

CONFRONTING ILLICIT TOBACCO TRADE:



A GLOBAL REVIEW OF COUNTRY EXPERIENCES

MALAYSIA: ADDRESSING THE ILLICIT FLOW OF
TOBACCO PRODUCTS

TECHNICAL REPORT OF THE WORLD BANK GROUP
GLOBAL TOBACCO CONTROL PROGRAM.

EDITOR:
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MALAYSIA

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Addressing the Illicit Flow of Tobacco Products

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Chapter Summary

The Government of Malaysia is concerned with illicit tobacco on public-health and fiscal grounds. Action against the illicit tobacco trade is a key component of the country's tobacco-control strategy.

The World Health Organization Framework Convention on Tobacco Control (WHO FCTC) sets standards and provides international legal foundations for anti-tobacco policies. Following Malaysia's ratification of the FCTC in 2005, the Tobacco Control Unit and FCTC Secretariat were established within the Ministry of Health (MOH). The Royal Malaysian Customs Department (RMCD) is the lead agency involved in law enforcement against illicit cigarette smuggling in Malaysia.

Recent key changes in Malaysia's tobacco tax policy include a 2015 increase of 42.8 percent in the tobacco excise duty and the introduction of the Goods and Services Tax (GST), which boosted the overall excise duty on cigarettes from 0.28 cents per stick in 2014 to 0.40 cents in 2015.

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Tobacco smuggling in Malaysia follows two main pathways. One is direct smuggling, in which perpetrators use illegal entry points to introduce tobacco products from neighboring countries without customs inspection. Indirect smuggling, meanwhile, employs methods such as concealing cigarettes among shipments of other imported goods. The currently most popular modality for smugglers in Malaysia is under-declaring or mis-declaring the value or quantity of transported cigarettes.

The RMCD's enforcement activities include monitoring the movement of goods on Malaysia's duty-free islands, for example physically inspecting goods entering Free Trade Zones. Special operations, road blocks, and regular land and sea patrols are carried out at strategic locations. Special operations target outlets, shops, and restaurants selling illicit cigarettes. The RMCD has also initiated the Collaborated Border Management (CBM) system. Using pre-defined risk rules, Enforcement, Customs, and Technical Services officers work together to target high-risk consignments. The RMCD controls the issuance or renewal of tobacco-product import licenses through vetting by a high-level management panel.

The launch of the National Blue Ocean Strategy (NBOS) has further strengthened co-operation among law-enforcement agencies in tackling illicit tobacco trade. Inter-agency collaborative action can: break illicit cigarette supply chains by identifying trafficking "hotspots"; propose legal amendments to stiffen penalties for smugglers; revise procedures for licensing of private jetties; and accelerate revocation of cigarette import licenses if license holders are caught in smuggling activities.

International cooperation is key to fighting illicit tobacco. International coalitions in which the RMCD is involved include the Regional Intelligence Liaison Office (RILO); United Nations Office on Drugs and Crime (UNDOC); Container Control Program (CCP); Indonesia-Malaysia Coordinated Customs Patrol (PATKOR KASTIMA), and Malaysia-Thai Border Joint Cooperation (MTBCO).

The RMCD is currently working on a system overhaul under Malaysia's Customs Project. This reform is expected to include the creation of a National Targeting Centre. Assistance from the United States, United Kingdom, and the Australian Border Force is reinforcing best practices in targeting and risk analysis.

The measures being taken by the MOH, RMCD, and other agencies are expected to reduce illicit cigarette consumption in Malaysia, ultimately cutting smoking prevalence among the country's adults and adolescents. Authorities aim to reduce smoking prevalence to 15 percent by 2025 and to less than 5 percent in 2045. All countries should cooperate to fight illicit tobacco, as it compromises public health, weakens the rule of law, and costs governments billions annually due to unpaid duties and taxes. Intensified information sharing and collaboration between enforcement agencies in Malaysia, authorities in other countries, and international partners will help curb illicit tobacco while strengthening international ties.

1. Introduction

The Government of Malaysia is concerned with illicit tobacco on public-health and fiscal grounds. Illicit trade increases the availability of affordable cigarettes in the local market. As a result, cigarette consumption and smoking-related diseases threaten to increase in Malaysia, undermining the government's health policy goals. The influx of cheap cigarettes places Malaysia's youth at particular risk of falling prey to addiction. Even as they compromise public health, illicit cigarettes also mean lost tax revenue that the government could have invested in programs that benefit all Malaysians.

While it appears that legal tobacco companies are on the losing end of illicit trade, because they are paying taxes and duties, this picture is at best incomplete. In reality, tobacco companies may profit from rising sales of illicit cigarettes. Legitimate tobacco firms manufacture the majority of cigarettes that end up being sold illegally. Moreover, cheap illegal cigarettes entice the younger generation and induce the habit of smoking. Each individual who becomes addicted to smoking is a market entrée for the tobacco industry, regardless of the person's initial brand preferences (Rejab & Zain 2016). Thus, enforcement to control the illicit flow of tobacco is a crucial component of a robust cigarette tax and public-health policy.

This chapter provides an overview of Malaysia's efforts to combat the illicit tobacco trade. It starts by reviewing the legislative framework that supports Malaysia's action on illicit tobacco. It then outlines the country's strategic plan for tobacco control, with a focus on Malaysia's tobacco taxation regime. The later parts of the chapter discuss the "nuts and bolts" of cigarette smuggling in Malaysia and detail the country's major enforcement actions. Inter-agency collaboration and cooperation with international partners receive special focus. In conclusion, we consider some results achieved and paths to strengthen future outcomes in controlling illicit tobacco.

2. Tobacco Control in Malaysia: Legal and Policy Framework

The International Framework

Malaysia adopted the World Health Organization Framework Convention on Tobacco Control (WHO FCTC) in 2005. The FCTC identifies the elimination of illicit trade in tobacco products as an important component of global tobacco control. To accelerate progress in this area, in 2012, WHO introduced the Protocol to Eliminate Illicit Trade of Tobacco Products, which builds upon FCTC Article 15. The Protocol provides guidance on topics including: anti-smuggling legislation; how to monitor cross-border trade; the marking of tobacco packaging to enable tracking and tracing; and the confiscation of proceeds derived from the illicit tobacco trade. Malaysia has implemented multiple strategies to reduce illicit tobacco trade and is considering ratification of the Protocol.

Tobacco Control Legislation in Malaysia

The gazettement of Malaysia's Control of Tobacco Product Regulation (CTPR) was completed in 1993 (with subsequent revisions up to CTPR 2004). This marked an important milestone for legislation and the enforcement of tobacco control in Malaysia. The CTPR provided the MOH with legal powers for enforcement activities, not only to discourage people from smoking, but also to prevent smoking initiation among young people and to protect the general public from the dangers of second-hand smoke. The MOH regularly amends the CTPR to keep pace with tobacco industry strategies, which capitalize on loopholes in laws and regulations to reinforce tobacco-product marketing.

The WHO FCTC sets the standards for tobacco control worldwide and provides legal foundations at the international level. Following Malaysia's ratification of the Convention, the Tobacco Control Unit & FCTC Secretariat was established within the MOH in 2006, under the Non-Communicable Disease Section of the Disease Control Division.

The National Strategic Plan for Tobacco Control

WHO's MPOWER strategy has been integrated into the Malaysian National Strategic Plan for Tobacco Control. Activities pertaining to the MPOWER strategy can be outlined as follows:

(M) Monitor tobacco use: Continuous surveillance of the smoking population in Malaysia is carried out by the MOH through instruments and institutions such as the National Health Morbidity Survey (NHMS), Global Adult Tobacco Survey (GATS), Global Youth Tobacco Survey (GYTS), Global School Health Survey (GSHS), The E-Cigarette Survey among Malaysian Adolescents (TECMA), National E-Cigarette Study (NECS), and Tobacco Tax Study. These government initiatives are in addition to local studies conducted by universities throughout the country.

(P) Protect people from tobacco use: This is done by creating a smoke-free environment for the betterment of the people. Relevant statutes include Articles 11 and 22 of the CTPR 2004, which enumerate places where smoking is prohibited and specify that the Minister has the power to prohibit smoking in buildings, premises, or public areas. A program known as "*Rumah Bebas Asap Rokok*" (RBAR), or "Smoke-Free Homes," has been introduced by the government under the Community Empowerment Programs (KOSPEN) to encourage a smoke-free environment within the community, while the Blue Ribbon Certification program aims to create smoke-free corporate buildings.

(O) Offer help to quit tobacco use: Existing smokers are not left out of the national effort to reduce the number of smokers in Malaysia. As part of the government's effort, Quit-Smoking Clinics are established in public clinics and government hospitals. The Malaysian Quit-Smoking Services (mQuit) have enabled the unification of various smoking cessation services offered by public and private entities. These services are available from certified

mQuit providers, including retail pharmacies, private general practitioners, private hospitals, and in-house quit-smoking programs in workplaces.

(W) Warn people about the danger of tobacco: The MOH has collaborated with other government agencies to spread the word about the dangers of smoking. The “Refuse Smoking” (*Tak Nak*) campaign was introduced nationwide in 2004 and has been one of the most prominent campaigns directed against the use of tobacco. Television, radio, and social media have been used extensively to spread the message, and younger audiences have been especially targeted. School curricula have incorporated anti-tobacco messages, for example via the IMFree program and annual school dental checkups with the theme “*Kesihatan Oral Tanpa Asap Rokok*” (KOTAK) (Quit Smoking for Oral Health). The KOTAK program also helps students who are caught smoking in schools with behavioral interventions to help them quit smoking.

(E) Enforce bans on tobacco advertisement, promotion, and sponsorship: Malaysia’s banning of tobacco advertisements began in 1982. The CTPR 2004 Part II (Articles 4 through 6) has clarified the legal framework. Indirect promotion through free samples, gift products / prizes, retail price, and packaging of cigarettes are also controlled by the CTPR 2004. To enforce the legislation, the Tobacco Control Unit and the MOH’s FCTC Secretariat act as coordinators, while the MOH enforcement team is responsible for implementation. Tobacco enforcement in Malaysia is generally initiated either at the MOH level (for coordinated nationwide enforcement); at state level by state health departments; or at district level by the District Health Office. Enforcement activities are carried out regularly, and any offense against the CTPR 2004 spurs a legal notice (with fine), or the perpetrator is brought to court.

(R) Raise the price of tobacco: Taxation is a cost-effective measure to prevent or reduce tobacco usage, especially among youth. Tobacco tax hikes, leading to higher retail cigarette prices, reduce the demand for cigarettes. CTPR 2004 Regulation 8A deals with the pricing of cigarettes and aims to prevent the tobacco industry from manipulating prices to increase tobacco product sales (for example, by price reductions or price comparison against competitors).

Cigarette Taxation Policy in Malaysia

In Malaysia, all types of tobacco and tobacco products are subject to excise and import duties, as well as the Goods and Services Tax (GST). Previously, tax on tobacco / tobacco products was imposed according to weight. However, from 2004 forward, all duties and taxes for cigarettes were calculated based on number of sticks.

2015 saw important changes in Malaysia’s tobacco tax policy, including an increase of 42.8 percent in the tobacco excise duty and the introduction of the GST. The GST was initially set at 6 percent, boosting the overall excise duty on cigarettes from 0.28 cents per stick in 2014

to 0.40 cents in 2015. Table 1 summarizes the taxes imposed on tobacco / tobacco products in Malaysia from 1990 to 2015.

Table 1. Tobacco Taxation in Malaysia (1990–2015)

YEAR	SPECIFIC EXCISE DUTY (RM/KG OR RM/STICK)	SALES TAX %	AD VALOREM %
1990	13.0 /kg	15	-
1991	14.0 /kg	15	-
1992 – 1998	28.6 /kg	15	-
1999 – 2000	40.0 /kg	15	-
2001	40.0 /kg	25	-
2002	48.0 /kg	25	-
2003	58.0 /kg	25	-
2004	0.081 /stick	25	-
2005	0.22 /stick	5	20
2006	0.12 /stick	5	20
2007	0.15 /stick	5	20
2008	0.17 /stick	5	20
2009	0.18 /stick	5	20
2010 – 2012	0.21 /stick	5	20
2013	0.26 /stick	5	20
2014	0.28 /stick	5	20
2015 - current	0.40 /stick	6	0

3. The Evolution of Malaysia’s Tobacco Epidemic

Smoking Prevalence and Trends in Malaysia

Malaysia’s MOH conducted its first morbidity survey in 1986 to determine the prevalence of cigarette smoking and related behaviors. In 2015, the National Health and Morbidity Survey (NHMS) estimated that five million Malaysians smoked. In that year, current smokers represented 24.0 percent of the population aged 15 years and older (NHMS, 2015). Figure 1 tracks the prevalence of smoking among Malaysian adults aged 18+ from 1996 to 2015, based on NHMS data. Overall prevalence did not fall substantially during this period. Smoking prevalence among males dropped modestly from 49.1 percent in 1996 to 45.1 percent in 2015.

Figure 1. Smoking Prevalence Among Malaysian Adults Aged 18 Years and Above

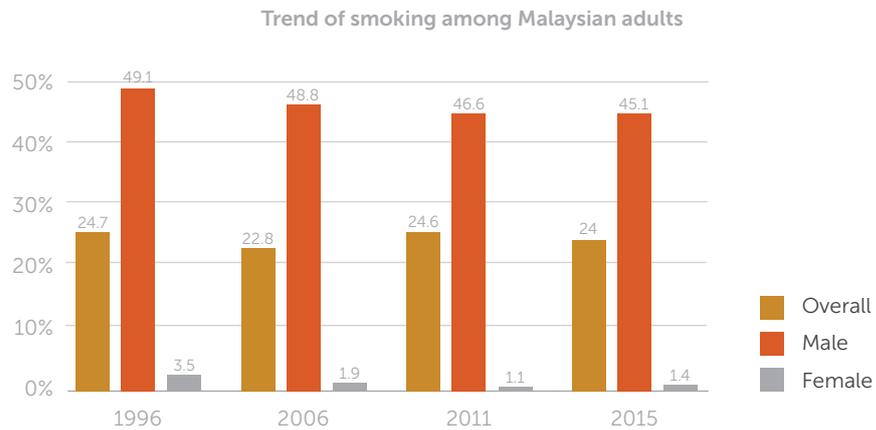


Figure 2 shows the pattern of smoking among Malaysian youth aged 13 to 15 years, from 2003 to 2016. The results show a significant decrease in youth smoking prevalence, from 20.2 percent in 2003 to 14.8 percent in 2016. Data are based on the Global Youth Tobacco Survey (2003 and 2009), the Global School Health Survey (2012), and the Tobacco and E-Cigarette Survey Among Malaysian Adolescents (TECMA) (2016). Notable changes were recorded among boys, whose smoking prevalence fell from 36.3 percent in 1996 to 26.1 percent in 2016. Prevalence of smoking among girls was initially low at 4.2 percent in 1996 and fell further to 2.4 percent in 2016.

Figure 2. Prevalence of Smoking Among Malaysian Youth Aged 13 – 15 Years

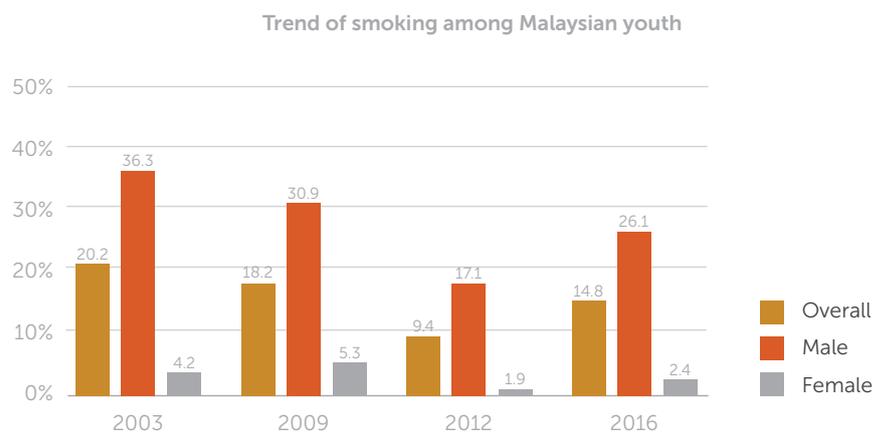
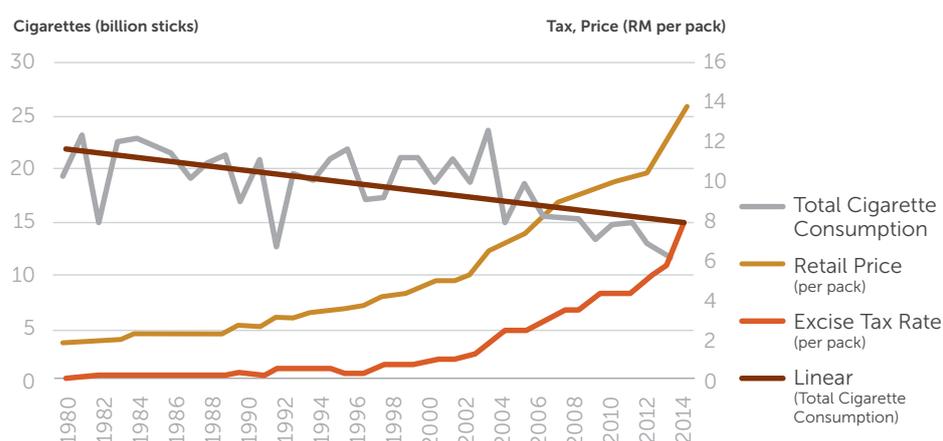


Figure 3. Relationship Between Excise Duty Rate Per Pack, Retail Price, and Total Consumption of Cigarettes from 1980 to 2014 (Real Prices)



Cigarette Consumption

Figure 3 illustrates the relationship between cigarette prices, excise duties, and cigarettes consumption in Malaysia. Total cigarette consumption is reflected by the blue line (and the black trend line). They show a decreasing trend in cigarette consumption, while the red line denotes the rising excise duty. The reduction of total cigarette consumption observed since 1980 is small, due to the inelastic demand for cigarettes in Malaysia, as discussed by Ross and Al-Sadat (2007). The inelastic demand for cigarettes implies that to obtain a significant reduction in cigarette consumption requires a relatively large increase in taxation and retail price.

4. Tackling Illicit Tobacco in Malaysia: Enforcement Challenges and Solutions

Types of Illicit Cigarettes

As defined by the FCTC, illicit trade is “any practice or conduct prohibited by law and which relates to production, shipment, receipt, possession, distribution, sale or purchase, including any practice or conduct intended to facilitate such activity” (Calderoni et al. 2016; WHO FCTC 2015). This definition covers:

- » Smuggling – The unlawful movement or transportation of tobacco products (including counterfeit products) from one tax jurisdiction to another without the payment of taxes or in breach of laws prohibiting their import or export (Joossens et al. 1998).
- » Counterfeiting – Cigarettes manufactured and packaged to imitate an established brand without the brand owner’s consent.

- » Cheap or illicit whites – Cigarettes produced legally in one country but intended for smuggling into other countries where there is no prior legal market for them. Taxes in the country of production are typically paid but avoided in the destination countries.
- » Unbranded tobacco – Manufactured, semi-manufactured, and loose leaves of tobacco carrying neither labelling nor health warnings.
- » Bootlegging – Tobacco legally bought in a low-tax country by individuals or small groups and then smuggled into a country with higher tax rates and illegally resold.
- » Illegal manufacturing – Cigarettes manufactured for consumption which are not declared to the tax authorities. These cigarettes are sold without tax and may be manufactured in approved factories or illegal covert operations.

In Malaysia, cigarettes are considered illicit if any of the following conditions exist: no duties or taxes have been paid; the cigarettes are sold below MYR10.00 per pack (under Regulation 8C, Control of Tobacco Product Regulation 2004); cigarettes are not imported under a valid permit; tax stamps are absent; importers or manufacturers of the cigarettes are unlisted; the brands are unregistered; the pack size includes fewer than 20 cigarettes; or packaging lacks the six rotational graphic health warnings mandated by the MOH.

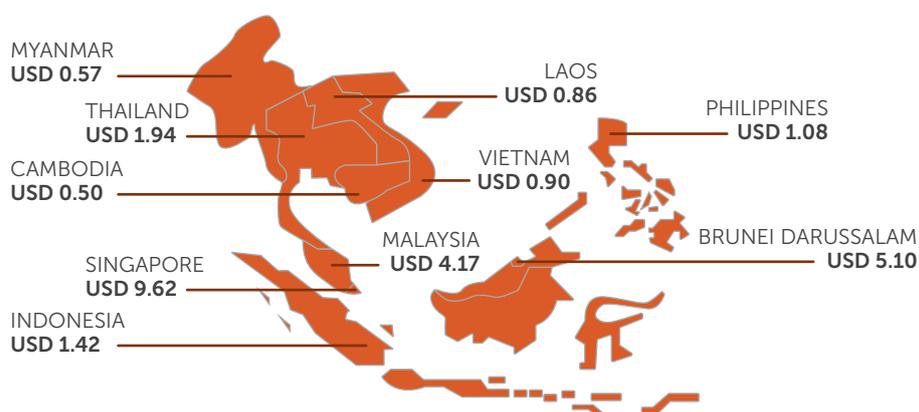
Cigarette Smuggling in Malaysia: The Nuts and Bolts

Tobacco smuggling in Malaysia follows two main pathways. One is direct smuggling, in which illegal entry points are used by perpetrators to directly introduce tobacco products via sea or land from neighboring countries without customs inspection. Indirect smuggling, meanwhile, employs additional deceptive methods, such as concealing cigarettes in secret compartments aboard ships or other vehicles, or among other imported goods. The currently most popular modality for smugglers in Malaysia is under-declaring or mis-declaring the value or quantity of transported cigarettes, rather than trying to conceal the cigarettes' existence altogether.

Cigarette smuggling can adopt a land mode (through entry points on Malaysia's borders with Thailand, Singapore, and Indonesia); sea mode (involving ports, jetties, and coastal areas throughout the country); or air mode (via air cargo or by passengers, air crews, or employees working within the airport area). Most illicit cigarettes are smuggled through the country's main ports of entry, such as Port Klang and Johor Port, located in West Malaysia.

Malaysia has a coastline of approximately 4,600 km and land borders of about 3,100 km shared with countries including Thailand, Brunei, and Indonesia. Malaysia also shares maritime borders with Singapore, Indonesia, Thailand, Brunei, Vietnam, Philippines, and to a certain extent with China. Malaysia's geography, with extensive coastline and porous jungles, poses significant challenges for anti-smuggling enforcement. Smuggling of illicit cigarettes – mainly by sea and land – is a lucrative business for organized crime and is expanding.

Figure 4. Regional Cigarette Price Disparities, 2016 (Price per pack, most popular brand)



Source: The Tobacco Control Atlas ASEAN Region, Third Edition (November 2016) SEATCA

Drivers of this expansion include: cigarette price disparities among countries in the region, with the market price for cigarettes in Malaysia being the second highest in Southeast Asia (Figure 4); correspondingly high profits from cigarette smuggling versus low risks taken by smugglers; the abuse of facilities at duty-free islands; and the rapid influx of foreign workers into Malaysia, who may be more inclined to purchase and consume smuggled cigarettes.

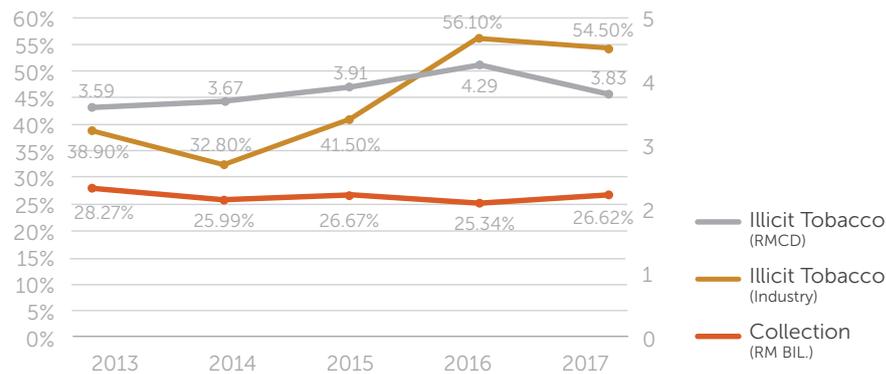
Do Higher Tobacco Taxes Boost Illicit Trade?

The tobacco industry offers systematic resistance to higher tobacco taxes and other control measures. Documented industry tactics include: claiming that higher taxes will increase smuggling and other forms of illicit trade; threatening governments that raise tobacco taxes with lawsuits; labeling tobacco taxes as anti-poor; and asserting that higher tobacco taxes will reduce government revenue and weaken employment.

Research evidence in the Malaysian context does not support the industry claim that higher taxes prompt substantially greater tobacco smuggling. Indeed, figures on illicit tobacco derived by the Royal Malaysia Custom Department (RMCD) contradict the main arguments advanced by the industry (Figure 5). The true incidence of tobacco smuggling in Malaysia is likely to be about half what the industry claims. Meanwhile, impartial research shows that raising tobacco taxes is likely to reduce the number of smokers in Malaysia and to increase tax revenue.

The RMCD analysis emphasizes the impact on tobacco smuggling of non-tax factors such as the presence of a large population of foreign workers who prefer to smoke their own brands of cigarettes, along with the geographical particularities discussed above. It is worth noting, moreover, that the large tobacco companies themselves are sometimes engaged in illicit cigarette trade. Ultimately, the key strategies to fight smuggling and illicit trade are stringent enforcement and cracking down on corruption. It is to such enforcement issues that our discussion now turns.

Figure 5. Illicit Tobacco Incidence in Malaysia as Estimated by the Tobacco Industry and the RMCD, and Tobacco Taxes Collected, 2013-2017



Enforcement Practices Against Illicit Cigarettes in Malaysia

In Malaysia, the RMCD is the leading agency involved in law enforcement against illicit cigarette smuggling, alongside the Royal Malaysian Police Force (RMP), the Malaysian Maritime Enforcement Agency (MMEA), the Ministry of Domestic Trade, Co-operatives and Consumerism (MDTCC), and the Ministry of Health. Besides cooperation with other government ministries and agencies, the RMCD also works closely with Interpol to address the illicit cigarette trade.

The current legislation under the purview of the RMCD regarding illicit cigarettes is summarized in Table 2.

Control of Tobacco Product Regulations 2004 (CTPR 2004) provided legal powers to the MOH to enforce the law pertaining to illicit cigarettes. Among the legal instruments that can be directed against perpetrators of illicit tobacco trade are CTPR 2004 Regulations 8A, 15, and 16. Regulation 8A requires every manufacturer or importer of tobacco products to submit an application for retail price of new tobacco products to the MOH. In addition, Regulation 8A (5A) requires individuals to sell tobacco products only with an approved retail price, and Regulation 8A (5B) prohibits any individual from selling tobacco products without a price label or an approved retail price. The practice in Malaysia is that manufacturers or importers must inform retailers of the approved price of a tobacco product. Illicit cigarettes brought in from other countries do not carry approved retail prices and are deemed illegal. Persons who sell cigarettes without approved prices in Malaysia are subject to a fine of up to MYR 10,000.00 or imprisonment for up to two years or both.

Regulation 15 of the CTPR 2004 requires specific health warnings on cigarette packaging, as depicted in Schedules 5 and 6. Regulation 15A also instructs the placement of labeling on cigarette packs as specified in Schedules 7 and 8 of the CTPR 2004. Illicit cigarettes

Table 2. Legal Framework for Import and Export of Tobacco Products

REGULATION	DETAILS
1. Regulation 18, Customs Regulations 1977	<i>Import license is compulsory for importation of cigarettes and liquor.</i> No person shall import intoxicating liquor, tobacco or denatured spirit except under and in accordance with a license issued by or under the direction of the Director General; provided that intoxicating liquor or tobacco which a senior officer of customs is satisfied is intended for the private consumption of the importer and not for sale or intoxicating liquor or tobacco exempted from the payment of customs duty under the provisions of section 14 of the Act may be imported without such license.
2. Regulation 19 (2), Customs Regulations 1977	<i>Import license is subject to yearly period.</i> Such license shall be for any period not exceeding one year but shall expire not later than 31st December next following of the date of issue.
3. Third Schedule, Part II, Customs Order 2017 (Prohibition of Imports)	Refer to item no 1. Cigarettes 2402.20.20 and 2402.20.90 (All importers shall apply; health warning & tax stamp on each cigarette packaging; tax stamp for every bottle, can, keg or other container of liquor.)
4. Financial Standing Order 2017	<i>Management procedures on tax stamp and security ink.</i> This order is to describe the accounting and procurement, management, and account management processes: "Treasury Collection Management Trust Fund (Banderol) for intoxicating Cigarettes and Liquor" at the headquarters level, states, and all responsibilities centre (PTJ) of the Royal Malaysian Customs Department.
5. Customs Standing ORder 2014	Importation of cigarettes / tobacco and liquor requires a license issued by the Director General of Customs under regulation 18. The Customs Regulations 1977 include importation by foreign diplomats and organizations. For effective control purposes, the Customs Director General has set out from 1 January 2009 that the authority to approve the application for cigarette import licenses is under the jurisdiction of cigarette / liquor headquarters licensing panel.
6. Food Act Part 5 Miscellaneous Provisions No. 36	The provisions of this Act so far as they are applicable shall apply, with such modifications as may be provided in regulations made under this Act, to tobacco, cigars, cigarettes, snuff, and other like substance in the same manner as the 9 provisions apply to food.

generally carry health warnings, texts, and labels different from those required by the law. CTPR 2004 Regulation 16 also mandates only 20 sticks of cigarettes per pack. Anyone who contravenes this regulation faces a fine of up to MYR 10,000 or maximum imprisonment of up to two years or both.

Improvements in Importation Procedures for Tobacco and Tobacco Products

The RMCD has recently introduced several improvements in the import procedures for tobacco and tobacco products. Importers of tobacco and tobacco products for commercial purposes are required to obtain import licenses and to submit a valid bank guarantee for the consignments to the RMCD. In addition, imported and locally manufactured cigarette packets are required to bear RMCD tax stamps. Tax stamps protect customers from purchasing counterfeit cigarettes, while enabling the RMCD to better curb the smuggling and sale

of illicit cigarettes. The RMCD has also taken the initiative to conduct physical inspection of every shipment that contains cigarettes or tobacco.

Taking Enforcement to the Next Level

As part of its ongoing effort to strengthen anti-smuggling enforcement mechanisms, the RMCD closely monitors the facilities established on Malaysia's duty-free islands so that traders do not abuse them. Customs control at duty-free islands has been restructured such that only certain areas within the islands have been gazetted as duty-free. All other areas of the islands are considered Principal Customs Areas (PCAs) where normal customs control is observed. Goods which are moving from a PCA to a Free Trade Zone (FTZ) are physically inspected. The Customs No. 8 Form (K8) has to be declared to the RMCD in order for goods to be moved. Once the goods reach the FTZ, a copy of the K8 form must be returned to the original station at the PCA. Failure to comply with this regulation leads to the forfeiture of the bank guarantee submitted by the importer to the RMCD. An additional RMCD control mechanism on the issuance or renewal of tobacco-product import licenses is vetting by a high-level management panel. Special operations, road blocks, and regular land and sea patrols are carried out periodically at strategic locations. These special operations target outlets, shops, and restaurants selling illicit cigarettes.

The RMCD has also initiated the Collaborated Border Management (CBM) system. Using pre-defined risk rules, Enforcement, Customs, and Technical Services officers work together to target high-risk consignments. RMCD officers stationed at border entry and exit points are often exposed to threats from organized crime syndicates. To enhance security, they are armed and work closely with the police.

Many illegal activities carried out by smugglers lead to money laundering. Therefore, a special task force called the National Revenue Recovery Enforcement Team (NRRET) has been formed. The task force comprises the RMCD, Police Force, Malaysian Central Bank, Malaysian Anti-Corruption Commission (MACC), and the Attorney-General Chambers. The task force takes action against offenders under Malaysia's Anti-Money Laundering, Terrorist Financing, and Proceeds of Unlawful Activities Act.

The RMCD has also introduced a demerit system on forwarding agents engaged in the import of tobacco products. Those found to have misused the facilities given by the RMCD are penalized. To date, the licenses of 31 agents have been suspended for various offenses. In the near future, the RMCD will also impose a similar demerit system on public and private warehouse operators. Operators who fail to comply with customs regulations will face immediate cancellation of their licenses.

Co-operation with Other Agencies

The launch of the National Blue Ocean Strategy (NBOS) further strengthens co-operation among law-enforcement agencies. Inter-agency collaborative action can: break illicit

cigarette supply chains by identifying trafficking “hotspots”; propose legal amendments to stiffen penalties for smugglers; revise procedures for licensing of private jetties; and accelerate revocation of cigarette import licenses if license holders are caught in smuggling activities. Under the NBOS, the RMCD cooperates with the RMP in information-exchange and capacity-building programs. Periodic joint operations are also carried out with the MOH, MACC, and MDTCC, as well as local authorities and town councils. The RMCD works in close partnership with the Malaysian Border Security Agency, which is a special agency responsible for curbing smuggling and other illegal activities along the country’s land borders. In addition to regional collaboration, the RMCD also links with international agencies to further strengthen the control of cigarette smuggling.

International coalitions in which the RMCD is involved include the Regional Intelligence Liaison Office (RILO); United Nations Office on Drugs and Crime (UNDOC); Container Control Program (CCP); and the Indonesia-Malaysia Coordinated Customs Patrol (PATKOR KASTIMA), as well as Malaysia-Thai Border Joint Cooperation (MTBCO). The RMCD is also an active member of the World Customs Organization (WCO) and is strongly connected with the United States Customs and Border Protection Agency, the Australian Border Force, and HM Revenue and Customs of the United Kingdom, among others. Special joint operations among partners are conducted on a regular basis to combat the illicit movement of cigarettes and tobacco.

The RMCD is currently working on a system overhaul under the Customs Project. This reform is expected to include the creation of a National Targeting Centre. Assistance from the United States, United Kingdom, and the Australian Border Force fosters the sharing of best practices on targeting and risk analysis. Close collaboration with Local Councils assists in cancelling the licenses of outlet operators who are found guilty of selling illicit cigarettes.

Expected Effect of Reforms to Address the Illicit Tobacco Trade

The measures and initiatives being taken by the MOH, RMCD, and other agencies are expected to reduce illicit cigarette consumption in Malaysia, ultimately cutting smoking prevalence among the country’s adults and adolescents. Authorities’ long-term target is to reduce smoking prevalence to 15 percent by 2025 and less than 5 percent in 2045. This will cut government health expenditures on smoking-related diseases, an especially important consideration, since almost 70 percent of such treatment costs in Malaysia are currently government funded. With all the steps taken to combat illicit cigarettes, together with the MPOWER strategies, Malaysia hopes to achieve a Smoke Free Generation and Tobacco Endgame by the year 2045.

5. Conclusions

Intensified information sharing and collaboration between enforcement agencies in Malaysia, authorities in other countries, and international partners will help curb illicit tobacco while strengthening international ties. Through such partnerships, Malaysia is committed to control the flow of illicit cigarettes into and within the country.

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^{iv} How to design and enforce tobacco excises? International Monetary Fund, October 2016
<https://www.imf.org/en/Publications/Fiscal-Affairs-Department-How-To-Notes/Issues/2016/12/31/How-to-Design-and-Enforce-Tobacco-Excises-44352>

^v World Bank Group: "Global Tobacco Control: A Development Priority for the World Bank Group", Preface of WHO Global Tobacco Report 2015.
http://www.who.int/tobacco/global_report/2015/timevansandworldbankforeword.pdf?ua=1

“To tackle illicit trade is to tackle accessibility and affordability of tobacco products, to be more effective on the control of the packaging and to reduce funding of transnational criminal activities whilst protecting the governmental revenues from tobacco taxation.”ⁱ

– **Dr. Vera Luiza da Costa e Silva**
Head of the Secretariat of the WHO Framework Convention on Tobacco Control

“Governments around the world must waste no time in incorporating all the provisions of the WHO Framework Convention on Tobacco Control into their national tobacco control programmes and policies. They must also clamp down on the illicit tobacco trade, which is exacerbating the global tobacco epidemic and its related health and socio-economic consequences.”ⁱⁱ

– **Dr. Tedros Adhanom Ghebreyesus, Director-General**
World Health Organization

“Tobacco still remains the biggest avoidable cause of premature death in the EU, and the illicit trade in tobacco facilitates access to cigarettes and other tobacco products, including for children and young adults. In addition, millions of euros in tax revenues are lost every year as a result of the illicit trade.”ⁱⁱⁱ

– **Commissioner Vytenis Andriukaitis**
Health and Food Safety / European Commission

“Given their light weight, small size, and high value, tobacco products are susceptible to fraud through illegal trade, production, and cultivation. . . . Illegal trade is a context-specific activity that has various modus operandi and therefore requires multi-dimensional context-specific solutions.”^{vi}

– **Patrick Petit (Senior Economist) & Janos Nagy (Senior Economist)**
Fiscal Affairs Department / International Monetary Fund

“Effective tobacco tax regimens that make tobacco products unaffordable represent a 21st century intervention to tackle the growing burden of noncommunicable diseases. We are convinced that, working together with WHO and other partners in support of countries, we will be able to prevent the human tragedy of tobacco-related illness and death, and save countless lives each year.”^v

–**Dr. Tim Evans (Senior Director) & Patricio V Márquez (Lead Public Health Specialist)**
Health, Nutrition and Population Global Practice / World Bank Group

