

Carve-out Tobacco From TPP

8 December 2013/Singapore: The Southeast Asia Tobacco Control Alliance(SEATCA), a regional network of NGOs in the ASEAN, says Governments should not have their hands tied from doing tobacco control by trade agreements.

There are about 127 million smokers in the ASEAN region, half of whom will die prematurely. A product that kills half its users cannot enjoy free trade privileges. Tobacco is not a normal consumer product and should be excluded from free trade agreements.

TPP has been hailed as a 21st century trade agreement that could serve as a gold standard for future trade agreements. Since tobacco is set to kill 1 billion people globally in the 21st Century, it would be incomprehensible to facilitate increase tobacco use through further trade liberalisation.

All the TPP countries, except the US are Parties to the WHO Framework Convention on Tobacco Control (FCTC) that obligates countries to reduce tobacco use. In Malaysia, tobacco is the leading cause of premature death and to protect public health it has strong tobacco control policies. At the TPP round in Brunei last August, Malaysia tabled a proposal for a complete carve-out for tobacco.

SEATCA fully supports the Malaysian government's proposal to exclude tobacco from the TPP as this step will contribute significantly to reduce tobacco use among the participating nations.

We have witnessed how the tobacco industry uses trade-related arguments to undermine and derail governments' tobacco control measures," said Dr Mary Assunta, SEATCA's Senior Policy Advisor. "This is currently happening in Thailand where Philip Morris has used intellectual property arguments to successfully challenge government efforts in court to prevent graphic health warnings on cigarette packs to be increased to 85%. Everyday about 140 people die from smoking related diseases in Thailand. But the government was stopped from putting larger warnings on packs from October because of the challenge from Philip Morris."



Philip Morris has demanded to be consulted during the development of the health measure. But these are also the same arguments that delayed or stopped the tobacco pack regulations in countries like the Philippines, Laos, and Cambodia. Eleven cases are currently filed by the tobacco industry against the Thai cigarette warning measure.

According to Dr. Assunta, “Excluding tobacco from investment agreements will be a phenomenal change in how tobacco should be viewed – as a harmful addictive product that kills its customers and should not be accorded the same privileges as other products. The FCTC expressly warns governments of the influence tobacco industry may try to exert on governments.

Guidelines to FCTC Article 5.3 require governments to protect their tobacco control policies from the tobacco industry. However the Regulatory Coherence chapter of the TPP requires governments to consult with the industry before passing regulatory measures. This is in conflict to what the FCTC Article 5.3 requires.

Growing concern over the tobacco industry’s trade litigation strategy has been documented. In the past 3 years, the tobacco companies stood as investors to sue Uruguay and Australia, and were behind the WTO disputes against measures involving the ban on flavorings and plain packaging. A free trade agreement dispute had also been launched by Philip Morris against Norway under the European Free Trade Agreement court.

Such intimidation by the tobacco industry should be stopped. An effective way to do it is to exclude tobacco from the TPP. The Twelve countries negotiating the TPP: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, USA, and Vietnam.

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