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Comprehensive Development Strategy to Meet TPP

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Edited by

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Preface

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On 24 February, 2016 IDE-JETRO organized a joint international symposium with TDRI and ERIA on “TPP and the Creation of the New World Trading System”, in Bangkok. Three suggestions are obtained from the symposium. First, institutional measures and domestic reforms are necessary for joining TPP. Second, it is necessary to explore comprehensive development strategy to take advantage of TPP. Last, it is necessary to hold a large number of consultations and explanation seminars to understand and share TPP with stakeholders.

Recognizing the above, during the period of the fiscal 2016, the Bangkok Research Centre (BRC), IDE-JETRO, conducted the research project “Comprehensive Development Strategy to Meet TPP,” The research project aims to reply to the following research questions: What are key elements of trade and investment rules of TPP? What economic institutional reforms will be necessary for Indonesia, the Philippines, and Thailand joining TPP? Is TPP necessary for the LDC ASEAN countries? What is a comprehensive development strategy to meet and take advantage of TPP?

We met together a full day meeting on 13 October 2017 and on 7 February 2018 to exchange knowledge and information each other.

On 14 October, we had an open seminar, titled “Sharing Experiences of Malaysia and Vietnam to Meet TPP” at the JETRO Bangkok. Nearly 40 persons from the Ministry of Commerce, the Ministry of Foreign Affairs, the Foreign Chamber of Commerce, the universities, participated in the seminar although it was the day when the King Rama 9 passed away and the traffic was seriously bad. Two research project members, Steven Won Cheng Ming, the ISIS, Malaysia and Vo Tri Thanh, the CIEM, Vietnam, briefed about how each country are preparing to comply the TPP Agreement. Through the discussion with the participants, there are two things to be noted. Firstly, the TPP requires a large number of the amendments of laws and regulations to comply the Agreement. The TPP promotes regulatory reform. Second, the issue of intellectual property rights, in particular, patent protection for pharmaceutical products, is not serious in Malaysia and Vietnam, compared to Thailand where the NGOs have strongly opposed to the TPP.

After the first meeting, Donald Trump became the President of the United States, and declared the US's withdrawal from the TPP as he pledged in the campaign for the presidency.

For this, the second research meeting, on 7 February 2017, discussed the Trump's "America First" policy, and on 8 February 2017, the BRC, IDE-JETRO organized the international symposium, titled *ASEAN's Trade and Investment Under the TRUMP's "America First" Policy* where 236 persons participated at the Intercontinental Hotel, Bangkok. Somkiat Tangkitvanich (TDRI), Naris Chaiyasoot (Thammasat Institute of Area Studies), Hikari Ishido (University of Chiba), Junji Nakagawa (University of Tokyo), Deborah Elms (the Asian Trade Centre, Singapore), Yoshitaka Yamamuro (AMEICC Secretariat), Krisda Piampongsant (Thai Chamber of Commerce), Steven Wong Cheng Ming (ISIS Malaysia), Vo Tri Thanh (CIEM, Vietnam) were speakers and panelists. The second research meeting and the international symposium can be summarized as follows:

- (1) The plurilateral FTAs is better than bilateral FTAs with the United States for Asia;
- (2) The Trump's "America First" policy seeks the fair trade in terms of tariff level, as well as the reciprocal trade in terms of trade balance
- (3) The United States withdrew from the TPP, and will not back;
- (4) After the US's withdrawal from TPP, the TPP-11 should be agreed by the amendment of the Chapter 30 of the TPP Agreement;
- (5) Other countries, such as Indonesia, the Philippines, and Thailand, should enter the TPP-11 in near future;
- (6) At the same time, Asia should pursue high level and comprehensive RCEP;
- (7) The TPP should be an template for the RCEP;
- (8) In reality, however, the early conclusion of the RCEP is necessary as an early harvest;
- (9) Regulatory reform including intellectual property is necessary for inviting investment

This report contains 11 chapters as below. The Part I consist of four chapters which discuss trade and investment rules of the TPP Agreement. Focusing on Thailand, the Part II discusses what regulatory reforms are necessary for joining the TPP. Part III introduces the experience of Malaysia and Vietnam as the TPP Agreement signatory countries, and the possibility of the Myanmar's participation in the TPP.

Part I (Features of TPP)

Chapter 1: From TPP to the “America First” Trade Policy (Daisuke Hiratsuka)

Chapter 2: Possible Impact of TPP on Trade in Goods in Asia (Kohei Shiino)

Chapter 3: Liberalisation of the Trade in Services in ASEAN, China, and the TPP Negotiating Members (Hikari Ishido)

Chapter 4: Overview of the Trade and Investment Rules in TPP Comparative Analysis (Shintaro Hamanaka)

Part II (The Regulatory Reforms and Issues for Thailand Joining the TPP)

Chapter 5: Intellectual Property Harmonisation under the Trans-Pacific Partnership Agreement: Issues and Challenges (Jakkrit Kuanpoth)

Chapter 6: SOE Reform in Thailand: Preparing for Free Trade Agreements (Deunden Nikomborirak)

Chapter 7: Whether the Competition and Consumer Protection Laws in Thailand Comply with the Requirements of Chapter 16 (Competition Policy) of the TPP (Sakda Thanitcul)

Chapter 8: Thai Firms’ Response to the TPP: Results of Interview Survey (Somkiat Tangkitvanich and Saowaruj Rattanakhomfu)

Part III (Experiences of TPP Members and the Potential TPP Members)

Chapter 9: Malaysia’s Participation in the Trans-Pacific Partnership Negotiations: Reflections for the Future (Dato’ Steven CM Wong)

Chapter 10: Vietnam’s Comprehensive Development Strategy to Meet TPP (Vo Tri Thanh)

Chapter 11: Reconsidering the Dawei development: Road, border gate, and peace (Toshihiro Kudo)

The above Chapters recommends the following things:

- (1) The TPP’s plurilateral approach can be defined as “Going hand in hand together”;
- (2) The Trump’s “America First” trade policy would create an American hub and the others spoke structure;
- (3) If one country starts bilateral trade negotiations with the United States, due to the domino effect, the American hub and the others spoke structure will soon follow;
- (4) TPP will substantially eliminate tariffs or create trade in goods largely between the Asia-Oceania countries and North American countries;
- (5) The positive impact of the TPP will be larger on trade to the U.S;
- (6) Firms will choose the TPP instead of existing the FTAs because the TPP tariff margins are greater than those of the existing FTA, the goods can meet ROO using the broader accumulation basis of TPP, and firms may prefer the self-certification system of TPP to the third-party certification system;
- (7) ASEAN has been opening up its service sector; however, it needs further service liberalization, when compared with TPP, which will achieve a positive economic

impact in the region;

- (8) Comparing the TPP obligations against the WTO's rules and those under existing FTAs, only when these obligations go beyond the existing obligations, can we say that the TPP has created new obligations;
- (9) The TPP investment negative list approach is in sharp contract with GATS' positive list approach;
- (10) The prohibition of performance requirement is another important element in the TPP investment. The prohibition of performance requirement under TPP is applicable not only to the investment by an investor of a party but also of a non-party;
- (11) The TPP employs higher standards of IP protection than required in the WTO Trade-Related Aspects of Intellectual Property Rights (TRIPS), but the TPP IP issues may harm generic manufacturer and hinder accessibility to essential medicines for Thailand, because requirements on data exclusivity will create entry barriers accessing clinical and test data for generic medicines, as well as patent term extensions for compensation for delays in granting patents;
- (12) Current the Thai domestic rules and regulations governing SOEs provide unfair advantages to enterprises of the state in comparison to their private counterparts, if benchmarking against the TPP standards;
- (13) Thailand needs to overhaul its SOE sector that is both inefficient and vulnerable to political interventions;
- (14) The Competition Act and the Consumer Protection Laws in Thailand comply with the requirements of the TPP, with the exception of the requirement in Article 16.2 (5), which gives its national competition authority to resolve any alleged violations voluntarily, and Thailand will be able to comply the requirement of the TPP;
- (15) The firms interviewing survey finds that most Thai firms believe that they would not be affected or at most marginally affected by the implementation of the TPP. This is due to the fact that many firms have zero or low export value to the U.S.;
- (16) The Thai business community strongly supports Thailand to become a member. They seem to worry that, without a TPP membership, Thailand would have difficulties attracting foreign direct investment (FDI) and positioning itself to be a major production hub in ASEAN;
- (17) A majority of Thai business leaders view that the U.S.'s withdrawal from the TPP provides breathing space for Thai firms, and at the same time they worry that

rising protectionism under the Trump Administration;

- (18) In its TPP negotiations, Malaysia had to venture far beyond its comfort zone and usual modus operandi due to the comprehensive, complex and multidimensional nature of the agreement;
- (19) Malaysia's five-year seven-months experience in TPP negotiations may offer interesting and possibly valuable reflections, both for itself and countries wishing to negotiate any future agreements;
- (20) FDI inflows to Vietnam are to increase considerably so as to take advantage of the new opportunities and incentives induced by TPP and RCEP, and the fulfilment of TPP and RCEP commitments will help build a transparent and competitive investment environment in Vietnam, although the gap between requirement of new-generation FTAs (such as TPP and RCEP, not to mention EU-Vietnam FTA, etc.) and actual capacity of Vietnam remains material;
- (21) The development of the road connecting Dawei and the Thai border will activate the local economy. The economic effect of the road will be enhanced by the development of "Border gates", including liberalisation of the border control on the movement of people and agricultural trade, as well as the improvement of border measures.