



On April 21 2016, the Southeast Asia Tobacco Control Alliance (SEATCA) received a [letter](#) from Dr. Gary Johns, on behalf of his client the International Tax and Investment Center (ITIC). The letter is riddled with false accusations against SEATCA, mischaracterizations of fact and law, disparaging comments about the World Health Organization (WHO) and the FCTC Convention Secretariat (FCS) and the Parties to the FCTC. Because SEATCA does not engage with the tobacco industry and its representatives, it has decided to publish an open letter in response.

## OPEN LETTER TO DR. GARY JOHNS AND ITIC

19 May 2016

Dr. Gary Johns,  
Queensland, Australia

We are taken aback by the accusations hurled against our organization and we find unacceptable the disrespect shown to us. We feel it is necessary that this intimidation ceases and that the misinformation you conveyed is addressed.

The letter you wrote on behalf of ITIC contains false accusations against SEATCA, disparaging remarks about the World Health Organization (WHO)/ Framework Convention Secretariat (FCS), misinterpretations of facts and law, particularly of Article 5.3 of the WHO Framework Convention on Tobacco Control (FCTC), the first public health treaty negotiated under the auspices of the WHO.

You also used rulings/opinions from authorities of five governments, namely Philippines, Germany, India, Netherlands, and European Commission, to attempt to show that “the work of ITIC does not violate Article 5.3 and the Convention,” when none of these governments have in any manner, in these documents or elsewhere, made an official announcement to that effect.

Let me start by stating that SEATCA is a non-profit, civil society organization working to save lives from the many devastating harms of tobacco use. We take our work very seriously, because of the six million deaths (of which half a million are from the ASEAN region) caused annually by tobacco products that are made, promoted, and sold by profit-oriented tobacco companies.

On the other hand, it is quite plain to see that ITIC represents the interests of the tobacco industry. Aside from the fact that ITIC has a longstanding relationship with the tobacco industry (as documented on the University of Bath’s [tobaccotactics.org](http://tobaccotactics.org) website) and that executive officials of the four largest multinational tobacco companies sit on the ITIC board of directors, ITIC has made statements and published reports that advance tobacco industry interests, and at least two of such reports were financed by Philip Morris International.

You asserted that “*ITIC does not work on any public health issues*” hence, its work on tobacco taxation does not take into account the World Bank’s identification of tobacco tax increases as a cost-effective measure for tobacco control and a key intervention for health outcomes. It completely ignores the fact that tobacco taxation had been classified as a public health issue by Parties to the FCTC. Disregarding the public health dimension of taxation as documented in the FCTC and its guidelines is an affront to the collective wisdom of the 180 governments that adopted the guidelines based on international best practice.

On behalf of ITIC, you asserted that SEATCA “*inaccurately criticized the work of ITIC and mischaracterized its role*”. You referred to our critiques as “*false statements*” and “*mischaracterizes ITIC’s work*.”

The critiques of ITIC’s three reports are well-researched, detailed, and as accurate as possible. These were written in collaboration with much-respected professionals. On this note, we want to point out the sheer inaccuracy of your statement: “*Of 180 Parties to the Convention only 16 are signatories to the Protocol to Eliminate Illicit Trade in Tobacco Products*.” Publicly available information shows that there are 54 signatories to the Protocol. And there is no mischaracterization of ITIC’s role because, as stated above, it represents the interests of the tobacco industry.

You alleged that “*SEATCA is an opaque organization. There is no public document that displays your members, or your executive, or anything remotely suggesting good governance. There is no indication of your sources of income*.”



Asserting that a civil society organization lacks transparency and accountability in the same breath as challenging the messages it sends is a distasteful way to silence civil society voices. We refuse to dignify this approach by providing you with organizational information but suffice it to say that you would have found all the information you needed if you looked in the right places.

You claimed that SEATCA “*refused to operate in an open manner*” and “*operates under the false protection of Article 5.3 of the Convention, which, among other things, seeks to improve the transparency and accountability of policy-making in the tobacco control process*.”

SEATCA does not engage with the tobacco industry and its representatives. SEATCA’s decision is soundly based on the principle that there is a fundamental and irreconcilable conflict between the tobacco industry’s interests and public health policy interests, a guiding principle fully recognized by the 180 States Parties to the FCTC. This principle is the basis for the state’s obligation to protect tobacco control policies from the commercial and vested interests of the tobacco industry (FCTC’s Article 5.3).

SEATCA is actually open to discussion with partners other than the tobacco industry and those representing its interests in accordance FCTC’s Article 5.3. Referring to it as “false protection,” shows disregard for the treaty and the Parties’ commitment thereto. You also mention Article 5.3 Guideline’s transparency provision but left out the essence of it, which is to require transparency from the tobacco industry and from those who interact with it when strictly necessary for regulation.

You stated that SEATCA “*sees itself as an instrument of the World Health Organization and its Framework Convention Secretariat*.”

This statement undermines the credibility of many international and regional non-governmental groups that work closely with inter-governmental organizations. SEATCA is a civil society network that works independently of the WHO and FCS. The fact that SEATCA was granted observer status by the FCTC Conference of Parties (COP), like many other organizations, does not make it an instrument thereof.

Such a statement is also laden with innuendo that there is the possibility for the FCS to be treating civil society organizations as “instruments.” This type of reference could damage the reputation of the FCS as it undermines the trust and partnership developed by the FCS with CSOs over time.

In addition, the criticism you made of the WHO/FCS having “*excluded reputable authorities such as Interpol from its illicit trade work*” is actually a direct challenge to the judgment made by a body comprising of about 180 governments (the COP); for it is the COP that decided to defer reviewing Interpol’s application as observer due to the organization’s receipt of tobacco funding.

Finally, you claim that ITIC’s repeated attempts to engage were in good faith. And yet, by your own admission, you stated that ITIC’s aim was “*to provide opportunities (for SEATCA) to rectify (its) comments and mischaracterization*.” Attempts to engage with the intention of making the other party rectify supposed errors show prejudice and are not a manifestation of good faith.

SEATCA will not tolerate any more offensive statements. It is simply unacceptable for organizations representing the multinational corporate sector to intimidate civil society organizations that support government implementation of a human rights and public health treaty that aims to prevent deaths from a deadly product.

Sincerely,  
**Ms. Bungon Ritthiphakdee**  
Executive Director

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