

De-normalizing the Tobacco Industry

Through Effective Implementation of FCTC Article 5.3



SOUTHEAST ASIA TOBACCO CONTROL ALLIANCE

The WHO FCTC Article 5.3 is vital in protecting tobacco control policy from interference of the tobacco industry. It is the backbone of the FCTC because the treaty cannot succeed if tobacco industry interference is not rooted out. The tobacco

order to give Article 5.3 more teeth and clarity, the Parties to the FCTC unanimously adopted guidelines for this article to encourage governments to establish, among other safeguards, measures that limit tobacco industry interactions with government activities, and to put in place public disclosure measures.¹

“It worries me that tobacco is seen as normal. If we know of a company that knowingly sells something that endangers the public, we are appalled. Cigarettes have at least 80 carcinogens, but people let their kids go near smokers”

Atty. Ipat Luna, Senior Legal Adviser of HealthJustice, Philippines²

Since the adoption of Article 5.3 Guidelines in 2008, there is still much room for improvement in its implementation in the ASEAN region.

Implementation of Article 5.3 in Southeast Asia³

| Countries | Policy/ Guidelines/ Code of Conduct to deal with the tobacco industry |
|-----------------------|---|
| Cambodia | No |
| Indonesia (Non-party) | No |
| Lao PDR | Partial |
| Malaysia | No |
| Philippines | Yes |
| Thailand | Partial |
| Vietnam | No |

industry defeats, dilutes, or delays effective tobacco control measures. The industry interferes with enactment of tobacco control legislation, deceives both government and the public by overstating its economic contributions, creates respectability and sways public opinion through sponsoring CSR activities and uses third parties or front groups to oppose tobacco control. When the industry fails to stop stringent legislation, it challenges governments in the courts on the legitimacy of the legislation. In

DENORMALIZING THE TOBACCO INDUSTRY AND STOPPING ITS INTERFERENCE

Both governments and civil society need to be more pro-active in de-normalizing tobacco industry. We identify several practical steps below.

1. Ban CSR activities by the tobacco industry

Corporate Social Responsibility (CSR) activities by the tobacco industry are not banned in the ASEAN region, a loophole that the industry exploits.⁴ The industry also fights any attempt to ban its CSR. The industry uses CSR as a key strategy to enhance its public image and obtain

endorsement from top political leaders. Grants to NGOs, headed by top public officials, and high profile social causes buys the industry respectability, sways public opinion and provides photo opportunities with VIPs in the media. Philip Morris International (PMI) spends significantly on CSR activities especially in Indonesia and the Philippines, since both countries are important markets for PMI and poised to be vital profit bases for its future. Predictably, Indonesia lags far behind in tobacco control, while the Philippines has much

room for improvement. CSR by the tobacco industry is a form of sponsorship and hence should be prohibited. Countries that are unable to prohibit CSR activities by the tobacco industry should ban its publicity in any form.

BEST PRACTICE: Ban tobacco industry related CSR

2. Identify and expose front groups and industry spoke-persons

“According to tobacco Industry internal documents, CSR activities are considered a success when it could slow down or even sabotage the national Tobacco Control Law, it is also considered a success when it could silence parents, community, and every sector in the society and this is why “Stop Tobacco Industry Interference” was a theme for 2012 World No Tobacco Day”

Dr. Prakrit Vathesatogkit,
Executive Secretary, Action on
Smoking and Health, Thailand

It is a well-known tactic of the tobacco industry to fight tobacco control measures through front groups. As governments step up efforts to implement the FCTC and its related Guidelines, the tobacco industry is fighting back through farmers groups, retailers associations and trade organisations. The International Tobacco Growers Association (ITGA) is one such group created by the tobacco industry in the 1980s to front its lobbying against international tobacco control initiatives by giving it a human face and a Third World grassroots voice.⁵ Today the ITGA continues to be supported by the main transnational tobacco companies to do its bidding.⁶ Countries in Southeast Asia where farmers have been organised to oppose tobacco control measures are Indonesia, Malaysia, and the Philippines. The ITGA has fronted some of these protests.⁷

More new front groups have appeared to do the tobacco industry’s bidding. In Thailand the Thai Tobacco Trade Association which is partially funded by Philip Morris Thailand⁸ tried to mobilize retailers to oppose the new Tobacco Control Bill during the Public Hearing in September, 2012. The tobacco industry may also utilize existing organisations to champion its cause. In Malaysia the Coffee Shop Association has successfully opposed bans on smoking in restaurants and night spots and delayed the implementation of a ban on kiddie packs.

The tobacco industry also approaches high ranking government officials (including former senior officials), senators and politicians to interfere or delay Tobacco Control Law and policies in the countries. These spokespersons take pro-industry positions publically. In the Philippines former *Senator Ernesto Maceda* joined tobacco farmers from Ilocos province to protest against the tax bill.⁹ In Indonesia, two members of the House of Representative Commission IX (on Health and Employment), *Rieke Dyah Pitaloka* and *Poempida Hidayatullah* have opposed Indonesia acceding to the FCTC claiming among others, this move is mooted by foreigners, that it will harm tobacco farmers as well as threaten the clove industry, which is one of the country’s heritages.¹⁰

The industry also exerts its influence directly on policies. In Vietnam, the Vietnam Tobacco Industry Association conducted a workshop for the implementation of pictorial health warnings regulations in Vietnam’s new Tobacco Control Law. The Government Bureau and Ministry of Industry and Trade, Ministry of Health and other relevant sectors attended this workshop. The industry’s proposal was for the two ministries to consider their comments in developing the Circular of pictorial health warning and delay the implementation time from 6 months to 12 months.¹¹

Tobacco Industry front groups and their tactics should be exposed and governments need to ensure that tobacco control policies are not jeopardized.

BEST PRACTICE: Identify and expose front groups, spokespersons of the tobacco industry.

3. Challenge the industry's studies, exaggerations and threats

The industry deceives both government and the public by overstating its economic contributions and the numbers it employs, often inflating statistics by including indirect employees. The ITGA's Asia website claims that "In many countries and regions tobacco is the local economy". In reality, in Asian countries tobacco growers generally grow other crops too, and tobacco acreage forms a minute part of total agricultural land, averaging less than 0.2 percent: Malaysia - 0.17 percent, Philippines – 0.19 percent, Thailand – 0.2 percent and Vietnam – 0.19 percent, according to the Tobacco Atlas.

In the Philippines the ITGA claims there are 168,083 tobacco growers¹² and another statistic claims 2.9 million Filipinos are directly employed tobacco growers or dependent on the crop. In reality there are 55,533 registered tobacco growers in the Philippines.¹³ Additionally the ITGA exaggerates the impact of tobacco control on the livelihoods of tobacco farmers by claiming that these measures will have "a huge devastating effect on the lives of millions of growers" and "our families and business under threat." In reality 15% of tobacco taxes are allocated to assist tobacco farmers.

The ITGA head, who grows tobacco only in his free time, repeats in his statements, interviews and tweets that there are no alternate crops to tobacco. This is misinformation. In reality in Malaysia which has about 3,000 tobacco growers, are shifting to alternate crops through a programme coordinated by the government since 2005. However the local ITGA representative exaggerated the figures and urged the government to reject WHO's "absurd" guidelines, claiming that the main source of income for 15,000 local tobacco growers is at stake.¹⁴ The Malaysian government provides monetary incentives and technical assistance to tobacco growers to shift to *Kenaf* cultivation.

Another commonly used threat is that tobacco tax increase or graphic warnings on cigarette packs or plain packaging will facilitate smuggling. In Malaysia, the Confederation of Malaysian Tobacco Manufacturers (CMTM) regularly presents its illicit cigarettes litter study to government departments

claiming the high illicit cigarette problem (39%) will worsen if there was a tobacco tax increase. The government was persuaded by this argument and did not increase tobacco tax for two years, 2011 and 2012. However an independent study on the illicit cigarette in Malaysia questioned the industry's methodology estimated a lower rate of smuggling and provided an explanation for the discrepancies.¹⁵

BEST PRACTICE: Misinformation, exaggerations and threats from the industry's front groups must be exposed and challenged. Governments need to scrutinise any statistics and research provided by the tobacco industry and its allies.

4. Philippines: Code of Conduct in dealing with the industry

One way to de-normalize tobacco industry is draw-up a Code of Conduct or Guideline for officials when dealing with the tobacco industry. In 2010 the Philippines Department of Health and the Civil Service Commission issued a Joint Memorandum Circular 2010-01 which aims to protect the bureaucracy against tobacco industry interference in accordance with FCTC Article 5.3 Guidelines by limiting interaction with the industry and rejecting partnerships with tobacco companies. The Health Secretary sent letters to government agencies cautioning against partnerships with the tobacco industry. Following this the Department of Education issued Order No.6/2012 which restricts interaction of its officials with the tobacco industry, including a prohibition of the tobacco industry contributing funds to the department. The Philippines is the first country in the region to draw up such a Circular.

Thailand and Lao PDR have a similar policy for their Ministry of Health.

To demonstrate transparency, both Australia and New Zealand publicize their meetings with the tobacco industry by making the relevant information available on their website. The state of New South Wales in Australia has banned direct political donations from the tobacco industry.

BEST PRACTICE: Governments should publicise their meetings with the tobacco industry, divest any investments and refuse political donations.

5. Publicise and apply international FCTC decisions on Article 5.3 locally

Internationally, there is progress in enforcing Article 5.3 at FCTC related meetings. The COP5 (172 FCTC Parties) demonstrated its seriousness to halt industry interference by rejecting INTERPOL's application for observer status because it had accepted a grant from Philip Morris International for "technical assistance" for the implementation of the Protocol on Illicit Trade of Tobacco Products.¹⁶ Tobacco industry representatives' tactic to attend COP5 plenary session by wearing "Public" badge was discovered and COP5 exclude them from the public gallery. Taking the cue from the COP, governments should not accept as stakeholder or partner with any entity funded or supported by the tobacco industry in tobacco control initiatives including addressing illicit trade on tobacco.

Media advocacy is important in de-normalizing the tobacco industry. This strategy works well with young people who are new media users. Also, accumulating large number of supporters through

media campaign can indicate policy makers what people are concerned about at any particular time.

BEST PRACTICE: Do not accept any grants or assistance from the tobacco industry.

6. Media Advocacy: Time's Up Tobacco

HealthJustice's '*Time's Up, Tobacco!*' is a novel campaign in the Philippines that rejects the tobacco industry tactic of derailing public health policies.¹⁷ It is a national campaign to warn people to be aware of tobacco industry tactics and interference and provides information on the actual problems tobacco causes for numerous Filipinos. The campaign is linked to other media, such as Facebook to reach out to young people who are the tobacco industry's targeted customers.

BEST PRACTICE: Utilize media to expose the tobacco industry unethical practices.

RECOMMENDATIONS FOR WAY FORWARD

Governments need to act quickly in addressing and halting industry interference. They should:

- Ban tobacco industry related CSR activities as stated in Article 13 Guidelines
- Implement FCTC Article 5.3 and its guidelines urgently and conduct tobacco control in a transparent manner;
- Make public all meetings with the tobacco industry;
- Not accept industry-linked NGOs as stakeholders in tobacco control efforts;
- Challenge the industry's studies, exaggerations and threats

¹ FCA Bulletin Issue 122, COP5, 12 Nov 2012

² Anti-tobacco group files advertising complaint vs Philip Morris, Roucheller R. Dinglasan, GMA News, 22 Nov <http://bit.ly/10iGS0a>

³ SEATCA, Asia Pacific Report Card, 2012 www.seatca.org

⁴ End tobacco industry corporate giving: An overview of CSR in Southeast Asia, SEATCA handout, 2012

http://www.seatca.org/dmdocuments/CSR%20Handout_2012_Fina.pdf

⁵ PATH Canada Guide: ITGA Uncovered: Unravelling the spin-the truth behind the claims.

⁶ African farmers fear tobacco curb "catastrophe", Ed Copley and Kate Kelland, Reuters, 4 Nov 2010, <http://bit.ly/UHeEdw>

⁷ SEATCA, Asia Pacific Report Card, 2012

⁸ <http://tita.or.th/aboutus.php>

⁹ Poor Ilocos tobacco farmers, Manila Standard, <http://bit.ly/WLr3Ld>

¹⁰ Harian Seputar Indonesia, Indonesia Daily Monitoring, 22 October 2012

¹¹ Vinataba, <http://bit.ly/YQWMzJ>

¹² ITGA Fact sheet, 2012, <http://www.saveourfarms.org/media/2012/09/ITGA-Asia-FactSheet.pdf>

¹³ Crop Statistics of the Philippines. 2011. Bureau of Agricultural Statistics. Republic of the Philippines

¹⁴ Reject WHO proposal, say tobacco growers, 7 Oct 2012, <http://www.malaysiandailynews.com/reject-who-proposal-say-tobacco-growers>

¹⁵ Under-invoicing of Cigarette Imports in Malaysia A good indicator for Smuggling? Mohd Shukri Hajinoor, Faculty of Economics and Management, Universiti Kebangsaan Malaysia, http://www.ukm.my/fep/perkem/pdf/perkemVII/PKEM2012_4B6.pdf

¹⁶ Accreditation of nongovernmental organizations with the status of observer to the Conference of the Parties, 17 Nov 2010

http://apps.who.int/gb/fctc/PDF/cop5/FCTC_COP5%2822%29-en.pdf

¹⁷ Time's Up, Tobacco! <http://bit.ly/TE7PGg>