

Independent Study Paper Title : Proper Legal Framework for Free Trade Agreement
Negotiation

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ABSTRACT

Free Trade Agreement is a preferential agreement between two countries which aims to eliminate trade barriers, including tariff barrier and non-tariff barrier. Free Trade Agreement is also the exception of the World Trade Organization rule of Non-discrimination. According to the Vienna Convention on the law of treaties 1969, Free Trade Agreement is considered as a treaty. Free Trade Agreement is distinct from other treaties, as Free Trade Agreement is a treaty which contains contents concerning international trading.

Each country has a different process of establishing a Treaty. Some of the aspects which have to be considered are social and cultural issues of each country. For example, in Malaysia, any kind of treaty shall be approved by the parliament. However, in Japan and Republic of France, treaties have been divided into two categories. There are treaties which can be concluded by the executive branch without having to rely on the approval from the parliament. The other categories consist of treaties which need approval by the parliament, before expressing consent to be bound and before the ratification of the treaty. The United States of America has a certain frame work for the Free Trade Agreement negotiation and process-making which has been specify into a specific law namely “Bipartisan Trade Promotion Authority Act”.

After comparison between treaty-making of foreign countries and our own law, I could conclude that Thailand still lack a proper legal framework regarding the Free Trade Agreement negotiation and process. Moreover, the provision of the

Constitution of Kingdom of Thailand B.E.2550 article 190 second paragraph specify treaty which shall need approval by the parliament into 5 categories, nevertheless, there is only one categories which still has complication with the understanding of the interpretation, referring to “Treaty which has extensive impacts on national economic or social security”. This Independent Research Paper will only focus on the Treaty which has extensive impacts on national economic.

Therefore, Thailand should be more specific about the regulations according to treaties which shall need approval by the parliament. The interpretation of the law has to be more specified and clear to avoid gaps of the law. Thailand should enact specific law to a proper legal framework for the Free Trade Agreement negotiation and process-making.

