

BANNING SMOKELESS TOBACCO



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Discovering smokeless tobacco products by chance

After having retired from government service since the end of September 1989 I still assumed the post of Secretary of the National Committee for the Control of Tobacco Use (NCCTU). Meanwhile, I had a private clinic at Sukhumvit Road, Lane Nana Tai which opened for service only on Tuesdays and Fridays, from 17.00 to 20.00 p.m.

One afternoon in June 1992, I arrived at the clinic quite early and decided to take a stroll along Sukhumvit road where a large number of foreigners stayed in the hotels in the neighborhood. At the entrance of Nana Tai lane there was a drugstore where I noticed that they have some flat boxes of smokeless tobacco under the brand name “**Skoal**” with the tobacco excise stamp fixed upon them. I then asked the vendor to whom he sold the products which he said that they were for foreign tourists.

I believed that in Thailand no one knew that there were “**smokeless tobacco**” existed in the market. Nobody knew about the deadly toxicity and danger of this type of tobacco products whereby a large number of American youths were lured to be its preys. When it appeared to my own eyes that this type of product was being sold legally I then contacted the Director of Tobacco Division of the Excise Department for clarification. He told me that the “**Skoal**” smokeless cigarettes received import permit and authorized their distribution in the market. In the beginning when I raise the question concerning the “**smokeless tobacco**” he could not give any answer as he himself had not heard or used this term but after I explained to him about how it looked like and its brand name he then mentioned that it was the “chewing” product.

Compiling evidences of smokeless tobacco

I compiled evidences of health effects due to consumption of smokeless tobacco from all available documents, e.g. WHO’s Smokeless Tobacco Control, U.S. Surgeon General Report – The Health Consequences of Using Smokeless Tobacco, etc. These were to be used to support our request for banning production, import and sale of smokeless tobacco product, to be sent to the Ministry of Finance.

Upon examining annual reports for the years 1987, 1988, 1989, 1990 and 1991 of the Thai Tobacco Monopoly (TTM), it was discovered that the TTM had imported the smokeless tobacco

which was mentioned in the reports as “tobacco for sucking in the mouth or chewing” only during 1989 and 1990 with the amount of 99.5 kg. and 72.0 kg. respectively. The data were not the same as those sent by facsimile from the TTM to me on September 10,1992 which appeared as follows:

To: Dr. Hatai Chitanondh

Chewing tobacco which were requested for import (TTM)

No	Brand names	Quantity in kg.				
		1988	1989	1990	1991	1992
.						
1.	<i>Copenhagen Tobacco Products</i>	-	-	95	81	72
2.	<i>Skoal Long Cut Straight</i>	-	-	37	27	32
3.	<i>Skoal Wintergreen</i>	-	-	-	50	32
4.	<i>Skoal Bandits Mint</i>	-	-	-	4	-
5.	<i>Red Man L.L.</i>	-	-	-	-	-

Acquiring the regulation

After compiling all technical documents as stated I myself, in the capacity of the Secretary of the National Committee for Control of Tobacco Use, recommended the Director of the Office of Tobacco Control (Ms.Lakhana Termsirikulchai) to draft a letter proposing to be endorsed by Deputy Permanent Secretary of Public Health (Dr. Udom Laxanavijarn) addressed to the Permanent Secretary of the Ministry of Finance requesting to ban the import and sale of this type of product. A copy of the letter appeared as follows:

No. Sor Thor 0245/126

Office of Permanent Secretary

Ministry of Public Health

Devaves Palace, Bangkok 10200

3 July 1992

Subject: Request for canceling import permit for smokeless tobacco

To: Permanent Secretary of Finance

- Attachments:**
1. Photocopy of WHO Document on Smokeless Tobacco Control
 2. Photocopy of the document, The Health Consequences of Using Smokeless Tobacco
 3. Photo of Smokeless Tobacco under “**Skoal**” Brand Name
Photo of Smokeless Tobacco under “**Redman**” Brand Name

As an official of the Ministry of Public Health has discovered that there are smokeless tobacco under the brand name “**Skoal**” in small flat boxes displayed for sale in some supermarkets in Bangkok. Upon enquiring about this from the Thailand Tobacco Monopoly we were informed that the TTM had been granted import permit for this product and corresponding excise tax had been collected accordingly.

Regarding this matter, the Ministry of Public Health would like to inform you that this smokeless tobacco product is very harmful to health as it contains nicotine which is considered a strongly addictive substance. This smokeless tobacco products are found to be heavily addicted among youths in western countries such as the United States and many countries in Europe. WHO has recommended that those countries where this type of product is not available, import permit should not be allowed.

In this connection we would like to inform you about the background information of this product:

1. The widespread of smokeless tobacco in western countries

Currently in the United States, there are around 6-12 million youths which are addicted to the smokeless tobacco. The large majority are among males. The problem could not be tackled successfully by the U.S. Health Department as the addicted substances in the smokeless cigarette are extremely harmful to health.

2. Danger of the smokeless tobacco

Smokeless tobacco is found to be the major underlying cause for cancer of the oral cavity, gum and buccal mucosa. Smokeless tobacco contains many severely toxic substances causing cancer such as nitrosamines, polycyclic aromatic hydrocarbons and polonium.

3. Addicted to toxic substances in smokeless tobacco

Smokeless tobacco products are addictive like other ordinary cigarettes which are available in the market . And as the nature of consumption does not generate smoke like the latter did, it is easy for youths and adolescents to consume them without being noticed by others and do not fall under any restriction or legal measure against smoking in public places. These are the driving forces for increasing consumption and extensive practices in all the places without any restriction.

4. Banning production and importing smokeless cigarettes are measures recommended by the World Health Organization for countries with no extensive consumption of smokeless tobacco.

Currently there are 12 countries where importing of smokeless tobacco products are not allowed. The ban is not, in any way, violating GATTs' trade provisions as Thailand has not engaged in producing smokeless cigarettes and could not be construed as trade protectionism.

As per the abovementioned and the attached documents, the Ministry of Public Health would like to request the Ministry of Finance to repeal its import permit for distributing smokeless tobacco in the country. This is to prevent its addiction not to be incurred in the country. We will be most grateful if you kindly consider this in due course.

Yours sincerely,

(Mr.Udom Laxanavijarn)

Deputy Permanent Secretary for
Permanent Secretary for Public Health

The Ministry of Finance responded positively to the MOPH's request. In its letter dated September 4, 1992. The MOF stated its agreement with the proposal and mentioned that it had issued the ministerial order repealing the permission to import and distribute the smokeless tobacco. The content of which appeared as follows:

No. Kor Khor 0704/39154

Ministry of Finance

Phra Rarm 6 Rd., BKK 10400

4 September 1992

Subject: Repealing the permission to import the chewing drug
To: The Permanent Secretary of Public Health
Ref: MOPH letter dated Sor Thor 0245/126 dated 3 July 1992

In the letter referring herein, the Ministry of Public Health has requested the Ministry of Finance to terminate import permit to bring in smokeless tobacco for sale in the country in view of its addictive substances which are severely hazardous to health.

The Ministry of Finance has considered this and agreed with the Ministry of Public Health's proposal. The MOF's policy direction had been notified to the Excise Department to cancel import permit and sale of the chewing drug and also not to permit its production in the country.

We are happy to inform you this accordingly.

Yours sincerely,

(Mr. Bundit Boonyapana)

Permanent Secretary of State

for Finance

The newsletter 'Tobacco and Health' of the Department of Medical Services reported the banning of smokeless tobacco resulted from my intervention.

จดหมายข่าว
บุหรื สูบบุหรี่ สุขภาพ
SMOKING AND HEALTH NEWSLETTER
ปีที่ 1 ฉบับที่ 6 ประจำเดือนกรกฎาคม - สิงหาคม 2535

ก ลังสังฆานบุหรืไรควัน

กระทรวงสาธารณสุข ๑ นายแพทย์ ทยัย ชิดานนท์ เลขาธิการคณะกรรมการควบคุมการบริโภคยาสูบเปิดเผยว่า ขณะนี้ กระทรวงการคลังประกาศห้ามจำหน่ายบุหรืไรควัน ซึ่งนำเข้ามาจากต่างประเทศแล้ว

ทั้งนี้ เนื่องจากตรวจพบว่ามี การจำหน่ายบุหรืประเภทนี้ในห้างสรรพสินค้าแห่งหนึ่งไนย่านสุขุมวิท โดยเริ่มขายมาตั้งแต่ปี 2533 มีโรงงานยาสูบเป็นผู้ติดต่อ นำเข้ามาจำหน่ายเพียงผู้เดียวในประเทศไทย

“ผมทำหนังสือร้องเรียนไปยังกรมสรรพสามิตเกี่ยวกับการจำหน่ายบุหรืไรควัน แต่กรมสรรพสามิตปฏิเสธว่าไม่รู้จักบุหรืไรควัน ต่อมาผมทำเรื่องเสนอไปยังกระทรวงการคลังอีก กระทรวงจึงสั่งห้ามผลิตหรือนำเข้าบุหรืดังกล่าว มีผลใช้บังคับตั้งแต่วันที่ 4 กันยายนนี้เป็นต้นไป”

บุหรืไรควันซึ่งเอกชนเตรียมนำเข้าจากต่างประเทศมีอยู่ 3 ยี่ห้อคือ สโลแกน เรดแมน และโคเปอร์เฮเกน

ประธานคณะกรรมการระบาศวทยาแห่งชาติ กล่าวเพิ่มเติมว่าในประเทศไทย มีประชากรไม่ต่ำกว่า 6-10 ล้านคน ติดบุหรืไรควันอย่างอ้อมแง่ม หน่วยงานที่รับผิดชอบของสหรัฐฯ ก็ไม่สามารถแก้ไ้อปัญหา

คืนที่ 12

กลับสู่มหณบุหรืไรควัน
คือจากหน้า 1

ผลทางการแพทย์ที่ตรวจพบจากการสูบบุหรืไรควันซึ่งมีสารนิโคตินสูงเสพติดง่ายกว่าบุหรืธรรมดาเป็นบ่อเกิดของโรคมะเร็ง โดยเฉพาะมะเร็งทัวใจ มะเร็งในช่องปาก มะเร็งต่อมเลียง และมะเร็งในหลอดลมเป็นต้น

In reference to this I put out a press release to inform the public, resulting in the news in the media as follows:

12 September 1992, Daily News, p.1, headlined ***“Tearing open the “Tobacco” veil inducing addicted substances to smokers through importing smokeless cigarettes, underlying cause of cancer”***. Parts of the content appeared as follows:

“Senior physician, Secretary General of the NCCTU strongly denounced TTM for allegedly importing smokeless tobacco thus making them widespread in department stores regardless of their more severe toxicity than ordinary cigarettes. They also increase the risk of cancer and heart diseases. Around 6-10 million American youths are found addicted to this product. He then warned Thai youth not to indulge in it. Upon hearing this he was extremely worried and promptly inform the Ministry of Finance requested it to prohibit importing this product immediately.

Dr. Hatai Chitanondh, Secretary General of the NCCTU declared that currently Thailand, through the TTM, had imported the smokeless tobacco or the so-called “chewing tobacco” for sale in the country. The request for import permit was submitted in 1988 and was granted in 1990 with 4 brands brought in for sale namely, Copenhagen, Skoal Long Cut, Skoal Wintergreen and Skoal Bandit Mint, with a new brand, Red Man L.L., to be brought in shortly. The sale price in the department stores was 87 Baht per can. Upon hearing this he was dead frightened because the products are more harmful than ordinary cigarettes in that they cause higher risk of cancer, most particularly those of the upper gastro-intestinal tract such as cancer of the oral cavity, tongue, gum, buccal mucosa and larynx. In addition, smokeless cigarettes also contain high level of nicotine which made them more easily addicted than ordinary cigarette in as much as making the consumers prone to heart diseases. They are also very difficult to quit as it was found that around 6-10 million American youths are addicted to this product. The major target group is essentially young people as findings from concerned studies indicated that product advertisings were primarily found in magazines directed towards youths such as sport magazines, motorcycle contest magazines, etc.

*Dr. Hatai added that in the case of school children, if they chew this product it will be impossible to detect because it has neither smell nor smoke. The Ministry of Public Health then referred this matter to the Ministry of Finance with supportive technical documents from WHO on the danger of *smokeless* tobacco. The MOF was requested to prohibit import of this product and finally in their response on September 4 it was stated that it has issued a ministerial order prohibiting production, import and sale of smokeless tobacco and enforce it promptly.*

When asked by the reporters whether this may be considered as trade protectionism under GATTS provisions, Dr. Hatai said that the MOF has already explained that it will not be construed like that because Thailand has never produced this type of product so the country has the right to prohibit import and sale of the product within the country to protect its citizens’ health. It was quite fortunate for Thailand that the problem has been solved before the transnational company is conscious of this or else it will be too difficult to tackle it successfully.”

Similar news have appeared in other newspapers. e.g. Wathajuk, 12 September 1992, p.7 headlined, “Strict order, banning smokeless cigarette import” and Bangkok Post, 12 September 1992, p. 6, headlined, “Ban on import of smokeless cigarettes”.

12 September 1992 – Wathajuk, p.7, headlined, **“Strict order, banning smokeless tobacco import”**. Its content appeared as follows:

“The MOF strictly prohibited import and sale of smokeless tobacco before the transnational cigarette company makes any move. The event is not considered trade protectionism under GATTS provisions as such product is not produced in the country while the State has its right to protect its citizens’ health.

Dr. Hatai Chitanondh , the NCCTU secretary general mentioned that the TTM has imported the ,”chewing drug” which they have requested for import permit since 1898 and was granted permission in 1990 to bring in for sale in the country 4 brand names comprising Kopenhagen Tobacco, Skoal Long Cut, Skoal Wintergreen and Skoal Bandit Mint, with another brand, Red Man L.L., to be brought in shortly. He recently heard about this in June 1992.

Dr. Hatai said that the smokeless tobacco products are more harmful than ordinary cigarettes, most particularly the high risk involved in causing cancer of the upper G.I. tract such as cancer of the oral cavity, tongue, buccal mucosa and larynx. In addition, smokeless tobacco also contain high level of nicotine which made them more easily addicted and thus more harmful than ordinary cigarettes. They are also very difficult to quit and are popular among young people, for example in the U.S. around 6-10 million American youths are addicted to this product.

In this connection, the Ministry of Public Health then referred this matter to the Ministry of Finance with supportive technical documents from WHO on the danger smokeless tobacco. They also discuss with the Ministry of Commerce concerning the prohibition to import this product. Finally the MOF, in their response on September 4, stated that it has issued a ministerial order prohibiting production, import and sale of smokeless tobacco products and strictly enforcing it accordingly.

When asked whether this may be considered as trade protectionism under GATTS provisions, Dr. Hatai said that the Ministry of Commerce has already explained that it will not be violating such provision because Thailand has never produced this type of product so the country has the right to prohibit import and sale of the product within the country to protect its citizens’ health. It was quite fortunate for Thailand that the problem has been solved before the transnational company could make any move”.

12 September 1992- Bangkok Post, p.6, headlined, **“Ban on import of smokeless cigarettes”**. Its content appeared as follows:

“Thailand has banned the import of smokeless tobacco which is said to be more harmful than cigarettes, National Epidemiology Board of Thailand chairman, Dr. Hatai Chitanondh, said yesterday. The ban is in response to the World Health Organization’s request for non-producing nations to stop the import and sale of the product. About six to seven million youths in the United States use smokeless tobacco, the doctor said, claiming that smokeless tobacco, also known as chewable cigarettes, causes more harm than ordinary cigarettes because of its high nicotine content which causes more addiction. He said the state-owned Thailand Tobacco Monopoly has imported about 136 kg. of smokeless tobacco for sale locally, mostly to tourists. The product is not popular among Thais because of its high price.”

Protest by an emerging American producer

No body, except the importer TTM and the Excise Department which allowed the import and sales, knew about the presence in Thailand of the U.S. producer of the smokeless tobacco brands which had been imported legally. Approximately one month after the breaking news the producer – the U.S. Tobacco Company made a visit to the Ministry of Public Health and the Ministry of Finance asking for a repeal of the order banning smokeless tobacco. Our colleagues at the Office of Tobacco Consumption Control performed their duty very well in warding off the protest of the merchant of death.

15 October 1993 - Matichon, p. 20, headlined, ***“Condemning the company insisting on selling smokeless cigarettes.”***

“Dr. Choochai Supawongse of the Office for Control of Tobacco Consumption said that on October 13, the delegation of U.S. Tobacco Company, the manufacturer of the smokeless tobacco have called on Dr. Paichitr Pawabutre, the Permanent Secretary of State for Public Health to protest against the ministerial order of the MOF prohibiting the sale of smokeless tobacco, arguing that the company has not received any official notification and thus consider this as trade discrimination and protectionism. Dr. Paichitr had assigned him and Dr. Supakorn Buasai, specialist of the Office for Control of Tobacco Consumption to discuss with the delegation. He had clarified to them that as Thailand is a non-producing nation, prohibiting the import and sale of smokeless tobacco shall not be construed as violating the GATTs’ provision. In view of the fact that around 12 million American youths are addicted to the smokeless tobacco, a question was raised whether the tobacco company wants Thai youths to also be addicted? The response was that the U.S. tobacco company is also concerned about health of the Thai people.”

“I also notified them that based on WHO’s report for the year 1988 and the report of the U.S. Department of Health in 1986, this type of tobacco products were found to be causing cancer of the oral cavity, heart diseases, cancer of the larynx and upper G.I. tract. It is also easily addicted because of the high nicotine content and at least 10 countries have prohibited import of this product.”

The source also mentioned that the group of representatives from the U.S. tobacco companies will call on chief executives of the Ministries of Trade and Finance to lobby for having the ministerial announcement repealed”.

15 October 1992- Siam Post, p.18, headlined ***“Lobby on Smokeless cigarettes.”*** The contents appeared as follows:

“Dr. Choochai Supawongse, former secretary general of the Medical Council and secretary of the Office for Control of Tobacco Consumption said that on October 13 the delegation of U.S. Tobacco Company, the producer of smokeless cigarettes had called on the permanent secretary of the Ministry of Communication to request for information concerning the

ministerial order prohibiting import and sale of smokeless cigarettes which the Ministry of Finance has endorsed on September 4, 1992 .

High level sources from the Ministry of Public Health disclosed that the company which produces smokeless tobacco has attempted to lobby politicians to reconsider the bill prohibiting the sale of smokeless tobacco by using marketing strategy to evade legal control. That is to refer to the Non-smokers' Health Protection Act B.E. 2535 which has been put into force since October 10, arguing that smokeless cigarettes do not harm the non-smokers nearby".

16 October 1992-Thai Rath, p. 1, headlined, "Smokeless Tobacco company insists on selling in Thailand". Its contents appeared as follows:

"U.S. company selling smokeless tobacco rushes to call on the permanent secretary of public health complaining that the sale is prohibited in Thailand. Thai doctors then fought back, referring to the fact that smokeless tobacco contain higher nicotine content than ordinary cigarettes and have high risk for cancer. Many countries have already prohibited the sale of this product. In the U.S. around 12 million American youths are found addicted to this type of cigarettes.

As many countries have been alert in organizing anti-smoking campaign utilizing various strategies such as prevention of smoking in public places, prohibiting deceitful cigarette advertising of the tobacco companies, etc. In Thailand the No-Smoking in Public Places Act has recently been enforced while measures for reducing smoking within the public have been undertaken. Before this a ministerial order prohibiting the import and sale of smokeless cigarettes had been promulgated.

News sources reported that as the smokeless tobacco under the brand names of Skoal, Red Man and Copenhagen from U.S. Tobacco Company Co. Ltd .have been officially prohibited for import to Thailand since September 4, 1992, the company representatives had called on Dr. Paichitr Pawabutr, the permanent secretary of public health to clarify about the prohibition. The permanent secretary had assigned Dr. Choochai Supawongse, former secretary-general of the Medical Council and Dr. Supakorn Buasai, specialist of the Office of Tobacco Consumption Control to discuss with them.

Dr. Choochai told the reporters that the company representatives made a complaint that three brand names of their smokeless tobacco products were prohibited for sale by the Ministry of Finance without prior notice which could be construed as trade protectionism. He then clarified that in regard to smokeless tobacco, Thailand is a non-producing nation and does not have this product for sale. The prohibition is not any way against GATT'S' provision. Before this the U.S. Tobacco company used to import, through TTM, 80 kg. of the produces with the Excise Department not knowing about this type of cigarettes. Dr. Hatai then made a complaint to the Ministry of Finance which further succeeded in the issuance of a ministerial order prohibiting the import and sale of smokeless tobacco products. Currently it is found that 12 million American youths are addicted to this product.

Dr. Choochai said that he had explained to UST representatives that based on the WHO's report and report of the U.S. Health Department itself, it was found that the smokeless tobacco have caused cancer of the oral cavity, heart diseases, cancer of the larynx . The product is also high in nicotine content and thus more easily addicted than ordinary cigarettes. There are about 10 countries which prohibited import and sale of this product such as New Zealand, Australia, Singapore, Hong Kong, Israel and Thailand.

However, currently the manufacturer of the smokeless tobacco has attempted to convince people that the product is not harmful to non-smokers nearby and tries to make appointment to meet high level government administrators asking to reconsider this matter. Sources said that they have worked through some group of politicians in similar manner that transnational tobacco companies have done before."

The International Agency for Tobacco and Health Bulletin, October 1992, published the news as follows:

"SMOKELESS TOBACCO IS BANNED IN THAILAND

Smokeless tobacco producers were knocked down and out without a fight in Thailand. Unlike fierce battle between anti-tobacco advocates and the TTCs, with strong support of domestic foreign boards of trade in other countries, notably Hong Kong, Thailand has officially banned production, import, and sale of smokeless tobacco products from September 1992.

Previously nobody knew that 'smokeless tobacco' existed in this country. The anti-smoking advocates, both the government and non-government sectors, were complacent that smokeless tobacco had never been introduced and used in Thailand. The Excise Department, which has the authority to permit an import and sale of tobacco products, did not know anything about the term 'smokeless tobacco'. Until...

One day in June Dr.Hatai Chitanondh, the secretary of the National Committee for the Control of Tobacco Use (NCCTU) accidentally saw a few cans of SKOAL on a rack in a supermarket in a residential area (where most foreigners live) in Bangkok. He found that they had excise tax stamps fixed on, indicating that they were legal. He immediately contacted the Chief of Tobacco Division of the Excise Department of the Ministry of Finance (MOF) and was told that SKOAL was given permission to be imported and sold. The official did not know the word 'smokeless tobacco' and knew only 'chewing tobacco'. Of course the Excise Department did not realize that the product is highly hazardous and addictive.

The NCCTU secretary then quietly took action by preparing for the Ministry of Public health (MOPH) to ask the MOF to ban the smokeless tobacco, citing the recommendations of WHO (Smokeless Tobacco Control) and the US. Surgeon General (The Health Consequences of Using Smokeless Tobacco), and asserting that the ban would not be contradictory to GATT's rule since Thailand had never produced such merchandise domestically.

After studying the MOPH's request and the two references and a consultation with the Ministry of Commerce the MOF, in its letter dating September 4, notified the MOPH that it agreed with the MOPH's request and the smokeless tobacco is banned of production, import, and sale in the country.

According to the Excise Department 5 brand variants had been permitted since 1988. Because of no public awareness (and certainly no advertising) only small amount was sold, 132 Kg in 1990 and 162 Kg in 1991)

"Setting up a tobacco publicity firm, the industry accused that the doctor SCOLDS them every day. So I just shut up and remove things like 'SKOAL Bandits' from the market," expressed Dr. Hatai delightedly when he heard of the news from the MOF.

It is another great victory of tobacco or health advocate in Thailand.