

How Thailand Took on the Transnational Tobacco Titans



Thailand has banned tobacco advertising. (Photo courtesy of Rob Cunningham)

2001-04-20

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It began as a classic David-and-Goliath story, with a small and relatively poor country — Thailand — butting heads against wealthy multinational tobacco companies and the powerful US trade office that championed their cause.

By the time it was over — after a 20-month battle before a GATT (General Agreement on Tariffs and Trade, now the World Trade Organization) panel and in the court of global public opinion — Goliath's image had been badly battered, anti-tobacco forces in Thailand and internationally had been re-energized, and Thailand had won the right to impose some of the strictest tobacco controls in the world.

This is the story told by Hatai Chitanondh in his soon-to-be-published book, *Defeat in Trade, Victory in Health*, one of two volumes by Dr Hatai on Thailand's experience with tobacco controls. The English-language publication of both books was aided by a grant from the International Development Research Centre (IDRC).

Tobacco control story

The first volume, *The Passage of Tobacco Control Laws*, deals largely with the domestic response to foreign tobacco peddling in Thailand. *Defeat in Trade*, meanwhile, focuses on Thailand's struggle before the GATT to defend itself against US charges that it had violated the "equal treatment" principle enshrined in the agreement, by attempting to block foreign cigarettes from the Thai market while allowing domestic tobacco products to be sold. Thailand's rationale was that foreign cigarettes were more dangerous to public health, containing up to 600 additives, while the Thai products contained only 16.

According to former US Surgeon General Everett Koop, the landmark GATT case is something health activists everywhere should know about. Calling Dr Hatai's work an "anatomy of a scandal, dutifully recorded and annotated," Dr Koop suggests, in his back-cover endorsement, that the book "should be a source of information and encouragement to all who fight Big Tobacco, especially in developing countries."

First salvo

Despite its encouraging outcome, however, this battle began with limited prospects for a Thai victory. The first salvo was launched on March 13, 1989 by Dr Hatai himself — at the time, Deputy Permanent Secretary of Thailand's Ministry of Health — who called a press conference to announce his department's opposition to the import of foreign cigarettes. This was despite the Thai finance ministry's plans to quietly grant multinational tobacco interests unfettered access to the Thai market.

Already Japan, South Korea, and Taiwan had opened their closed markets to US tobacco products, after the US (acting for the tobacco industry) had threatened to use Section 301 of its 1974 Trade Act. This Act claims the right to apply import taxes against foreign products equivalent to the estimated business losses of US companies excluded from markets abroad. The refusal of Thai officials to bend in the face of such pressure propelled them into a clearly unequal battle, with multinational tobacco companies and their US government advocates enjoying far greater legal and financial might.

International outrage

However, a series of events was soon set in motion that would give unforeseen advantages to Thailand. At home, opposition to tobacco imports started to coalesce with Dr Hatai's press conference, which drew a broad range of non-governmental organizations (NGOs) to the cause and attracted widespread media attention.

The US Cigarette Export Association (USCEA) reacted by submitting a petition to the US Trade Representative (USTR), asking for Section 301 to be invoked. After asking for written public comments, the USTR received only 10 submissions in favour of using Section 301 against Thailand, and 130 opposed. With rising public outrage at home and abroad, the USTR — fearing a loss of US prestige internationally — eventually decided to send the case against Thailand to the GATT, rather than proceeding unilaterally with action under Section 301.

Heated debate

Both before and during and preparation for the GATT Panel hearing in Geneva, the forced entry of American tobacco products into Asia became a heated topic of debate in the international media and in political forums. These included 1990 hearings by committees of both the US Senate and US House of Representatives on "tobacco and world health," and on the marketing practices of tobacco companies abroad, both of which focused on the case of Thailand.

The legal outcome of the GATT Panel hearing, adopted by the GATT Council on November 7, 1990, provided a partial victory for Thailand. While ruling that Thailand was indeed obligated to open its market to foreign tobacco products, the Panel also found that — since Thailand had acted out of serious concern for the health of its citizens — it had the right to ban tobacco advertising totally, set a high excise tax, control the distribution and sale of tobacco products, and require disclosure of all their ingredients.

Implications for tobacco control

Thailand's decision to stand up to an international trade giant has led to major advances in the struggle to control tobacco, both for Thailand and for the international community at large. Internationally, the Thai case resulted in a decision by the USTR not to use Section 301 to force American cigarettes into any country (China had been next on the list), and led to commitments by

the US and the UK that their embassies would no longer support tobacco company activities abroad. Meanwhile, Thailand continues to move ahead with its own tobacco control program, having enacted new tobacco control laws (including bans on advertising, vending machines, and smoking on public transport, and a requirement for health warnings on packages), and having established an office for tobacco control.

Dr Hatai is now President of the Thailand Health Promotion Institute and remains a regular commentator on tobacco control in the Thai media. He believes that David triumphed over Goliath a decade ago mostly because of the inspirational effect that Thailand's actions had on world opinion. The strong international support was due to Thailand's fighting spirit," he concludes, "in spite of being weaker, smaller, and poorer than the opposite side."

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