

Thailand and TPP

30 November 2012

Apiradi Tantraporn,
Executive Chairperson

The International Institute for Asia Pacific Studies (INSAPS),
Bangkok University



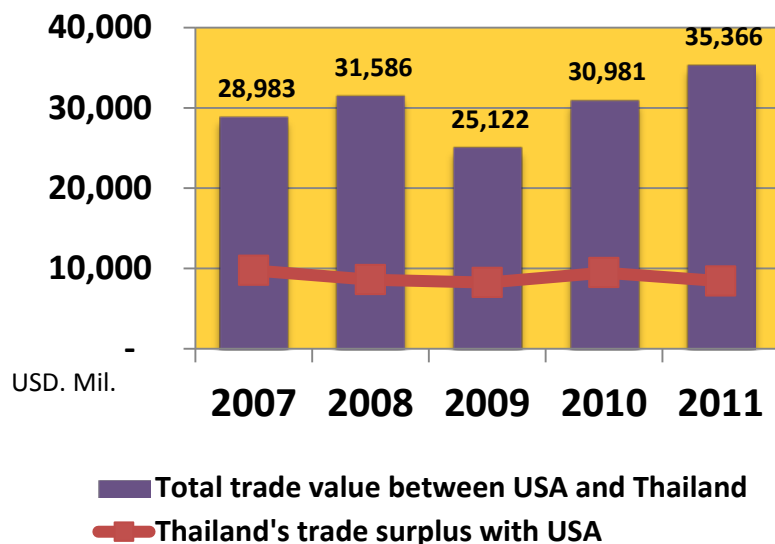
1. Thailand and TPP

TPP Countries and Thailand	USA	Canada	Mexico	Chile	Peru	Brunei	Singapore	Malaysia	Vietnam	Australia	New Zealand
USA		CUSFTA	FTA	FTA	FTA		FTA			FTA	
Canada	CUSFTA			FTA	FTA		FTA (ongoing)				
Mexico	FTA			FTA	FTA		FTA (ongoing)				
Chile	FTA	FTA	FTA		FTA			FTA		FTA	
Peru	FTA	FTA	FTA	FTA			FTA				
Brunei										AANZFTA	AANZFTA
Singapore	FTA	FTA (ongoing)	FTA (ongoing)		FTA					AANZFTA, FTA	AANZFTA, CEP
Malaysia										AANZFTA, FTA (onging)	AANZFTA, FTA
Vietnam										AANZFTA	AANZFTA
Australia	FTA			FTA		AANZFTA	AANZFTA, FTA	AANZFTA, FTA (ongoing)	AANZFTA		AANZFTA, NZ Aus Closer Econ Relations
New Zealand						AANZFTA	AANZFTA, CEP	AANZFTA, FTA	AANZFTA	AANZFTA, NZ Aus Closer Econ Relations	
Thailand	FTA?				FTA					FTA	FTA

Thailand already has a number of FTAs with some TPP member. In essence, for us to join TPP or not is about negotiating an FTA with the USA.

2. Trade and Investment Outlook with USA

Trade in Products between the US and Thailand



Source: trademap

- The US as a major trading partner of Thailand
- Thailand's consistent trade surplus with the US
- The US's products trade deficit with Thailand in 2011 was at 35 USD bn
- The US already has low tariff rates for Thai products

With TPP, further benefits from market access in the US might be minimal, but further service liberalization, higher investment protection and better rules to ensure fairer competition are expected.

Thailand Services Trade with the US (USD bn)

	2006	2007	2008	2009	2010
Imports	1.4	1.5	1.7	1.7	1.9
Exports	1.6	1.7	1.7	1.5	1.7
Balance	0.2	0.2	0	-0.2	-0.2

Source: USTR

- In 2010, the US services trade surplus with Thailand was USD 185 million.
- US top service exports to Thailand in 2010 included private commercial services and other private services (business, professional and technical services)

Foreign Direct Investments in Thailand by Country (USD mil)

	2006	2007	2008	2009	2010	2011
Japan	27,647	32,455	34,628	36,832	45,135	46,859
ASEAN	13,207	16,207	14,090	18,796	24,296	27,675
EU	14,228	18,201	18,134	20,641	24,999	25,924
United States	9,130	9,753	9,353	10,479	13,147	13,401
Total	80,542	96,561	96,643	110,070	142,498	150,517

Source: Bank of Thailand

- The US as one of the largest foreign investors in Thailand
- Top sectors that attracts US FDI in Thailand are manufacturing and banking sectors. (USTR)
- Sales of services in Thailand by majority US owned affiliated were 4.8 USD bn, Service sales in the US by majority Thailand's owned firms were 137 USD mil.

3. Some Challenging Issues for Thailand

3.1 Intellectual Property Rights (IPRs) protection

3.2 SOEs and Competition Law

3.3 Investment Chapter

3.4 Negotiation Challenges



3.1 IPR Protection

The importance of strong IPR protection and enforcement to the US Economy

IPR as an economic growth and jobs driver

US IP sector worth more than 5 USD trillion

IP intensive industries accounted for apprx. 60% of US total export and still rising

US demand for high IPR protection in TPP

Trademarks and GIs



Current trademark law does not include unregistered well known mark, the sign that is a scent or a sound

GI protection is under the sui generis law in Thailand

Copyright and related rights



Impacts on citizen rights of access to information on internet

Impacts on the government rights to formulate policies and laws that might be national priorities

Patents



Impacts on public health sector

Impacts on medical/ biotechnological R&D for new innovations

Strong enforcement



Limited flexibility in terms of laws/ regulations enforcement

Implications on Thailand

3.2 SOEs and Competition Law

US concerns with SOEs
especially in state capitalism
countries in Asia



In TPP, US is likely to demand for a level playing
field between commercial SOEs and private
companies in domestic and third country markets

Unfair competition
from commercial SOEs

Government provide
special forms of
subsidies to local SOEs

Local SOEs receive
preferential treatment
by the government i.e.
exempt from
Competition law

Transparency and
corruptions

SOEs in Thailand;

- **Ambiguous roles of SOEs: no clear-cut division between commercial and social SOEs**
- **Currently exempt from the Competition Law**

Other issues;

- **Ineffective enforcement of the Competition law**



3.3 Investment Chapter

Some Important investment issues in US FTAs

National Treatment

Most-Favored Nation

Minimum Standard of Treatment

Fair and equitable provision

Expropriation and Compensation

Transfers

Investor State Dispute Settlement (ISDS)

Thailand will need to prepare itself for accepting high investment standards, if it joins TPP.

Investment Chapter in TPP

- modeled after the 2004 US Bilateral Investment Agreement
- limited flexibilities for developing countries: negative list for market access, NT, and MFN for foreign investors -- already appear to be difficult for developing countries i.e. Malaysia and Vietnam
- an attempt to contain the scope of
 - ✓ expropriation
 - ✓ minimum standard of treatment
 - ✓ fair and equitable provision

3.4 Negotiation Challenges

Is Thailand ready for?

Single Undertaking Principles

“Nothing is agreed until everything is agreed”

- Will there still be any flexibility given to the new party that would like to join after the conclusion of the agreement?

Hybrid approach for market access

TPP members can choose between the two approaches

(1) Common rules for market access (Australia, New Zealand, Brunei)

(2) Bilateral market schedules between existing FTA partners (US)

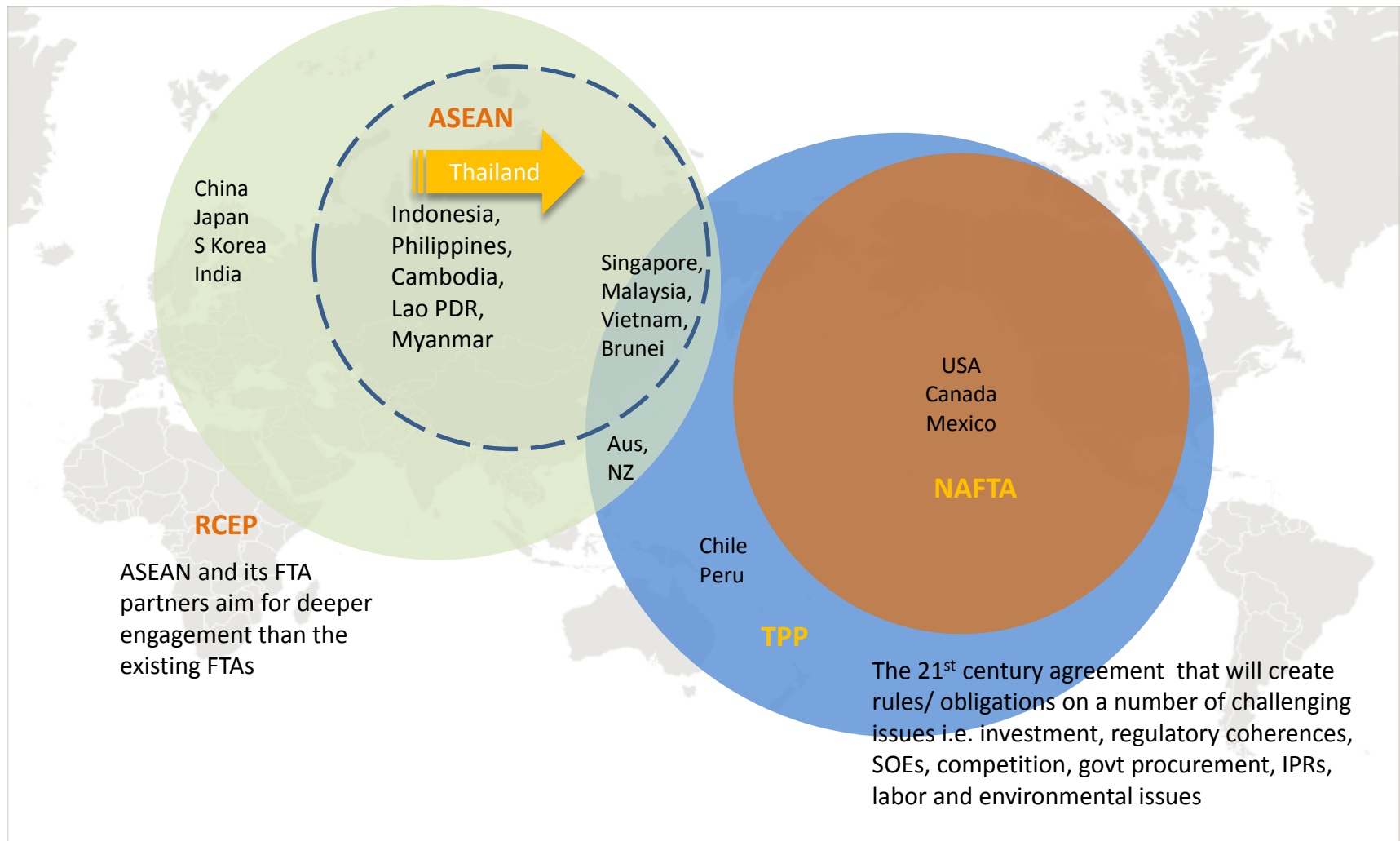
- Which approach will benefit Thailand the best?
- Can we even choose the approach after the agreement is concluded?

Negative List for service sectors (and investment)

- Financial services
- ICT
- Professional and distribution services
- etc

- Thailand's limited experiences in making negative list

4. Thailand's Position in Asia Pacific Integration



5. Policy Recommendations

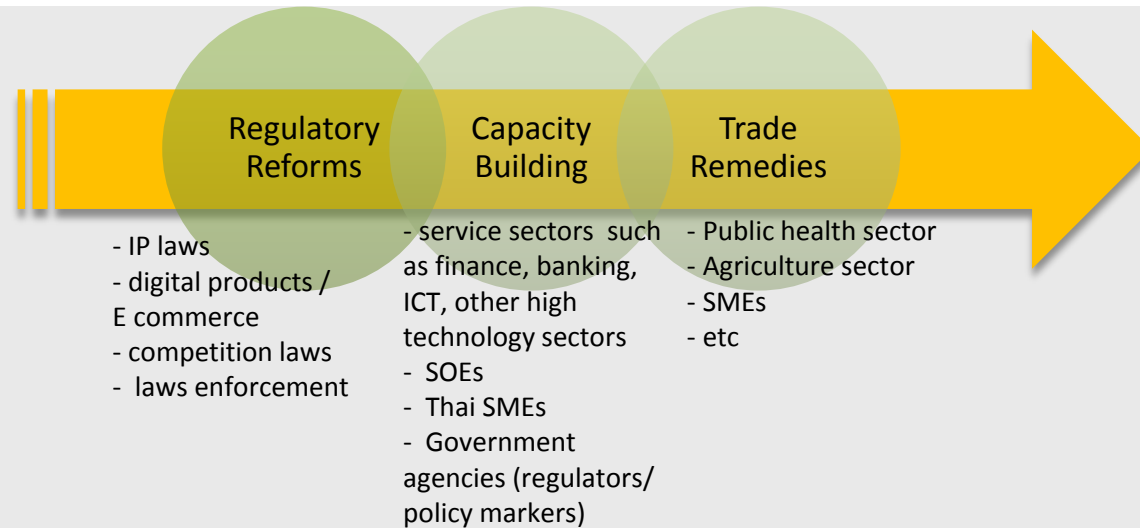
1. Cost and benefits analysis of TPP

Potential benefits from TPP



Potential damages on those who are adversely affected

2. Necessary measures by the government



3. Ultimate goals

Sustainable development driven by trade



THANK YOU



Apiradi Tantraporn

Executive Chairperson

The International Institute for Asia Pacific Studies
(INSAPS), Bangkok University