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SUMMARY OF FINDINGS

1. Industry Participation in Policy Development

Tobacco industry (TI) executives were allowed to participate in an open dialogue session with Parliamentarians at Parliament House, while the Ministry of Health held various consultations with industry representatives.

A TI representative also wrote to the former Deputy Minister of Finance urging the government to regulate the industry through the existing Food Act of 1983 rather than through a stand-alone omnibus act. The Excise Duties (Amendment) Order and the removal of liquid nicotine from the list of controlled substances under the Poisons Act paved the way for taxing e-liquids.

The Malaysia e-Vaporizers & Tobacco Alternative Association (MEVTA) reportedly met with the Prime Minister shortly before the enactment of the Control of Smoking Products for Public Health Act 2024 (Act 852). However, the Generational End Game (GEG) provisions, which included measures to regulate vaping, were dropped from the bill. It was also noted that the Malaysian Industrial Development Authority (MIDA) promoted and highlighted news about BAT Malaysia on its website, indicating support for tobacco-related business activities.

2. Industry CSR Activities

The Deputy Prime Minister launched the "Beyond Benih" program, a collaboration between BAT Malaysia and the Federal and State levels of the Federal Agriculture Marketing Authority (FAMA). This is part of BAT's CSR program, which used the tagline "A Better Tomorrow."

In 2024, the Agriculture Department awarded BAT Malaysia a certificate of appreciation, recognizing it as a strategic partner in the "Kebuniti" community farm projects. The Centre for Industrial Relations and Networks (CiRNet) at University Putra Malaysia also conducted a tree-planting CSR activity jointly with Philip Morris International (PMI).

3. Benefits to the Industry

There was a further delay in the already staggered implementation and enforcement of Act 852. The ban on the display of cigarette packs and electronic smoking devices, initially scheduled for implementation on 1 April 2025, was postponed to 1 October 2025, providing the TI with 14 months to comply. The requirement for standardized packaging and labeling of smoking products, scheduled for 1 October 2025, provided the TI with 20 months to comply with the law.

The government continues to extend tax exemptions, subsidies, financial incentives, and other benefits to the TI, including relocation incentives that benefited BAT Malaysia. MIDA's policy to boost export investments also provides duty-free exemptions for tobacco, while import duties on tobacco leaves and cigarettes remain below 5 percent under ATIGA (ASEAN Free Trade Area, AFTA).

4. Unnecessary Interaction

There was evidence of unnecessary interactions between senior officials and the TI, including courtesy calls between TI representatives and the Prime Minister, senior Cabinet members, and high-level government officials. These engagements aimed to secure continued support for a favorable business environment for the TI and to influence enforcement programs. Findings from TI-funded studies on illicit trade were also presented to the government.

The Minister of Health defended the presence of tobacco and vape industry lobbyists meeting Members of Parliament as "appropriate in any mature and civil democracy," a stance that constitutes an unnecessary interaction and a conflict of interest under WHO FCTC Article 5.3.

5. Transparency

There is no disclosure of government meetings or interactions with the TI. The Deputy Minister of Health cited industry interference as a reason for the postponement and removal of the GEG clause from the Act 852 bill. A letter from the TI to the former Deputy Minister of Finance was circulated publicly, along with two letters from the Ministry of Finance to the Ministry of Health expressing support for legalizing the nicotine industry.

6. Conflict of Interest

A conflict of interest exists within the Government Multi-Agency Task Force, which includes the National Kenaf and Tobacco Board (LKTN), on which BAT Malaysia holds a seat. This arrangement risks undue influence and compromises the effectiveness of the Task Force's decisions.

7. Preventive Measures

The Ministry of Health and the inter-agency committee on tobacco control have not adopted any measures to implement Article 5.3 of the WHO FCTC. The government does not require the TI to provide information on revenue, marketing expenditures, philanthropy, or lobbying activities. There is no register of lobbyists and no public disclosure of interactions between the government and the TI.

RECOMMENDATIONS

1. Implement a code of conduct with clear ethical and integrity measures to ensure good inter-ministerial and intra-agency governance. This should outline specific engagement protocols, including those for political parties and legislators at all levels.
2. Enforce the ban on tobacco-related CSR activities and terminate the current memorandum of understanding with BAT Malaysia for the Beyond Benih program.
3. Establish a public registry listing all TI entities, affiliated organizations, and individuals acting on their behalf, including lobbyists.
4. Require the TI to disclose comprehensive information on production, manufacture, market share, marketing expenditures, lobbying, philanthropy, and political contributions.
5. Reinstate key clauses removed from Act 852 due to industry lobbying and interference, particularly the ban on nicotine products and the GEG provision to safeguard children and future generations.