement	Condition	Australian people must hold shares of no more than
1	Luxurious hotel and resort service	1. Only for the investment with the paid – up capital of at least 800 Million Bath 2. At least 100 hotel rooms	60 %

(1.4) List Three (19) : Restaurant

No.	Business under Thai - Australia Free Trade Agreement	Condition	Australian people must hold shares of no more than
1	Full range of restaurant	1. Must have the total area of at least 450 square meters 2. Have paid – up capital of at least 50 million bath	60 %

(1.5) List Three (21) : Other categories of Service Business

No.	Business under Thai - Australia Free Trade Agreement	Condition	Australian people must hold shares of no more than
1	General Consulting Service for ROH / branch or ROH's subsidiaries	Must be service for ROH / branch or ROH's subsidiaries	100 %
2	Meeting Hall	1. Must have the total area of at least 4,000 square meters 2. The area within the biggest meeting hall must be at least 3,000 square meters	60 %
3	International Product Exhibition Center	1. Must have the total area of at least 50 Rais 2. Must have area within the building of at least 25,000 square meters	60 %
4	Wholesale and Retail service relevant to the sale and installation of the products manufactured by the Australian juristic person established in Thailand	1. Wholesale and Retail with installation service 2. The products is manufactured in Thailand by such juristic person (Sale and installation agent)	100 %

(1.5) List Three (21) : Other categories of Service Business

No.	Business under Thai - Australia Free Trade Agreement	Condition	Australian people must hold shares of no more than
5	Education / Educational Institutes with science and technology expertise such as life sciences, bio – technology and nano technology	<ol style="list-style-type: none"> 1. Expertise in science and technology such as life sciences, bio-technology and nano technology 2. Located outside Bangkok and Metropolitan areas 3. At least 50% of the University council directors are Thai 	60 %
6	Fun Park and zoo service	<ol style="list-style-type: none"> 1. Only for the investment with the paid – up capital of at least 1,000 Million Bath 2. At least 200 Rais of total areas 	60 %
7	Aquatic animal park service	<ol style="list-style-type: none"> 1. Only for the investment with the paid – up capital of at least 200 Million Bath 2. At least 10 Rais of total areas 	60 %
8	Pier and Anchor service for tourism ships	Only in the case of having ship lifting equipment, pier and maintenance service center	60 %

(2) Businesses that do not need to request for Certificate

Upon considering the number of shares under the agreement, they must be 6 types of businesses and Thai juristic person according to the attachment of the Act as follows:

- 2.1 List Three (14) : Retail (Sale of Telecommunication Equipment)
- 2.2 List Three (15) : Wholesale (Sale of Telecommunication Equipment)
- 2.3 List Three (21) : Other categories of Service Business (1. Telecommunication Consulting Service 2. Leasing service of Telecommunication Station Equipment 3. Database Access Services 4. Domestic Very Small Aperture Terminal VSAT

(2.1) List Three (14) : Retail

No.	Business under Thai - Australia Free Trade Agreement	Condition	Australian people must hold shares of less than
1	Sale of Telecommunication Equipment	-	50 %

(2.2) List Three (15) : Wholesale

No.	Business under Thai - Australia Free Trade Agreement	Condition	Australian people must hold shares of less than
1	Sale of Telecommunication Equipment	-	50 %

(2.3) List Three (21) : Other categories of Service Business

No.	Business under Thai - Australia Free Trade Agreement	Condition	Australian people must hold shares of less than
1	Telecommunication Consulting Service	-	50 %
2	Leasing service of Telecommunication Station Equipment	-	50 %
3	Database Access Services	Only for the service by using the public telecommunication network under the supervision of the National Telecommunication Commission of Thailand	25 %
4	Domestic Very Small Aperture Terminal VSAT	Only for the service by using the public telecommunication network under the supervision of the National Telecommunication Commission of Thailand and service that performs according to built-transferred-operated identified by National Telecommunication Commission of Thailand	40 %