

HUMAN RIGHTS IMPACTS OF FREE TRADE AND INVESTMENT AGREEMENTS IN THAILAND

Brief Assessment of the Implementation of the 3rd Cycle UPR Recommendations

Thailand is a member of the WTO and party to 17 free trade agreements (FTAs), including newly signed ones, covering 24 trading partners; FTA partners accounted for 59.3% of Thailand's total trade in January to October 2025. Since the 3rd UPR cycle, Thailand has ratified the Regional Comprehensive Economic Partnership (RCEP), signed FTAs with Sri Lanka (3 February 2024), the European Free Trade Association (EFTA) (signed 23 January 2025; not yet in force) and Bhutan (signed 3 April 2025; target entry into force 1 January 2027), and accelerated ongoing negotiations for the Thailand-EU FTA, Thailand-South Korea FTA and ASEAN-Canada FTA, which the government aims to conclude in 2026, as well as the ongoing Thailand-United States Agreement on Reciprocal Trade (ART). After the ninth round of Thailand-EU FTA negotiations, 15 of the 24 chapters had been concluded. The 10th round was held in Phuket from 28 September to 6 October 2026, pushing the negotiations further forward, while some issues remain under discussion and both sides continue to target conclusion of the agreement by the end of 2026.

During the 3rd UPR cycle, Thailand did not receive any recommendation directly addressing the adverse human rights impacts of FTAs. However, Thailand supported UPR recommendations to "implement measures to promote and protect the rights of peasants and other people working in rural areas" (Bolivia), to align business activity with the UN Guiding Principles on Business and Human Rights (Peru, Chile, Ecuador, others), and to strengthen consultation with Indigenous Peoples and rural communities on decisions affecting them. Thailand is also a State party to CEDAW and CERD and received the 2025 CEDAW Concluding Observations (CEDAW/C/THA/CO/8), which raised concern about the lack of mechanisms to seek the free and informed consent of Indigenous women for investment projects for tourism, mining and logging, and called for compensation and reparations for Indigenous women in regions negatively affected by investment and nature conservation projects (paras. 45(b) and 46(b)).

This assessment finds that Thailand has not implemented these commitments in respect of its trade and investment framework. Negotiations remain opaque, no ex ante binding human rights impact assessment is required, and Thailand continues to pursue and defend FTAs whose intellectual property, agricultural, digital and investor-protection provisions risk undermining access to medicines, farmers' rights and food sovereignty, tobacco and alcohol control, environmental protection, and the State's regulatory space. The Kingsgate v. Thailand arbitration under the Thailand-Australia Free Trade Agreement (TAFTA) is cited by civil society as illustrating how ISDS can constrain the State's ability to protect health and the environment. The Chatree gold mine reopened in March 2023 while the arbitration remained pending. The proceedings were formally terminated on 29 December 2025 without an award, following the withdrawal of Kingsgate's claims; in February 2026, the Thai government confirmed that the withdrawal was unconditional and that Thailand would pay no compensation.



2-6x
possible increase in seed prices under UPOV 1991



2-11 YEARS
possible delay in generic medicines entering Thailand



THB 3.7 TRILLION
projected additional drug expenditure over 30 years

This UPR Factsheet was prepared by FTA Watch, BioThai, Thai Business and Human Rights Network, Manushya Foundation and the Thai CSOs Coalition for the UPR and UN Mechanisms

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Challenges | Case, Facts, and Comments

Challenge 1: The drafting and negotiation of FTAs continue to lack transparency, public participation and binding human rights impact assessment

Section 41 of the 2017 Constitution guarantees local communities the right to be informed and to access public data or information held by State agencies. Section 59 requires the State to disclose public information not related to State security or confidentiality. However, the 2017 Constitution did not retain the safeguards of Section 190 of the 2007 Constitution, which had guaranteed government transparency and public participation in the drafting and negotiation of treaties. Section 178 of the 2017 Constitution requires National Assembly approval for FTAs and provides for a law prescribing procedures for public participation and remedies. Despite these provisions and constitutional rights to information, local communities and the public continue to be denied access to negotiating positions and texts.

FTAs are being negotiated by the central government together with industry associations, without meaningful consultation of the communities most affected – farmers, patients, workers, women, Indigenous Peoples, and consumer groups. The Thailand-EU Trade Sustainability Impact Assessment (SIA), whose Draft Inception Report was presented to civil society in January 2026, has been criticised by Thai and international CSOs for emphasising trade expansion and efficiency while under-analysing regulatory constraints, distributional impacts, and long-term structural risks. As of September 2026, 146 Thai civil society organisations have petitioned Parliament to monitor the Thailand-EU FTA negotiations and to require the negotiating team to publicly clarify Thailand's positions and concessions before the deal is closed, warning that a rushed conclusion within 2026 should not override the impact on farmers, food security, access to medicines, health, biodiversity, environment and consumer protection.

There is still no legal requirement for an ex ante human rights impact assessment (HRIA) of FTAs or investment agreements before signature, and no binding mechanism for parliamentary or public review of concluded chapters. UN guidance calling on States to conduct HRIAs before concluding trade and investment agreements, including the Guiding Principles on human rights impact assessments of trade and investment agreements presented by the Special Rapporteur on the right to food (A/HRC/19/59/Add.5), remains unimplemented.

The Thailand-U.S. ART negotiations raise serious concerns regarding transparency, access to information and meaningful public participation. Although the 2017 Constitution requires National Assembly approval for FTAs and other treaties with wide-ranging effects on the economy, society, trade or investment, it does not require Parliament to approve the negotiating framework before negotiations take place. The absence of publicly available negotiating texts therefore limits the ability of Parliament, affected communities and civil society to scrutinise and influence proposed commitments while they are still being negotiated.

146 civil society organisations petition Parliament on the Thailand-EU FTA, September 2026:
Ahead of the 10th round of Thailand-EU FTA negotiations (Phuket, 28 September - 6 October 2026), 146 Thai civil society organisations, coordinated in part by FTA Watch, submitted a letter to political leaders and parliamentary committees demanding that Parliament scrutinise the government's negotiating position both before and after each round, and disclose which EU demands Thailand has accepted or refused, particularly on UPOV 1991, TRIPS-plus, digital trade, alcohol, agricultural chemicals, second-hand and remanufactured goods, plastic waste, and electronic waste.

> **Kannikar Kijtiwatchakul, FTA Watch, on speed versus scrutiny:**
>
> ***"Concluding the agreement quickly should not be a goal that trumps concluding an agreement that takes account of impacts on the people – particularly farmers' rights, food security, access to essential medicines, health, biodiversity, environment, consumer protection, and the policy space the government needs to respond to future challenges."***
>
> (Thai PBS PolicyWatch, 18 September 2026.)

Trade SIA and civil society exclusion, January 2026:
The European Commission's Trade SIA Draft Inception Report on the EU-Thailand FTA was presented in January 2026. Thai and international CSOs raised concerns that the framework under-analyses regulatory constraints, distributional impacts and structural risks, and that EU intellectual property proposals extend far beyond the WTO TRIPS Agreement.

UN Special Procedures question Thailand and the EU on impact assessments and participation, 21 September 2026: In parallel communications to the Government of Thailand (OL THA 6/2026) and the European Union (OL OTH 81/2026), four UN Special Procedures mandates asked whether any human rights impact assessment or food security assessment had been undertaken concerning the possible effects of compliance with UPOV 1991. The EU was also asked about any environmental, biodiversity or social impact assessment. The experts asked the Thai Government for information on the measures taken to ensure access to information and the effective and meaningful participation of peasants, small-scale farmers, rural communities and their representative organisations in the ongoing negotiations. They recalled that, under article 2(3) of UNDROP, States shall consult and cooperate in good faith with peasants and other people working in rural areas through their own representative institutions before adopting international agreements that may affect their rights.

Open letter by 20 international CSOs to the European Commission, September-October 2025:
Twenty international human rights, trade and health CSOs published an open letter urging the EU to exclude TRIPS-plus and UPOV-style provisions from the FTA, align it with the UN Guiding Principles on Business and Human Rights, and condition it on labour and corporate accountability reforms in Thailand.

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Thai and U.S. officials meet for Thailand-U.S. ART negotiations.

The talks cover areas extending well beyond tariffs, yet the detailed negotiating text and Thailand's proposed commitments have not been made available for public scrutiny.

SOURCE: Nation Thailand (September 2026)

Thailand-U.S. ART negotiations and lack of public scrutiny:

Although the U.S.-Thailand framework has been publicly announced, the detailed negotiating text and Thailand's proposed commitments have not been made available for public scrutiny. On 7 October 2026, Prime Minister Anutin Charnvirakul said Thailand was at the "last paragraph" of the agreement and expected to sign it during the US President's next visit to Asia, likely in November 2026.

The contrast with the Thailand-EU FTA highlights this concern. The EU published initial negotiating proposals, although updated texts of negotiated chapters have not been routinely disclosed. By contrast, no detailed ART negotiating text has been released publicly. Thai civil society organisations have requested access to information, but the responsible Thai agencies reportedly declined, citing confidentiality and a U.S.-requested non-disclosure requirement.

The announced ART framework covers areas far beyond tariffs, including agriculture, pharmaceuticals and medical devices, intellectual property, digital trade, investment regulatory practices, labour and the environment. Commitments in these areas could have significant and long-term implications for human rights and Thailand's regulatory policy space.

Parliamentary approval at the end of the treaty-making process is not a substitute for meaningful parliamentary scrutiny during negotiations, when proposed commitments can still be examined and influenced. The applicable confidentiality arrangements should therefore be disclosed and their implications for public participation explained. The ART should be assessed primarily for its potential impacts on human rights and the public interest, rather than simply as a tariff negotiation.

Challenge 2: FTAs threaten farmers' rights, food sovereignty, biodiversity and the livelihoods of rural and Indigenous women through UPOV 1991 and TRIPS-plus provisions on plants and biological resources

Thailand's Plant Variety Protection Act B.E. 2542 (1999) is designed to balance protection of plant breeders with the rights of farmers, local communities, and Indigenous Peoples over indigenous plant varieties and genetic resources, including access and benefit-sharing obligations.

UPOV 1991, with which the EU is pressing Thailand to align its law through Article X.51 of the draft FTA (a provision that, according to UN experts, does not formally require accession but would require substantive alignment), would expand the scope and duration of breeders' rights, restrict farmers' rights to save, exchange and re-plant seeds from their harvest, and require Thailand to amend the Plant Variety Protection Act to conform.

Accession to UPOV 1991 would also subject Thailand's domestic plant variety protection legislation to prior conformity review by the UPOV Council. Under Article 34(3), a State seeking accession must submit its legislation to the Council and cannot proceed without an affirmative decision on conformity.

UN Special Procedures raise concerns over UPOV 1991, 21 September 2026:

Four UN Special Procedures mandates (the Special Rapporteurs on the right to food, on the right to development, and on extreme poverty and human rights, and the Working Group on the rights of peasants and other people working in rural areas) wrote to the Government of Thailand and to the European Union about Article X.51 of the EU's draft intellectual property chapter, which would require Thailand to protect plant variety rights in accordance with UPOV 1991. They warned that the provision could restrict farmers' ability to save, use, exchange and sell farm-saved seeds, increase farming input costs and smallholder farmers' recurring dependence on purchased, proprietary seed, with effects on farm household income and debt exposure, and adversely affect food sovereignty, a right safeguarded under article 15(4) of UNDROP. They called on the Government of Thailand "to refrain from accepting, in the context of the ongoing negotiations, commitments that would require the amendment of existing safeguards protecting farmers' rights under the Plant Variety Protection Act", and called on the EU to "remove any reference to that instrument from the draft Free Trade Agreement".

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Article 5(2) further prohibits the grant of breeders' rights from being made subject to additional or different conditions beyond the Convention's prescribed criteria (novelty, distinctness, uniformity and stability), directly constraining the safeguards that Thailand may maintain within its domestic plant variety protection regime. If Thailand accedes to UPOV 1991, Thailand could no longer apply its existing requirements on disclosure of origin, prior informed consent and statutory benefit-sharing as conditions for granting breeders' rights under the Plant Variety Protection Act B.E. 2542 (1999), opening the door to biopiracy and significantly constraining Thailand's sovereign policy space under the TRIPS Agreement and the Convention on Biological Diversity. According to BioThai, this external pressure is compounded by the Ministry of Agriculture and Cooperatives' declared intent to join UPOV 1991.

A 2020 study by a special committee of the House of Representatives on possible accession to the CPTPP, cited by Thai civil society to the negotiating delegation, identified a risk that seed prices could rise two- to six-fold under UPOV 1991.

The impact falls disproportionately on Indigenous, ethnic minority, Isaan, Malayu Muslim and rural women, who play the central role in seed saving, preservation, diversification, and the feeding of families and communities. When farmers' saved seeds are displaced by corporate seeds, farmers are pushed into debt, and women and children bear the disproportionate burden of livelihood collapse, distress migration and, in documented cases, farmer suicide.



A woman farmer holds up seeds during a protest against UPOV 1991. The cost of seeds could rise up to 6 times under it.

Farmers gathered at the Ministry of Agriculture and Cooperatives on 23 September 2026 to demand that Thailand reject UPOV 1991 in the Thailand-EU FTA negotiations and protect farmers' seed rights and food sovereignty.

SOURCE: FTA Watch (23 September 2026)

The experts noted that the EFTA-Thailand FTA, signed on 23 January 2025, does not require Thailand to join or comply with UPOV 1991 but recognises plant variety protection through an effective sui generis system. The then Special Rapporteur on the right to food had already raised similar concerns with Thailand during the EFTA negotiations in March 2024 (AL THA 4/2024).

The experts recalled that the right to food is enshrined in article 25 of the Universal Declaration of Human Rights and article 11(1) of ICESCR, and stated that "nothing less than the right to life is at stake where farmers' seed systems are inadequately protected", citing the report of the Special Rapporteur on the right to food on seeds, the right to life and farmers' rights (A/HRC/46/43). [BioThai]

Malaysia's experience with UPOV 1991 conformity review:

When Malaysia submitted its Protection of New Plant Varieties Act 2004 for UPOV conformity review, the UPOV Office recommended that the information required under Section 12(1)(e), (f), (g) and (h), including the source of genetic material or parental lines, prior written consent of local communities or Indigenous authorities, and compliance with access to genetic resources laws, not be treated as conditions for protection, as this would be contrary to Article 5(2), and recommended deleting Section 15, which allowed refusal on public order and environmental grounds (UPOV Council, C(Extr.)/22/2, 2005, paras. 15 and 17).

Study cited by civil society: seed costs could rise 2-6 times under UPOV 1991:

In September 2026, Thai civil society presented to the Thailand-EU FTA negotiating delegation a 2020 House of Representatives special committee study, prepared on possible CPTPP accession, which identified a risk that seed prices could rise two- to six-fold under UPOV 1991. The Thailand Development Research Institute (TDRI) has previously advised that Thailand, a biodiversity-rich country, should not accede to UPOV 1991.

> **Yupin Kasena, Alternative Agriculture Network:**
>
> ***"The impact is not only on seed costs. It reaches into how farmers save, select, exchange and develop seed varieties, into biodiversity, genetic resources, community knowledge, and food security and sovereignty."***
>
> (Thai PBS PolicyWatch, 18 September 2026.)

CPTPP-linked UPOV concerns previously raised in the 2021 UPR III factsheet:

The 2021 UPR factsheet by FTA Watch, Manushya Foundation and the Thai BHR Network already warned that accession to UPOV 1991 would let multinational corporations claim ownership over Thailand's rich biodiversity and exploit small-scale farmers; the same concerns now apply in force to the Thailand-EU FTA.

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Challenge 3: FTAs undermine the right to health by threatening access to affordable medicines and medicine security through TRIPS-plus intellectual property provisions and other trade commitments

TRIPS-plus provisions in FTAs – including patent term extensions beyond the 20 years required by the WTO TRIPS Agreement, data exclusivity, market exclusivity, patent linkage, and broader patentability of plants, animals and biological processes – delay the entry of generic medicines and threaten Thailand's three national health insurance schemes: the Universal Coverage "30-Baht" Scheme, the Social Security Scheme, and the Civil Servant Medical Benefit Scheme. They also undermine Thailand's established compulsory licensing regime and other TRIPS flexibilities that have been used to secure access to HIV, cancer and other essential medicines.

The Thailand-U.S. ART could become another avenue through which Thailand is asked to accept TRIPS-plus pharmaceutical intellectual property obligations or regulatory commitments that could affect access to affordable medicines and Thailand's ability to protect public health.

Accepting TRIPS-plus intellectual property commitments may have wider implications under the Most-Favoured-Nation (MFN) principle in Article 4 of the WTO TRIPS Agreement, as advantages granted to one trading partner may extend beyond that particular FTA or ART.
Proposed intellectual property enforcement obligations in FTAs can themselves amount to TRIPS-plus measures where they go beyond the requirements of the WTO TRIPS Agreement, creating risks for access to medicines and other public-interest objectives if adequate safeguards for public health, due process and legitimate trade are not preserved.

Government procurement commitments in trade agreements also raise human-rights and public-interest concerns because they may affect Thailand's ability to use public purchasing to secure affordable medicines and essential goods, strengthen supply and medicine security, support domestic productive capacity, and respond to public-health emergencies.

According to estimates reported by Thai civil society from a 2025 study by the Thai Food and Drug Administration, the National Health Commission Office and Thai academic networks, the intellectual property provisions the EU is pursuing could delay entry of generic medicines to the Thai market by at least 2 years and up to 11 years, and increase Thailand's drug expenditure by approximately THB 130 billion over 10 years, THB 770 billion over 20 years, and THB 3.7 trillion over 30 years.

The impact is not limited to individual patients: it extends to the sustainability of the three public insurance schemes, the domestic pharmaceutical industry and innovation ecosystem, and long-term national medicine security. The impact is compounded for marginalised women, migrants, stateless persons and Indigenous women in remote areas, who already face barriers to the "gold card" scheme.

Thailand-U.S. ART and potential TRIPS-plus pharmaceutical commitments:

Published ARTs concluded by the United States with other countries demonstrate that such agreements can contain intellectual property requirements going beyond the minimum standards required under the WTO TRIPS Agreement.

The U.S.-Indonesia ART provides a direct example. It requires Indonesia to provide at least five years of regulatory data exclusivity for new pharmaceutical products. It also includes requirements concerning patent law and compulsory licensing, although the agreement contains an explicit safeguard allowing Indonesia to take measures to protect public health in accordance with the Doha Declaration on TRIPS and Public Health.

The U.S.-Argentina agreement provides another relevant example. It links certain intellectual property commitments to issues identified in the U.S. Special 301 Report, including pharmaceutical patentability criteria and consideration of pharmaceutical data protection. It also addresses the possibility of patent-term adjustments for certain patent-office delays.

These examples demonstrate the types of intellectual property issues that may arise in ART negotiations. They therefore reinforce the need for close scrutiny of any intellectual property provisions being discussed in the Thailand-U.S. ART.

Potential concerns include regulatory data or market exclusivity, patent-term extensions, pharmaceutical patentability standards and other measures that could prolong pharmaceutical monopolies or delay generic competition.

The announced framework also refers to patent examination backlogs. Measures intended to accelerate patent examination must not weaken substantive examination or result in the granting of undeserved pharmaceutical patents that could impede access to affordable medicines.

Thai FDA regulatory authority:

The announced framework indicates that Thailand would recognise certain U.S. FDA certificates and prior marketing authorisations for pharmaceuticals and medical devices.
Any such arrangement must preserve the Thai FDA's independent authority to require the evidence and regulatory procedures necessary to ensure the quality, safety and efficacy of medicines and medical products in Thailand. Trade facilitation commitments should not override Thailand's responsibility to protect the right to health.

U.S. Special 301 and trade pressure:

The relationship between ART negotiations and the U.S. Special 301 process should also be examined. There is direct evidence of this relationship. In its 2026 Special 301 process, USTR stated that it would continue to press trading partners to resolve IP-related trade barriers through ART negotiations and

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"Stop FTA, we against TRIPS Plus"

Thai civil society mobilises against stronger pharmaceutical monopolies in the Thailand-EU FTA.

Health advocates warned that TRIPS-plus provisions could restrict access to affordable generic medicines and weaken Thailand's ability to protect public health.

SOURCE: Kannikar Kijtiwatchakul / FTA Watch (18 February 2013)

other engagements. The 2026 Special 301 Report also describes commitments made by Argentina under its ART to address IP issues previously identified through Special 301, including pharmaceutical patentability and possible pharmaceutical data protection.

This raises human-rights concerns about the use of ART negotiations, Special 301 or other forms of trade leverage to seek stronger intellectual property protection that could restrict legitimate public-health measures.

Thailand should remain free to use TRIPS flexibilities and other lawful measures to protect public health, promote generic competition and ensure access to affordable medicines without facing unilateral trade pressure.

Most-Favoured-Nation implications of TRIPS-plus commitments:

Article 4 of the WTO TRIPS Agreement provides that, with respect to the protection of intellectual property, any advantage, favour, privilege or immunity granted by a WTO member to the nationals of another country must generally be accorded immediately and unconditionally to the nationals of all other WTO members, subject to the exceptions specified in Article 4.

This is particularly important when Thailand considers TRIPS-plus intellectual property commitments in FTAs, ARTs or other bilateral trade arrangements.

If Thailand grants additional advantages concerning intellectual property protection to the nationals of one trading partner, those advantages may, depending on the nature of the commitment and the application of the exceptions under Article 4, also have to be accorded to nationals of other WTO members, even where Thailand does not have an FTA or ART with those countries. Unlike the WTO rules on trade in goods, TRIPS Article 4 does not contain a general exception for intellectual property advantages granted under newly concluded FTAs. Its exceptions are specifically defined and limited.

The potential implications of TRIPS-plus commitments should therefore not be assessed only in relation to the trading partner requesting them. Their effects may extend more broadly and could have longer-term implications for generic competition, access to affordable medicines, public-health expenditure and Thailand's ability to protect the right to health.

Intellectual property enforcement under the Thailand–EU FTA:

The EU's published intellectual property proposal for the Thailand-EU FTA contains detailed provisions on enforcement of intellectual property rights, including civil and administrative enforcement, provisional and precautionary measures, preservation of evidence, injunctions, damages and border enforcement measures. These provisions extend beyond patents to trademarks, copyright and other intellectual property rights and, depending on their scope, may have implications for public health, access to knowledge, legitimate trade, competition and other public-interest objectives.

Border enforcement and legitimate generic trade:

Past experience with the detention of legitimate generic medicines in transit through Europe illustrates the risks that overly broad border-enforcement measures can create for access to medicines.

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"Shame on you, Pharma's Poodle"

Thai civil society protests TRIPS-plus intellectual property rules in trade negotiations.

The same concerns remain central to today's Thailand-EU FTA negotiations, where civil society continues to oppose stronger pharmaceutical monopoly protections that could delay generic competition and increase medicine costs.

SOURCE: ITPC Global via FTA Watch (2024)

During 2008-2009, European customs authorities detained several shipments of generic medicines manufactured in India and destined for developing countries, including losartan in transit to Brazil and amoxicillin in transit to Vanuatu. India and Brazil subsequently initiated WTO disputes concerning EU and Dutch measures affecting generic medicines in transit. These incidents demonstrated that legitimate generic medicines can be disrupted by IP-enforcement measures even when lawfully manufactured in the country of origin and intended for markets where they can lawfully be sold. Border measures should therefore contain adequate safeguards to prevent inappropriate detention or seizure of legitimate goods in transit.

An intellectual property dispute concerning a medicine does not by itself make that medicine counterfeit or falsified. Patent infringement is a separate legal question from the deliberate falsification of a medicine's identity, composition or source, and trade agreements should not blur this distinction. The Anti-Counterfeiting Trade Agreement (ACTA) provides a further relevant precedent concerning attempts to establish stronger international IP-enforcement standards across several forms of intellectual property. In July 2012, the European Parliament rejected ACTA by 478 votes to 39, with 165 abstentions, following extensive debate and concerns including fundamental rights, proportionality and the potential implications for legitimate trade in generic medicines.

Safeguards against abuse:

Enforcement provisions should contain adequate safeguards against abuse by right holders. Provisional measures, injunctions, seizure of goods and other remedies can have significant consequences before a final determination of infringement. Thailand should retain sufficient judicial discretion to consider proportionality, public interest, the rights of defendants and third parties, and potential consequences for access to medicines and other legitimate public interests. Proposed enforcement obligations should therefore be assessed for whether they could elevate private enforcement interests above human rights, public health, due process, legitimate trade and other public-interest objectives.

Government procurement, medicine security and domestic pharmaceutical capacity.

Government procurement is an explicit area of negotiation in the Thailand-EU FTA. Government procurement should not be assessed solely from a market-access perspective. Public purchasing is also an important policy instrument through which governments can pursue public-health, social and development objectives.

Medicine security and domestic capacity.

The COVID-19 pandemic demonstrated the importance of medicine and health-product security. Global shortages, supply-chain disruptions and constraints on access to medicines, vaccines and other essential health products highlighted the risks of excessive dependence on external sources of supply. The experience reinforced the importance of diversified supply and sufficient local and regional manufacturing capacity, including the capacity of generic manufacturers, to strengthen preparedness and resilience during public-health emergencies.

Government procurement can contribute to these objectives by enabling Thailand to secure affordable medicines and health products, promote price competition and, where appropriate, support domestic productive capacity. Thailand should therefore retain sufficient policy space to design procurement policies that take account of public health, value for money, medicine security, reliable supply and long-term health-system resilience.

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"No! TRIPS+": Thai health advocates warn against stronger intellectual property rules in trade agreements.

Civil society has long argued that TRIPS-plus commitments can extend pharmaceutical monopolies, delay generic competition and increase medicine costs, undermining Thailand's ability to protect public health and ensure affordable access to treatment.

SOURCE: FTA Watch (25 November 2024)

Broader development and policy-space implications: These issues should also be considered together with trade commitments affecting intellectual property, pharmaceutical regulation and other relevant areas. Their cumulative effects may influence Thailand's ability to diversify sources of supply, obtain affordable generic medicines, maintain domestic productive capacity and respond effectively to medicine shortages, supply-chain disruptions and future public-health emergencies.

More broadly, the implications of opening government procurement markets should not be assessed only in terms of increased competition or potential cost savings. Thailand should also assess potential effects on domestic productive capacity, SMEs, employment, supply resilience and long-term national development.

Projected drug expenditure impact: THB 130 bn (10 yrs), 770 bn (20 yrs), 3.7 trillion (30 yrs): A joint 2025 study by Thai FDA, the National Health Commission Office and academic networks, presented by civil society to the FTA negotiators, projects that EU IP proposals would delay generic entry by 2-11 years and raise Thailand's drug expenditure by the sums above.

Chalermsak Kittikrakoon, FTA Watch:

"TRIPS-plus provisions have a direct effect on access to essential medicines and on the sustainability of Thailand's national health security scheme."

20 international CSOs, open letter to the European Commission, September-October 2025.

"The FTA must avoid introducing TRIPS-plus intellectual property provisions. Measures like patent term extensions and data exclusivity would extend monopolies and hinder timely access to affordable generic medicines, inflating prices and straining public health budgets... the FTA must also exclude UPOV-style rules... undermining climate resilience and food security."

Consumer Council of Thailand: joining CPTPP would set back SDG progress. In June 2020, the Consumer Council of Thailand publicly opposed accession to the CPTPP, citing the impact on healthcare and SDG progress; the same concerns are engaged by TRIPS-plus provisions on the Thailand-EU FTA table in 2026.

Challenge 4: FTAs restrict the State's regulatory space for public health, tobacco and alcohol control, digital rights, environmental protection, safe food and consumer protection, and labour rights

Beyond intellectual property and agriculture, the Thailand-EU FTA and other current FTAs raise concerns about Thailand's regulatory space across a range of public-interest issues. On alcohol, there are two related but distinct concerns. Tariff reductions may lower the price of imported alcoholic beverages and increase their affordability and consumption, while other trade commitments may restrict Thailand's ability to adopt, maintain and strengthen domestic alcohol-control measures. The economic cost of alcohol consumption in Thailand in 2021 was estimated at THB 165,450.5 million, or 1.02% of GDP. Trade commitments also raise concerns for Thailand's regulatory authority over tobacco-control measures. Civil society has further warned of potential impacts on communities and small businesses.

Alcohol-related trade commitments and public health: Alcohol is not an ordinary consumer product. Its consumption is associated with significant health and social harms. Trade commitments concerning alcoholic beverages should therefore be assessed not only in terms of market access and trade benefits, but also in terms of their potential consequences for public health and Thailand's ability to prevent and reduce alcohol-related harm.

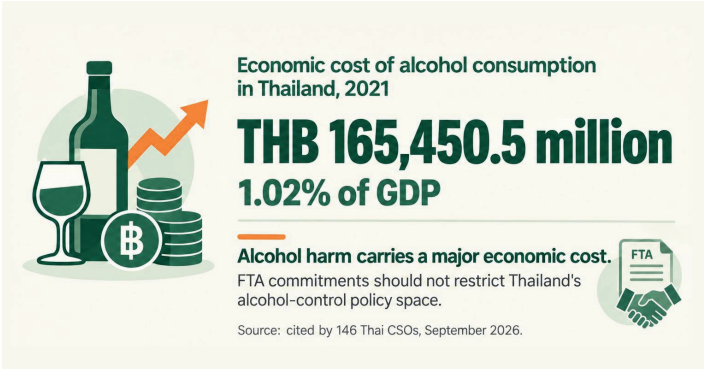
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On digital trade, the concern is not digital trade itself, but whether binding trade commitments could restrict Thailand's present and future ability to regulate digital activities in order to protect human rights and the public interest. As technologies, platforms and business models evolve, Thailand must retain sufficient policy space to develop, maintain and adapt laws and policies addressing emerging digital risks and regulatory needs.

On environment and consumer protection, civil society has called on Thailand to preserve its authority to regulate the import of agricultural chemicals, second-hand and remanufactured products, plastic waste, electronic waste, and materials contaminated with hazardous substances, and to press the EU to end exports to Thailand of pesticides and hazardous chemicals that are banned or revoked inside the EU. On labour rights, the FTA framework does not yet require reform of Thailand's Labour Relations Act and Labour Protection Act in line with ILO Conventions Nos. 87 and 98, nor establish supply chain accountability mechanisms for workers and unions affected by EU companies or supply chains.



Second, Thailand must retain sufficient policy space to adopt and strengthen domestic alcohol-control measures, including taxation, labelling requirements, restrictions on advertising, promotion and sponsorship, and other evidence-based measures intended to reduce alcohol consumption and related harms.

Trade commitments should not create unnecessary obstacles to such measures or expose legitimate public-health regulations to disproportionate challenges. Appropriate exceptions and safeguards should preserve Thailand's ability to introduce stronger alcohol-control measures in response to changing public-health needs.

The combined effects of tariff liberalisation and regulatory commitments should therefore be assessed from a human-rights and public-health perspective, rather than treating alcohol simply as another product subject to market-opening commitments.

Economic cost of alcohol consumption in Thailand, 2021: THB 165,450.5 million (1.02% of GDP):

Cited by 146 Thai CSOs in September 2026 as evidence against FTA commitments that would constrain Thailand's alcohol control policy space, including on excise tax, marketing restrictions, and time-and-place-of-sale rules.

Teera Watcharapranee, StopDrink Network, called on the government to preserve the ability to use tax and price measures, marketing and advertising controls, warning labels, time-and-place-of-sale controls, and other public health measures on alcohol.

Digital trade and future regulatory policy space:

Digital technologies, platforms and business models are evolving rapidly, while commitments negotiated in trade agreements may remain binding for many years. Thailand should therefore retain sufficient policy space to develop, maintain and adapt laws and policies concerning privacy and personal-data protection, consumer protection, competition, taxation, cybersecurity, artificial intelligence, digital platforms and other emerging digital issues.

Particular attention should be given to provisions concerning cross-border data flows, data localisation, source code, digital products and other restrictions on domestic regulatory measures, including whether applicable exceptions and safeguards are sufficient to preserve Thailand's ability to protect human rights and the public interest. Digital trade commitments should be assessed not only in terms of potential economic benefits, but also for their longer-term implications for privacy, consumer rights, regulatory autonomy and Thailand's ability to respond to technological and social change.

Nisara Kaewsuk, Thailand Consumers Council (digital trade), called on Thailand to be cautious on commitments regarding cross-border data flows and data localisation, given the risk of constraining future legislation on data protection, cyber security, digital taxation, AI governance, platform safety and consumer protection.

Prokchol Ousap, Director, BioThai Foundation, called on Thailand to press the EU to end the export of pesticides and hazardous agricultural chemicals that are banned, revoked or unapproved for use inside the EU, and to refuse commitments that would make it easier to import plastic waste and electronic waste.

REALITIES ON THE GROUND

Challenges | **Case, Facts, and Comments**

20 CSOs open letter (Sept-Oct 2025): labour law reform as a condition of the FTA: The letter called on the EU to require comprehensive reform of Thailand's Labour Relations Act and Labour Protection Act in consultation with unions, and to implement a formal supply chain accountability mechanism for workers and unions affected by EU companies or supply chains to the EU.

Challenge 5: Investor-State Dispute Settlement (ISDS) and investment protection provisions continue to shield corporate abuses and constrain remedies for affected communities

FTAs and bilateral investment treaties to which Thailand is a party – including the Thailand-Australia Free Trade Agreement (TAFTA), and others – include ISDS clauses that can be invoked

FTAs and bilateral investment treaties to which Thailand is a party – including the Thailand-Australia Free Trade Agreement (TAFTA), and others – include ISDS clauses that can be invoked only by private investors against host States. ISDS tribunals often base decisions narrowly on international investment law, ignoring the State's environmental and human rights obligations and, in effect, penalising public interest regulation. The chilling effect on public interest law-making is a well-documented risk of ISDS.

The Kingsgate v. Thailand arbitration under TAFTA, initiated in late 2017 after Thailand used Section 44 of the interim Constitution to suspend gold mining nationwide in 2016 following documented environmental and health impacts from the Chatree gold mine in Phichit, Phetchabun and Phitsanulok, is cited by civil society as illustrating how ISDS can constrain the Thai State's ability to protect health and the environment. The Chatree mine, operated by Kingsgate's subsidiary Akara Resources, resumed production in 2023 while the arbitration was pending. The tribunal's final award, originally due on 15 November 2025, was postponed to allow negotiations; in late November 2025 the parties asked the tribunal to terminate the proceedings, and on 18 February 2026 the Thai government announced that Kingsgate had withdrawn its claims unconditionally, that no compensation would be paid, and that the tribunal had formally terminated the proceedings.

On 24 March 2026, in separate domestic proceedings, the Environmental Division of the Ratchada Civil Court ordered remedies against Akara after a decade-long legal struggle by Phichit villagers, marking an important first-instance precedent for corporate accountability under Thai law – in contrast to the outcome of the ISDS process.

Kingsgate v. Thailand (TAFTA) closed after 8 years without award, 2025-2026:
The tribunal's final award, originally due on 15 November 2025, was postponed for a second time to allow negotiations. In late November 2025, the parties asked the tribunal to terminate the proceedings. On 18 February 2026, the Thai government announced that Kingsgate had withdrawn its claims unconditionally, without compensation, and that the tribunal had formally terminated the proceedings. The Chatree gold mine, which the Thai government had suspended in 2016 for environmental and health reasons, reopened in 2023 while the arbitration was still running.

Kingsgate v. Thailand, PCA Case No. 2017-36/AA684:
The tribunal was administered by the Permanent Court of Arbitration; the dispute originated in the Thai government's 2016 suspension of gold mining under Section 44, after documented cyanide leakage from tailings storage and complaints from local residents about impacts on health and the environment.

24 March 2026: Ratchada Civil Court orders remedies against Akara:
In separate domestic proceedings, the Environmental Division of the Ratchada Civil Court ordered remedies against Akara Resources after a decade-long legal struggle by Phichit villagers, recognising the villagers' suffering from the mine's impacts. Akara has filed more than 40 defamation cases against villagers, academics and defenders speaking out about the mine's harms.



Testimony from Phanthip Changkanak, Phichit mango farmer:

"When mining projects are introduced, women don't get to speak. Companies only talk about the benefits and hide the harms."

(Manushya Foundation, April 2026.)

Challenge 6: Bilateral, regional and reciprocal trade agreements risk reinforcing unequal bargaining power and restricting Thailand's policy space beyond multilateral commitments

The increasing use of bilateral, regional and reciprocal trade agreements to establish rules that go beyond existing multilateral obligations raises broader human-rights concerns, particularly where differences in economic and negotiating power may restrict Thailand's policy space.

Collective leverage in multilateral negotiations:
Multilateral trade negotiations provide a forum in which countries collectively develop common rules. Although power imbalances also exist in multilateral negotiations, developing countries have greater opportunities to coordinate positions, form negotiating coalitions and collectively defend shared interests.

This UPR Factsheet was prepared by FTA Watch, BioThai, Thai Business and Human Rights Network, Manushya Foundation and the Thai CSOs Coalition for the UPR and UN Mechanisms

REALITIES ON THE GROUND

Challenges	Case, Facts, and Comments

Greater power asymmetries in bilateral negotiations:

Bilateral negotiations can involve more pronounced imbalances in economic and negotiating power, particularly where an individual developing country negotiates with a substantially larger economy. These power asymmetries can become particularly significant where bilateral agreements are used to seek commitments beyond standards already agreed at the multilateral level.

Cross-sector and long-term impacts on policy space:

This concern is relevant to areas including intellectual property, access to medicines, government procurement, pharmaceutical regulation, agriculture, and digital trade. Commitments accepted through bilateral agreements can restrict domestic policy space for many years and may be difficult to reverse. The weakening or paralysis of multilateral negotiating processes should not become a justification for shifting international rule-making into bilateral arrangements where differences in bargaining power may be more pronounced.

This underscores the importance of a fair, transparent, inclusive and development-oriented multilateral trading system that preserves the rights, flexibilities and safeguards available under existing international agreements. Responsibility should not rest on Thailand alone. Trading partners, particularly those with greater economic and negotiating power, should refrain from seeking commitments beyond existing international obligations where these could undermine human rights or restrict public-interest policy space. Thailand, in turn, should not accept such commitments.

UN experts on who trade agreements should serve, September 2026: Recalling the report of the Special Rapporteur on the right to development on participation in development (A/HRC/63/32, para. 68), the UN experts stressed that trade negotiations should "engage the ultimate intended beneficiaries of such agreements, namely, people and communities, and not merely investors."

RECOMMENDATIONS

1. On Challenge 1: Guarantee transparency, public participation and binding human rights impact assessment of FTAs

1.1	In line with the 2017 Constitution's guarantees under Sections 41 and 59, and drawing on Section 190 of the 2007 Constitution, adopt legislation and Cabinet directives that require the negotiating text, positions and concessions of Thailand in all FTA and investment negotiations to be disclosed to Parliament and affected communities before signature.
1.2	Establish a binding requirement for an ex ante human rights, gender, environmental and health impact assessment of every FTA and investment agreement, conducted in consultation with farmers, patients, workers, women, Indigenous Peoples, LGBTIQ+ persons, migrant workers, and consumer groups, and published before conclusion of negotiations. Such assessments should also cover the cumulative and long-term impacts of trade and investment commitments, regardless of the form of agreement or arrangement through which they are made.

For more information, evidence and data, please contact:
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RECOMMENDATIONS

1.3	Establish a permanent parliamentary oversight mechanism for FTAs, including quarterly reporting during active negotiations, with clear procedures for civil society testimony and for reviewing individual chapters before signature.
1.4	In response to the September 2026 petition by 146 civil society organisations, ensure that the responsible ministries publicly clarify Thailand's positions on UPOV 1991, TRIPS-plus, digital trade, alcohol control, agricultural chemicals, remanufactured products, plastic waste and electronic waste in the Thailand-EU FTA before any deal is signed.
1.5	Do not treat a 2026 conclusion or signature of the Thailand-EU, Thailand-South Korea or ASEAN-Canada FTAs, or the Thailand-US Agreement on Reciprocal Trade (ART), as an objective in itself. Before concluding negotiations or signing any agreement, publish the proposed text with sufficient time for meaningful parliamentary scrutiny, public participation and independent assessment of its long-term human rights, health, gender, environmental, social and economic impacts. Commitments accepted under time pressure must not compromise Thailand's ability to protect human rights and regulate in the public interest.
1.6	Ensure transparency, meaningful parliamentary scrutiny, public participation and independent human-rights, health, social and economic impact assessments throughout the Thailand-U.S. ART negotiations. Negotiating mandates, proposed commitments and negotiating texts should be disclosed early enough for Parliament, affected communities and civil society to scrutinise and influence them before negotiations are concluded or the agreement is signed.

2. On Challenge 2: Protect farmers' rights, food sovereignty and biodiversity, including for rural and Indigenous women

2.1	Refuse any commitment in the Thailand-EU FTA or other negotiations that would require Thailand to accede to UPOV 1991, or to amend the Plant Variety Protection Act B.E. 2542 (1999) or any other domestic law to conform with UPOV 1991 or produce equivalent practical effect, and seek the removal of any reference to UPOV 1991 from the Thailand-EU FTA, as urged by UN Special Procedures in September 2026 (OL THA 6/2026; OL OTH 81/2026).
2.2	Sustain and expand funding to protect Thai farmers from unfair foreign competition, and preserve the Plant Variety Protection Act's balance between plant breeders' rights and the rights of farmers, local communities and Indigenous Peoples over indigenous plant varieties and genetic resources, including requirements on disclosure of origin, prior informed consent and statutory benefit-sharing.
2.3	Guarantee the meaningful participation of farmers, rural communities, Indigenous Peoples – including Indigenous, ethnic minority, Isaan and Malay Muslim women who play the central role in seed saving – in the drafting and negotiation of any FTA provision affecting seeds, plants, biological resources or agriculture, including through consultation and cooperation in good faith before Thailand accepts international commitments affecting their rights.
2.4	Uphold Thailand's obligations under the Convention on Biological Diversity, ratify the International Treaty on Plant Genetic Resources for Food and Agriculture, which Thailand has signed but not ratified, preserve Thailand's sovereign policy space under the TRIPS Agreement to maintain its sui generis plant variety protection system, and reject provisions that would require Thailand to grant patents on plants, animals or essentially biological processes, which Article 27.3(b) of the TRIPS Agreement allows WTO Members to exclude from patentability, or undermine safeguards on genetic resources, prior informed consent and benefit-sharing.

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RECOMMENDATIONS

2.5	Adopt targeted measures to address the gendered impact of any commodification of seeds and genetic resources on rural and Indigenous women, including protection from distress migration, farmer debt and suicide risk documented in Thai and international literature.

3. On Challenge 3: Protect the right to health, access to affordable medicines and medicine security

3.1	Refuse to accept TRIPS-plus provisions in the Thailand-EU FTA or any other negotiation, including patent term extensions beyond the 20 years required under the WTO TRIPS Agreement, data exclusivity, market exclusivity, patent linkage, and broader patentability of plants, animals and biological processes.
3.2	Explicitly safeguard Thailand's full right to use the full range of flexibilities available under the WTO TRIPS Agreement and the Doha Declaration on the TRIPS Agreement and Public Health, including but not limited to compulsory licensing and government use, appropriate patentability standards, pre-grant opposition, regulatory review/Bolar exceptions, and other TRIPS-consistent measures that support generic competition and access to affordable medicines, without additional trade-agreement restrictions or procedural requirements.
3.3	Publicly release and act on the 2025 Thai FDA, National Health Commission Office and academic network study which projects that the EU's IP proposals would delay generic entry by 2-11 years and raise Thai drug expenditure by roughly THB 130 billion (10 years), THB 770 billion (20 years) and THB 3.7 trillion (30 years).
3.4	Protect Thailand's three public health insurance schemes – the Universal Coverage 30-Baht Scheme, the Social Security Scheme, and the Civil Servant Medical Benefit Scheme – from IP-driven cost pressure, including through public reporting to Parliament on the anticipated fiscal impact of every FTA on each scheme before signature.
3.5	Ensure that trade and investment agreements do not create or extend pharmaceutical monopolies beyond Thailand's existing international obligations where doing so would delay generic competition, increase medicine prices, restrict equitable and timely access to essential medicines or undermine Thailand's ability to fulfil the right to health.
3.6	Do not accept TRIPS-plus pharmaceutical intellectual property obligations or other ART commitments that could delay generic competition, restrict access to affordable medicines, constrain the use of TRIPS flexibilities or undermine Thailand's ability to protect public health. Any pharmaceutical regulatory commitments should preserve the Thai FDA's independent authority to determine requirements necessary to ensure the quality, safety and efficacy of medicines and medical products.
3.7	Before accepting TRIPS-plus intellectual property obligations through an FTA, ART or other bilateral trade arrangement, Thailand should assess their implications under the MFN principle of the WTO TRIPS Agreement, including whether additional intellectual property advantages may have to be extended to nationals of other WTO members, and evaluate the resulting impacts on generic competition, access to affordable medicines, public-health expenditure and the right to health.
3.8	Ensure that commitments on government procurement and other relevant trade rules preserve Thailand's ability to protect public health and medicine security, including by securing affordable medicines and other essential goods, promoting generic competition, diversifying sources of supply, strengthening domestic pharmaceutical and other productive capacity, supporting SMEs, responding to medicine shortages, supply-chain disruptions and public-health emergencies, and pursuing sustainable social and economic development.

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RECOMMENDATIONS

3.9	Ensure that intellectual property enforcement provisions in FTAs and other trade agreements do not go beyond Thailand's international obligations in ways that interfere with legitimate trade, competition, human rights, access to affordable medicines or other public-interest objectives. Enforcement measures should be proportionate, subject to due process and safeguardts against abuse, and preserve sufficient judicial discretion to take human-rights and public-interest considerations into account.
3.10	Ensure that border-enforcement measures do not result in the inappropriate detention or seizure of legitimate generic medicines or other lawfully traded goods, including goods in transit, and that trade rules clearly distinguish counterfeit or falsified products from legitimate goods involved in intellectual property disputes.

4. On Challenge 4: Preserve regulatory space for public health, digital rights, environmental and consumer protection, and labour rights

4.1	Ensure that trade commitments preserve Thailand's ability to adopt, maintain and strengthen effective measures to prevent and reduce alcohol-related harm, including taxation, labelling requirements, restrictions on advertising, promotion and sponsorship, and other evidence-based public-health measures. The potential effects of tariff reductions on alcohol prices, affordability, consumption and related health and social harms should be independently assessed before further tariff-liberalisation commitments are made.
4.2	Preserve Thailand's regulatory authority over tobacco-control measures, including tax and price measures, marketing and advertising controls, warning labels and other public-health measures, and refuse trade commitments that would constrain this authority.
4.3	Ensure that digital trade commitments preserve Thailand's ability to adopt, maintain and strengthen measures necessary to protect human rights and the public interest, including measures concerning privacy and personal data, consumer protection, competition, taxation, cybersecurity, artificial intelligence, digital platforms and emerging technologies. Thailand should avoid commitments that unduly restrict its ability to respond to future technological developments and emerging public-interest concerns.
4.4	Retain full regulatory authority to set standards for, inspect, license or ban the import of agricultural chemicals, second-hand and remanufactured products, plastic waste, electronic waste, and materials contaminated with hazardous substances; require reciprocal commitments from FTA partners not to export to Thailand pesticides and hazardous chemicals that are banned or revoked in their own jurisdictions.
4.5	Reform the Labour Relations Act B.E. 2518 (1975) and the Labour Protection Act B.E. 2541 (1998) in consultation with unions and labour groups, in line with ILO Conventions Nos. 87, 98, 189 and 190 and the UN Guiding Principles on Business and Human Rights, and integrate a formal supply chain accountability mechanism into FTAs enabling workers and unions to resolve violations involving foreign companies and supply chains.
4.6	Ensure that women, LGBTIQ+ persons, migrant workers, Indigenous and rural communities are meaningfully consulted on FTA chapters affecting public health, environment, labour, digital rights and consumer protection, and that provisions do not undermine gender equality, non-discrimination or the rights of marginalised groups.

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RECOMMENDATIONS

5. On Challenge 4: Preserve regulatory space for public health, digital rights, environmental and consumer protection, and labour rights

5.1	Do not include ISDS provisions in the Thailand-EU FTA or other future FTAs and investment agreements; if investor-state disputes must be provided for, use State-to-State dispute settlement or a permanent multilateral investment court, subject to human rights and environmental obligations.
5.2	Sign, ratify and enforce the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration (Mauritius Convention) to open existing ISDS proceedings, including under TAFTA to public scrutiny.
5.3	Review and, where possible, terminate or renegotiate existing bilateral investment treaties and FTA investment chapters that include broad ISDS clauses, including TAFTA, to ensure that human rights, environmental, indigenous and public health obligations of the State are prioritised over investor protection.
5.4	Draw operational lessons from the Kingsgate v. Thailand case (PCA 2017-36) and from the 24 March 2026 Ratchada Civil Court ruling against Akara: strengthen the domestic judicial route for corporate accountability for environmental and human rights harms, and ensure that the reopening or continued operation of extractive projects during arbitration does not become a de facto settlement.
5.5	Negotiate for effective remedies for people and communities harmed by investments under FTAs, including anti-SLAPP protections for defenders (in line with the draft Act on the Prevention of Strategic Litigation to Suppress Public Participation), and require that any investor benefiting from FTA protection be bound to substantive human rights, environmental and labour obligations under the UN Guiding Principles on Business and Human Rights.

6. On Challenge 6: Prioritise fair and inclusive multilateral trade rule-making and protect Thailand's policy space

6.1	Prioritise fair, transparent and inclusive multilateral approaches to international trade rule-making, particularly where proposed rules have broad implications for human rights and development. Thailand should avoid accepting through bilateral, regional or reciprocal trade agreements obligations that exceed its multilateral commitments where they could restrict policy space, undermine human rights or weaken its ability to protect public health and pursue sustainable development.

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