

Executive Summary

This Policy Ideas builds on our previous report, “Illicit Trade in Malaysia: Causes and Consequences” (IDEAS, 2017). In that report we outlined the scale of illicit trade in Malaysia, the driving factors behind it and recommendations to address it. In this report, we consider those recommendations in more detail by assessing case studies from other countries where action was taken to stem the flow of illicit trade. We have complemented the assessment of these case studies with review of the relevant literature and interviews with experts in the field, including from industry and government. Using this analysis, we propose more detailed recommendations for tackling the problem of illicit trade in Malaysia.

The new Pakatan Harapan government committed in its manifesto to taking concrete action to reduce illicit trade in Malaysia. Under Promise 58 of the Buku Harapan, the government said that: “*Enforcement agencies will be directed to stop smuggling of alcohol and cigarettes across the border, including tighter controls along the borders and heavier punishments to those convicted*”. This is a welcome commitment as illicit trade remains a persistent problem in Malaysia, costing the government billions in revenue each year and damaging legitimate business.

Illicit trade is not a problem unique to Malaysia. Many countries around the world have sought to tackle the smuggling of contraband and the spread of counterfeit goods by adopting better technology, stricter penalties and educating the public, among other initiatives. The policies need to be tailored to the problem, but what each of the successful efforts have in common is a clear and determined strategy with political ownership and robust management to see it through. That is the approach that Malaysia needs to adopt. Within this strategy the Malaysian government can then strengthen the capacity of its various enforcement agencies and adopt specific policies to tackle the most serious drivers of illicit trade.

The recommendations presented here are designed to serve as the basis for further discussion on how Malaysia can eliminate the challenge of illicit trade.



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Recommendations

- ...→ **Adopt a new cross-government strategy, with clear political ownership.** Efforts to tackle illicit trade have been sporadic and led by individual agencies. The government should set out a new, overarching illicit trade strategy to implement the promises of Buku Harapan. A new Illicit Trade Task Force should be established, chaired by the Minister of Finance with participation from these agencies to oversee implementation of the strategy and ensure all agencies contribute.
- ...→ **Formalise co-operation with the private sector.** Cooperation with the Private Sector should be improved through the formation of a new Trade Enforcement Committee with membership from government agencies and industry to share information, consult on new policies and support operations. This cooperation should include establishing a customs recordal mechanism.
- ...→ **Review policies on staff across different agencies to put the right incentives in place and reduce the scope for corruption.** There are a series of steps the government should consider as part of an overall process of improving incentives and reducing corruption: introduce performance based pay, with rewards linked to high value seizures; automate all processes where possible; introduce a clear sanctions process; and introduce staff rotation in high-risk positions.
- ...→ **Set specific targets for seizures and publish data on performance.** The government should adopt specific targets for seizures in line with the scale of the problem to ensure consistent and proactive effort by the different agencies. Rather than the selective release of individual stories, the government should publish systematic annual statistics on seizures and penalties, so that the public is able to gauge the overall trends in illicit trade and hold the government accountable for its efforts to reduce it.
- ...→ **Do not further increase excise duties on tobacco, and consider a review of the tax structure.** Recent hikes in the legal price of cigarettes have led to stark increase in the illicit trade in tobacco. The government should not raise the price any further and should review the tax structure in light of the experience in other countries, such as Pakistan, that have introduced a lower tier of tax to combat the rise in illicit trade.
- ...→ **Ban the sale of duty free cigarettes at Langkawi, Labuan and Tioman.** The previous government had admitted that the tax free islands were a source for illicit tobacco, but previous proposals to ban sales of duty free tobacco have failed. The government should now ban the sale of duty-free cigarettes. This can be done on a time limited basis to be reinstated once enforcement capacities have been improved.

- ▶ **Introduce a bank guarantee scheme for transhipments.** A major route for illicit products is transhipments – the government should require transhipments to place a bank guarantee until delivery at the final destination can be confirmed. In order to reduce the impact on legitimate trade, this should be conducted on a risk based approach, targeting only high risk products, and operators with good track records can be excluded.
- ▶ **Proceed quickly with plans to increase penalties to RM100,000.** The current levels of penalties do not act as a sufficient deterrent and need to be increased in line with the proposals from Royal Malaysian Customs.
- ▶ **Consider restricting access for certain imports to a single point of entry.** Under this measure, imports of those products which are identified as high risk should only be allowable at a single point of entry into the country. So that enforcement resources can be focussed on this point, and imports of these products arriving at other points can be seized as a matter of routine, simplifying the process at these points. This new policy should only be used for very specific products, such as tobacco, subject to high risk of illicit trade.
- ▶ **Launch public education campaigns.** The government should focus on raising public awareness on the personal health risk associated with consuming illicit products and the fact that the proceeds of illicit trade can be used to fund more harmful criminal activity.