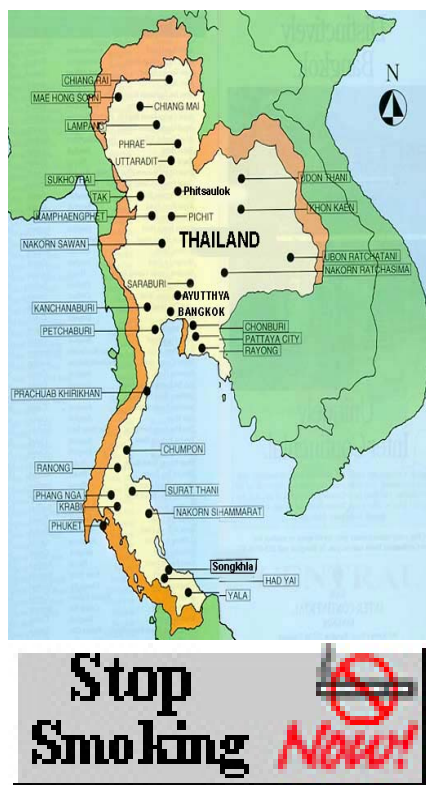


TOBACCO CONTROL IN THAILAND :

Situation before and after foreign cigarette entry



Hatai Chitanondh, M.D.,F.I.C.S.,F.R.C.S.(T)

Executive President, The National Epidemiology Board of Thailand

And

Secretary, The National Committee for Control of Tobacco Use

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Thailand is a South East Asian country with total land area of 511,770 km. It is governed by constitutional monarchy ; the King is head of state ; bicameral legislature consisting of a Senate and an elected House of Representatives. Most of the population (95.5%) are Buddhists, 4% Muslims, and 0.5% others. Life expectancy for males is 64 years and for females 70 years.

Situation of tobacco use in Thailand

TOTAL NUMBER OF SMOKERS

In spite of the downward trend in smoking rate, total number of smokers (11 years and over) have been increasing from 8.6 millions in 1976 to 9.7, 10.3, 10.1, and 11.4 millions in the 1981, 1986, 1988, and 1991 respectively (Table 1). This is due to the population increase.

TABLE 1

NUMBER OF SMOKERS, THAILAND, 1976, 1981, 1986, 1988, and 1991

1976	1981	1986	1988	1991
8,629,510	9,759,170	10,377,000	10,109,890	11,402,000

Source : Reports of Health and Welfare Survey, 1976, 1981, 1986, 1988, and 1991. The National Statistical Office, Thailand.

Note : Smokers in 1976, 1981, 1986, and 1988 were ten years of age and over, in 1991 were 11 years of age and over.

SMOKING PREVALENCE

The national surveys revealed a downward trend of smoking rate in the people 15 years of age and over – from 35.0% in 1981 to 32.0%, and 28.7% in 1986 and 1988, respectively. However the latest survey in 1991 showed that smoking prevalence was increased to 29.7% (Table 2). Economic boom, resulting in rising disposable income, and active marketing activities of the transnational tobacco companies during 1989 – 1990 may be the cause of this upturn.

TABLE 2
TREND OF SMOKING PREVALENCE AMONG THAIS OF AGE 15 AND OVER
(Percent; 1981 – 1991)

	1981	1986	1988	1991
CRUDE	34.1	31.4	28.4	29.7
AGE-ADJUSTED*	35.0	32.0	28.7	29.7

**Based on the 1991 population composition*

CIGARETTE CONSUMPTION

Consumption of manufactured cigarettes per capita (Table 3) has been increasing-being (cigarettes/year) 951 (in 1977) ; 1,030 (in 1981) ; 886 (in 1986) ; 949 (in 1988); and 1,015 (in 1991). Increasing disposable income and relatively stable cigarette price result in the change from hand rolled cigarettes to the factory products.

TABLE 3
TREND OF MANUFACTURED CIGARETTE CONSUMPTION, 1977-1991

1977	1981	1986	1988	1991
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TOTAL CONSUMPTION*	1,198	1,482	1,489	1,683	1,943
(Millions of 20-packs)					
ADULT POPULATION	25,192	28,767	33,588	35,458	38,280
(Thousands) PER CAPITA	951.36	1,030.10	886.75	949.54	1,015.05
CONSUMPTION (Cigarettes/ Year)					

Source: (1) *The Excise Department, Ministry of Finance*

(2) *The population projection of the National Board of
Economic and Social Development*

Note: * *Three-year moving average, except for 1991*

DEMOGRAPHIC AND GEOGRAPHICAL CHARACTERISTICS OF TOBACCO USE

In all surveys, for both sexes smoking prevalence is highest in the North (29.8% in 1991 Table 4) and lowest in Bangkok (18.6%). For males smoking rate is highest in the Northeast (54.6%) and lowest in the Bangkok (36.6%). For females the prevalence is highest in the North (10.2%) and lowest in the Northeast (1.6%).

The reasons for high smoking rate in the North are that it is the tobacco growing area, tobacco leaves are cheap and readily available, and it has been an age – old custom for the Northern women to smoke.

The sex difference varies in different regions. In 1991 male : female ratio was highest in the Northeast (34.1) and lowest in the North (4.8).

Among the young age groups smoking prevalence initially declined between 1981 and 1988 but sprang up in 1991. The growth of rates in the 10-29 age groups was high enough to lift the total average (from 25.0% in 1988 to 26.3% in 1991) in spite of the decline of smoking rates among the older age groups of 40 to 60 and over (Table 5.). The rise of smoking prevalence among the young is a major concern. The causes are obvious. The price of cigarettes has been somewhat stable and tax increase has been refused by the financial authority. With the market opening to foreign cigarettes and with relatively low price plus Western sophistication Thai youngsters have become more addicted to the deadly products.

TABLE 4
SMOKING PREVALENCE BY GENDER, AGE GROUP AND REGION
(Percent; 1991)

	MALE						
	ALL AGE	CHANGE*	10-14	15-19	20-24	25-49	50 AND OVER
CENTRAL (ex. Bangkok)	46.8	0.2	0.5	16.9	48.1	61.1	61.7
NORTH	49.0	0.3	1.0	22.1	49.8	62.9	59.6
NORTHEAST	54.6	5.6	1.1	29.4	65.3	72.3	72.3
SOUTH	48.4	1.3	0.8	22.0	52.7	67.0	61.1
BANGKOK	36.6	1.3	0.1	16.3	37.3	41.7	37.4
WHOLE KINGDOM	48.9	2.2	0.8	23.4	54.3	63.9	61.8

	FEMALE						
	ALL AGE	CHANGE*	10-14	15-19	20-24	25-49	50 AND OVER
CENTRAL (ex. Bangkok)	3.4	0.8	0.0	0.4	1.4	4.4	6.2
NORTH	10.2	0	0.3	2.4	2.4	12.2	21.4
NORTHEAST	1.6	0.8	0.1	0.4	1.0	2.1	3.6
SOUTH	2.6	-0.1	0.0	0.3	0.9	2.3	4.4
BANGKOK	2.0	0.0	0.0	0.3	0.9	2.3	4.4
WHOLE KINGDOM	3.8	0.3	0.1	0.7	1.3	4.8	8.6

Source: (1) Health and welfare survey, 1991

(2) The survey of smoking behavior, 1988

(3) The population projection of the National Board of
Economic and Social Development

Note: * Prevalence changed from that of 1988

TABLE 5
SMOKING PREVALENCE BY AGE GROUP
(Percent; 1981 – 1991)

AGE GROUP	1981	1986	1988	1991
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10-14	0.7	0.5	0.4	0.5
15-19	14.2	12.4	0.9	12.2
20-24	32.2	28.2	25.1	28.3
25-29	36.6	34.5	30.6	32.9
30-34	39.8	35.6	32.6	33.7
35-39	40.6	38.2	34.5	34.5
40-49	44.0	40.0	36.9	36.3
50-59	43.8	41.6	38.0	35.9
60 AND OVER	38.7	35.4	31.1	31.2
TOTAL	27.8	26.4	25.0	26.3

Source: (1) Health and welfare survey, 1981, 1986, 1988, 1991
 (2) The survey of smoking behavior, 1988
 (3) The population projection of the National Board of Economic and Social Development.

ACTIVITIES IN TOBACCO CONTROL

NON-GOVERNMENTAL ACTIVITIES

The first action took place in 1967 when the Medical Association of Thailand sent a letter to the Ministry of Finance, asking that a health warning be placed at the sides of

cigarette packets “smoking may be harmful to health.” It took 7 years for this to be materialized.

Since its inception in 1986 Action on Smoking and Health of the Rural Doctor Foundation has been the only active non-governmental organization in antismoking actions. Most of the works involved public information, public education, and advocacy.

The other NGOs are not active. The Seven-Day Adventist Hospital has been organizing 5-day cessation programs regularly. The professional organizations, i.e., the Medical Association of Thailand, the Association of Chest Physicians, the Heart Association of Thailand, and the Cancer Society are not active and do not have definite program.

The grass root organizations are very weak.

GOVERNMENTAL ACTIVITIES.

Prior to February 1989 there had been no national policy and program for tobacco control. The activities were ad hoc and piece-meals, done by the Department of Medical Service’s National Cancer Institute, the Hospital for Chest Diseases, the Bangkok Metropolitan Administration, and some others. Most of the works were giving out stickers, holding exhibits, and organizing some conferences.

On February 21, 1989 the Cabinet approved a proposal by the Ministry of Public Health (MOPH) to set up the National Committee for Control of Tobacco Use (NCCTU), chaired by the Minister of Public Health. Several important control measures have been initiated and implemented. They are summarized as follows:

1. Opposing the market opening of foreign cigarettes.
2. Ban of smoking in all public transports.
3. Six rotatory health warnings on cigarette packets.

All the above 3 measures were the results of the first NCCTU meeting on April 25, 1989.

They were proposed to the Cabinet on 11 July 1989 and got approval.

4. Monitoring and enforcing the existing tobacco ads ban.

5. Objecting the building of new cigarette producing factory of the Thailand Tobacco Monopoly (TTM). This was forwarded to the cabinet and the TTM's proposal was withdrawn.
6. Disclosing the ingredients in the cigarettes was required.
7. Ban of promotion of smoking by removing persuasion phrases on the cigarette packets.
8. Not supporting sale of Thai cigarettes abroad.

The above three measures were the results of the NCCTU meeting on October 9, 1989 and were approved by the Cabinet on February 13, 1990.

9. Setting up committee to draft tobacco control law. This eventually culminated in 2 comprehensive laws – the Tobacco Product Control Act 1992 and the Nonsmokers' Health Protection Act 1992.
10. Setting up an Office of Tobacco consumption Control (OTCC). The February 14, 1990 meeting of the NCCTU approved a plan to found an office of smoking and health in the Office of Permanent Secretary of the MOPH. This office would draw a national plan for tobacco control, coordinating with other agencies in implementing the activities, and enforcing the tobacco laws. The OTCC acts as a secretariat of the NCCTU.

SUMMARY and CHRONOLOGY of THE TOBACCO CONTROL ACTIVITIES

1. DATA COLLECTION

Data on smoking and health were collected, analysed, and distributed by the OTCC, which acts as a national information center in tobacco or health. The secretary of the NCCTU is an author of a 524-page book "Tobacco Use", to be used as references by individuals and institutions all over the country.

2. PUBLIC INFORMATION

The chairman, secretary, and deputy secretary of the NCCTU give interviews to the media, i.e., 42 times in 1989, 21 times in 1990. The NCCTU and OTCC spearheaded activities for the World No – Tobacco Days in 1989, 1990, 1991, 1992 and 1993.

3. PUBLIC EDUCATION

The NCCTU and OTCC organized or gave lectures in tobacco or health meetings – 3 in 1989, 6 in 1990, and 5 in 1991.

4. LEGISLATION

Before 1992 most of the restrictive measures were regulations within organizations and local ordinances.

The NCCTU had pushed for tobacco control laws and the NCCTU's secretary was the chairman of the law-drafting committee, culminating in 2 most comprehensive acts,

The Tobacco Product Control Act (TPCA)

The Nonsmokers' Health Protection Act (NHPA)

28 July 1989 – The Minister of Public Health, in a capacity of chairman of the NCCTU, ordered a formation of a subcommittee drafting tobacco control law.

8 October 1990 – The NCCTU's secretary proposed the draft of TPCA to the Minister of Public Health.

15 October 1990 – The Cabinet approved in principle the TPCA and forwarded the draft to the Judicial Council for deliberations.

28 March 1991 – The Minister of Public Health ordered a set up of the Committee for Drafting Laws on Tobacco and Health, with the NCCTU's secretary as its chairman.

4 February 1992 – The Cabinet approved the draft of NHPA

11 February 1992 – The Cabinet approved the draft of TPCA.

13 March 1992 – The National Assembly passed the NHPA and TPCA.

THE NONSMOKERS' HEALTH PROTECTION ACT 1992

- Prohibits smoking in public places (which mean places or vehicles that people legitimately can get into). The public places would be determined and announced in the Public Health Ministerial Announcements.

THE TOBACCO PRODUCT CONTROL ACT 1992

- prohibits – sale of tobacco product to persons under 18 years of age
 - sale of tobacco product by vending machine
 - exchanges, premiums, coupons
 - free sampling
 - advertisement of tobacco products in printed media, radio, television, and other media or use of logos in competitions, exhibits, services, or other activities.

Exceptions-international printed media and live telecast.

Note: The word 'advertisement' means any act that enables people to see, to hear, or to knowabout, for commercial purpose.

- advertisement of products that have names similar to tobacco products
- production, import for sale or distribution, or advertisement of products imitating tobacco products or packages
- tobacco products must have ingredients according to the Ministerial Regulations. The producers and importers must disclose the ingredients according to the Regulations.
- tobacco products must be labelled according to Public Health Ministerial Announcement.

4.1 Ban of advertising and promotion

20 December 1988 – The Cabinet approved a total ban of tobacco ads.

10 February 1989 – The Committee for Consumers' Protection (CCP) announced in The Royal Gazette the order of the CCP's Committee on Advertising that tobacco advertising is totally prohibited in all forms, direct and indirect, in public and in all kinds of media.

The TPCA 1992 has articles that prohibit advertising and promotion as follows :

- Article 6 : prohibition of exchanges, free premiums, or offers
- Article 8 : total ban of advertising of tobacco products, with 2 exceptions – advertising in international printed media and live telecasts.
- Article 9 : prohibition of advertising of products with the same name as cigarettes.
- Article 10 : prohibition of production, import, sale, and advertisement of products imitating tobacco products or packages.

4.2 Health warnings

1967 – The Medical Association of Thailand requested the Ministry of Finance to print a warning “Smoking may be harmful to health” on the side of cigarette packets.

1974 – the warning was printed

2 April 1989 – The first meeting of the NCCTU had a resolution that 6 rotatory health warnings should be printed in the front of the cigarette packages. They were ‘Smoking causes lung cancer and emphysema’, ‘Smoking harms babies in the wombs’, ‘Please respect nonsmokers right by not smoking in public places’, ‘Quitting reduces risk of serious illness’, and ‘For the sake of beloved offsprings, please give up smoking.’

11 July 1989 – The Cabinet approved the NCCTU's proposal of 6 additional health warnings.

18 May 1990 – The CCP announced in the Royal Gazette the new 6 health warnings to be implemented 90 days thereafter.

24 September 1992 – The Public Health Ministerial Announcement was published in the Royal Gazette of the Health Warnings, to be effective in 1 year (25 September 1993). The ten health warnings are ‘Smoking causes lung cancer’, ‘Smoking causes heart disease’, ‘Smoking cause cerebral hemorrhage or thrombosis’, ‘Smoking reduces

physical fitness', 'Smoking kills', 'Smoking is addictive' 'Smoking is harmful to those around you', 'Quitting reduces risk of serious illness', and 'Tobacco smoke is harmful to babies in the wombs.'

The area of health warning would occupy 25% of the area of both principal surfaces. The color is black letter on white background or vice versa. The area is surrounded by black line 1-2 mm thick. The sizes of the letters are 16 points for packets with principal surface areas of 34.44 cm² to 36.99 cm², 21 points for packets of 37 to 84.99 cm², 33 points for packets of 85 cm² or larger, and 36 points for standard cartons.

4.3 Control of harmful substances

19 October 1989 – The NCCTU meeting had a resolution that cigarette producers must disclose ingredients to the MOPH.

13 February 1990 – The Cabinet approved the above – mentioned NCCTU proposal.

9 July 1990 – The TTM informed the MOPH about ingredients in their products.

5 April 1991 – The TYPC 1992, which had passed the National Assembly, was published in the Royal Gazette, to be effective in 120 days.

5 August 1992 – The TPCA 1992 started to be effective, with Article 11 : Producers and importers. Must inform the MOPH about the ingredients in their products.

4.4 Restrictions on sales to adults

6 March 1989 : The permanent secretary of the MOPH ordered that sale of tobacco products be prohibited in all premises of the MOPH

4.5 Taxation and price policy

2 August 1989 : In the NCCTU meeting the secretary proposed tax increase on tobacco products. The meeting asked for more informations.

Since then the NCCTU secretary, the ASH secretary – general, and colleagues in the OTCC have been advocating in the media about the effectiveness of raising tax in the control of smoking prevalence, especially among youth, but are not successful. The

Excise Department maintains that the excise tax is already high (55% of the retail price) and smuggling can not be suppressed. Therefore if the tax is increased smuggling would be more lucrative.

4.6 Economic measures

19 October 1989 – The NCCTU's meeting had a resolution that building a new cigarette manufacturing plant was not appropriate and proposed this to the cabinet. On 16 January 1990 the Minister of Finance withdrew the plant building proposal from the Cabinet agenda.

12 March 1993 – The NCCTU's secretary sent a letter to the Minister of Finance on asking to draw up a long term plan to substitute tobacco growing with other crops and phase out subsidies to the tobacco growing and production.

4.7 Prohibition of smoking in public places

13 September 1976 – The Bangkok Metropolitan Ordinance :-

1. prohibits smoking in the cinema, providing place for smoking, installing instructive signs, and projecting no-smoking slides at least 2 times during one screening.
2. prohibits smoking in public buses.

30 June 1986 – Land Transportation Act 1979 announced in the Royal Gazette prohibiting passengers of transport bus to smoke.

6 March 1989 – By the order of the permanent secretary all premises of the MOPH are smoke – free, except in designated smoking areas.

7 April 1992 – The Nonsmokers' Health Protection Act 1992 (NHPA) was published in the Royal Gazette.

10 September 1992 – The Public Health Ministerial Regulations of the NHPA were published in the Royal Gazette, to be effective within 30 days.

10 October 1992 – The NHPA's Ministerial Regulations became effective. The public places that smoking is restricted are classified into 4 categories as follows :

category I : Total ban of smoking – passenger buses, taxis, air – conditioned passenger trains, passenger boats, domestic passenger planes, passenger elevators, school buses, and cinemas.

Category II : Total ban of smoking, except private rooms – secondary and primary schools, museums and cultural exhibition halls, libraries, pre-school nurseries, air-conditioned passenger boats.

Category III : Total ban of smoking, except private rooms and designated smoking areas – hospitals, buildings of universities, trade center’s air-conditioned exhibition halls, indoor sport arenas, government buildings (public areas), commercial banks (public areas), air-conditioned waiting rooms of cinemas, air-conditioned bus terminals.

Category IV : at least 50% of the total areas to be designated smoke-free-air-conditioned restaurants, passenger trains.

4.8 Prohibition of smoking in the workplace

Public information campaigns were carried out all through the year 1992, utilizing the WHO’s theme :tobacco-free workplace : safer and healthier” to persuade private organizations to adopt the policy.

The ASH-RDF’s activities resulted in more than 400 workplaces adopting no-smoking policy. A booklet is published citing the names.

4.9 Preventing young people from smoking

3 August 1992 – The TPCA 1992 became effective. It has 2 articles that prevent youths from tobacco use,

- Article 4 : prohibition of sale of tobacco products to persons aged under 18
- Article 5 : prohibition of sale of tobacco products by vending machines

Responding to the request of the OTCC, the NCCTU secretary, and the ASH the Excise Department agreed to the following measures ;

1. Retail outlets are not allowed to have registration if located near schools; and

2. Stickers; Sale of cigarettes to persons aged under 18 years is illegal”, produced by the OTCC, will be asked to be placed on the cigarette racks in the retail shops.

The ASH-RDF conducted 2 programs :

1. Smoke-buster club – was established having 7,500 young members and monthly newsletters.
2. Smoke-free environment for kids – aiming at building awareness of the danger of smoke to children and asking smokers to refrain from smoking in places where there are young people around.

Other activities included organizing a seminar “Tobacco Smoke and Kids”, contest for children writing on the theme ‘Daddy please quit smoking’, and contest for children drawing no-smoking posters.

THE ECONOMICS and POLITICS OF TOBACCO

THE CLOSED CIGARETTE MARKET OF THAILAND

Before August 1992 Thailand had a closed cigarette market. The Excise Department of the Ministry of Finance (MOF) was established during the reign of King Rama the V with the objectives of controlling the ‘evil’ things such as alcohol, tobacco products, gambling, and others. Thus cigarettes had been produced and sold by the only producer – the government owned Thailand Tobacco Monopoly (TTM). Marketing activities have been minimal and ineffective.

FOREIGN INVASION

Foreign cigarettes had been lobbying the MOF for a long time to open the market. Finally in March 1989 the Ministry quietly prepared the lists of the first lot of foreign cigarettes to be allowed in legally.

The Consequences are summarized chronologically as follows :

13 March 1989 – The NCCTU secretary gave a press interview that foreign cigarettes were invading Thailand and this would cause health havoc to the people.

10 April 1989 – The United States Cigarette Exporter Association (USCEA), realizing that the quiet lobbying of the MOF would not be successful because of the loud uproar, petitioned the United State Trade Representatives (USTRs) that the Thai Government protected the TTM by :

1. prohibiting import of foreign cigarettes,
2. taxing indiscriminately,
3. not facilitating distribution, and
4. banning tobacco advertising.

16 May 1989 – The NCCTU secretary, acting as the deputy permanent secretary of the MOPH and deputy delegate, intervened in the World Health Assembly (WHA) in Geneva that the U.S. was forcing Thailand under Section 301 to open market for foreign cigarettes.

10-12 June 1989 – Dr. Prakit Vateesatokit, secretary-general of the ASH of the Rural Doctor Foundation, (ASH – RDF) attended the meeting of Asia and Pacific Association for Control of Tobacco (APACT) in Taipei, Taiwan. The meeting had a resolution supporting Thailand case and sent letters to the USTR and US. President George Bush.

16 September 1989 – The NCCTU secretary, the secretary general of ASH-RDF, and Dr. Surin Pitsuwan, a democrat representative from Nakorn Srithamarat Province, left for the US, with wide coverage from the electronic and printed media.

Chairman of the Rural Doctor Group and 70 members went to the U.S. Embassy to deliver a letter to the U.S. government opposing the forced opening of cigarette market.

19 September 1989 – The 3 –man Thai delegation attended the public hearing held by the USTRs. Secretary general of the ASH-RDF and the democrat representative testified in the hearing. There were 21 persons or groups supporting Thailand and 8 persons or groups testified against.

22 October 1989 – The USTR took the cigarette case with Thailand to the multilateral forum of the General Agreement on Tariffs and Trade (GATT). The long-awaited

decision was made despite strong opposition from the American cigarette industry, which tried to garner Congressional support to stop the move.

The decision memo reflected the overall assessment and recommendations by the interagency group on trade. The USTR and the Departments of State and Treasury supported the decision to go to GATT, while the Department of Commerce opposed it.

GATT's adjudication on the cigarette issue will have both positive and negative ramifications for Thailand. The most immediate positive effect is the extension of the consultation from May 25, 1990 to November 25. Another positive effect for Thailand and the one which prompted strong protests from the American cigarette industry is that the move will split the cigarette issue into aspects which GATT rules cover and those which do not. This split weakens the US position and lessens the chances of resolving expeditiously all aspects of the cigarette dispute that they petitioned for.

Of the four issues that the USCEA put to the USTR to seek a resolution under Section 301 only the import and taxation problems are apparently in violation of GATT rules of Article XI and Article III respectively. The other two are not violation of any GATT rules.

1-5 April 1990 – The Seventh World Conference on Tobacco and Health held in Perth, Australia, attended by more than 1000 participants from some 70 countries passed resolutions :

(1) Conference participants urge nations not to use trade leverage to compel other nations to repeal restrictions on taxation, manufacture, import, distribution, sale or advertisement of tobacco products, and specifically the U.S. government is called upon to cease pro-tobacco trade actions against Thailand and other countries.

(2) The Conference urges GATT to acknowledge that tobacco products are uniquely hazardous and that nations have the right to tax, prohibit or restrict the manufacture, import, distribution, sale or advertisement.

3 April 1990 – Constitution of the Gatt Panel, consisting of representatives from Switzerland (chairman), Finland, and New Zealand.

24 May 1990 – U.S. first submission paper was sent to the Panel. This described in detail about Thailand's Tobacco Act and the activities of Thailand Tobacco Monopoly (TTM). It said the taxation had been discriminatory.

22 June 1990 – Thailand submitted the first paper. The NCCTU secretary wrote the health content. Thailand maintained that its cigarette import regime was justified under the provisions of Article XX(b) of GATT. The paper described the myriads of health hazards of cigarette smoking, cigarettes are addictive, and American cigarettes are more harmful than the Thai cigarettes.

2 July 1990 – First substantive meeting was held. Thai and US delegations gave written statements and verbal testimony to the Panel. The NCCTU secretary and the secretary-general of ASH-RDF represented health sector in the Thai party. The US, however, did not have health personnel in its team. The Thai delegation requested the Panel to consult WHO.

The US party objected, stating that "...The WHO is competent to address the health issues related to the practice of smoking. We believe that the panel is well aware of the arguments on that point. WHO, however, is not competent to address the health consequences of the market opening for cigarettes as requested in paragraph 51 of Thai submission..."

The GATT Panel consulted WHO.

19 July 1990 – WHO team submitted a paper and testified to the Panel. The WHO team consisted of Dr. Juan Roberto Menchaca, Program manager of the WHO Tobacco Programme, Dr. Claire Cholet-Traquet of WHO Tobacco Programme, and Dr. Gregory N. Connolly, member of the panel of experts of the Tobacco & Health Programme of WHO. One of the conclusions was that "...In countries that have opened their cigarette markets, the entry of foreign companies has dramatically changed how cigarettes are manufactured, distributed, promoted, advertized, and sold. These changes have contributed to increased cigarette consumption which will ultimately result in increased rates of smoking attributable death and disease."

27 July 1990 – the second substantive meeting was held. The NCCTU secretary and the SG of ASH-RDF represented health sector in the Thai team.

21 September 1990 – The GATT Panel Report was released. The conclusions were :

1. Import ban is not justified.
2. Taxes (municipal, business, excise) are consistent with GATT.

3. The Panel accepted that the health risk of smoking is serious, thus Thailand could impose laws and regulations effecting :

- the internal sales, offering for sale, purchase, transportation, distribution, or use of imported products provided that they are given national treatment.

4. Thailand can introduce regulations of strict non-discriminatory labelling and ingredient disclosure.

5. Thailand's ban on advertisement normally meet the requirements of Article III : 4 of GATT

9 October 1990 – The Thai Cabinet approved proposal of the Commerce Ministry to announce the opening of the Thai market for foreign cigarettes.

12 October 1990 – the NCCTU secretary said in a press interview that the USTR would not stop at the lifting of the cigarette import ban. It would move on to our advertisement ban lifted by using Section 301 as its tool.

15 October 1990 – News from Washington D.C. revealed that the USTR prepare to publish in the Federal Register on October 16 a notification on US trade retaliation under Section 301 against Thailand. The USTR , however , would not publish the list of products nor the value this time.

17-19 October 1990 – The Thailand US teams met in Washington, D.C. The USTR requested point of sale promotion, scrapping import duty on cigarettes, lower the excise duty from 55% , and not to impose regulation requiring duty stamps to be affixed inside the cellophane wrappers. The Thai team refused.

The NCCTU secretary warned, through an interview to the newspaper “The Nation”, that the US position before the negotiation would “repoliticize the cigarette issue and jeopardize Thai-American relationship.”

He described US tactics as “wolf and lamb” – a reference to the Aesop fable in which the wolf is prepared to devise any excuse in order to eat the lamb.

29 November 1990 – USTR Carla A. Hills sent a letter to Thailand's Minister of Commerce listing the aspects of foreign cigarettes market access and stating termination of the investigation under U.S. trade law.

28 November 1990 – The NCCTU secretary welcomed the US move as a major victory for public health, despite a general impression that Thailand was defeated in international trade.

At last, after the long and tedious fight for 1 year and 6 months, Thailand has shown to the world that a small country can defeat the giant...

...with truegrit of a few Thais, strongly and sincerely supported by friends all over the world, the immoral merchants of death are defeated...and the landmark GATT case will be greatly beneficial to future victims.

Operation environment

Tobacco control activities in Thailand were carried out by a strong combination of GO (since 1989) and NGO (since 1986) , and a weak or almost-nil marketing practice of the tobacco industry represented by the TTM (up to 1991). Since August 1991, when foreign cigarettes were placed for sale for the first time, the operation environment has become totally different. The TTCs did send in the world's top marketing experts, set up wide distribution network, and began to lobby politicians. The industry started to come into Thailand to conspire against our people's health.

The TTCs

BLOCKING THE TOBACCO CONTROL LAWS

The foreign cigarette companies collectively (they always sent letters to authorities with their names signed as a group) lobbied to block the TPCA.

First they sent a letter to the Deputy Premier while the draft was being deliberated in the Judicial Council, asking to take part in the process. The NCCTU secretary objected and this was denied.

Then they sent a letter to the same Deputy Premier, at the time when the draft was on its way to the cabinet, asking for a dialogue to consider the law. This was also denied.

At the cabinet meeting a deputy prime minister asked for deletion of 2 articles – article 4 (prohibition of sale to persons under 18), and article 11 (disclosure of the ingredients). This was due to lobbying by a foreign cigarette importer. The NCCTU secretary and the ASH-RDF secretary general could elaborate rationales and produce valid documents to support the importance of the articles, avoiding the deletion.

When the 2 draft laws were put in the agenda of the National Assembly they were again deliberately re-arranged to be in last positions so that they both could not be considered in time before the closure of the Assembly (due to termination of the tenure of the government), which would surely drop the two drafts and there would be no chance for the enactment or reconsideration by the new, elected House of Representatives. The NCCTU secretary and the ASH-RDF secretary general then gave

a strong criticism to the press and the big news came out in the front pages of at least 2 most popular newspapers. Apparently the Prime Minister realized what had happened and he urgently ordered the Minister of Health to go to the assembly and pulled the two draft laws up the ranking in the agenda, resulting in being passed through the first reading.

The tobacco merchants acted again as a last ditch effort. At the scrutinizing meeting of the Assembly's Committee for Public Health and Environment the NCCTU secretary noted that one of the Assembly member who was waiting for his turn to discuss his proposed changes (deleting articles 4 and 11) had brought along the country manager of Philip Morris company. So he notified the Committee chairman, who then announced that those who were not invited leave the room. The man complied. In the following morning several newspapers headlined 'the Marlboro Man invades the National Assembly' with the detailed account given by the NCCTU secretary. This solo gun shot killed four birds simultaneously – the proposal to delete articles was dropped; the friend-of-Marlboro assemblyman disappeared from the scene and being deprived of a chance to propose in the floor again; the two drafts easily sailed through the second and third readings with nobody willing to make further comment; and the tobacco merchant was portrayed as immoral manipulators, worthy of public hatred.

**ADVERTISING AND PROMOTION – BREAKING THE LALW OR TRYING TO
CIRCUMVENT IT**

Even with the most stringent law the foreign cigarette companies tried many ways to advertise sneakily.

- At the first occasion of market placement of foreign cigarettes the importer of the Japanese products ordered 20 transport vans painted with its logo 'Mild Seven'. This was advertisement according to the TPCA. The NCCTU secretary notified the CCP. The importer was summoned by the CCP and explained that it was the car company who did the paint job and the cigarette businessman did not know about. Finally they removed the painting.

- Point of purchase (PoP) promotions were rampant. The importers provided retail outlets with PoP display materials and guided them to decorate the shops. They included display racks filled with numerous empty cartons, mobile objects (with logos and prices) hanging from the ceiling, big dispenser imitating cigarette packet with big logos, and big price boards. PoP or not, these are illegal since they' are seen by the public, for commercial purpose.' The NCCTU secretary's interviews appeared in almost full pages, with photos of the PoP display, in a daily newspapers and a twice weekly business magazine, asking who would be responsible for the fine of 200,000 Bahts (approx. US\$ 8,000) – the retailers or the importers? Within a few days the PoP displays vanished from the outlets all over the country ! It is a pity that even the only hope left – the very much – hope-for 'shelf space' could not be accounted for.

- Same-name product advertisement appeared, either unknowingly of law or as a 'test'. The *Camel Boots* were advertised in a front page of the English newspaper "The Nation" on May 13, 1992. The NCCTU secretary wrote to the importer and the manager called for an apology, assuring that such thing never happened again. The "Winston House" clothing ads appeared in a weekly business magazine during 16 to 29 November 1992. The NCCTU secretary notified the OTCC, asking to take legal action.

Environmental ads have been tried by the foreign cigarette importers. Ash trays and glass plates with cigarette logos were given as compliment to restaurants and pubs. The NCCTU secretary gave press interviews to warn the establishments not to accept such cheap offers from the tobacco merchants since the restaurants would have

to pay a hefty fine of US\$ 8,000 , not worth for the indecent gifts. In another case score cards in at least three golf courses were found to have small 'Marlboro' on the formula one racing car advertised by Honda car company. After receiving letter from the NCCTU secretary the logo disappeared from the cards.

- During a trip the NCCTU secretary found that two ash trays with Marlboro logos were placed in front of the Bangkok Air Port tax-free shop and inside Mild Seven was offering free premiums with the purchase. The OTCC was notified and the shop subsequently terminated the practices.

AN ATTEMPT TO WEAKEN HEALTH WARNINGS

Strong, vivid, and precise new set of health warnings were announced on September 24, 1992 to be effective in one year. Even with such a long grace period the foreign cigarette firms had not done anything 5 months before the deadline. On the contrary they called and made a lot of complaints, and asked for 'dialogues'. These would be used as an excuse that they could not implement it in time. Worst, there was a report that the Public Health Minister summoned an official of the OTCC to explain the new health warnings and told the person that Thailand did not need to be the best in the world in such a matter!

On November 14, 1992 two newspapers headlined foreign cigarette companies collectively put up 10 million Bahts (approx US\$ 400,000) to repeal the Ministerial Regulation on Health Warnings. The Public Health Minister was caught unguarded and had to refuse that he never order the change.

FOREIGN CIGARETTE FIRMS FIGHTING CONTROL OR HARMFUL SUBSTANCES

The Ministerial Regulations have not been settled. The foreign cigarette companies asked for dialogue with the former Minister and the OTCC and the drafting committee headed by the NCCTU secretary. The companies asked for a regulation of giving one collective list (of all brands) of additives. The drafting committee wanted a list for each brand and brand variant. There was some lobbying through the Thai Board of Trade and the US Embassy. The Minister apparently received some words from the

Ministry of Commerce and made some compromise by settling for one list for all brands of one manufacturers.

THE GOVERNMENT SECTOR

THE POLITICIANS

After the inception of the NCCTU its chairman who were concurrently the Ministers of Public Health, had been supportive of tobacco control activities up to September 1992, when the new government came into power. The present administration has been not only unsupportive but also weaken the tobacco control movement, i.e.:

- refusing to give budget to the ASH-RDF in 1993 (the former government allocated 3.5 million Baht or US\$ 140,000 in 1992 – the first and only one support);

- contemplating drastic changes in the structure of the NCCTU with removal of its secretary who has been the No. 1 enemy of the tobacco industry and putting people who do not have any knowledge about tobacco control in place of few other experts ;

- transferring the OTCC to be under the Department of Medical Services which has experience only in curative care but not health promotion, advocacy, and the most important duty of law enforcement.

THE HEALTH ADMINISTRATORS

After the NCCTU secretary's retirement the high-ranking decision makers in the MOPH have not been very enthusiastic about tobacco control, i.e.;

- the OTCC should have been upgraded from the status of a small unit within the Planning Division to the level of a division, but nobody cares to do it ;

- the OTCC has had only 3 permanent and 4 'borrowed' officials. There has been no effort to acquire more and qualified manpower ;

- the OTCC's budget has been consecutively reduced (33 million Baht in 1991, 25 million in 1992, and 20 million in 1993), with no helping hands from the big bosses ; and

- the administrators have been quite reluctant to sign their names in letters about law enforcement.

THE MINISTRY OF FINANCE

The MOF has different mentality from the health sector. Although they are cooperative a few obstacles persist, i.e.;

- tax increase is denied; and
- subsidies of tobacco growing has been practiced with no end in sight.

THE NON-GOVERNMENT ORGANIZATIONS

The anti-smoking grass roots are non existent. There has been only one anti-tobacco private organization – the ASH-RDF. Most of its activities are public information and education, almost all are confined in Bangkok.

Conclusion

Thailand has a national tobacco control activities centered around the NCCTU , the OTCC, and the ASH-RDF. They have been the core of the programs and the architects of the tobacco laws, probably among the best and the most envied.

All are 'top-down' and none are bottom up, because the grass-roots activists do not exist.

After the market opening to foreign cigarettes the operation environment has changed dramatically. The politicians have apparently been heavily lobbied and it might result in weakening of the legislation and shunning the growth of government sector for tobacco control.

A strong non-governmental anti-smoking coalition is needed to spin the merchants of death into a spell of dejavu and preach them to the choir!

ZIP # PRE / FILE : TC in Thailand before and after market entry