AMCHAM MUST STOP CHAMPIONING THE TOBACCO INDUSTRY

SEATCA Tobacco Industry surveillance project

Southeast Asia Tobacco Control Alliance

July 2015
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Introduction

Except Brunei, all countries in the ASEAN region have an American Chamber of Commerce (AmCham) country chapter that has increasingly become a champion for the tobacco industry. With governments in South East Asia enacting strong regulations and curbing promotional activities of the tobacco industry, AmCham has stepped in to become one of its voices and conduct activities promoting the tobacco industry. The tobacco industry has found a strategic ally in AmCham because it is a high profile business institution, well regarded by governments, is in the forefront of activities involving high-level US state officials’ visits to Asia, and has close relationships with US ambassadors in various countries. Consequently, it has access to top Asian government leadership, thereby making it an ideal avenue for the tobacco industry to promote itself.

AmCham is an accredited federation member of the U.S. Chamber of Commerce and the Asia-Pacific Council of American Chambers of Commerce (APCAC) with access to all their services and privileges. AmCham declares seven values its membership should abide by, including respect for the individual and environmentally responsible business practices, which the tobacco industry is unable to comply with. Although the tobacco industry’s business runs contrary to AmCham’s values, Philip Morris International (PMI) and its business partners are prominent and active members of AmCham. PMI conducts corporate social responsibility (CSR) activities via AmCham, holds a position in the AmCham Board, and sits in the AmCham committee that looks into customs/tax issues. This provides opportunities for PMI to pose challenges or undermine national tobacco control efforts.

This handout illustrates how the tobacco industry uses the AmCham in Thailand, the Philippines, Malaysia, Indonesia and Vietnam to promote its activities and utilizes AmCham’s access to US embassies and high level policy makers.

1. Thailand: AmCham Provides Platform to Advertise Tobacco Industry Activities

In Thailand AmCham has a membership of over 800 businesses comprising 2500 professionals. PMI is a platinum member of AmCham. As a ‘highest ranked member’ the company is given advertising opportunities in Thai-American Business (T-AB) Magazine (6 full-page advertisements in a year) enabling PMI to promote its business although tobacco advertising is banned according to Thai tobacco control law. These advertisements are online, downloadable for free, making them easily accessible to the general public. Generally, PMI promotes its so-called CSR activities benefiting tobacco farmers such as scholarships to farmers’ children and disaster relief preparation program for tobacco farmers.

AmCham, on its website, says: “Thank you to Philip Morris (Thailand) and Hemaraj Land and Development for donating to the AmCham Teacher Fellowship Program.”

[Photo above]

* This project is supported by Campaign for Tobacco-Free Kids
Philip Morris Represented in AmCham Committee to Influence Policy

Kittipong Jangkamolkulchai, Manager of Fiscal Affairs and International Trade at PMI Thailand, sits in the Customs committee of AmCham. Kittipong has been vocal on behalf of the tobacco industry in criticizing tobacco control policies in Thailand, claiming the industry contributes to economic development. He claims that tobacco control policies, such as prominent pictorial health warnings, may be in violation of free trade agreements under the WTO. This is a contrary to AmCham's objectives to work with the government and comply with the state law. He is the Co-Chair of Thailand’s AmCham Customs Committee sympathetic to the difficulties faced by business community when it comes to regulatory matters. He claims to play an active role in influencing significant changes to Thai laws relating to trade.

AmCham Platform Provides TI Access to High-Level Government Officials

The U.S. Ambassador to Thailand, on several occasions, has officiated at joint events and award ceremonies, organized by AmCham, where the tobacco industry was present. For example, on 23 August 2013, over 350 representatives from AmCham, Thai Ministries, and the U.S. Embassy attended AmCham’s annual Government Appreciation Dinner—AmCham’s ‘Thank you’ to the Royal Thai Government and Thai officials for their continued support of American business in Thailand. The Deputy Prime Minister and the Minister of Finance were keynote speakers at this function.

Such functions provide opportunities for close contact and communication between the tobacco industry and high-level government officials. Troy Modlin, (5th from left) representative from Philip Morris (Thailand) Ltd was an AmCham delegate at this function and appeared in photos with the Thai Finance Minister and U.S. Ambassador to Thailand.

Tobacco Industry’s CSR Activities via AmCham to Gain Public Goodwill

For several years PMI has given grants for its so-called CSR activities in Thailand through AmCham Thailand Charitable Foundation (ATCF) as shown in Table 1. The ATCF then distributes the grants to the education sector. This enables the tobacco industry to have connections to schools and students, which it otherwise would not have. PMI’s CSR has focused on children of tobacco farmers – in other words, an investment in a community that is part of the industry.

Table 1: Charitable Contribution of PMI to AmCham Thailand (2011 – 2013)

<table>
<thead>
<tr>
<th>Year</th>
<th>Giving Areas</th>
<th>Project Description</th>
<th>Amount in USD</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>Education</td>
<td>Providing partial funding to two educational programs in cooperation with AmCham and the Thai Office of Education Assistance.</td>
<td>26,440</td>
</tr>
<tr>
<td>2011</td>
<td>Education</td>
<td>Funding Teacher Fellowship and Adopt-A-School educational program to guarantee job placement for 12 teachers, and to provide education opportunities to 2,510 students from nine schools.</td>
<td>39,406</td>
</tr>
<tr>
<td>2012</td>
<td>Education</td>
<td>Funding Teacher Fellowship and Adopt-A-School educational program to secure job placement of 11 teachers in nine schools in the Narathiwat Province.</td>
<td>35,000</td>
</tr>
<tr>
<td>2013</td>
<td>Education</td>
<td>Teacher Fellowship program to secure teaching jobs</td>
<td>35,000</td>
</tr>
</tbody>
</table>

Expectedly, PMI has won several CSR awards through AmCham. In 2014, the company received the ‘Gold Award’ given to firms that have received the AmCham CSR Excellence (ACE) award for five consecutive years.

Publicity on these awards in the media or online means publicity for the tobacco industry’s so-called CSR activities, which is
banned under Thai tobacco control law. However the tobacco industry is able to get away with it and so far no action has been taken against this form of publicity.

2. Philippines: AmCham Foundation Promotes Tobacco Industry Related CSR

AmCham Philippines says it works closely with the American Embassy in Manila, particularly with the Foreign Commercial Service, the Economic Section, the Agricultural Office, USAID, and the Consular Section. This provides opportunities for the American Embassy to endorse activities of AmCham, which includes Philip Morris. Hence the Embassy may find itself in a situation in which it endorses the tobacco business. In March 2013, the US Embassy joined a dozen American companies and organizations including Philip Morris in American Corporate Social Responsibility (CSR) Day in the Philippines. Ambassador Thomas and Deputy Chief of Mission Brian Goldbeck were at the companies’ activities and endorsed their CSR programs in Manila.

AmCham established the American Chamber Foundation Philippines, Inc. (AmCham Foundation) as its civic arm to undertake CSR activities. Although tobacco industry related CSR activities are banned for sport, concert, cultural or art events, PMI is still able to sponsorship CSR via AmCham for other activities. In 2009, while head of Philip Morris Philippines, Chris Nelson received the AmCham in the Philippines CSR award. He subsequently served on the AmCham Board of Directors between 2012 and 2014 and now represents AmCham Foundation as a Trustee. There have been press exposés, both at the national and local levels, on the tobacco industry’s CSR activities criticizing them for using community work to skirt around laws regulating their industry. With a ban on tobacco industry related CSR activities, PMI is increasingly making its CSR contributions via AmCham. In 2011 PMI spent USD 79,000 on disaster relief. However this figure increased many fold to USD 2.4 million in 2013 (Table 2).

Table 2: Charitable Contribution of PMI to AmCham Philippines (2011 – 2013)

<table>
<thead>
<tr>
<th>Year</th>
<th>Giving Areas</th>
<th>Project Description</th>
<th>Amount in USD</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>Disaster Relief</td>
<td>Providing 180 families affected by the Typhoon Juaning and Typhoon Kabayan with relief bags</td>
<td>4,000</td>
</tr>
<tr>
<td></td>
<td>Disaster Relief</td>
<td>Providing relief goods packages to the victims of Typhoon Pedring, Typhoon Quiel and Typhoon Ramon.</td>
<td>75,000</td>
</tr>
<tr>
<td>2011</td>
<td>Disaster Relief</td>
<td>Providing disaster relief packages to people living in areas affected by Typhoon Sendong in Mindanao and Visayas.</td>
<td>200,000</td>
</tr>
<tr>
<td></td>
<td>Hunger and extreme poverty</td>
<td>Funding a multi-faceted program to improve the educational and living conditions of more than 40,000 people living in rural areas.</td>
<td>769,971</td>
</tr>
<tr>
<td>2012</td>
<td>Hunger and extreme poverty</td>
<td>A multi-faceted program to improve the educational and living conditions of more than 150,000 people living in rural areas.</td>
<td>800,000</td>
</tr>
<tr>
<td></td>
<td>Disaster relief</td>
<td>Providing immediate assistance to 9,900 families and more than 16,500 children affected by heavy monsoon flooding in Manila.</td>
<td>232,126</td>
</tr>
<tr>
<td>2013</td>
<td>Disaster relief</td>
<td>Relief and rehabilitation for survivors in the areas affected by Haiyan/ Yolanda typhoon</td>
<td>2,439,024</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total</td>
<td>4,520,121</td>
</tr>
</tbody>
</table>

3. Malaysia: PMI and US Embassy on the AmCham Board

The Managing Director of Philip Morris Malaysia and Singapore sits on the Board of Governors of the American Malaysian Chamber of Commerce. Two officials from the U.S. Embassy in Kuala Lumpur, the Economic Counselor and the Commercial Affairs Counsellor, also sit as honorary governors on the Board of AmCham Malaysia. This close relationship between the tobacco industry and the US overseas mission in Malaysia, serving together on the AmCham Board, may compromise the implementation of EO 13193 and the Doggett Amendment.

Additionally Philip Morris also sits in the AmCham Malaysia Committee on Tax. Other members of the Committee include PMI’s auditor PricewaterhouseCoopers and research company KPMG, which has done research on tobacco smuggling for PMI. In describing its activities, the Committee says it “meets on a regular basis to discuss tax issues, presenting member’s feedback for the annual Budget to the Ministry of Finance Malaysia in a closed door meeting with the Minister himself.”
In June 2013 AmCham and its member companies had a discussion on Malaysia’s 2014 National Budget at the Ministry of Finance office. The dialogue with MOF focused around three areas of interest to AmCham members -- enhancing and improving incentives, lowering the costs of doing business, and clarifying and simplifying rules and regulations. PMI’s Manager of its Regulatory & Fiscal Affairs attended that meeting. A discussion on “lowering the cost of doing business” for the tobacco industry runs contrary to the government’s efforts to implement WHO FCTC and reduce tobacco use.

4. Indonesia: AmCham Promotes Tobacco Industry’s CSR Activities

The tobacco industry has a prominent profile among AmCham Indonesia’s 250 members. Until recently, the former Director of PMI’s affiliate, PT Hanjaya Mandala Sampoerna Tbk, was the Managing Director of AmCham Indonesia. The current President Director of Sampoerna, Paul Janelle, is on the Board of Governors of AmCham Indonesia. Sampoerna’s logo appears in the top banner of the AmCham Indonesia website.

Between 2004 and 2012, U.S. foreign direct investment in Indonesia was estimated to total USD 65 billion. According to AmCham this total makes the US potentially the largest investor in Indonesia over that period. In highlighting contributions of American companies to CSR activities, Sampoerna was cited as an exemplar of a company contributing to local education and support for small businesses. The companies also referred to ‘regulatory uncertainty’ to be a problem affecting their business – “There is a lack of regulatory coherence with abrupt changes in regulations, a lack of regulatory clarity, and frequent gaps in implementation and enforcement.” The tobacco industry has used these same arguments to fight stringent tobacco control measures in Indonesia and elsewhere.

In 2012, Andrew White, Sampoerna Director and former Philip Morris vice-president for corporate affairs for Asia Pacific, wrote on behalf of AmCham Indonesia to Ministry of Health New Zealand opposing its plans for plain packaging and claiming this measure is not supportive of public health goals and inconsistent with New Zealand’s international trade obligations.

5. VietNam – AmCham Provides Avenue to Promote PMI’s Activities

AmCham has two chapters in Vietnam – the Ho Chi Minh City Chapter and Hanoi Chapter – that collectively have 700 companies and 1,500 representatives.

AmCham Ho Chi Minh City promotes the Vinataba–Philip Morris Graduate Trainee Program on its website. According to the AmCham website this program aims to develop creative, talented and ambitious graduates to grow the tobacco business.

IV. International obligations and recommendations

AmCham seems unaware that the tobacco industry’s so-called CSR activities violate all seven principles of the ISO 26000, which set the international standards on CSR. It is simply impossible for the tobacco industry to do genuine CSR, which is inherently contradictory to the industry’s core business – making and selling products that cause diseases and kill millions each year.

The WHO Framework Convention on Tobacco Control (FCTC) Article 5.3 Guidelines call upon Parties to denormalize and regulate activities described as socially responsible by the tobacco industry. FCTC Article 13 Guidelines recommend that these so-called CSR activities be banned because they are a form of tobacco sponsorship. The CSR activities by the tobacco industry are an “inherent contradiction” as the industry’s core functions are opposed to the goals of public health policies. Tobacco companies use their CSR activities to polish their corporate image and establish relationships with policy makers in order to weaken and skirt around laws regulating their industry. The tobacco industry also invests in communities to later mobilize them as front groups to oppose tobacco control regulations.

In October 2014, at its sixth session, the WHO FCTC Conference of the Parties (COP6) made a decision that all Parties raise awareness and adopt measures to implement Article 5.3 and its implementing Guidelines among all parts of government including diplomatic missions. In practical terms, embassies should not allow themselves to be used by the tobacco industry to promote the
tobacco business, undermine tobacco control efforts, or be involved in activities that lead to increased tobacco use.

The 2001 U.S. Executive Order (EO) 13193 and the Doggett Amendment to the U.S. Commerce, Justice and State Appropriations Act prohibit federal agencies, including the Office of the U.S. Trade Representative (USTR), from using trade policy to promote the export or sale of tobacco products or to undermine non-discriminatory restrictions by foreign governments on tobacco marketing. However EO 13193 and the Doggett Amendment are circumvented when the US Embassy has joint activities with AmCham, which provide a platform for the tobacco industry to participate freely and promote its business. The US Embassy will have to find a more effective way to implement EO 13193 and the Doggett Amendment in its joint activities with AmCham.

Tobacco companies exploit the AmCham business platform to reach policy makers directly as well as indirectly through their so-called CSR activities with the ultimate goal of weakening and circumventing effective industry regulation. AmCham must recognize and respect States Parties to the WHO FCTC that are fulfilling their international obligations to reduce tobacco use.

- **AmCham** must not act as conduit to channel funds for and support tobacco industry related CSR activities.
- **AmCham** must neither advertise nor promote tobacco industry interests or activities on its website.
- **AmCham** must not give awards to recognize and reward tobacco industry related CSR.
- **AmCham** should help **diplomatic missions** implement the FCTC COP6 decision and support governments in their effort to reduce tobacco use.
- **US Diplomatic Missions** in countries should implement EO 13193 and the Doggett Amendment and not promote tobacco business in its dealings and meetings with government officials.

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1. American Chamber of Commerce, Missions; [https://www.facebook.com/#!/amchamthai](https://www.facebook.com/#!/amchamthai)
6. [http://www.thairath.co.th/content/328056](http://www.thairath.co.th/content/328056)
10 Embassy of the U.S. U.S. Ambassador Harry K. Thomas, Jr. at the American Chamber of Commerce of the Philippines General Membership Luncheon Meeting, October 19, 2011;  
http://manila.usembassy.gov/amchammeet4.html


12 Tobacco CSR thwarts ad ban, no smoking laws, Judith Balea, 31 May 2013,  

13 Charitable contributions of PMI through AmCham Philippines between 2011 – 2013  


15 Tax Committee, American Chamber of Commerce Malaysia;  

16 American Chamber of Commerce Discussion on 2014 MOF Budget,  

17 New study shows US investment in Indonesia tops $65 billion from 2004 - 2012  

18 American Chamber of Commerce Indonesia’s submission to the Ministry of Health New Zealand; 5 Oct 2012;  

19 Vinataba-Philip Morris Graduate Trainee Program 2014  

20 Vinataba-Philip Morris Graduate Training Program 2014 http://vinataba-philipmorriscareers.com/philip-event

21 Corporate Social Irresponsibility: Tobacco Industry Fails International Standards, SEATCA, Sep 2014  
http://www.tobaccowatch.seatca.org/publications/

22 Item 4.8: Protection of public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry; FCTC/COP/6/A/R/2;  