

## **Thailand's free trade tactics under fire**

By David Fullbrook

BANGKOK - Thailand's free-trade agreement (FTA) tactics are under fire for being opaque and shrouded in secrecy. Critics worry such methods are handing Thailand a poor deal, perhaps working to serve minority vested interests, and may even be undermining the informal social safety net provided by the country's agriculture.

A new era of free trade is getting under way between Australia and Thailand after their leaders signed an FTA in Canberra on Monday. By 2010 only 2% of trade, now worth about A\$5.87 billion (US\$4.2 billion or 171.5 billion baht) annually, will incur tariffs. Heralding the deal in Thailand is a chorus of criticism, claiming the deal is unfair for many Thai businessmen and farmers.

Fueling complaints and concerns is the lack of consultation, publicly, among people potentially affected by the agreement or with parliamentary committees trying to oversee the work of Thai negotiators. Only occasionally were low-ranking officials sent to testify before Senate committees.

"The government never bothered to consult affected parties or parliament and only informed committees fleetingly. My committee, foreign affairs, had to get all its information from the Australian parliament website," says Kraisak Choonhaven, chairman of the Senate Foreign Affairs Committee.

In Australia and the United States there are public consultations regarding FTA proposals, as well as legislative debates and thorough monitoring by committees. Australia is not jumping into free-trade talks with China either. Trade experts from both countries are spending at least two years analyzing whether negotiations should even begin.

Keeping the public in the dark seems to be the Thai government's preferred approach to striking free-trade deals. "They did the same thing with the China FTA on 200 products. After four months of study we can see it has had a devastating effect," says Kraisak.

Agricultural imports from China are up 400% against total Thai exports, rising about 80% since the agreement took effect last year. Traders grumble that China's provinces have erected more non-tariff barriers instead of dismantling them. "I'm quite surprised the government has not taken steps to see if there's dumping into the Thai market," says Kraisak.

Debate rages within Thailand's business community, generally considered pro-government. "There have not been any studies on who benefits from investment. Most business people would like to see a study of benefits and costs. The study we have seen has not really looked at which sectors will be affected. In Australia there is an adjustment compensation program for affected industries. In Thailand, nothing," says Kiat Sitti-amon, president of the International Chamber of

Commerce in Thailand and a director of the Board of Trade.

Tens of thousands of poor farmers, especially dairy, and other workers will lose their livelihoods fear Kraisaak, unions and campaigners. "The government needs to pay attention to those that will be affected negatively by the FTA," says Kiat.

Thai bosses fear Australian states may raise non-tariff barriers by altering rules and regulations, repeating steps used by China's provinces - moves not open to Thailand's non-federal provinces. Still, in at least one important respect the Australian FTA is better than the Chinese agreement as it allows products to be withdrawn unilaterally with 12 months' notice.

On the other side of the fence sits Plengsak Prakaspesat, vice chairman of the Federation of Thai Industries. "The FTA should be a good move for both countries. Of course many people worry about the impact on agriculture and food. But it should be remembered that we will be exporting more product[s] like automobiles, food, spa products and suchlike for example," says Plengsak. "I think Australia offers one of the fairest and most straightforward deals. To my way of thinking it is a win-win situation."

Kraisaak finds the government's eagerness for striking free-trade agreements curious. In September a mini-FTA reducing tariffs on 82 products will take effect with India. Negotiations with the United States start this month. "I believe the whole thing is such a rush that there is a hidden agenda," says Kraisaak. "It's truly suspicious - why such a rush, when the downside is so pronounced?"

Some wonder, given rampant corruption that pervades Thai business and politics, just whose interests negotiators have at heart. "It stands to reason that the free trade negotiating process in Thailand is as corruptible as every other non-transparent process here," says Dr Jeffrey Race, a political scientist and business consultant.

Community protesters and other critics accuse the government of signing a deal primarily to benefit companies associated with Thai ministers, in particular Prime Minister Thaksin Shinawatra's family telecommunication interests - charges roundly dismissed by the government.

Many believe the deal will help Shinawatra-owned AIS, Thailand's biggest mobile-phone network, to buy stakes in Australian mobile operators. That seems a little far-fetched. Australia's operators are richer and, in at least two cases, subsidiaries of some of the world's biggest players.

Shin Satellite points out it was offering services in Australia before FTA negotiations started. In any case, mobile, satellite, or otherwise, Shinawatra companies will face heavyweight competitors.

Still, the secrecy and appetite for free-trade deals only serves to send critics sniffing for a rat or two. What irks some and worries others are concessions Thai negotiators made in many sectors where Thai firms face a pummeling from burly Australian companies. "Australia stands to gain much more than we do because we don't have the capital strength they do in Australia," says Kraisaak. "I'm for free trade when it's beneficial to both sides. I'm for fair trade."

Some points of the deal, such as granting Australians rights to majority ownership in some sectors and employment privileges, appear to run counter to Thai law, which by and large does not allow foreign majority ownership and curtails foreign workers. "It's still very unclear whether some Thai laws will have to be amended," says Kiat.

He is disappointed the agreement did not take steps to reduce or eliminate state aid. Rules that determine how much of a product needs to originate locally to qualify for FTA privileges are another contentious and difficult point. "The fear of business people is that you have 10 FTAs with 10 different rule-of-origin rules," Kiat says.

Failure of governments to agree a global FTA under the auspices of trade law worked out by the World Trade Organization (WTO) is resulting in exactly what free-trade advocates wanted to avoid: the Balkanization of trade under a plethora of bilateral free-trade deals, with differing rules. "Most business people in the world are quite cautious about bilateral FTAs. They prefer to have one set of rules for all countries through the WTO," says Kiat.

Agreements between developing and developed countries, such as Thailand and Australia and perhaps the US, also bring into focus law enforcement. FTAs are a set of rules that both governments agree to abide by and adjudicate trade disputes with. How this will work in practice with countries where corruption is paramount, not the law, is questionable.

Implications stretch from enforcement of laws, such as those restricting working hours or truck loads, to prospects for fair trials or hearings. "While I was waiting to testify at the Washington FTA hearings, I heard other witnesses complain the playing field won't be level under an FTA because the Thai government refuses to enforce its own laws," says Race. "It all turns on enforcement."

For two decades Race has been fighting for redress in a well-documented business dispute in which Thai officials not connected with the current administration colluded to help a Thai business partner rip him and others off. Unusually, the US State Department raised the matter in a diplomatic note in March 2003. To date the Thai government has not replied.

In the wonderful merry-go-round of free trade, patchy law enforcement and corruption can be added to the list of ingenious, devious even, non-tariff barriers that arise to thwart all those fine platitudes proclaiming belief in free trade. "Don't talk to me about law enforcement. Look at how the US uses anti-dumping legislation, or the way France applies its food-hygiene laws," says Kiat.

That the government treats parliamentary committees contemptuously, ignores its own people and does not respond to a diplomatic note from a major ally does not raise hopes that trade disputes brought by foreign, or even Thai, companies will be judged in a fair, honest and open way.

An FTA signed by a Thai government under these questions may be open to challenge in the courts or from a future Thai government. "We think the FTA process is unconstitutional. The

most important aspect of the Thai constitution is that major developments have to have people's participation. They have to be approved by parliament," says Kraissak.

It is ironic that Australia, a vibrant democracy, should sign a trade deal with a partner government that did not consult its people and ignored its own laws and constitution. Activists or opponents could conceivably challenge the US government in court given its oft-pronounced goal of promoting democracy for negotiating with a partner that does not match US standards for openness and consultation.

Effects on Thailand's agriculture, which gives sustenance and work to more than half its 60 million people, may also have rather unsettling long-term implications if the industrial and service sectors fail to generate enough steady jobs.

Thailand's farming foundation is an informal safety net for millions of migrant factory workers, construction crews, taxi drivers and maids. When hard times strike, they simply head home to the fields. Consequently, nobody starves in Thailand. But if Thai farmers fail to compete with Australia's industrial farmers, able to wring price advantages from single farms bigger than many Thai provinces, or switch to more lucrative farming, such as organics, that social safety net may break.

"If agricultural imports affect food security, we will have a very unstable society. The service and industrial sectors will never be able to absorb all the surplus agriculture workers. This will result in widespread protests. Thai governments are well known historically for using authoritarian methods and violence to quell protests," says Kraissak.

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