

Government urged to cut protected businesses listed in Annex 3

■ *Petchanet Pratrungkrai*
The Nation

FOREIGN INVESTORS and academics yesterday urged the government to at least reduce the list of businesses in Annex 3 of the Foreign Business Act, or the amended law will force foreign investors to seek other "tricky ways" of hiding nominees to benefit from doing business in Thailand.

The advice came during a seminar held yesterday by the International Chamber of Commerce (ICC), entitled "Foreign Business Act 360 Degrees: The Diverse Perspective".

It set out to hear not only from investors and traders, but also from concerned people and academics in order that the amended act will create a "win-win benefit".

Panelists shared the same view that the government must revise

the list of protected businesses in Annex 3 to create a better investment environment in the Kingdom. They said the amendments as planned would create uncertainty for foreign investors, unless the government shows its "practical intentions" by liberalising most businesses in Annex 3.

The ICC will submit all comments made during the seminar to Prime Minister Surayud Chulanont.

ICC's chairman Thawatchai Yongkittikul said most ICC members still have concerns about the planned amendments to the act, and the government should balance its intentions by decreasing the list of businesses in annex 3. This will increase foreign investors' confidence as the government will be providing a clearer picture.

However, if Annex 3 remains unchanged, Thailand will not offer

a good investment environment, he said.

Thawatchai also said the government should not grant an amnesty to all businesses, to ensure fair practices from the planned amendments.

The director of the Thailand Development Research Institute, Deunden Nikomborirak, who is also chairperson of the ICC's Commission on Law and Practices Relating to Competition, said only big businesses with a direct effect on society, the natural environment and morality should be listed in Annex 3. These include the retail business, hospital services, and entertainment services such as bars and clubs.

She advised the government to provide about two years for Thai enterprises to adjust and improve their businesses to compete with foreign investors.

"The government's stringent restrictions will only encourage foreign investors to create more complex shareholdings or voting-rights structures," she said.

The managing director of Phatra Securities' Research Group, Supavud Saicheua, said more than 40,000 existing companies in Thailand have felt the influence of nominees. It will be impossible for the government to check whether all companies have breached the amended act.

When the amended law should be presenting a clearer picture to foreign investors on which business will be restricted and which will be opened, the government's decision instead raises a spectre.

The chief executive of Total Access Communication (DTAC), Sigve Brekke, said the government should open businesses in Annex 3 "freely and for the benefit of con-

sumers", instead of focusing on some individual groups of enterprises.

He said revisions to the planned amendments will enhance Thailand's investment environment, with most benefits going to consumers.

Brekke said more than 60 per cent of the population have mobile phones. Therefore, liberalisation of the telecommunication industry would mostly benefit local consumers.

ICC executive board member David Lyman said the planned amendments to the Foreign Business Act would affect 18 related business laws.

He questioned why the government decided to amend the act at present, since the amendments will not create any clearer picture for foreign investors.

He warned that in amending the

Foreign Business Act the government should not risk damaging the whole economy in order to punish a group involved in a single case.

He said investors like certainty, and the government should eliminate unclear messages and make the process of amending the act more transparent.

Another ICC executive board member, Siriporn Chaiyasuta, said the unclear amendments would undermine normal businesses operations.

The government must relax the provisions of the act and make it clearer which businesses can and cannot be undertaken.

Siriporn said foreign investors will transfer their interests to other kinds of nominees, such as American investors, because Americans have the right to do any kind of business in the Thailand under the Treaty of Amity.