

**Submission on proposed Thailand-New Zealand
Closer Economic Partnership (CEP)**

Council for International Development (CID)

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1. The Council for International Development represents 63 New Zealand-based non-government organisations working in international development. Although Thailand is not a major focus for New Zealand NGOs, several of our member organisations do support partner organisations in Thailand.

CID's policy on international trade and trade liberalisation

2. In 2003, CID produced a policy statement on international trade and trade liberalisation. This policy, which was developed through a process of discussion and consultation with our member organisations, established the framework of principles and analysis that CID uses for submissions on the New Zealand government's trade policies.

3. The following principles from CID's trade policy seem most relevant to the proposed Thailand-New Zealand CEP:

- International trade rules should promote sustainable development and poverty reduction in developing countries.
- International trade should benefit the poorest sectors of society, including women, children, and people affected by discrimination or social exclusion.
- Developing countries must retain the flexibility to employ a mix of policies appropriate to each country's circumstances and level of development, and should not be pressured into opening their markets. They require special and differential treatment within international trade rules if development goals are to be achieved.
- Decisions by developing-country governments about all aspects of their trade policies should be made with the involvement of civil society (particularly the poorest sections of society), and trade negotiations should allow ample time for such involvement.
- Food security must be given top priority, and must be protected in all trade rules and policies relating to agricultural exports and imports.
- Investment in developing countries by transnational corporations can be complementary to, but cannot be a substitute for, the development of sustainable, locally-owned enterprises.
- International trade must be environmentally sustainable.
- International trade rules must not undermine human rights obligations or internationally-agreed labour standards.

Multilateral versus bilateral agreements

4. CID notes the statement in the information paper on the proposed CEP that trade liberalisation through the WTO remains New Zealand's primary trade policy objective, but that bilateral CEPs play an increasingly important role, and that such

agreements can open up important new market access opportunities for New Zealand exporters.

5. CID's trade policy is very critical of the serious inequities that currently exist in the multilateral system governed by the World Trade Organisation. We will continue to urge the government to work for the elimination of these inequities. At the same time, we believe that a proliferation of bilateral agreements could put developing countries at an even greater disadvantage as they will lose the strength in numbers that they possess at the WTO. A trend towards bilateralism raises the prospect of some developing countries receiving more favourable treatment than others, and of developing countries being compelled to make major concessions in exchange for quite limited gains in access to developed-country markets.

6. CID urges the New Zealand government to focus on working for a fairer deal for developing countries in multilateral negotiations, rather than on negotiating bilateral agreements with developing countries.

Agriculture

7. The Thailand country paper on MFAT's website¹ states that 41% of Thailand's labour force is employed in agriculture. It also explains that the agricultural sector is characterised by small and fragmented land holdings, and by modest technological inputs. The agricultural sector in Thailand is thus much more vulnerable than New Zealand's agricultural sector. While the development of new markets for agricultural exports is important for Thai farmers, it is also important that the Thai government should be able to take steps to protect its farmers. The devastating impact of avian influenza on the Thai poultry industry is a good example of the vulnerability of farmers in developing countries to natural disasters and other external shocks.

8. It is quite possible that an increase in exports of New Zealand agricultural goods to Thailand will have little or no effect on Thai agriculture, as for the most part New Zealand does not export products which compete with those produced by Thai farmers. The one area in which it seems that there may be some competition is dairy products. Thailand has 60,000 dairy farmers, and its dairy industry is heavily protected. At present the Thai dairy industry is meeting less than half of domestic demand, and there is limited production of the dairy products imported from New Zealand (milk powders, butter and cheese).² This suggests that New Zealand can increase its exports without adversely affecting the Thai dairy industry, but further analysis of the likely impacts is needed.

9. CID believes that the joint study on the proposed CEP must specifically address the possible effects of the CEP on poor farmers in Thailand. Furthermore, if a CEP is negotiated, it must protect the right of the Thai government to take steps to ensure that poor farmers are not further impoverished by competition from New Zealand agricultural products.

¹ <http://www.mfat.govt.nz/foreign/regions/sea/countrypapers/thailandpaper.html>

² <http://www.mfat.govt.nz/foreign/regions/sea/countrypapers/thailandpaper.html>

Privatisation

10. According to MFAT's Thailand country paper, Trade and Enterprise New Zealand has identified 'Public Sector reform, including privatisation of SOEs' as a sector in which there are opportunities for New Zealand companies to operate in Thailand. CID recognises the right of the Thai government to decide on a privatisation programme if this is in accordance with the wishes of the Thai people. However, we are aware that there have recently been major demonstrations by labour unions against electricity and water privatisation in Thailand, and that opinion polls have shown that a majority of Thais doubt the benefits of privatisation.³ We are concerned that the proposed CEP should not promote privatisation, nor should it constrain the Thai government's ability to regulate any privatisation that does occur. For example, the Thai government should be allowed to prevent foreign companies from acquiring privatised enterprises, should it wish to do so.

Labour rights

11. According to information from the International Confederation of Free Trade Unions⁴ and the Asia Monitor Resource Center,⁵ Thailand has provisions in its 1997 constitution protecting human rights, including labour rights, and also has laws governing the rights and conditions of workers. However, in practice these laws are very inadequately enforced. Child labour, including the worst forms of child labour, is a serious problem in Thailand, and there is poor enforcement of child labour laws. Although the right of Thai workers to organise and join trade unions is in theory protected, the reality is that there are no effective consequences for employers who violate the law. Consequently, Thai workers have been dismissed and even physically assaulted because they are union members. Some dismissed workers have later been reinstated, but reinstatement has taken as long as a year. In addition, public servants are prohibited from forming unions.

12. Thailand has not ratified ILO Conventions 87 and 98 on freedom of association and collective bargaining. (We note that New Zealand has also not ratified ILO Convention 87.) Two other ILO Conventions which form part of the internationally-recognised core labour standards have also not been ratified by Thailand: Convention 111 on discrimination in employment, and Convention 138 on minimum age of employment (which New Zealand has likewise not ratified).

13. In addition to general concerns about the rights of Thai workers, CID is particularly concerned about the situation of the large numbers of Burmese refugee workers in Thailand. These workers face very poor working conditions, often doing work that native Thais do not want to do. They have a very insecure existence, and have faced intimidation and even death for failing to pay protection money to

³ See www.thailabour.org; information from Public Services International at <http://www.world-psi.org/psi.nsf/f28f621e0471d228c125692200604e56/dc02b72d1492ed85c1256e4a005a3551?OpenDocument>; Watcharapong Thongrungs, 'Privatisation Setback: "Procedural Matter" Hits Egat Plan', *The Nation* (Thailand), 2 March 2004 (www.nationmultimedia.com)

⁴ 'Internationally Recognised Core Labour Standards in Thailand: Report for the WTO General Council Review of the Trade Policies of Thailand', 12 November 2003

<http://www.icftu.org/displaydocument.asp?Index=991218613&Language=EN>
⁵ www.amrc.org.hk/4601.htm; www.amrc.org.hk/4805

‘security’ firms operating in workplaces. There is some union organisation among Burmese workers in Thailand, but Thai law requires that union officials be Thai nationals. Lao and Cambodian workers in Thailand face similar problems. Child labour among foreign workers in Thailand is a major problem, with large numbers of children from Burma, Cambodia and Laos employed as domestic workers or working in the commercial sex industry.

14. The question of linking labour standards and trade agreements is a controversial one, with many developing-country governments arguing that attempts to link the two are simply a form of protectionism by developed countries. While this is a legitimate concern, CID considers that the core labour rights identified in the ILO’s Fundamental Principles and Rights of Work are basic human rights. Enforcement of these basic rights is not a luxury affordable only by rich countries, though developing countries may need assistance to build capacity in the application of labour laws. All countries must protect the right of workers to organise and bargain collectively, and the exercise of this right is essential to the achievement of improved working conditions.

15. CID notes that the New Zealand government’s ‘Framework for Integrating Labour Standards and Trade Agreements’ puts the core labour rights at the centre of the government’s trade and labour policy. This framework states that the government sees bilateral trade agreements as an opportunity ‘for dialogue and to co-operate on specific initiatives to improve employment outcomes’. The government prefers ‘dialogue and consensus ... to penalties and sanctions as a way of making progress on labour standards issues’.⁶

16. CID supports the government’s focus on core labour rights and on improving living standards and conditions of work in developing countries. We urge the New Zealand government to take a strong stand on promoting labour rights and standards. Discussion of labour issues as part of any negotiations for a Thai-New Zealand CEP should, as a minimum, include attention to:

- Enforcement of core labour rights in Thailand, including those that are already protected by the letter of the law. New Zealand may be able to provide Thailand with assistance to build capacity in this area.
- Ratification by Thailand of the four core ILO Conventions that have not already been ratified.
- Protection of Burmese refugee workers, and other migrant workers, from abuse and exploitation.

Parliamentary approval

17. If a Thailand-New Zealand CEP is negotiated, it should be subject to debate and approval by the parliaments of both New Zealand and Thailand. We note that the chairman of Thailand’s Senate foreign affairs committee has criticised the Thai

⁶ <http://www.mfat.govt.nz/foreign/tnd/wtonegotiations/labourframework.html>

government for failing to seek parliamentary approval before negotiating and signing free trade agreements.⁷

Conclusion

18. At this stage, CID is sceptical about the value of the proposed CEP for the poor in Thailand. We will read the joint study assessing the proposed CEP with interest, and may make a further submission at that point. We thank MFAT for the opportunity to provide a submission, and look forward to being kept informed of progress in the negotiations. We would also like to discuss our submission with the Trade Negotiations Division, and will be contacting you to arrange a meeting for this purpose.

⁷ Nophakhun Limsamarnphun, 'Watchdog: Bilateral Free Trade is a Game of High Stakes', *The Nation* (Thailand), 22 February 2004 (www.nationalmedia.com)