

## **Participation of the People's Sector in Free Trade Agreement Policies**

### **Present Situation**

1. Under the present current of globalization, issues of trade, investment and international relations have all created more significant impacts on the Thai people. Many issues have been brought to bear, whether they be farmers' loss of livelihood and increased debt, the risk of losing biological resources, soaring drug prices, disparities between the country's health systems, falling medical treatment standards as well as rising costs of living and rising commodity and service prices. These burdens have all been pushed onto consumers and although the issues may appear to have no similarity, they are closely connected to external factors or, in other words, international agreements. In particular, "free trade agreements or FTAs" is an issue very close at hand for the Thai people. It affects the people's life security and livelihood in a factual way; in general, it affects the people's and society's well-being. In the past, foreign trade agreement negotiations and drafting processes, which are regulated by important public policies, have been regarded as lacking transparency and participation from the people who are stakeholders. Significant issues in past foreign trade agreements have been as follows:

- 1.1 Lack of transparency in the negotiation and drafting process
- 1.2 Exclusion of the legislative branch from the negotiation and drafting process
- 1.3 Lack of independence and well-roundedness in the study process to prepare for and forecast possible impacts
- 1.4 Lack of significant participation from stakeholders and the general public

### **Impacts from Past Foreign Trade Agreements (FTAs)**

2. Since the signing of the FTA with China, Thai farmers have been most affected by the foreign trade agreements the country has made, the significant impacts being:

2.1 Trade liberalization and the free trade agreement with China affected some hundred thousand farmers growing cold climate crops. An example is the garlic cultivation area decreased by almost 40%, resultant from the influx of cheap garlic and forcing garlic planters to stop their cultivation and turn to other crops or take up other trade. Likewise, farmers planting cold climate crops under the Royal Project and farmers outside the project were not able to compete with low priced crops from China. The impact was also felt for other agricultural products such as tropical fruits since demand for fruit was rather constant and with the availability of cheaper fruits, demand for tropical fruits also dwindled.

2.2 The signing of free trade agreements with Australia and New Zealand will impact millions of dairy farming and cattle raising families in the future since the reduction of the 30-40% tax scheduled to take place in 15-20 years will make dairy and beef products from these two countries much cheaper. With the influx of such products into the country, it will be difficult for Thai farmers to compete, as is well known that even countries with similar technology and surroundings such as the United States, countries in Europe or even China, have refused to lower their tax barrier for Australia and New Zealand. The impact already felt is one in three dairy farmers in Thailand have already given up their trade although the free trade agreement has been signed only most recently.

2.3 From the free trade agreement negotiation with the United States, which was temporarily put on hold after the September 2007 coup, it was clear that the United States wanted Thailand to accept laws which permit multinational corporations to have patents on living organisms, paving way for multinational corporations to take over the country's biological resources and allowing seed companies to monopolize plant variety and pressuring the Thai government to permit the cultivation of GMO crops. The mentioned drive by the United States will force Thailand to amend many of its existing laws such as the patent law, the plant variety protection law, the geographical indication protection law, etc. If future Thai governments sign free trade agreements under such conditions, foreign nations will be permitted to assume monopoly of Thailand's seeds and biological resources. Farmers will have to pay from 30% to 4,000% more for seeds.

3. Under the mentioned impacts, Thai farmers will lose their jobs and the already high levels of debt will increase even more as costs rise. According to estimates by the Food Resources Project and the Sustainable Agriculture Foundation (Thailand), the number of farmers will decrease to no more than 20% of total population within the next two decades, meaning that there will be more than 10 million farmers who will leave their jobs to become workers in other professions or to be unemployed. Other impacts will be food security and food sovereignty issues; for example, large capital groups and foreigners will take hold of land and biological resources as well as take over various levels of agricultural businesses, replacing small scale farmers through channels provided to them by investment liberalization and intellectual property agreements under the free trade agreements signed with different countries.

4. International trade agreements such as the Japan-Thai Economic Partnership Agreement, which promotes public health service liberalization, causes more foreigners to come to Thailand for public health services and results in a brain drain of public health personnel from the state public health system to private hospitals and clinics. Meanwhile, the country's domestic public health service need is also increasing from the National Health Security scheme, creating a tension in the national health security system from lack of medical personnel and causing inequalities in the health service system and service quality.

5. If a free trade area agreement is established with the United States under the intellectual property agreement condition known as Trips Plus, drug patent monopoly will be extended from 20 to 25 years, thus creating impacts related to the use of drugs and public health. The Trips Plus clause will limit and obstruct research and development, lower the competitiveness of domestic drug companies and increase the severity of the drug monopoly issue. When domestic pharmaceutical companies are unable to manufacture generic drugs to compete, drug prices will increase and the chances of patient getting generic drugs, which are cheaper than original drugs will decrease. For the case of HIV/Aids patients, who need to take anti-retroviral drugs for the rest of their lives, it is found that many anti-retroviral drugs are patented and if the patent is extended, these patients will lose the opportunity to receive this medication since the price will be much more expensive. Moreover, drugs for chronic diseases such as cancer, kidney disease, etc. will also be more expensive and not be included in the benefits offered by the universal health coverage plan. Apart from direct impacts in the form of higher drug prices, the Trips Plus clause will affect the state's ability to determine public health policies or measures; for example, compulsory licensing measure might not be executable.

### **Legal system towards transparency and participation**

6. Thailand has undergone many amendments and drafting of constitutions but the kingdom has never had a constitution which clearly prescribes the process of constructing treaties, thus leading to many constant practical drawbacks resultant from the conflict of opinions between the administrative and legislative branches, particularly in the interpretation on which treaties require parliamentary approval before the administrative branch can express its binding intent to the treaty. Such issues need to be addresses in an urgent and on-going fashion to keep abreast of present day situations where Thailand is entering into more international agreements, both multilateral and bilateral, with other countries, especially agreements in relation to international economics like investment or international finance.

7. Attempts to address this issue are reflected in Article 190 of the 2007 Constitution, which clearly stipulates *“A treaty which provides for a change in the Thai territories or the Thai external territories that Thailand has sovereign right or jurisdiction over such territories under any treaty or an international law or requires the enactment of an Act for its implementation or affects immensely to economic or social security of the country or results in the binding of trade, investment budget of the country significantly must be approved by the National Assembly. In such case, the National Assembly must complete its consideration within sixty days as from the date of receipt of such matter.”*

8. Article 190 of the 2007 Constitution clearly reflects the intention to institute good governance practices in negotiation processes by prescribing that important treaties such as FTAs be approved by Parliament, the draft agreement be made available to the public, true public participation be provided for and that the government devise concrete measures to address and provide redress for impacts. However, the Constitution was successful in setting down only the principles and some details, whereas other details

which will translate these concepts into practice were to be set by organic laws which would be enforced. Therefore, there is great significance attached to these laws and we can say that the success of Constitution Article 190 depends on what content these organic laws will cover.

9. To facilitate the state and all stakeholders to have clear and transparent consultation processes in order to find common ground and establish the country's stance in negotiations and in order to reach international agreements that foster social equity, strengthen the society's well-being and strengthen the economy's sustainability, there is a strong need for Thailand to have an "Act for the Drafting of International Agreements or Treaties".

#### **Action by the National Health Assembly**

The National Health Assembly is invited to consider the *Draft Resolution 1/4*.