

Malaysia

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Summary of Findings

1. Industry participation in policy development

Following an extensive campaign by the tobacco industry against tax increases, the Ministry of Finance did not increase tax in the 2021 budget. British American Tobacco (BAT) in its annual report said it “engaged with the government through regular meetings and public consultations” and this included dialogue and providing information related to illicit tobacco, sending information related to new tobacco products and recommendations on tobacco control regulations.

In September 2020, the Deputy Finance Minister II told the Dewan Negara that the Multi-Agency Task Force (MATF) to address smuggling has been revived and strengthened with the addition of agencies such as the National Kenaf and Tobacco Board (LKTN), the National Security Council and the Malaysian Anti-Corruption Commission. The LKTN provides a seat for the tobacco industry, represented by Japan Tobacco International (JTI). The LKTN participates in inter-sectoral tobacco control meetings.

2. Industry CSR activities

The COVID-19 pandemic placed the government in a vulnerable position to receive contributions to meet grave needs in the country. The tobacco industry exploited the pandemic and made contributions. In August, JTI gave MYR150,000 worth of personal protective equipment (PPE) to Polis DiRaja Malaysia. The Inspector General of Police collected the mock check.

3. Benefits to the industry

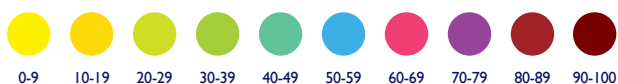
There was no tax increase on tobacco in the 2021 budget. The finance minister announced revenue collection strategies will be improved and enforcement will be strengthened through a MATF where the LKTN has a seat. This was welcomed by both JTI and BAT.

The government abandoned the recommendation by the Ministry of Health to ban vape products, and instead proceed to apply tax thereby “legalizing” it. BAT reported, “Innovation in planning supply chain routes to ensure goods delivered on time and in full despite various Movement Control Orders (MCO) in effect.” It is not clear how tobacco was able to be supplied during MCO. Tobacco is not an essential consumer good.

Reversal of policy: The government reversed a policy made by the previous administration—the use of electronic cigarettes will now be jointly regulated by three ministries instead of just one. They are: the Health Ministry; the Science, Technology and Innovation Ministry and the Domestic Trade and Consumer Affairs Ministry (KPDNHEP). The Ministry of Health however remains consistent in its position on vaping, recognizing there are various health risks linked to vaping or e-cigarettes, and that the ministry would not be supporting the industry but would push for tight regulation.

4. Unnecessary interaction

A senior head assistant director of the enforcement division of the Ministry of Domestic Trade and Consumer Affairs participated and presented at the Global Tobacco and Nicotine Forum (GTNF), which is a tobacco industry-sponsored annual international forum.



5. Transparency

In 2020, the US ASEAN Business Council (US-ABC) met virtually with senior government officials including the Minister of Finance. Other officials included: the Minister in the Prime Minister's Office (Economy), the Minister of Tourism, Arts and Culture and APEC Secretariat Executive Director.

There are no rules for the disclosure or registration of tobacco industry entities, affiliated organizations and individuals acting on their behalf including lobbyists.

6. Conflict of interest

The government continues to hold investment in tobacco companies: The Employees Provident Fund (EPF) is one of BAT's major shareholders.

In May 2020 the former Press Secretary of the Ministry of Tourism and Culture Malaysia became the Managing Director of Retail and Trade Brands Advocacy (RTBA) Malaysia. This is an advocacy group that echoes the tobacco industry's opposition to tax increases using the smuggling argument. The RTBA also champions "regulation" of vapes instead of a ban because it claims, "the government stands to gain an estimated tax revenue of more than RM300 million if appropriate vape regulations are introduced."

7. Preventive measures

There is no procedure for disclosing the records of any interaction with the tobacco industry in place and there has been no progress in taking this issue forward.

There has been no progress in the development and adoption of a code of conduct to protect government officials from tobacco industry interference. In 2014, the Ministry of Health started work on developing an Article 5.3 code of conduct for officials, prescribing the standards with which they should comply in their dealings with the tobacco industry. The initiative then focused on just the Ministry of Health's staff several years ago. The code was not finalized in 2020.

The government does not require the tobacco industry to submit information on tobacco production, manufacture, market share, marketing expenditures, revenues and any other activity, including lobbying, philanthropy, political contributions and all other activities. There was no movement in 2020. The government has no specific policy to disallow the acceptance of contributions/gifts from the tobacco industry. However, General Orders and anti-corruption law exist and this should apply overall.

Recommendations

1. To ensure transparency there must be a procedure for government officials to record all interactions, where strictly necessary, with the tobacco industry.
2. Ban tobacco-related corporate social responsibility (CSR) activities.
3. The tobacco industry should not be given any benefit to run its business. There must be a tax increase on tobacco in 2021.
4. Tobacco companies should not be involved in agencies responsible for regulation, such as MATF.
5. A code of conduct for government officials to provide guidance on dealing with the tobacco industry must be adopted. The code will stop government officials from endorsing tobacco-related activities and the tobacco industry.