

THE IMPLICATION OF COMPLIANCE WITH THE AGREEMENT ON TRADE
RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPS) FOR
THAILAND'S DEVELOPMENT: FOCUSING ON PLANT PROTECTION

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Abstract

The problem of intellectual property protections has been seriously discussed since the first launch of intellectual property negotiations within the framework of the General Agreement on Tariffs and Trade (GATT). These discussions have particularly centered on negotiations with regard to the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) in the eighth round of the GATT negotiations. This round is often referred to as the Uruguay Round. Most of the Association of South East Asian Nations (ASEAN) countries, such as Indonesia, Malaysia, and Thailand, are members of the GATT.

In my paper I use Thailand as a primary example in my argument that developing countries have been pressured to comply with many intellectual property rights stipulated in the TRIPS agreement on issues that seem to benefit developed countries, such as the U.S. and EU more than developing countries for a long time. The question I pose in this paper is then how can countries like Thailand now comply with the TRIPS agreement for their own sake. For example, I believe that issue of plant protection would greatly benefit Thailand. Specifically I believe that the protection of plant varieties as designated in Article 27 of the TRIPS Agreement. The wording of Article 27 of the TRIPS agreement is mostly ambiguous, especially in paragraph 3(b) vis-à-vis a sui generis system of protection for plant varieties. It is my interpretation that a sui generis system in this sense includes the plant breeders' rights system stipulated in the International Union for the Protection of New Plant varieties (UPOV). Several ASEAN countries, for example, Indonesia, Malaysia, and Thailand use UPOV as a model to enact their Plant Variety Protection legislation. Because these countries could use the same basis of protection, in the TRIPS review of Article 27 in the 1999 negotiating meetings, they could act as a collective group. More specifically, their group action as ASEAN members will give them stronger power in the negotiations vis-à-vis the issue of plant variety protection.

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