

English Translation Version

February 28, 2013

Your Excellency, Ms Yingluck Shinawatra, Prime Minister of Thailand

FTA Watch and the undersigned 28 non-government organizations, including civil society organizations, academic groups, and people's organizations, hereby reiterate our concerns and recommendations regarding the Free Trade Agreement (FTA) between Thailand and the European Union (EU), which you and your delegation will begin negotiating in Brussels on 6-7 March, and the government's rapid timeframe to complete the negotiations (10 rounds of negotiations in 1.5 years) and propose this FTA to the Parliament for approval before the Generalized System of Preferences (GSP) expires in 2014.

This new FTA between Thailand and the EU will cover several matters that have never before been discussed in other FTAs, including intellectual property in medicines and biodiversity, foreign investment's protection and arbitration for international dispute settlement between state and the private sector, and products harmful to health (e.g. alcohol and cigarettes). All these matters have severe economic and social impacts in diverse aspects, and thus, the government is compelled to attain the Parliament's endorsement and to pursue a public consultation process according to Section 190 of the Thai Constitution.

However, the negotiating framework's content and all related procedures – the public's consultation, the negotiation's preparation, the negotiating framework's drafting, and the consideration by the Cabinet and the Parliament – have been riddled with flaws. Several concerns over long-lasting adverse effects to society and a loss of over 100 billion Baht to the national budget were neglected. Instead, the government continues to pay more attention to the GSP's expiration and short-term benefits limited to a small number of privileged business groups and amounting to merely 80 billion Baht.

We therefore demand that your Excellency, as the Prime Minister, and Mr. Olarn Chaipravat, Head of the Thai Delegation to negotiate the Thailand-EU FTA, express your social commitment and ensure that the whole nation will truly achieve the benefits of this Thailand-EU FTA by recognizing and giving justice to the groups that will benefit, the people who will be adversely affected by the FTA, and the public in general, in accordance with your democratic government's policy declared before the Parliament. Specifically, during the negotiations of the Thailand-EU FTA the Thai delegation should take firm positions that:

1. Thailand shall not accept the content of the Thailand-EU FTA negotiation on intellectual property that is stricter than the World Trade Organization's TRIPS Agreement, which is known as TRIPS-plus provisions including patent term extension, data exclusivity, and border measures. Furthermore, the existing biodiversity protection law, which is already compliant with TRIPS Agreement and Convention on Biological Diversity, must remain unchanged.
2. The international dispute settlement mechanism using international arbitration in the investment chapter must not be applied to disputes over social investment, policy enforcement, and legislation to safeguard the public's interests, environment protection, and policies on public health, infrastructure, and security.
3. Investments affecting natural resources, farming, aquaculture, plant propagation, and food security, shall not be allowed.
4. Alcohol and tobacco must be removed from the negotiation.

5. Consultation with all the stakeholder sectors' participation shall be carried out prior to and after every round of the negotiations. In these consultation meetings, the negotiation team must declare the positions and the progress of the negotiations, take recommendations from the stakeholders' consultation into account, and comply with the recommendations by balancing the different interests of all the stakeholders.

All the undersigned organizations would like to reiterate that Ms. Yingluck Shinawatra, the Prime Minister, and Mr. Olarn Chaipravat, Head of the Thai Delegation of the Thailand-EU FTA negotiation, should carefully consider the adverse impact of the FTAs on the entire nation and all Thais. It is your responsibility, negotiating on behalf of the Thai people and the next generations, to ensure the rights and benefits of Thai citizens will be not traded away for the interests of a limited number of private sector groups.

Yours sincerely,

Asst. Prof. Sumlee Jaidee

FTA Watch

The Thai Network of People living with HIV/AIDS (TNP+), Stopdrink Network, Alternative Agriculture Network (AAN), Assembly of the Poor, 4 regions of Slum Network, Renal Failure Patient Group, Cancer Patient Group, Thai NGO Coalition on AIDS, AIDS ACCESS Foundation, Foundation for AIDS Rights, Foundation for Consumers, Rural Pharmacists Foundation, Rural Pharmacy Association, Drug Study Group, BioThai Foundation, Ecological Alert and Recovery – Thailand (EARTH), Thai Holistic Health Foundation, Labor Alliance Group, Alcohol's Danger Protection Campaign Network, The Network of Community Affected by Alcohol, The Network of the Alcohol's Danger Surveillance in Bangkok, The Youth Network of the New Drinkers' Protection, Harm Reduction Working Network (12D), Southeast Asia Tobacco Control Alliance (SEATCA), Focus on the Global South

cc: Mr. Boonsong Teriyapirom, Commerce Minister

cc: Dr. Olarn Chaipravat, Head of the Thai Delegation of the Thailand-EU FTA Negotiation