

Thesis Title : THE PROTECTION OF PLANT SPECIES: A CASE STUDY OF
THE DRAFT US-THAI FREE TRADE AGREEMENT

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ABSTRACT

Thailand, at present, aims to make bilateral trade agreements. To benefit our international trade, the government is considering becoming a part of the free trade area with the US. By becoming a part of FTA, we would gain benefits in terms of the intellectual property protection and the international trade. Yet, we would, at the same time, encounter the difficulties regarding the Plant Variety Protection (PVP), as the US forces Thailand to protect plant varieties under the International Union for the Protection of New Varieties of Plants (UPOV). In addition, the US demands the patent scope extension from its country partner, meaning the patent protection covers all living creatures including plants, animals, and microorganisms. Such protection is under the system of patent protection law, which supports only those countries with sole registration in varieties of plants patent rights. The UPOV Act does not focus on the right protection of communities or farmers. It also ignores fair bilateral benefit sharing. The 1991 UPOV Act clearly shows the policy in regard to very restricted farmers' right.

Researches show that the PVP of the UPOV Act might be beneficial to those developed countries rather than to developing ones. This is why many developing countries including Thailand have tried to avoid the PVP under the UPOV. Additionally, should Thailand accepts the PVP under the UPOV, the disaster in the country's plant resources, farmers' as well as community's rights will definitely take place. This is so because there are a high diversity of species in Thailand. Most of the population are engaged in agriculture, and plant seeds are essential in terms of economics of the country as both food resources and merchandise exports. Plus, no law on the prohibition of private monopoly in

the UPOV has been enacted, which can cause the increasing rate of plant seeds, and which in turn creates a higher price of plant seeds. The problems in unfair marketing practices probably occur in Thailand, which could concern the matters of law in Thailand.

As for the free trade area negotiation with the US, Thailand will gain the benefits in terms of free trade in many ways, especially the export promotion and the diminishing of possible obstacles in international trades. Moreover, the development of the intellectual property protections will be enhanced. The PVP which is required by the US for Thailand to comply with the UPOV, however, should be discussed further as we cannot comply with the UPOV Act for the PVP in Thailand. Such discussion depends on the successful levels of bilateral agreements for mutual benefits of the two parties.

