

[ENGLISH TRANSLATION]

29 June 2026

Subject: Support for Thailand's Position to Reject TRIPS-plus Provisions in the Thailand–European Union Free Trade Agreement Negotiations

To:
The Prime Minister of Thailand

CC:
Minister of Public Health
Permanent Secretary, Ministry of Public Health
Secretary-General, Thai Food and Drug Administration

Dear Prime Minister,

We, the undersigned civil society organisations and academics working to promote access to medicines in Thailand, would like to express our appreciation for the continued efforts of the Thai trade negotiating team, particularly the Ministry of Public Health and the Thai Food and Drug Administration, to safeguard Thailand's public health interests in the ongoing negotiations for the Thailand–European Union Free Trade Agreement (FTA).

This position is fully consistent with Thailand's longstanding public health policy under Universal Health Coverage, the resolutions of the National Health Assembly, and Thailand's commitments under the Doha Declaration on the TRIPS Agreement and Public Health, all of which recognise the importance of protecting public health and ensuring access to essential medicines.

We understand that the European Union continues to propose intellectual property provisions that go beyond the requirements of the WTO TRIPS Agreement (TRIPS-plus) in the Thailand–EU FTA negotiations. These proposals could have significant implications for access to medicines and Thailand's public health system.

We strongly support Thailand in maintaining its position of rejecting the European Union's TRIPS-plus proposals, including pharmaceutical regulatory data protection (Data Exclusivity), market exclusivity (Market Exclusivity), patent term extensions in the form of Supplementary Protection Certificates (SPCs), and other intellectual property obligations that exceed the requirements of the TRIPS Agreement, including provisions relating to government procurement. These TRIPS-plus measures are unnecessary in the Thai context and may have significant adverse consequences for access to medicines, the sustainability of Universal Health Coverage, domestic pharmaceutical manufacturing, Thailand's medicine security, and the country's policy space to protect public health and ensure timely access to essential medicines.

According to the 2025 impact assessment jointly conducted by the Thai Food and Drug Administration, the National Health Commission Office, and academic partners, the European Union's proposals could delay the market entry of generic medicines by at least two years and potentially as long as eleven years. The study further estimates that these measures could increase Thailand's pharmaceutical expenditure by approximately THB 130 billion over 10 years, THB 770 billion over 20 years, and THB 3.7 trillion over 30 years.

We also believe that the argument for granting patent term extensions to compensate for delays in marketing approval is not appropriate in the Thai context. Over recent years, the Thai Food and Drug Administration has continuously improved its regulatory procedures and significantly enhanced the efficiency and timeliness of the drug registration process. There is therefore no justification for granting additional monopoly protection through patent term extensions to compensate for regulatory delays.

Furthermore, the Ministry of Public Health and the Thai Food and Drug Administration already comply with the TRIPS Agreement with respect to the protection of pharmaceutical regulatory data. The Thai Food and Drug Administration does not disclose the registration data submitted by originator companies to generic medicine applicants. In addition, the bioequivalence studies submitted by generic manufacturers are conducted by comparing their products with the originator medicine, using information that is already publicly

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available. The European Union should therefore not use data protection as a justification for requiring the Thai Food and Drug Administration—which is responsible for ensuring the safety, quality, and efficacy of medicines—to refuse, delay, or otherwise restrict the acceptance, review, or approval of generic medicine applications.

Accordingly, the European Union should not seek to impose TRIPS-plus obligations on this basis, as such measures do not provide any additional public health benefits, nor do they improve the safety, quality, or efficacy of medicines. They also do not contribute to more timely access to medicines for the public.

We recognise the potential benefits of improving transparency and public access to pharmaceutical patent information. In this regard, we support Thailand in pursuing appropriate mechanisms to enhance transparency and legal certainty concerning pharmaceutical patent status through suitable patent information and regulatory information systems. However, such mechanisms should not create a patent linkage system or any other measures that delay the review or approval of generic medicines or impose additional burdens on the Thai Food and Drug Administration in determining patent status.

At the same time, international developments continue to reinforce the need for caution. Various stakeholders, including the European Parliament itself, have repeatedly expressed concern about the impact of TRIPS-plus measures on access to medicines. Meanwhile, continuing uncertainty in the global economic and trading environment further suggests that Thailand should not rush to conclude the negotiations by accepting intellectual property obligations that go beyond the TRIPS Agreement.

For all of the reasons set out above, we strongly encourage the Thai negotiating team, particularly the Ministry of Public Health and the Thai Food and Drug Administration, to remain steadfast in maintaining Thailand's position of rejecting all forms of TRIPS-plus provisions in the Thailand–European Union Free Trade Agreement negotiations. We also encourage the negotiating team to exercise the utmost caution when considering any intellectual property proposals that may adversely affect access to medicines, public health, and Thailand's medicine security.

We would be pleased to discuss these issues further and to provide any additional information or technical support that may be helpful.

Yours sincerely,

Ms. Kannikar Kijtiwatchkul

On behalf of the undersigned civil society organisations and academics working on access to medicines

FTA Watch (Thai FTA Watch)
Thai Network of People Living with HIV/AIDS (TNP+)
Drug System Monitoring and Development Center (DSMD)
Foundation for Public Health and Development (FPHD)