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The Impact of European Union's Environmental Policy in Thailand¹

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As the global environmental leader, the European Union (EU) has placed climate change and environmental protection at the front and centre of its external policy. This includes making environmental conditionalities an integral part of its bilateral negotiations with third countries, including Thailand.

However, while some claim that the EU's work on the environmental front is, thus far, the most progressive push towards enhancing global environmental compliance, some still believe that it is rather "much bark with little bite".¹ Against this backdrop, questions still remain regarding the factors determining the impacts of the EU's environmental policy.

On one hand, it is argued that institutional arrangements with the EU, such as free trade agreements (FTAs), tend to lead to meaningful improvement of environmental standards in Thailand following the cooperation. On the other hand, some believe that it is rather the

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government's policies and domestic preferences in Thailand that determine the extent to which they are willing and able to accept the EU's environmental standards. As such, the EU's environmental policy is arguably likely to lead to meaningful environmental standards improvement in Thailand, especially through citizen's involvement in influencing the policy-making and electoral process.

1. Issue Linkages in Bilateral Negotiations: The Case of EU's Environmental Conditionalities

Issue linkage is a long-existing tactic in international negotiations. This involves bringing together different, sometimes unrelated, issues onto the negotiation table to strike a balanced bargain and achieve mutually profitable outcomes.²

The EU policymakers are most definitely no stranger to this bargaining tactic, especially when trade-environment linkage is one of their external policy fortes. In recent years, non-trade issues such as human rights, labour and environment have become integral parts of the EU preferential trade agreements (PTAs) with developing countries. Prominent EU strategies include soft, incentivising, and non-sanctioning approaches that utilise intergovernmental dialogues and civil society involvement to encourage compliance.

Regarding trade-environment linkages, following the adoption of 2006 Global Europe Communication, the EU has expanded and deepened the linkages between trade and environment by incorporating legally binding and detailed environmental provisions in all upcoming PTAs with developing countries to increase environmental compliances beyond the World Trade Organization (WTO).³ This, of course, applies also to the up-and-coming FTA negotiations with Thailand.

2. Institutional Context of Trade-Environment Linkages

One determinant of the effectiveness of the EU's trade-environment linkages is the extent to which it is institutionalised in the relationship between the EU and its partners. This is due to several reasons. First, institutionalised relationship can foster common knowledge that concessions can be traded across different issue areas, thereby facilitating the alignment of players' preferences and encouraging compromises in linked matters.⁴ Second, institutional context helps level the playing field between actors with different capabilities. In simpler words, institutions can prevent bigger players from making excessive demands while providing platforms for smaller players to be treated as equal partners under the same rules.⁵ This suggests that linkage negotiations can be more acceptable to both sides within an institutional context. Third, institutionalised negotiations can enhance the credibility of issue linkages. This is because publicised issue linkages stand higher chance of sustaining deep and meaningful cooperation as they generate higher reputational costs of defection for negotiators should they breach the commitments.⁶

For Thailand, its relationship with the EU is characterised as the case of unfinished institutionalisation. This came as a result of Thailand's political volatility which led to an uneven institutional relationship with the EU. During 2010-2014, Thailand-EU relation was smooth under two consecutive democratically-elected Prime Ministers. Their bilateral relationship was especially solid in 2013 when the Partnership and Cooperation Agreement (PCA) – representing the institutional anchor for the overall Thai-EU cooperation in areas of politics, economics, and environment – was initialled, and the discussion on Free Trade Agreement (FTA) was first raised on the table.⁷ These positive momentums, however, were frozen during 2014-2019 following the 2014 coup d'état and five consecutive years of military government. During this period, the EU suspended the majority of its cooperation with Thailand, including the signing of PCA and

initiating FTA negotiation. The Thai-EU relation resumed after Thailand's general election in 2019, leading to long-overdue renegotiation and conclusion of the draft Thai-EU PCA in December 2022, representing the institutionalisation of project-based environmental cooperation under one framework for the first time.⁸

2.1 Uninstitutionalised Trade-Environment Linkages (2010-2021)

Despite the absence of an institutional framework to govern Thai-EU environmental cooperation, trade-environmental linkages still serve as the EU's tool to impose environmental standards on Thailand. The overall Thai-EU environmental cooperation is vastly based on sector-specific cooperation projects. Prominent examples include joint efforts to curb deforestation and illegal logging through the attempted negotiation of the Forest Law Enforcement, Governance and Trade Voluntary Partnership Agreement (FLEGT-VPA) during 2013-2021⁹ and the efforts to combat illegal, unreported, and unregulated (IUU) fishing to protect marine biodiversity and improve labour standards from 2018 onwards.¹⁰ Failure to comply with the European standards on these issues would mean that the products in question will be banned from the EU's market.

As of today, the emphasis on trade-environment linkage has been placed on the convergence of the European Green Deal (EGD) adopted in 2019 as part of the EU's external policies, putting forth stricter environmental standards for products entering its market, and Thailand's Bio-Circular-Green (BCG) economic model announced in 2021, aiming to promote sustainable growth and overall green transition in Thailand. Given the EU's strong environmental conditionalities, Thailand's prospect of accessing the EU's market after the EGD adoption rests upon the ability of Thai businesses to adapt and meet the EU's environmental standards in three key aspects. This encompasses deforestation-free product regulation, carbon border adjustment

mechanism, and compulsory business due diligence on social and environmental standards across supply chains.¹¹

2.2 Unfinished Institutionalisation of Environmental Cooperation (2021-2024)

The efforts to institutionalise the Thai-EU environmental cooperation were reinvigorated in mid-2021 following the restart of PCA renegotiation, which was finalised and signed in December 2022. Despite this progress, Thailand is the sixth ASEAN country to conclude the PCA with the EU, relatively behind its neighbours and competitors in establishing institutionalised cooperation with the EU.¹² Under this regional competitive pressure, especially with Vietnam's global expansion of institutionalised relations,¹³ the Thai-EU PCA is set to finally establish an institutional framework in the form of "Joint Committee" – comprising high-level representatives from both sides – to ensure that obligations under the Agreement are fulfilled.¹⁴

Environmental cooperation represents one of the most detailed fields of cooperation laid out in the PCA. Its implementation, however, remains loose. Here, environmental cooperation is mentioned in the Preamble, dedicated standalone Articles, and aims of cooperation in other related fields such as energy, ocean governance, technology, and transportation.¹⁵ Nevertheless, two speculations arise on the institutionalisation of the Thai-EU environmental cooperation as follows. First, although environmental cooperation under the PCA represents an important step towards accelerating the green transition in Thailand and allows the country to keep up with its peers institutionally, the language is still kept broad, neutral, and in accordance with existing environmental obligations already applicable to Thailand. Despite bringing together separate cooperation areas such as circular economy, emission reduction, energy, biodiversity, and sustainable management of resources, including forestry and marine, the PCA does not oblige Thailand to commit further beyond its existing obligations under the United Nations Framework

Convention on Climate Change (UNFCCC), the Paris Agreement, and the Sustainable Development Goals (SDGs), which are universal and quite generic.¹⁶

Second, concerning the fulfilment of the PCA's obligations, no linkage is made between environmental compliance and trade relations. Although Thailand's possible failure to comply with the PCA's environmental obligations may result in possible "appropriate measures" taken by the EU, it is strictly based on prior consultations between both Parties and limits within the scope of the PCA.¹⁷

3. Sub-system Context of Trade-Environment Linkages

Recognising that bargaining outcomes of international agreements cannot be considered in isolation from domestic politics, another determinant of the effectiveness of trade-environment linkage is the preferences of domestic actors, which differ across different governments. This is because policy-makers, representing as negotiators, are not only obliged to secure favourable deals on international front, but also to satisfy the preferences of domestic actors to ensure successful ratification of the deal.¹⁸ This implies that meaningful civil society involvement can facilitate positive environmental changes in the EU's negotiating partners following the conclusion of EU PTAs where environmental obligations are linked to trade deals.¹⁹

In the case of Thailand, its environmental cooperation with the EU can be broadly described as the convergence of environmentalism and democratic movements. Unlike most European countries, Thailand's democracy is far from being mature. As a result, civil political participation may have been less robust compared to that under the Western paradigm.²⁰ However, Thailand is still much more open and inclusive than its neighbouring countries when it comes to citizens' influence on policy-making directions.

3.1 Thai Environmental Politics and Preferences of Key Stakeholders

Following the 2019 Global Climate Risk Index, Thailand was ranked as top ten countries most affected by climate change.²¹ Given the nationwide socioeconomic impacts of environmental risks, prominent stakeholders, including government officials, civil society, and businesses, have become increasingly vocal in pushing for the integration of environmental issues and climate actions into the national agenda.²² However, their preferences and the prospect of international environmental cooperation still depend on Thailand's overall political landscape, which constantly fluctuates between an attempt toward full democracy and military rule.²³

Thai environmental politics has always been characterised by the struggle for policy space between the government and different citizen groups.²⁴ Although political stakeholders – comprising the Cabinet and government agencies – represent the most powerful coalition in proposing, determining, and implementing environmental policies, their decisions on environmental policy direction cannot be considered in isolation from rural politics and environmental concerns.²⁵

Since the 1990s, early waves of environmental civil stakeholders – comprising the citizens, local communities, civil society, and non-governmental organisations (NGOs) – have been strengthened through the movements to secure land for rural communities. Since then, public engagement in determining environmental policy direction has been increasingly robust. As of the period studied, civil stakeholders' interests have grown to be the democratisation of environmental policies and direct participation in issues that directly affect their livelihoods. This also held true during 2014-2019 military rule. Although certain regulations during that time served as tools for the military government to silence environmental activists obstructing state-led resource extraction

and crony industrial schemes, environmentalist groups have utilised courts as channels to raise awareness, mobilise, and, to some extent, compel the government to take responsibility on environmental degradation.²⁶

Moreover, business stakeholders – consisting of prominent climate-vulnerable sectors such as agriculture and tourism – also play instrumental roles in influencing environmental policy direction due to their economic importance.²⁷ While not directly involved in the struggle for policy space, the agricultural and tourism sectors still represent two of Thailand’s biggest industries, contributing to roughly 50% of total employment combined.²⁸ With majority of climate-related problems resulting in unsustainable fluctuations of water supplies, those who engage in agricultural supply chains – ranging from local farmers, exporters, and domestic agri-food conglomerates – as well as local businesses whose incomes rely on tourist industries are likely to be direct victims of climate change. Given their economic importance and constituency weight, their interests and influences in urging the government to reduce emissions and take appropriate actions to curb climate change while allowing them to remain profitable are likely to be responded.²⁹

3.2 Government Policy Responses and Foreign Policy Implications

Being fully democratic or not, electoral pressure still compels Thai political stakeholders to satisfy the environmental preferences of both civil and business stakeholders. This entails policy responses on both domestic and international grounds. On the home front, multi-stakeholder participation in social aspects of environmental protection was incorporated in the 11th and 12th National Economic and Social Development Plans (NESDP) during the years 2012-2016³⁰ and 2017-2021,³¹ respectively. This ensures that the voices of civil society, academics, and NGOs are reflected in the main policy guidelines to ensure climate resiliency, natural resources preservation, emissions reduction, and green growth. Moreover, additional legal steps have also been taken

during 2010-2022 to ensure the protection and conservation of resources vital to rural communities, which covers fisheries, national parks, and wildlife.³²

On the international front, aside from actively participating in most significant MEAs, Thailand has also incorporated a proactive environmental element into its foreign policy, which includes accepting and carrying out trade-environment linkages with the EU.³³ Here, the BCG economic model adopted in 2021 serves as a policy tool to both satisfy domestic preferences and enhance Thailand's international environmental standing. By focusing on attracting international partnerships and investments in targeted industries such as agriculture, food production, energy, and tourism, the adoption of the BCG model sends clear message to major environmental stakeholders that their preferences are being responded to under the national agenda.³⁴

Moreover, it also signifies that the Thai government is accountable and willing to take more proactive steps in guaranteeing the outcome of environmental cooperation with international actors on both bilateral and multilateral platforms to mitigate climate risks and create long-term climate resiliency for its citizens, local communities, and businesses.³⁵ This indeed coincides with the EU's global environmental ambition under the EGD, thereby making the Thai-EU environmental cooperation and trade-environment linkages desirable policy direction for both sides.³⁶

4. Discussions and Foreign Policy Implications

“Why delaying institutionalised environmental cooperation is not a good idea?”

Although institutionalist context alone is not enough explain why and how environmental standards in Thailand have improved following the institutionalised environmental cooperation with the EU, it would rather be a shame not to engage in one. This is because institutionalised environmental cooperation, such as that in the upcoming Thailand-EU FTA, is not only a necessary

first step in concretising changes by shaping the interests of prominent domestic players, but it is also an indispensable ingredient for Thai business prosperity in the non-trade barrier world.

Regarding policies and legislation, Thailand has undeniably shown regulatory progress following the institutionalisation of environmental cooperation with the EU. Here, climate change was emphasised in the NESDPs, which encompass long-term environmental policy guidelines, including in the EU's targeted areas such as low-carbon economy and transportation energy efficiency. Another significant leap in Thailand's environmental policy was the adoption of the BCG model, whose major elements on "circular and green economy" as well as "bioeconomy" are incorporated in the Thailand-EU PCA.³⁷

However, even with only project-based cooperation and uninstitutionalised trade-environment-linkages under the EGD, the EU's policy push still appeared to work rather effectively in propelling positive environmental changes in Thailand.³⁸ This is where the sub-system context or the forces of domestic preferences come in to play.

Here, the discussions on multi-stakeholders involvement in influencing environmental policy directions and election outcomes in Thailand help elucidate how domestic interests in Thailand do matter in determining the impact of the EU's environmental policy. This is because that both civil and business stakeholders play a crucial role in pushing for adequate actions to protect the environment and mitigate adverse effects of climate change. While Thailand is less mature in terms of democratic stability, governments still heavily rely on support from local populations and key industries, which represent their main constituents.

As environmental cooperation with the EU encompasses aspects that directly affect the citizens' livelihood, such as resource management, sustainability, emission reduction, and energy efficiency, election-based governments will have to satisfy the interests of domestic stakeholders by ensuring tangible results of environmental cooperation with the EU.³⁹ One example includes

the government's efforts to converge the policy objectives of the EGD and BCG economic model prior to the 2022 general election to secure political support from business and civic stakeholders by elevating Thai business international competitiveness and ensuring continuous delivery of positive environmental outcomes on the grounds.⁴⁰

All in all, this author contends that Thailand will still be evidently better off economically and environmentally through its participation in institutionalised cooperation with the EU. Although written environmental commitments on PTAs and FTAs in itself may not be enough to ensure constructive environmental improvements, it is undeniable that participation and involvement in such cooperation is still needed to ensure that Thailand does not miss the train in the era of global pledges to go green. By looking deeper into Thailand domestic responses to the EU's environmental pressures, this author hopes that this piece of writing will shed light on the convergence of institutionalised environmental cooperation and the role of domestic stakeholders bargaining to secure their preferences – in particular, among policy-makers, civil society, businesses and other prominent actors – in determining the overall impacts of the EU's environmental policy.

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