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# Policies and Practices on Illicit Trade in Malaysia

*Case Study*

*Authored by*

**Benedict Weerasena**

**Abel Benjamin Lim**





Illicit trade continues to pose a significant challenge in Malaysia: It remains in the top 10 list of countries responsible for the global illicit wildlife trade; has one of the highest illicit cigarette prevalence in the world, with over 4 out of 5 cigarettes smoked in East Malaysia being illicit; and the black market which includes counterfeit good trade amounts to an estimated RM300 billion or 21% of gross domestic product (GDP) annually. The Malaysian government has in place policies to curb illicit trade which include robust regulations, enforcement efforts, technology utilisation, public awareness and international cooperation. Thus, this policy brief seeks to outline the scope, scale and impact of illicit trade in Malaysia, with a specific emphasis on counterfeit goods, illicit tobacco products, and wildlife. More importantly, this policy brief seeks to analyse the current measures and identify areas for improvement. Besides that, we seek to explore new strategies that can be adopted in the Malaysian context by drawing upon international best practices; including promoting holistic education and behavioural change, enhancing comprehensive enforcement efforts, and investing in strategic partnerships which include the establishment of an 'ASEAN Working Group against Illicit Trade', strengthening the security of Free Trade Zones (FTZs) through the Safe Zone Certification Program and investing in securing habitats on the ground as a direct measure to address illicit wildlife trade. By combining critical analyses of current policies and innovative policy recommendations, this policy brief aims to inform evidence-based policy decisions and support the development of a comprehensive and robust framework to combat illicit trade effectively.





## 1.0 Introduction: Extent of Illicit Trade in Malaysia

Illicit trade is a global problem which knows no boundaries, and Malaysia is no exception. This Southeast Asian nation, known for its rich biodiversity, cross-cultural richness and vibrant economy, faces a multifaceted challenge when it comes to illicit trade. Despite stricter regulations, high penalties and additional enforcement measures, illicit trade continues to pose a complex conundrum in Malaysia.

Let us examine the data. Malaysia was ranked the world no. 1 in terms of tobacco black market prevalence (63.8 per cent) by Euromonitor International in the year 2020, (New Straits Times, 2020). The latest data from the Illicit Cigarettes Study (ICS) has revealed that this prevalence has decreased slightly to the latest May 2023 figure of 55.3 per cent (Kang, 2023). Worryingly, the prevalence is even higher in the East Malaysian states of Sabah and Sarawak, where approximately 4 out of 5 cigarettes smoked are illegal (NielsenIQ, 2022).

Correspondingly, Malaysia stands out as a major hub for the smuggling of valuable animal parts and is considered within the top 10 countries fueling the global illicit wildlife trade (Singh, 2022a). Malaysia's rich biodiversity, strategic location and robust logistics network make it an ideal hub for smugglers and poachers to engage in illicit wildlife trade, including elephant ivory, pangolins, tortoises, freshwater turtles, tigers, rhino horns, and many others. In fact, illicit wildlife trade has been on the rise during the COVID-19 pandemic through e-commerce and online platforms, with 443 cases recorded by the Department of Wildlife and National Parks (PERHILITAN) since the year 2020 (Ainin & Azhar, 2023).

Moreover, Malaysia has unfortunately gained notoriety as a hub for counterfeit goods, including electronics, fashion, and pharmaceuticals among others. As evidence, 976 cases of seizures of counterfeit goods amounting to a value of RM69 million were recorded between the year 2020 and February 28 2023 (Bernama, 2023b). Furthermore, the Petaling Street enclave was listed in the 2022 Review of Notorious Markets for Counterfeiting and Piracy, highlighting the large volumes of counterfeit watches, shoes, handbags, wallets, sunglasses, and other consumer goods being sold openly (Office of the United States Trade Representative, 2023).

Hence, the critical issue of illicit trade in Malaysia warrants a deeper discussion and examination; especially on why it still persists despite numerous policies implemented including rigorous regulations, robust enforcement measures, the integration of cutting-edge technologies, heightened public awareness efforts, and active engagement in international cooperation. This policy brief aims to provide an overview of the extent, magnitude, and ramifications of illicit trade in Malaysia. More importantly, we seek to assess the efficacy of current measures while pinpointing areas in need of enhancement, in addition to exploring novel strategies tailored to the Malaysian context, drawing inspiration from global best practices. Through a combination of in-depth policy analysis and innovative recommendations, this policy brief aspires to facilitate evidence-based policymaking and the establishment of a comprehensive and resilient framework for combating illicit trade.



## 2.0 Analysis of Current Policies and Practices to Curb Illicit Trade

### 2.1 Wildlife Trade

Laws in Malaysia recognise the significance of illicit wildlife trade and have developed sound laws to curb such trade. With that in place, more illicit items have been added over a few decades. Among the formidable laws are the Wildlife Conservation (Amendment) Acts 2022 (WCA) since December 2022 – amended from WCA 2010, the International Trade in Endangered Species Act 2008 (INTESA) and Customs Prohibition (2012) Act. As pointed out in the 2020 report by TRAFFIC: Southeast Asia – At the Heart of Wildlife Trade (Krishnasamy & Zavagli, 2020), these acts distinctly criminalise illegal wildlife trade.

Additionally, the WCA and INTESA state 28 sections of violations, including import and export, are recognised as serious crimes under the Anti-Money Laundering and Anti-Terrorism Financing and Proceeds of Unlawful Activities Act (AMLAFTA) 2014 Amendment. One of the approaches to curtail such serious crime is to track the source of money by having cooperation between financial institutions and anti-money laundering agencies.

With such legislation in place, it is also notable that the laws differ from Peninsular and East Malaysia. As an example, the WCA 2022 applies only to the peninsula. This creates a dire concern that primary wildlife protection laws are anchored in the peninsula, and standardisation and harmonisation are lacking across the laws. By the same token, wildlife legislation in Sabah (Wildlife Conservation Enactment 1997) and Sarawak (Wildlife Protection Ordinance 1998) are outdated. The diversity in both east Malaysian states calls for improved coverage of native and non-native species, as they hold a wide geographical space and border. Illicit wildlife trade is complicated and it keeps changing over time. Having laws which are not updated will prevent the country from preparing for all extremes.

What is more, implementation is always a challenge – both the supply and demand side. The government is geared towards combating illicit wildlife trade on the traders. This illustrates that action taken on a larger scale is much easier to catch the culprit rather than focusing on an individual basis. Another vital aspect is also on the consumer. The difficulty remains in taking the same legal action on consumers. The focus has always been on the traders and this emphasis has dampened the severity of illicit wildlife trade among individuals and the possession of the illicit items. As described in the TRAFFIC report, *“the complex and often ambiguous systems that are meant to regulate industrial-scale commercial trade, such as captive breeding operations, are in fact riddled with loopholes, which leads to a mix of misdeclaration, misreporting and/or laundering of wild-caught animals declared as captive bred”*.

Aside from legislation, the government of Malaysia has also established the Wildlife Crime Bureau in 2022 under the Royal Malaysia Police (PDRM) to assist in the enforcement of WCA 2022 (Bernama, 2023a). The Department of Wildlife and National Parks (PERHILITAN) is strengthening the Wildlife Crime Unit to also

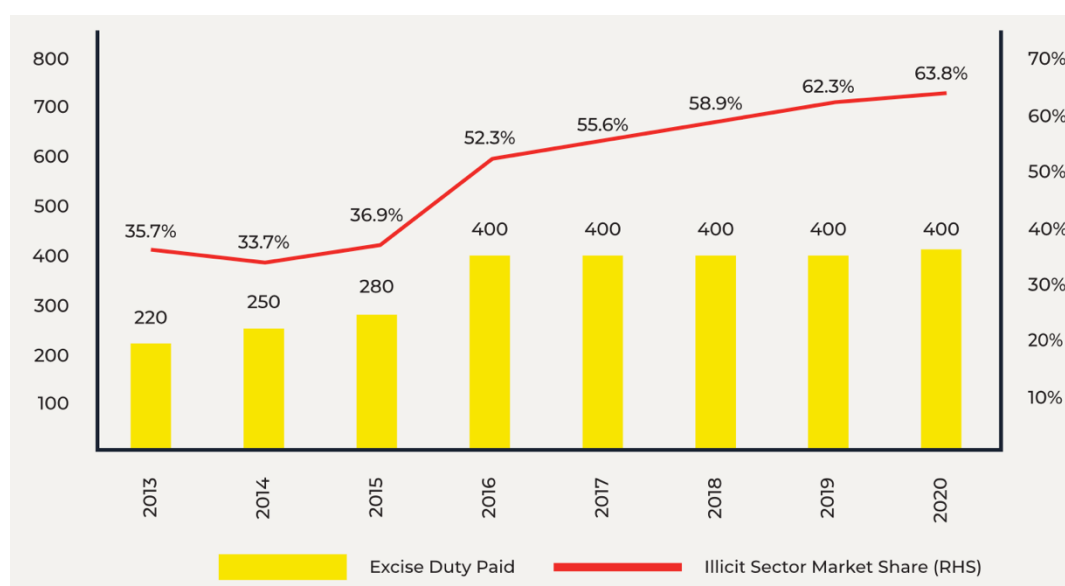


assist in enforcement efforts for wildlife conservation (New Straits Times, 2023). Furthermore, the Biodiversity Protection and Patrolling Programme (BP3) would be continued under PERHILITAN across the peninsula. This joint effort collaborates with the customs, police, Forestry Department of Peninsular Malaysia and the Perak and Johor National Park Corporations. Back in 2019, the PDRM and PERHILITAN launched *the Operasi Bersepadu Khazanah* as a national-level enforcement task force to combat wildlife crime. Then again, these programmes remain a challenge in terms of implementation, monitoring and evaluation, standardisation and consistent updating.

## 2.2 Illicit Tobacco Products

The high prevalence of illicit tobacco products in Malaysia is a result of a combination of ill-conceived taxation, poorly executed regulatory measures and overall idealistic approaches which neglect the understanding of how human beings respond to regulations. In 2015, tobacco taxes were raised, primarily through increased excise duties as part of the government's National Strategic Plan for Tobacco Control 2015-2020 (NSPTC) to control tobacco consumption. In 2016, there was a substantial 42.9% surge in excise duties, escalating from RM280 to RM400 per 1,000 cigarettes; from a prior gradual increase from 2013 to 2015, as shown in Figure 2.1. This increase in retail cigarette prices led to an unintended consequence of a spike in illicit trade, surging to 52.3% by 2016 and continuing to rise, as evidenced in Figure 2.1 (Datametrics Research and Information Centre, 2021).

Figure 2.1: Raise in Excise Duties contributed to Higher Incidence of Illicit Trade, 2013-2020

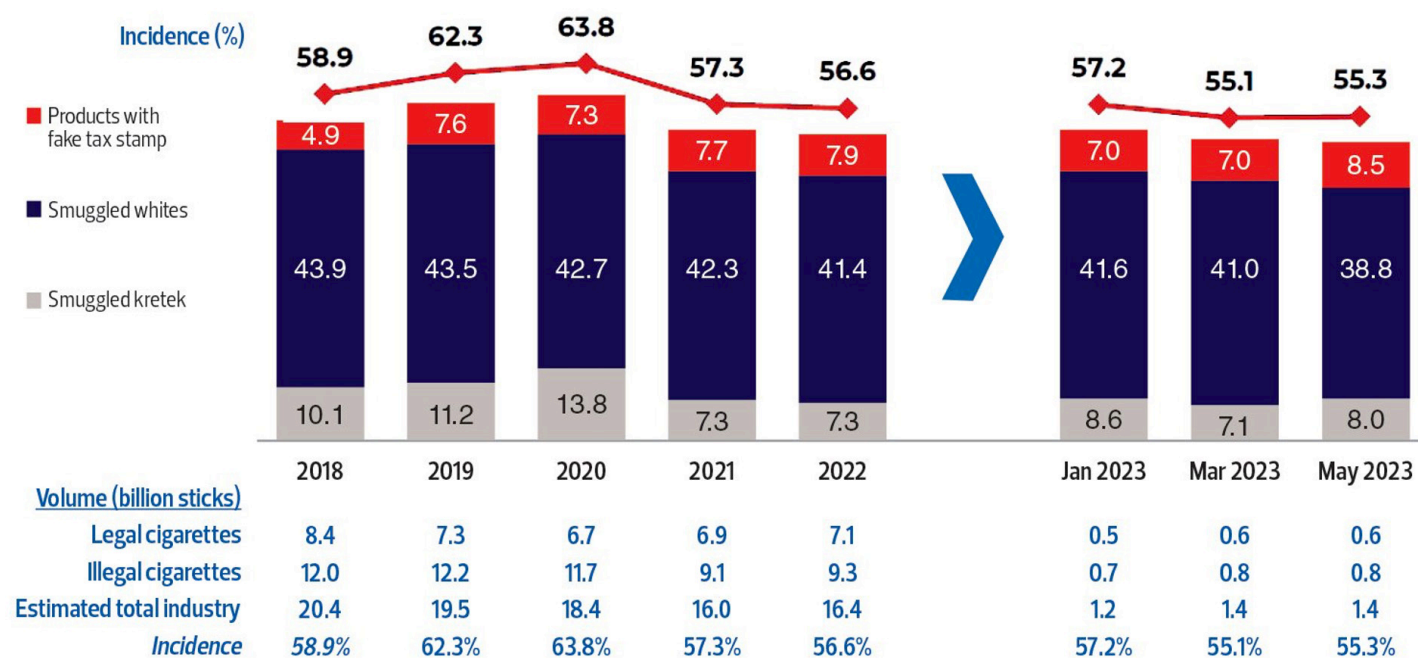


Source: Datametrics Research and Information Centre (DARE). (2021).

Hence, the illicit cigarette trade has held a larger market share in Malaysia than legitimate businesses for over 6 years now since 2016, with a peak of 63.8 per cent or 11.7 billion sticks in 2020 as shown in Figure 2.2. Even more concerning is the persistently high prevalence of illicit cigarettes in East Malaysia, consistently ranging from 78 to 85 per cent or 1.3 to 2.1 billion sticks since 2018 (NielsenIQ, 2023).



Figure 2.2: Incidence of Illicit Cigarettes, 2018 to May 2023.



Source: Kang (2023).

However, the most recent data shows a slight decline in this incidence, with the latest figure for the whole of Malaysia in May 2023 standing at 55.3 per cent as shown in Figure 2.2 (Kang, 2023). The notable reduction in the incidence of illicit cigarettes in 2023 can be attributed to various policies introduced from 2019 up to the 2021 Malaysian Budget. In 2019, amendments were made to the Customs Act 1967 and the Excise Act 1976, introducing a higher minimum fine of RM100,000 for smugglers, distributors, suppliers, and sellers involved in contraband cigarettes (Teh, 2020). Budget 2021 introduced a stricter policy on transshipments enacted by the Finance Ministry, which restricts cigarette transshipments to specific ports like the West and North Port in Port Klang, Port of Tanjung Pelepas, Port of Sandakan, and Senari Port in Sarawak. Additionally, the combined efforts of the Royal Malaysian Police and the Royal Malaysian Customs Department, coupled with new strategies such as freezing new cigarette import licenses, tightening conditions for license renewals, and implementing an import quota have demonstrated measured success. Due to heightened port security measures, cigarette smugglers have turned to more hazardous tactics for importing their products into the country, such as conducting ship-to-ship transfers beyond Malaysia's territorial waters, which has made smuggling a more challenging and costly endeavour (Singh, 2022b). As evidence, all these policies have resulted in a significant decrease in the use of transshipment facilities for smuggling cigarettes, dropping from a peak of 2.4 billion sticks in 2020 to just five million sticks in 2021 (Singh, 2022b).

Besides that, the decisive move to not increase the excise tax for cigarettes since the last substantial raise in 2016 helped reduce the risk of another surge of illicit cigarette demand. Furthermore, the Multi-Agency Task Force (MATF) set up in early 2020 to coordinate the efforts of all enforcement agencies in combating the smuggling of cigarettes and liquor has been revitalized and strengthened through the inclusion of agencies such as the National Security Council, National Kenaf and Tobacco Board, and the Malaysian Anti-Corruption



Commission (Teh, 2020). However, the optimal effectiveness of this MATF has been questioned, due to the lack of clear achievable goals and insufficient resources, funding and training (Focus Malaysia, 2021).

It is worth noting that the prevalence of illicit cigarettes has somewhat plateaued in 2022 and 2023, remaining consistently above the 55% threshold. As such, existing government policies focusing on the supply side are insufficient to effectively reduce the prevalent issue of illicit cigarettes in Malaysia. Equally vital are demand-side policies, recognizing the market principle that 'where there is demand, there will always be supply'. In Malaysia, consumers turn to illegal tobacco products due to their affordability and widespread availability. For instance, illicit cigarette packs, priced at RM4 to RM6 per box, are less than half the cost of legal cigarettes, which typically sell for around RM16 per pack. This significant price difference appeals to consumers, especially those in the B40 category, where many households face limited financial resources. The price difference also represents a higher profit margin which is a big enough incentive for syndicates to transport illicit cigarettes in, including the possibility of paying off enforcement units. In other words, the wide price disparity between legal and illicit products creates a situation that enforcement measures alone cannot effectively address.

## 2.3 Counterfeit Goods

In light of the uphill battle against the rampant proliferation of counterfeit goods, Malaysia has been proactively enhancing the effectiveness of the array of laws which establish protection and enforcement measures in cases related to counterfeiting. The most recent Copyright (Amendment) Act 2022 introduces amendments to the Copyright Act 1987, which seeks to strengthen provisions related to copyright enforcement, particularly in the digital realm. In addition, the amendments have strengthened enforcement powers on copyright-related offences. Previously, the Assistant Controller or the police were limited to conducting searches and seizures of infringing copies imported into Malaysia solely upon the receipt of an application from the copyright owner. This provision has now been amended to grant the Assistant Controller or the police the authority to conduct the search and seizure of any infringing copy, even in the absence of an application by the copyright owner. Moreover, additional powers conferred include the authority of the Assistant Controller to instruct the copyright owner or an authorized individual to execute a test purchase of any goods to ascertain compliance with the Act. Furthermore, the Assistant Controller is endowed with the power to mandate the provision of information in the course of an investigation (Drew Network Asia, 2022). These timely amendments contribute to the enhancement of Malaysia's copyright regime, especially in the enforcement against counterfeit goods.

Besides that, the Trade Descriptions (Amendment) Act 2021 was passed in October 2021, which primarily expands the powers of enforcement under the principal Trade Descriptions Act 2011. In line with the new amendments, seizures of counterfeit goods were made through nationwide inspections carried out to eliminate the manufacturing of counterfeit goods and pirated items, prompted by consumer complaints and concerns raised by trademark owners.

Next, the Malaysia Trademarks Act 2019 came into effect in December 2019 and replaced the Trade



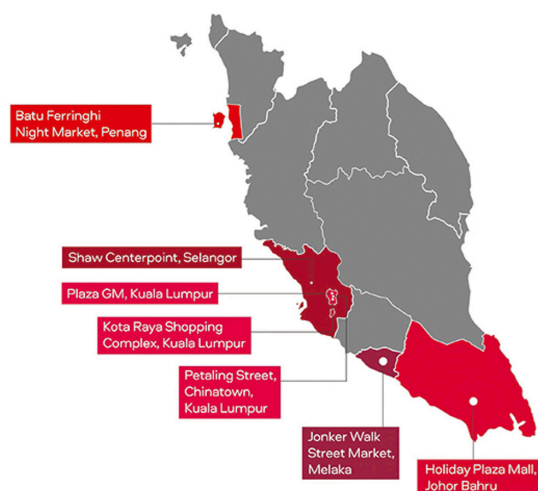
Marks Act 1976, with significant amendments aligning Malaysia with contemporary commercial trends and international trademark practices founded upon Malaysia's accession to the Madrid Protocol. The new Act covers a wider scope of infringement, whereby registered trademark proprietors have the entitlement to institute legal proceedings for the infringement of goods and services that bear similarity to those protected by the registration (Yap & Wong, 2021).

Since the enactment of the Trademarks Act 2019, there have been several prosecutions and convictions obtained against individuals involved through raid and seizure operations carried out by the Enforcement Division of the Ministry of Domestic Trade and Consumer Affairs (MDTCA). Legal experts explain that criminal prosecutions remain efficacious, exhibiting a broader deterrent impact by conveying a stern message not only to such infringers but also to other non-compliant traders in the market and the general public to promptly desist from their infringing activities (Loo, 2021). After the initiation of criminal proceedings against infringers, no latitude is afforded for non-participation or non-attendance, as the MDTCA is empowered with authority to procure arrest warrants and court orders to freeze their assets under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLATFPUAA), thereby fortifying the deterrent efficacy of prosecutions (Loo, 2021).

Despite all these enhancements in regulation, the proliferation of counterfeit goods remains a major challenge in Malaysia, encompassing everyday items such as appliances, textiles, medicines and cosmetics. Malaysia ranks among the top provenance countries of counterfeit and pirated products in terms of customs seizures (OECD/EUIPO, 2021). Moreover, the absence of robust enforcement measures during export and import processes, coupled with the lack of effective customs recordal systems serves as a facilitator for the counterfeit trade (OECD/EUIPO, 2021).

There are numerous counterfeit hotspots across Malaysia as shown in Figure 2.3, including the infamous Petaling Street in Chinatown Kuala Lumpur. As reported in the 2022 Review of Notorious Markets for Counterfeiting and Piracy, local authorities lack proactivity in conducting enforcement activities unless prompted by right holders. In these hotspots (Office of the United States Trade Representative, 2023). Even when right holders take the initiative, they encounter challenges such as local favoritism and the influence of organized crime in the market. Authorities reportedly responded to right-holder complaints only after considerable efforts on the part of the right-holders. In particular, right holders often find themselves obligated to provide substantial evidence before authorities agree to take action (Office of the United States Trade Representative, 2023). This challenge is present even though it's common knowledge that the majority of the goods sold at these hotspots are counterfeit. Hence, the current policies and practices warrant further discussion to effectively put an end to the trade of counterfeit goods.

**Figure 2.3: Key Counterfeit Hotspots in Peninsular Malaysia.**



## 3.0 Recommendations

### 3.1 Education and Behavioural Change

The motivation behind a consumer's purchase and use of illicit products must come with a proper understanding of the context. This includes, where applicable the illicit products, financial, cultural, emotional, medicinal, recreational, social, entertainment and reputational among others. This opens to the formulation of approaches to effectively influence the behaviour of targeted consumers, backed by a more informed implementation plan that is evidence-based and with more accurate insights on motivations, attitudes and values.

Besides, a good communication campaign is crucial in raising public awareness to change one's opinion on illicit products and their trading market. Effective awareness begins at a young age and school is a good place to start. Educational campaigns in schools should provide information to educate children and help them understand all aspects of illicit products and trade. With the absorbed information, children will directly and indirectly transfer the knowledge back home, especially to their parents. Following on, a hands-on exercise would further deepen the impact by incorporating a simple activity for students to conduct at home or out of school.

For example, students will also be provided (alongside the knowledge obtained) with a survey-like form to fill in on any counterfeit goods at home. This would create an environment of classroom and real-world learning, thus creating a global citizenship mindset which connects local knowledge with worldwide views on illicit trade. This endeavour needs to be continued with a longer-term educational programme to a wider audience and across mainstream media, all levels of educational institutions and social media. Importantly, the message conveyed requires a more social touch to capture oneself.

### 3.2 Enhancing Holistic Enforcement

Enhancing enforcement against the illicit trade of counterfeit goods, illicit cigarettes, and wildlife trafficking in Malaysia requires a holistic, comprehensive and strategic approach. Firstly, government agencies should enforce the law as written. For instance, The Ministry of Health plays an important role in overseeing tobacco packaging laws, including the display of health warnings and setting a minimum price of RM12 per package. However, there have been instances where these regulations are not consistently adhered to, indicating a gap in enforcement rather than a fault in the law itself.

There is also critical need to increase the resources and capabilities of enforcement agencies, such as the Royal Malaysian Customs Department and the Enforcement Division of the Ministry of Domestic Trade and Consumer Affairs (MDTCA). Adequate funding and training are essential to empower these agencies to conduct more effective raids and seizures, thus disrupting the illicit supply chains. Owing to the lack of manpower, one effective approach is facilitating and supporting the participation of rights holders in



enforcement activities, leveraging public-private partnerships. In addition, streamlining processes for right holders to report and take legal action against counterfeiters ensures a swift and effective response to illicit trade.

Recognizing the role of incentives in shaping behaviour, it is imperative to address the issue of underpayment within the civil service, especially among Malaysian enforcement agencies. Considerable emphasis should be placed on enhancing remuneration to mitigate the risk of corruption, accompanied by the implementation of stronger sanctions and punishments for any identified wrongdoing. A well-compensated civil service coupled with strong deterrents will reduce the likelihood of individuals resorting to corrupt practices, ensuring the integrity of enforcement agencies.

In terms of border enforcement, modern and effective measures are necessary to prevent the exportation and importation of counterfeit goods and illicit cigarettes. Measures recently introduced such as the restrictions of cigarette transshipments to specific ports need to be enhanced through robust data sharing and the empowerment of border enforcement authority to interdict small consignment shipments. Coordinated efforts from both customs and the navy are essential, with the deployment of seagoing vessels to tackle contraband entries at various coastal landing points. Given the rapid pace of technological advancements, enforcement strategies must be flexible enough to keep up, particularly in the online domain where counterfeits are widely marketed. Implementing sophisticated tracking and monitoring systems throughout the supply chain can significantly enhance the ability to trace and intercept illicit goods. Additionally, technology-driven solutions for the authentication and verification of genuine products can strengthen enforcement against counterfeit items. Specifically, the Malaysian Customs Department should consider using digitalized forms for the Customs System to replace manual forms. Digitalized forms are tamper proof and changes are traceable.

Besides that, improving prosecution and conviction rates, especially through the utilization of strong legislative acts like the Anti-Money Laundering and Anti-Terrorism Financing and Proceeds of Unlawful Activities Act (AMLAFTA) to criminalize offenders, serves as a powerful deterrent against illicit activities. Taking this a step further, Malaysia should consider establishing a standardized system to enhance the tracking of law enforcement incidences similar to the Law Enforcement Management Information System (LEMIS) in the USA or the Trade in Wildlife Information Exchange (EU-TWIX) platform in Europe, referring to Textbox 3.1 (Krishnasamy & Zavagli, 2020). This facilitates coordination and information sharing among enforcement agencies, contributing to more effective law enforcement efforts in the long term.



**Textbox 3.1 European Union Trade in Wildlife Information Exchange (EU-TWIX)**

The European Union Trade in Wildlife Information eXchange (EU-TWIX) is a tool developed to facilitate information exchange and international co-operation between law enforcement and management officials across Europe. The EU-TWIX database serves as a tool for national law enforcement agencies, CITES Management Authorities, and prosecutors within the European Union (EU) to detect, analyze, and monitor illegal activities related to the trade of fauna and flora covered by the EU Wildlife Trade Regulations. Its primary function is to centralize data on seizures and offenses reported by all EU Member States, besides providing information on technical, scientific, economic, and other relevant fields to aid in the identification, valuation, and disposal of seized or confiscated specimens. EU-TWIX aims to support strategic analyses and facilitate field investigations in combating illegal wildlife trade within the EU.

*Adapted from EU-Twix Database (2023) and Traffic (2019).*



Finally, capacity-building and training initiatives with enforcement and judiciary bodies are paramount. Joint training sessions, bringing together prosecutors and judges, can improve understanding and collaboration, resulting in more effective legal actions against those involved in illicit trade. By implementing these comprehensive recommendations, Malaysia can fortify its enforcement efforts and create a formidable defense against the threats posed by counterfeit goods, illicit cigarettes, and wildlife trafficking.

### 3.3 Investing in Strategic Partnerships

The intricacies of enforcement against illicit trade transcend the capacity of a singular enforcement agency. The adversaries in this realm are diverse criminal organizations, both on the domestic and international stage. Their ability to adapt strategies and maintain a strategic edge over law enforcement necessitates a multi-agency approach that comprehensively addresses every facet of their illicit activities (Blancaflor, 2021). Hence, strategic partnerships are the best approach, both locally and internationally to curb illicit trade of cigarettes, counterfeit goods and wildlife trafficking.

The need for local inter-agency partnerships is paramount in the concerted effort to curb illicit trade, addressing the challenges of jurisdictional ambiguity and shared responsibility. In other words, this strategy effectively reduces the likelihood of shift-blaming and accountability circumvention. Instead, collaborative efforts ensure a seamless approach to tackling complex issues. Malaysia's commendable strategy of establishing the Multi-Agency Task Force (MATF) dedicated to combating illicit cigarettes and alcohol, is a



proactive step. This task force involves key stakeholders, including the Ministry of Finance, Royal Malaysian Customs, Ministry of Health, Ministry of Domestic Trade and Consumer Affairs, and the Royal Malaysian Police Force. However, for such initiatives to yield optimal results, they require sufficient resources, support, training, and equipment. A clear plan of action with achievable objectives is imperative to empower these inter-agency partnerships in effectively addressing the multifaceted challenges posed by illicit trade.

Next, sustained collaboration with the private sector, spanning industries such as tourism, transport and logistics, e-commerce, and banking, is imperative to create a robust defence against illicit trade. This collaborative effort envisions the private sector as crucial allies, acting as the eyes and ears of enforcement agencies. Take for instance, facilitating the tracking of bank accounts and transactions associated with wildlife crime, enabling in-depth investigations into trade chains and potential money laundering operations (Krishnasamy & Zavagli, 2020). Furthermore, urging businesses to establish or enhance corporate policies and standard operating procedures that embody zero tolerance for illicit trade is essential. This not only aids in preventing illicit activities but also serves to shut down operations or accounts with clear evidence of illegality. Additionally, fostering awareness within the private sector by promoting best practices, red flags, and ethical guidelines for business partners contributes significantly to the collective effort to detect and thwart illicit trade.

Considering that illicit trade is not confined by national borders, regional collaborative efforts are essential. Current key intergovernmental initiatives include the ASEAN Senior Officials Meeting on Transnational Crime (SOMTC), ASEAN Chiefs of National Police (ASEANAPOL), and ASEAN Expert Group on CITES and Wildlife Enforcement (AWG CITES-WE).

We propose that the ASEAN Secretariat should step up these collaborative efforts by establishing an 'ASEAN Working Group against Illicit Trade', a collaborative effort to elevate the awareness and response to illicit trade, allocating requisite financial and personnel resources, enhancing regional information sharing, and implementing coordinated actions to curb illicit trade activities. This working group, in a broader sense, can actively devise regional strategies to reduce illicit trade, including addressing areas such as regulations on untaxed and unregulated parallel (grey) market imports, harmonizing import and export regulations, assigning accurate Harmonized System Codes, providing precise shipping information on manifests, offering common guidance for identifying and intercepting illicit goods, and establishing shared best practices for the storage and destruction of such goods (TRACIT, 2023). This initiative would underscore ASEAN's steadfast commitment to preserving the region's economic and social stability in addition to demonstrating a collective, proactive approach to upholding the rule of law, safeguarding intellectual property rights, and fostering a secure and prosperous environment for Southeast Asia.

### **3.4 Strengthening Security in Free Trade Zones**

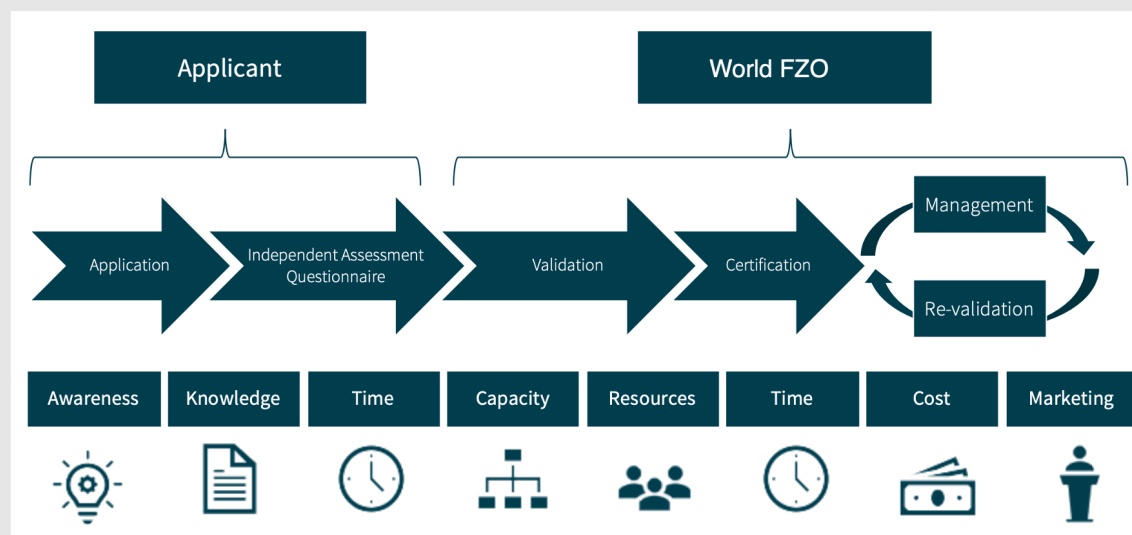
Free Trade Zones (FTZs) play an essential role in facilitating legitimate international trade by offering favourable conditions such as reduced tariffs and streamlined customs procedures. However, evidence has shown that the openness and lenient regulatory environments of FTZs indirectly widen the susceptibility to exploitation for illicit activities including smuggling counterfeit goods and wildlife trafficking (OECD, 2019).

Thus, enhancing the oversight, regulation, and enforcement mechanisms within FTZs is paramount to effectively thwart illicit trade. Implementing robust monitoring systems, coordinating efforts among international agencies, and ensuring strict adherence to compliance standards within these zones are necessary steps. These could potentially include the adoption of risk profiling for suspect shipments, conducting closer inspections of shipments associated with known offenders, and implementing ex-officio checks on goods stored and services conducted within the zones. Furthermore, customs supervision should extend to the zone perimeter and entry and exit points, ensuring comprehensive monitoring. Validating the identity of zone operators and their clients becomes crucial, accompanied by the enforcement of a "Know Your Customer Policy" and the incorporation of "Due Diligence" measures (TRACIT, 2023).. By integrating these stringent measures, authorities can fortify FTZs against illicit trade activities, fostering an environment of heightened vigilance and compliance within these economic zones.

Another interesting and fresh approach to take is subjecting Malaysia's Free Trade Zones to the World Free Zones Organization Safe Zone Certification Program, as shown in Textbox 3.2.

### Textbox 3.2 The Safe Zone Certification Program

The Safe Zone Certification program, in line with the World Customs Organization (WCO)'s SAFE Framework and strictly adhering to the OECD's Code of Conduct, offers a global compliance standard for free zones. In addition to fostering clean trade, Safe Zone offers a robust framework enabling free zones to adopt transparent governance tools aligning with broader international standards set by the World Trade Organization and the World Customs Organization. These tools, encompassing product safety, personnel training, and trade monitoring, will enhance the operational efficiency of free zones. To accurately evaluate the implementation of best practices fostering clean trade within the confines of a free zone, it is essential to thoroughly assess a set of key criteria through the following certification process.



*Adapted from World Free Zones Organization (2020) & Business Today (2020).*



### 3.5 Invest in Securing Habitats on the Ground (Specific Recommendation for Wildlife Trafficking)

Our habitats need a rethinking of investment, protecting the forest from illegal activities as suggested in the TRAFFIC report. To do so, laws especially in Sabah and Sarawak need to be updated. The update should include legislative protection for native and non-native species, not forgoing the improvement for penalties and regulation which governs the issuance of harvest licences and trade permits. Besides updating the laws in Peninsular and East Malaysia, standardisation of penalties must be at par across the nation as well as integrating a monitoring and evaluating instrument which will provide a good foundation for an impact assessment.

There is also a need to continue initiatives like the *Operasi Bersepadu Khazanah* as it has seen significant progress since its commencement. This does not end here. Such successful initiative must be developed further as the country progresses over time, to comprehend matters on illicit wildlife trade. Yet again, monitoring and reporting act as an important progress factor to curb illicit trade activities – a transparent monitoring and reporting system. Monitoring should remain at already known and emerging markets, in both physical and online spaces. The findings from monitoring and reporting serve as evidence-based action for policymaking decisions and formulation of implementation plans. Also, the findings (on captive breeding operations) must include another aspect, which is to make the information publicly accessible by species, quotas and trading partners.

## 4.0 Conclusion

The pervasive nature of illicit trade in Malaysia, spanning wildlife trafficking, illicit tobacco, and counterfeit goods, presents a multifaceted challenge that necessitates comprehensive policy responses. The alarming statistics, placing Malaysia among the top contributors to global wildlife trade and indicating a high prevalence of illicit cigarettes, underscore the urgency of addressing this issue.

This policy brief advocates for a holistic approach, drawing inspiration from international best practices, to fortify Malaysia's stance against illicit trade. Emphasizing the importance of education and behavioural change, and reinforcing enforcement efforts through investing in more resources, wider information sharing and capacity-building initiatives will go a long way in tackling this significant quandary. Moreover, we have proposed the establishment of an 'ASEAN Working Group against Illicit Trade,' and the implementation of the Safe Zone Certification Program to enhance Free Trade Zone security.

Addressing this critical challenge demands persistent political will from government officials across all levels, emphasizing the necessity to prioritize the issue, actively work together to seek solutions, and allocate resources to enforcement measures. Rather than merely a fiscal or public health concern for Malaysia, we see the prioritization and amplification of efforts to combat illicit trade, and its root causes, as a shared moral obligation. Our hope lies in fostering a collective commitment that transcends boundaries, ensuring the well-being of communities and upholding the moral fabric of our region.

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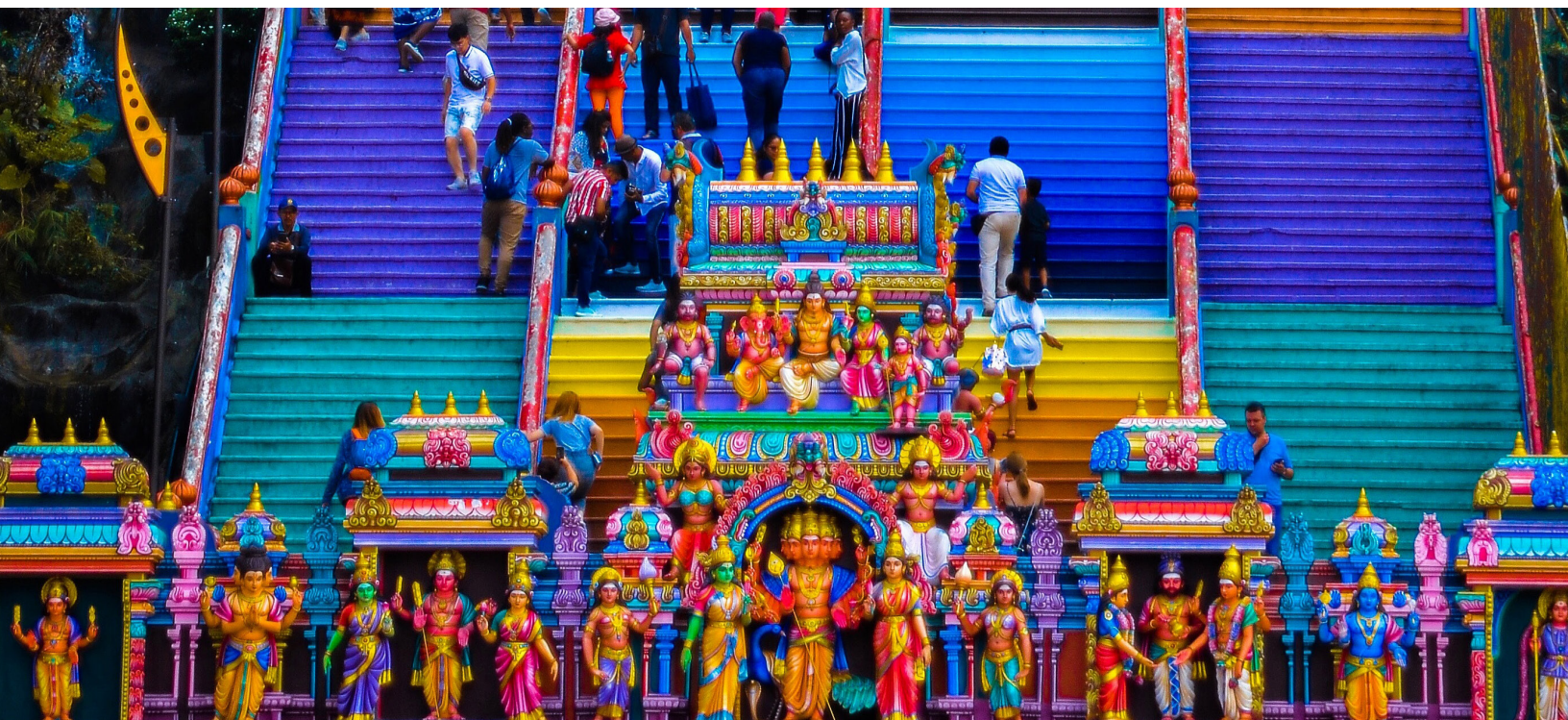
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