



Malaysia
**Tobacco Industry Interference
Index 2023**

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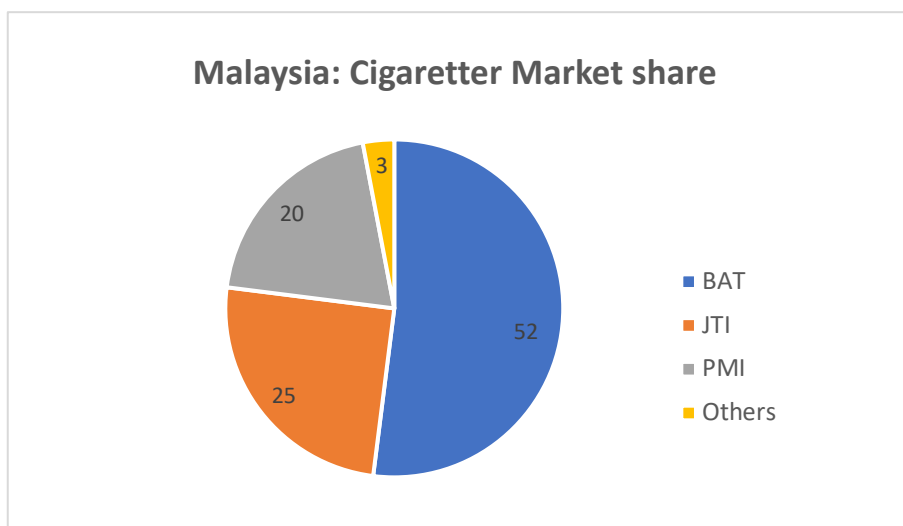
Southeast Asia Tobacco Control Alliance

Background and Introduction

In January 2022, the then Minister of Health announced Malaysia will introduce a new tobacco control bill which will have a generational endgame (GEG) component to ban sale of tobacco products to those born after 2007.¹ Currently, tobacco is regulated through the Control of Tobacco Products Regulations under the Food Act 1982. The omnibus tobacco control bill has been in the making for more than 10 years. Following the announcement, as the Ministry of Health proceeded to prepare to table the bill in Parliament, they faced huge opposition and challenges from the tobacco and vaping industry and their front groups.

There are about 5 million smokers in Malaysia and more than 1 million vapers although e-cigarettes (electronic nicotine delivery systems, ENDS) have not been approved for sale because nicotine is a class c poison in the National Poison Act 1952. British American Tobacco (BAT) Malaysia, Japan Tobacco International (JTI) and Philip Morris Malaysia control 97 percent of the total cigarette market.² BAT is the dominant tobacco company (Figure 1) controlling about 52 percent of the cigarette market share.³ Despite acknowledging that smoking is harmful, BAT Malaysia said, “Our focus is to drive share growth in combustibles [cigarettes] in order to drive revenue growth”⁴ which means the company will sell more cigarettes. BAT sold more cigarettes of its top brands, Dunhill, Peter Stuyvesant and new brand Kyo. BAT introduced Kyo as a cheap brand during the pandemic in 2020. In 2022 it reported KYO is the “fastest-growing brand” in its range and two new variants were introduced in 2021- KYO Switch (Mint Capsule) and KYO Red (Full Flavour).

Figure 1: Cigarette market share



¹ Li KS. Enforcement of generational endgame key to its success say experts. The Edge Markets. 9 Aug 2022. Available from: <https://www.theedgemarkets.com/article/enforcement-tobacco-generational-endgame-key-its-success-say-experts>

² Globaldata. Malaysia Cigarettes, 2019

³ BAT Annual report 2020 <https://bit.ly/3ueb4fB>

⁴ BAT Malaysia. 2022 Annual Report. Available from:

[https://www.batmalaysia.com/group/sites/bat_ap6d21.nsf/vwPagesWebLive/DOAP8FP4/\\$FILE/medMDCQFRRO.pdf?openelement](https://www.batmalaysia.com/group/sites/bat_ap6d21.nsf/vwPagesWebLive/DOAP8FP4/$FILE/medMDCQFRRO.pdf?openelement)

According to BAT Malaysia, although the overall market share declined by about 0.8% in 2022, however the value-for-money (cheap) cigarette brands captured an additional 1% share of market. Top cigarette brand, Dunhill, also made an additional 1.1% sales.⁵

Over the past eight years, Malaysia has had no progress in implementing Article 5.3 guidelines of the WHO Framework Convention on Tobacco Control (FCTC) and is faring poorly in protecting public health policies from interference from the tobacco industry (TI). As a result, several tobacco control policies have been put on hold, delayed or undermined. These include no excise tax increase on tobacco for 8 years (last increase in 2014); plans on standardized packaging of tobacco abandoned; ban on pack display at points of sale and licensing of retailers to sell tobacco delayed, and tabling of the GEG bill delayed (finally tabled in June 2023). The tobacco industry and those representing its interests (such as front groups – Annex A) have applied pressure on the government and interfered against these measures. More recently, after an aggressive campaign by the TI and its front groups, e-cigarettes were legalized on 29 March 2023 by convincing the Ministry of Health to amend the National Poisons Act 1952 and remove nicotine as a poison. With this crucial amendment of the law, the industry is able to sell more nicotine based products without any regulation because the GEG bill is stalled.

The findings of this annual TI Interference Index show there is a further deterioration in Malaysia's performance with the total score of 76 compared to 66 in 2021.

On the positive side, new import license for tobacco was frozen and duty-free status of cigarette has been removed in duty-free islands and any free zones that have been permitted the retail sale of duty-free cigarettes.

The report is based on a questionnaire developed by the Southeast Asia Tobacco Control Alliance. There are 20 questions based on the Article 5.3 guidelines. Information used in this report is obtained from the public domain only. A scoring system is applied to make the assessment. The score ranges from 0 - 5, where 5 indicates highest level of industry interference, and 1 is low or no interference. Hence the lower the score, the better for the country. The 0 score indicates absence of evidence or not applicable. The report includes information on incidents from April 2021 to March 2023, but also includes incidents prior to 2021 that still have relevance today.

⁵ <https://www.theedgemarkets.com/node/654451>

Summary Findings

1 INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

The tobacco/vape industry and their front groups lobbied the government for the approval of ENDS (electronic nicotine delivery devices) using several arguments including how this will address smuggling, the government can collect substantial taxes, and offer these products for smoking cessation. In March 2023, the Ministry of Health amended the National Poison Act and removed nicotine as a class c poison. This enabled the importation and sale of ENDS such as vape products.

The Minister of Finance (also the Prime Minister) announced in April vape products will be taxed thereby legalizing them for sale. The tobacco industry stands to gain the most from this move. Since the proposed Tobacco Control Act, containing the generational endgame (GEG) was not approved in 2022, vapes are not regulated.

Following an extensive campaign by the tobacco industry against tax increase, the Ministry of Finance did not increase tax in the 2022 and 2023 budget. BAT Malaysia continued with its “STOP THE BLACK MARKET” campaign in 2021, which resulted in another year without a tax increase for tobacco.

2 INDUSTRY CSR ACTIVITIES

In March 2023, BAT conducted its CSR programme through a community farm garden called “Beyond Benih” (Beyond seed) in Tanjung Karang, and Shah Alam Selangor, involving 165,000 beneficiaries to support them to grow their food using organic agriculture techniques. According to news report, it had “worked closely with multiple partners throughout various phases, including the Selangor Department of Agriculture and local authorities.”

3 BENEFITS TO THE INDUSTRY

There was no excise tax increase on tobacco in 2022 and 2023 budgets – seventh consecutive year. The government abandoned the recommendation by the Ministry of Health to ban vape products instead “legalised” its sale which benefited the industry as it now has more nicotine products for sale.

International travellers can bring in duty free 200 cigarettes or 225g of tobacco.

4 UNNECESSARY INTERACTION

In April 2023, the Deputy Health Minister met with representatives of the vape industry. There is no record of this meeting on the Ministry’s website nor the purpose of the meeting with the industry. According to a social media message posted by a vape industry representatives, the Deputy Minister reminded the industry not to sell to minors. The industry reportedly will help control vape by self-regulating when conducting its business.

In March 2023, the US-ASEAN Business Council held its annual Business Mission meeting with top level government officials. Among the business executives from

many American Corporation was Philip Morris, and the team met with senior members of the Cabinet, including the Minister of International Trade and Industry, Minister of Natural Resources, Environment, and Climate Change and Deputy Minister of Domestic Trade and Cost of Living, to discuss the role of foreign investment and international trade in Malaysia's post-pandemic economic recovery.

5 TRANSPARENCY

The government does not publicly disclose meetings/ interactions with the tobacco industry.

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

No newly retired government official joined the tobacco industry in the reporting period.

The government social security funds continue to be invested in BAT Malaysia.

Officials of the National Kenaf and Tobacco Board are regarded as public officials.

7 PREVENTIVE MEASURES

There is no procedure for disclosing the records of any interaction with the tobacco/vape industry in place and there has been no progress in taking this issue forward. There is no progress on the work on developing an Article 5.3 code of conduct for officials which began in 2014.

The government does not require the tobacco industry to submit information on tobacco market share, marketing expenditures, revenues and any other activity, including lobbying, philanthropy, political contributions and all other activities. The government has no specific policy to disallow the acceptance of contributions/ gifts from the tobacco industry.

RECOMMENDATIONS

1. The government implement the WHO FCTC Article 5.3 across all departments. The government adopt a code of conduct to disclose all interactions with the tobacco and vape industry. All meetings should be made public on government websites.
2. The government conduct regular awareness programmes across all sectors on the requirement of Article 5.3 focusing on denormalising the tobacco industry.
3. Ban tobacco related CSR activities; reject any contributions from the tobacco industry.
4. Remove duty status of tobacco products.
5. Divest from government shares from BAT Malaysia
6. Set up a register of entities and individuals representing the tobacco industry
7. Remove the tobacco industry from the National Kenaf and Tobacco Board (LKTN).

Malaysia

Tobacco Industry Interference Index 2023

Results and Findings

	0	1	2	3	4	5
INDICATOR 1: Level of Industry Participation in Policy-Development						
1. The government ⁶ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry or any entity or person working to further its interests. ⁷ in setting or implementing public health policies in relation to tobacco control ⁸ (Rec 3.4)						5
<p>Nicotine is removed as a poison from the Poison Act 1952 and amendment of Customs Act.</p> <p>On 31 March 2023, the government announced it will amend the National Poison Act and remove nicotine (class c poison) from the National Poison Act despite the rejection of such a move by the Ministry of Health (Poison Board and Pharmaceutical Services division) and the public health community. The only way e-cigarette and vape products can be freely sold is if both the Poison Act and the Customs Act were amended to allow the entry of nicotine-laced vape products into the country.⁹ The vape industry and its front groups lobbied the government to regulate vape products instead of banning them. The Ministry of Finance (who is also the Prime Minister) announced they will tax vape products thereby legalizing them for sale. The tobacco industry stands to gain the most from this move as it will now allow them to sell both cigarettes and vape products. Since the proposed Tobacco Control Act containing the generational endgame (GEG) has not been tabled yet, there is no regulation of vapes.</p> <p>BAT reported it has regular meetings with regulators and that it has “Two-way industry-led dialogue on tobacco control regulations.”¹⁰</p>						
2. The government accepts, supports or endorses <u>policies or legislation drafted by or in collaboration with the tobacco industry.</u> (Rec 3.4)					4	
<p>The Generational Endgame (GEG) Bill which was tabled in Parliament in July 2022 had two readings, was shifted to the Special Select Parliamentary Committee for review and was not passed when snap general elections were called in October 2022. There was numerous opposition against the bill.¹¹</p>						

⁶ The term “government” refers to any public official whether or not acting within the scope of authority as long as cloaked with such authority or holding out to another as having such authority

⁷ The term, “tobacco industry” includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

⁸ “Offer of assistance” may include draft legislation, technical input, recommendations, oversees study tour

⁹ Shah A. Iskandar IM. Health, Finance Ministries at odds over nicotine. New Straits Times. 31 Mar 2023. Available from: <https://www.nst.com.my/news/nation/2023/03/894752/health-finance-ministries-odds-over-nicotine>

¹⁰ BAT Malaysia. 2022 Annual Report. Available from:

[https://www.batmalaysia.com/group/sites/bat_ap6d2l.nsf/vwPagesWebLive/DOAP8FP4/\\$FILE/medMDCQFRRO.pdf?openelement](https://www.batmalaysia.com/group/sites/bat_ap6d2l.nsf/vwPagesWebLive/DOAP8FP4/$FILE/medMDCQFRRO.pdf?openelement) pg 21

¹¹ Investor. MVCC, MVIA ask government to rethink GEG policy after 600K oppose it. 26 Sep 2022. Available from: https://klse.i3investor.com/web/blog/detail/savemalaysia/2022-09-26-story-h1649282260-MVCC_MVIA_ask_government_to_rethink_GEG_policy_after_600k_oppose_it

Following an extensive campaign¹² by the tobacco industry against tax increase, the Ministry of Finance did not increase tax in the 2022 and 2023 budget. BAT Malaysia continued with its “STOP THE BLACK MARKET” campaign in 2021, which saw another year with no tax increase for tobacco.

The tobacco/vape industry and its front groups lobbied for the approval of ENDS using several arguments:

1. These products can be taxed and the government will gain RM300 million in taxes. Vape products have been sold illegally. According to the front groups there were 3,000 vape retailers with an average sale of RM1,000 to RM2,000 daily. This information was uploaded on the website of the Customs Department.¹³
2. Vaping is not the same as smoking and it is less harmful.

On 19 November 2021, the vape industry, represented by 4 groups MRECA, MEVTA, PPVM and MEBA, handed in-person their petition to a Ministry of Finance representative and publicised on the MRECA Facebook.¹⁴ Since nicotine was still a class c poison in the Poison Act and vape products were being sold illegally. The representatives were from an illegal business.



3. The government allows/invites the tobacco industry to sit in government interagency/ multi-sectoral committee/ advisory group body that sets public health policy. (Rec 4.8) I Never, 5 Yes						5
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No changes.

1. National Kenaf & Tobacco Board: According to the National Kenaf & Tobacco Board Act 2009, the tobacco industry has a seat in the Board (represented by BAT). The National Kenaf & Tobacco Board (LKTN) participates in inter-sectoral tobacco control meetings.

¹² Mohamad Haniki Nik Mohamad. Malaysia: did the tobacco industry collaborate with media to defeat tax increase? 26 January 2021. <https://bit.ly/3f0dBUy>

¹³ Customs Department. Govt could rake in RM300 million from vape tax. 27 Nov 2020. Available from: <http://www.customs.gov.my/ms/keratan%20akhbar/2020/NOVEMBER/055%20the%20malaysian%20reverse%2027112020.pdf>

¹⁴ MRECA. 19 Nov 2021. Available from: <https://www.facebook.com/photo/?fbid=4398226793618710&set=pb.100071840613322.-2207520000>.

The LKTN took over jurisdiction of the licensing of tobacco retailers in 2011. Over the past 11 years, the Ministry of Primary Industries, which over-see the LKTN, and the LKTN itself have taken turns to make statements that they are still consulting with various stakeholders about the licensing.^{15,16} In January 2019, the Minister of Primary Industries stated, “The government has not decided yet to impose issuing licenses to retailers to sell tobacco products.”¹⁷ This is clearly a delay in the government taking action to address the issue of access to tobacco through licensing. Starting 1 January 2023, the LKTN has set up an online registration system to distribute tobacco which is “Free license registration”. Unlike other countries where retailers are charged a licensing fee as a means for better control and disincentives retailers, in Malaysia after 11 years, the online registration is free. There are no terms for registration such the retailer distance with schools, hospitals and places of worship.¹⁸ There are an estimate 60,000 retailers selling cigarettes throughout Malaysia.

<p>4. The government nominates or allows representatives from the tobacco industry (including State-owned) in the delegation to the COP or other subsidiary bodies or accepts their sponsorship for delegates. (i.e. COP 4 & 5, INB 4 5, WG)¹⁹ (Rec 4.9 & 8.3) For non-COP year, follow the previous score of COP year. For non-Parties, apply a score of ‘0’</p>			2			
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The legal officer from the National Kenaf and Tobacco Board was part of the Malaysian delegation to COP9 in 2021.²⁰

INDICATOR 2: Industry CSR activities

<p>5. A. Government agencies or their officials endorse, support, form partnerships with or participates in activities of the tobacco industry described as “socially responsible” or “sustainable”. For example, environmental programs. (Rec 6.2)</p> <p>B. The government (its agencies and officials) receives CSR contributions²¹ (monetary or otherwise, including CSR contributions) from the tobacco industry or those working to further its interests during the pandemic. (Rec 6.4) <i>NOTE: exclude enforcement activities as this is covered in another question</i></p>			3			
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In March 2023, BAT unveiled its CSR programme, a community farm garden called “Beyond Benih” (Beyond seed) in Tanjung Karang, and Shah Alam Selangor, involving 165,000 beneficiaries to support them to grow their food using organic agriculture techniques through to 2026 (Figure 2). According to news report, it had “worked closely

¹⁵ No decision on licensing of tobacco distribution and production says MPIC; The Malay Mail; 28 December 2015
<https://bit.ly/3c25FyR>

¹⁶ Proposed licensing aimed at curbing illegal distribution of tobacco products; The Malay Mail 17 February 2017
<https://bit.ly/2VdFtL9>

¹⁷ Kenneth Tee. No decision yet on licensing for tobacco product sales, says Teresa Kok; The Malay Mail; 26 January 2019;
<https://bit.ly/2xZMt6o>

¹⁸ LKTN. Lesen v2.0 Available from: <https://www.lktn.gov.my/lktn/?p=5020&lang=en#>

¹⁹ Please annex a list since 2009 so that the respondent can quantify the frequency, <http://www.who.int/fctc/cop/en/>

²⁰ COP9 List of participants. Available from: [FCTC/COP9/DIV/1 List of participants \(who.int\)](https://www.who.int/fctc/cop/9/div/1/list-of-participants)

²¹ political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

with multiple partners throughout various phases, including the Selangor Department of Agriculture and local authorities.”²²

Figure 2

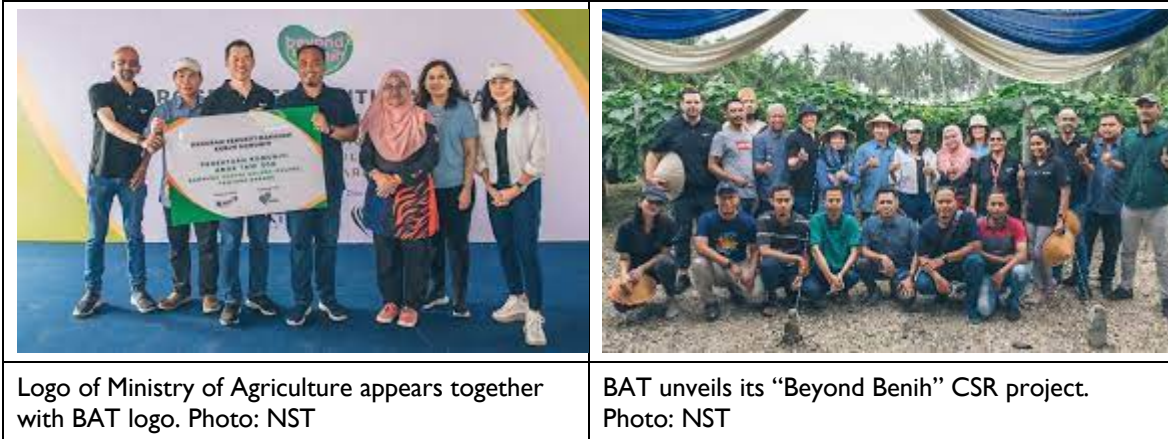


Figure 3: Environmental cleanups



Philip Morris Malaysia installed 200 cigarette butt canisters across the country targeting tourist locations near beaches as well some urban areas (Figure 3).²³ AmCham Malaysia recognized PMM’s CSR.²⁴

Universiti Teknologi Mara (UiTM), a public university, collaborated with BAT Malaysia in a trash cleanup across beaches in Selangor, Negeri Sembilan, Melaka, Perak and Pahang in 2022 (Figure 3).²⁵

²² Aman AS. BAT Malaysia unveils farm garden to support vulnerable communities. NST. 9 March 2023 Available from: <https://www.nst.com.my/business/2023/03/887396/bat-malaysia-unveils-farm-garden-support-vulnerable-communities>

²³ Sponsored content. Transforming for good. The Edge Markets. 25 Jan 2023 Available from: <https://www.theedgemarkets.com/content/advertise/transforming-for-good>

²⁴ AmCham. Caring for the future 2021. Available from: <https://amcham.com.my/wp-content/uploads/AmChamCare-21-for-Digital.pdf> pg 43

²⁵ BAT Malaysia. 2022 Annual Report. Available from: [https://www.batmalaysia.com/group/sites/bat_ap6d21.nsf/vwPagesWebLive/DOAP8FP4/\\$FILE/medMDCQFRRO.pdf?openelement](https://www.batmalaysia.com/group/sites/bat_ap6d21.nsf/vwPagesWebLive/DOAP8FP4/$FILE/medMDCQFRRO.pdf?openelement)

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INDICATOR 3: Benefits to the Tobacco Industry						
6. The government accommodates requests from the tobacco industry for a longer time frame for implementation or postponement of tobacco control law. (e.g. 180 days is common for PHW, Tax increase can be implemented within 1 month) (Rec 7.1)						5
<p>There was no excise tax increase on tobacco in 2022 and 2023 budgets – seventh consecutive year.</p> <p>Vape products – government abandoned the recommendation by the MOH to ban vape products instead proceed to apply tax thereby “legalising” it. “Budget 2021 signaled the Government’s intention to move in the direction of legalising vaping with the introduction of excise on vaping devices and liquids.”²⁶</p> <p>In 2021, Japan Tobacco called for the taxing of e-cigarettes.²⁷</p> <p>BAT announced that in 2022 they “will see continued focus on the Group’s purpose of building “A Better Tomorrow” with a particular emphasis on tobacco harm reduction. Related to this, the Group continues to be encouraged by the Government’s announcement in October 2021 to legalise vaping products and urges the Government to urgently establish specific, science-based regulations for this category which will convert in excess of 1 million Malaysians currently vaping to the legal market and enable the Government to collect the relevant taxes on these products in the near future.”</p> <p>Reversal of policy: according to publicly available information the Ministry of Health has a clear position on vaping, that 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.²⁸ However in April 2023, in a reversal of policy, the Health Minister signed the amendment to the Poison Act to remove nicotine as a class c poison. This amendment alone will facilitate the sale of vape products freely, including to children. This amendment was not discussed nor did the MOH provide an opportunity for public consultation. Several years earlier, in August 2019, JTI Malaysia had called for “amendments to be made to the Poison Act 1952 to allow Malaysians to access to products which adhere to control and standards.”²⁹</p> <p>TI’s proposal was followed and there was no increase of the minimum price which remained at RM12.³⁰</p> <p>Vape products can now be sold duty free at duty free outlets.</p>						
7. The government gives privileges, incentives, tax exemptions or benefits to the tobacco industry (Rec 7.3)			2			

²⁶ BAT Annual report 2020 <https://bit.ly/3ueb4fB>

²⁷ Caruana D. JTI Malaysia asked authorities for policy against illicit cigarettes. Vaping Post. 2 Feb 2021 Available from: <https://www.vapingpost.com/2021/02/02/jti-malaysia-asked-authorities-for-policy-against-illicit-cigarettes/>

²⁸ Ida Lim. MOH fears vaping will cost Malaysia more than potential tax income seeks tighter controls on industry. 4 Dec 2020. Malay Mail. <https://www.malaymail.com/news/malaysia/2020/12/04/moh-fears-vaping-will-cost-malaysia-more-than-potential-tax-income-seeks-ti/1928868>

²⁹ Jay BN. Illegal cigarette trade ‘beyond crisis point’, says JTI Malaysia. New Straits Times. 6 Aug 2019 <https://www.nst.com.my/news/nation/2019/08/510564/illegal-cigarette-trade-beyond-crisis-point-says-jti-malaysia>

³⁰ Adam Aziz. JTI Malaysia: Don’t raise minimum ciggie price; The Edge Malaysia 19 Feb 2020

	0	1	2	3	4	5
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Part of MIDA (Malaysian Industrial Development Authority)’s policy is to increase investments for exports – Incentives for Investment [Book 3 Guide] for Malaysian manufacturer. Under this policy, incentives are provided for the manufacturing sector – the incentives include tax incentives and duty exemptions on raw materials, components, machinery and equipment; tax exemption on the value of increasing exports; exemption of duties includes tobacco – over and above ATIGA. Import duties on cigarettes and tobacco leaves less than 5% under ATIGA (AFTA). MIDA promoted news items on BAT on its website showing support for tobacco business.^{31, 32}

International travellers are able to bring in duty free 200 cigarettes or 225g of tobacco.

INDICATOR 4: Forms of Unnecessary Interaction

8. Top level government officials (such as President/ Prime Minister or Minister ³³) meet with/ foster relations with the tobacco companies such as attending social functions and other events sponsored or organized by the tobacco companies or those furthering its interests. (Rec 2.1)							5
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On 13 April 2023, the Deputy Health Minister met with representatives of the vape industry. There is no record of this meeting on the Ministry’s website nor the purpose of the meeting with the industry made known to the public. According to a message posted on Facebook of one of the vape industry’s representatives (Adzwan Ab Manas, MRECA), the Deputy Minister reminded the industry not to sell to minors. The industry reportedly will help control vape by self-regulating when conducting its business.³⁴ Present at the meeting was the president of Malaysia Retail Electronic Cigarette Association (MRECA).

³¹ The Star. BAT to consider opening another Malaysian factory. April 19, 2019
<https://www.mida.gov.my/home/8737/news/bat-to-consider-opening-another-malaysian-factory/>

³² Bernama. BAT seeks to introduce alternative tobacco products. April 18, 2019
<https://www.mida.gov.my/home/8725/news/bat-seeks-to-introduce-alternative-tobacco-products/>

³³ Includes immediate members of the families of the high-level officials

³⁴ Adzwan Ab Manas is reportedly the director of Vapempire Distribution Sdn Bhd and President of MRECA. Available from: <https://www.facebook.com/search/top?q=adzwan%20ab%20manas>



Adzwan Ab Manas

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Bersama Yb Timbalan Menteri Kesihatan dalam libat urus bersama industri. Kita cuba buat yg terbaik. Pemain industri di ingatkan supaya tidak mengambil kesempatan seperti menjual kepada bawah 18 tahun dan sebagainya. Kita disiplin kan diri kita semasa mencari rezeki.

#SelfRegulate



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17 March 2023: The US-ASEAN Business Council held its annual Business Mission meeting with top level government officials. The business executives from many American Corporation including Philip Morris met with members of the Cabinet, notably the Minister of International Trade and Industry YB Senator Tengku Datuk Seri Utama Zafrul Tengku Abdul Aziz, Deputy Minister of Domestic Trade and Cost of Living Hon. Mdm. Fuziah Binti Salleh, and Minister of Natural Resources, Environment, and Climate Change YB Tuan Nik Nazmi Nik Ahmad, to discuss the role of foreign investment and international trade in Malaysia's post-pandemic economic recovery.³⁵ On the third day of the meeting, the Council met with the Bank Negara Malaysia Deputy Governor Datuk Jessica Chew Cheng Lian and Assistant Governor Suhaimi Ali, Minister of Transport YB Anthony Loke, and Minister of Health YB Dr. Zaliha bt Mustafa.

In July 2022, the Director of Customs Johor officiated at giving the BAT factory in Johor Baru its certification of achieving carbon neutrality.³⁶



³⁵ US-ASEAN Business Council. Malaysian business delegation seek further trade relations. 17 Mar 2023

<https://www.usasean.org/press-release/2023/03/17/us-abc-2023-malaysia-business-delegation-seeks-further-trade-relations>

³⁶ Business News. BAT Malaysia Johor Bahru factory achieves carbon neutrality. 5 Jul 2022

<https://www.businessnews.com.my/bat-malysias-johor-bahru-factory-achieves-carbon-neutrality/>

	0	1	2	3	4	5
Source: Business News: Director of Customs Johor, Tuan Sazali Bin Mohamad, with BAT executives at its Johor factory.						
9. The government accepts assistance/ offers of assistance from the tobacco industry on enforcement such as conducting raids on tobacco smuggling or enforcing smoke free policies or no sales to minors. (including monetary contribution for these activities) (Rec 4.3)					4	
The LKTN, which has JTI on the Board to represent industry interest, is looking into licensing of tobacco retailers a process that started in 2011. (See Q3) The long delay in completing the process is illustrative of what happens when the industry is involved in enforcement of tobacco control.						
10. The government accepts, supports, endorses, or enters into partnerships or non-binding agreements with the tobacco industry or any entity working to further its interests. (Rec 3.1) <i>NOTE: This must <u>not</u> involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.</i>	0					
No report is found in the public domain.						
INDICATOR 5: Transparency						
11. The government does not publicly disclose meetings/ interactions with the tobacco industry in cases where such interactions are strictly necessary for regulation. (Rec 2.2)						5
The government does not publicly disclose meetings/ interactions with the tobacco industry in cases where such interactions are strictly necessary for regulation.						
12. The government requires rules for the disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists (Rec 5.3)						5
There are no rules for the disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists does not exist.						
INDICATOR 6: Conflict of Interest						
13. The government does not prohibit contributions from the tobacco industry or any entity working to further its interests to political parties, candidates, or campaigns or to require full disclosure of such contributions. (Rec 4.11) / Never 5 Yes						5
The government continues to hold investment in tobacco companies: The Employees Provident Fund (EPF) is one of BAT's major shareholders, which has stated its intention to move towards ESG (environmental, social and governance) investments, has been paring down its stake in the group. The EPF, which previously announced that it would be gradually decreasing its stake in the group, now holds about 5% stake. ³⁷						

	0	1	2	3	4	5
Corporations are not required to declare their contributions to political parties, hence there is no official record of contributions, if any from tobacco companies to political parties.						
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)				3		
<p>No newly retired government official joined the tobacco industry in the reporting period. The previous retiree still remains in his position as Chairman of BAT.</p> <p>Tan Sri Dato' Seri Dr Aseh Che Mat was appointed the Chairman of BAT Malaysia in January 2017. He was the former Secretary General of the Ministry of Home Affairs, Malaysia, till his retirement on 22 October 2007; he is currently associated government linked companies - appointed as the Chairman of Social Security Organisation (SOCSO) in August 2017 and active in community service with his roles as Trustee and Chairman of the Football Association of Malaysia Vetting, Monitoring and Integrity Committee; he is an influential person.⁴⁰ His responsibility as the Chairman of BAT includes, "establishing and maintaining relationships with the stakeholders of the Company including government institutions."⁴¹</p>						
15. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)		1				
<p>There has been no record of current government officials and relatives holding position in tobacco business, officials of the National Kenaf and Tobacco Board are regarded as public officials.</p>						
INDICATOR 7: Preventive Measures						
16. The government has put in place a procedure for disclosing the records of the interaction (such as agenda, attendees, minutes and outcome) with the tobacco industry and its representatives. (Rec 5.1)						5
<p>There is no procedure for disclosing the records of any interaction with the tobacco/vape industry in place and there has been no progress in taking this issue forward.</p>						
17. The government has formulated, adopted or implemented a code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry. (Rec 4.2); <i>1 for whole of government code; 2 for Yes but partial if only MOH</i>						5
<p>No progress. 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 finalised in 2022.</p>						
18. The government requires the tobacco industry to periodically submit information on tobacco production, manufacture, market share, marketing expenditures, revenues and any other activity, including lobbying, philanthropy, political contributions and all other activities. (5.2)						5

	0	1	2	3	4	5
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. No movement in 2021 or 2022.						
19. The government has a program / system/ plan to consistently ³⁷ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)					4	
A number of government agencies are part of the FCTC Steering Committee coordinated by the Ministry of Health where issues of Art 5.3 are addressed. There is no information on Article 5.3 on the Ministry of Health's website.						
20. The government has put in place a policy to disallow the acceptance of all forms of contributions/ gifts from the tobacco industry (monetary or otherwise) including offers of assistance, policy drafts, or study visit invitations given or offered to the government, its agencies, officials and their relatives. (3.4)				3		
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.						
TOTAL SCORE					76	

³⁷ For purposes of this question, "consistently" means: a. Each time the FCTC is discussed, 5.3 is explained. AND b. Whenever the opportunity arises such when the tobacco industry intervention is discovered or reported.

Annex A: Sources of Information

	TOP TOBACCO COMPANIES/ DISTRIBUTORS	MARKET SHARE (%)	BRANDS	SOURCE
1	British American Tobacco (Malaysia) Bhd	52	Dunhill, Peter Stuyvesant, Pall Mall, Rothmans, KYO, Kent, Benson & Hedges	
2	Japan Tobacco International	25	Mevius, Winston, LD	
3	Philip Morris International Malaysia	20	Marlboro, L&M, Bond Street	

	TOP MEDIA/ NEWSPAPERS	URL
1	Malaysiakini	https://www.malaysiakini.com/
2	The Star	https://www.thestar.com.my/
3	Harian Metro	https://www.hmetro.com.my/
4	Utusan Malaysia	https://www.hmetro.com.my/
5	The Edge	www.theedgemaalaysia.com
6	New Straits Times	https://www.nst.com.my/
7	Astro Awani	https://www.astroawani.com/
8	Berita Harian	www.bharian.com.my
9	China Press	https://www.chinapress.com.my/
10	Bernama	https://www.bernama.com/en/

	MAIN TOBACCO INDUSTRY ALLIES/ FRONT GROUPS	TYPE (FRONT GROUP, LOBBY GROUP, INDIVIDUAL)	SOURCE
1	Datametrics Research Information Sdn Bhd (DARE)	Think Tank, established in 2021	https://daresearch.com.my/
2	Malaysian Organization of Vape Entities (MOVE)	vapers' rights group established in 2015 to promote vaping	
3	Malaysia Retail Electronic Cigarette Association (MRECA)	Lobby group	
4	Malaysian Vape Industry Advocacy (MVIA)	Lobby group to represent vape entrepreneurs	http://www.mvia.com.my/
5	Malaysian Vapers Alliance (MVA)	Lobby group to represent vapers	http://www.malaysianvapersalliance.com/
6	Vape Consumer Association of Malaysia (VCAM)	Lobby group to represent vapers	https://www.facebook.com/vcamMYS/
7	Malaysia E-Vaporisers and Tobacco Alternative Association (MEVTA)	Lobby group to represent vapers	https://www.facebook.com/MEVTAOfficial/ https://www.instagram.com/mevtaofficial/
8	Malaysia Singapore Coffee Shop Proprietors' General Association	Lobby group	

News articles related to tobacco		
1.	15 Sep 2022	Retailers call for govt consultation over tobacco generational endgame prior to any implementation, says local think tank https://www.theedgemarkets.com/article/retailers-call-govt-consultation-over-tobacco-generational-endgame-prior-any-implementation
2.	6 Oct 2022	Manufacturers call on Govt to view tobacco GEG law holistically, warn of domino effect on businesses https://www.theedgemarkets.com/article/manufacturers-call-govt-view-tobacco-geg-law-holistically-warn-domino-effect-businesses
3.	9 Aug 2022	Enforcement of tobacco generational endgame key to its success, say experts https://www.theedgemarkets.com/article/enforcement-tobacco-generational-endgame-key-its-success-say-experts
	23 Feb 2023	MRECA: Be Sensible In Vape Taxation https://www.businesstoday.com.my/2023/02/23/mrec-be-sensible-in-vape-taxation/
	3 Apr 2023	Vape regulation may lift BAT Malaysia's Vuse, generate additional income, says HLIB Research https://www.nst.com.my/business/2023/04/895685/vape-regulation-may-lift-bat-malysias-vuse-generate-additional-income-says
	2 Apr 2023	KJ: Expect a free-for-all vape market before tabling of GEG https://www.nst.com.my/news/nation/2023/04/895517/kj-expect-free-all-vape-market-tabling-geg
	2 Apr 2023	MoF: Vape industry given until April 30 to register vape manufacturing activities https://www.nst.com.my/news/nation/2023/04/895511/mof-vape-industry-given-until-april-30-register-vape-manufacturing
	2 Apr 2023	'Not a wise move,' Umno Youth says of decision to remove nicotine liquids from Poisons Act https://www.nst.com.my/news/nation/2023/04/895491/not-wise-move-umno-youth-says-decision-remove-nicotine-liquids-poisons
	2 Apr 2023	Group repeats call to leave vape products out of tobacco GEG law https://www.nst.com.my/news/nation/2023/04/895485/group-repeats-call-leave-vape-products-out-tobacco-geg-law
	2 Apr 2023	Health minister should prioritise health over nicotine taxes https://www.nst.com.my/opinion/letters/2023/04/895479/health-minister-should-prioritise-health-over-nicotine-taxes
	1 Apr 2023	Tobacco control bill to be presented next month to regulate vaping industry - Zaliha https://www.nst.com.my/news/nation/2023/04/895236/tobacco-control-bill-be-presented-next-month-regulate-vaping-industry
	1 Apr 2023	Poisons Board should quit after health minister overturns nicotine ruling, says CAP https://www.nst.com.my/news/nation/2023/04/895185/poisons-board-should-quit-after-health-minister-overturns-nicotine-ruling
	1 Apr 2023	Price for vape products increased up to RM8 upon rumours of possible taxation https://www.nst.com.my/news/nation/2023/04/895166/price-vape-products-increased-rm8-upon-rumours-possible-taxation
	1 Apr 2023	Who will protect our children from nicotine addiction now?

		https://www.nst.com.my/news/nation/2023/04/895148/who-will-protect-our-children-nicotine-addiction-now	
	1 Apr 2023	Health Minister vetoed to allow vape legalisation https://www.nst.com.my/news/nation/2023/04/895134/health-minister-vetoed-allow-vape-legalisation	
	31 Mar 2023	Establish regulations for vape products to reduce tobacco smoking, says MSHR https://www.nst.com.my/business/2023/03/894924/establish-regulations-vape-products-reduce-tobacco-smoking-says-mshr	
	31 Mar	Health, Finance Ministries at odds over nicotine https://www.nst.com.my/news/nation/2023/03/894752/health-finance-ministries-odds-over-nicotine	