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Re: Harm Reduction and Market Access for Smoke-Free Nicotine Products in Vietnam

The Tholos Foundation is a non-profit educational organization dedicated to advancing the principles of economic liberty around the globe. We firmly believe that free markets, limited government, secure property rights, and the spirit of individual enterprise offer the most promising path to global prosperity, individual freedom, and a more peaceful world.

The Tholos Foundation conducts research and education activities that contribute to effective public policy, with a particular emphasis on trade, investment, taxation, regulatory reform, property rights, and the business environment. Our most well-known publications include the International Property Rights Index[1] and the International Trade Barrier Index.[2]

We write to you today in regard to the various decrees, resolutions, and administrative actions in Vietnam that prohibit the importation and sale of electronic nicotine devices, heated tobacco products, and nicotine pouches. These trade barriers reduce market access and choices for consumers that have far reaching unintended consequences.

[1] https://internationalpropertyrightsindex.org/

[2] https://internationalpropertyrightsindex.org/

The protection of youth and public health is an essential policy objective. However, using trade barriers to achieve these goals imposes immense economic cost, fails to achieve their primary policy aim, and fosters political dysfunction along the way.

Rather, regulatory models that empower consumers with information, rely on scientific evidence, real-world data, and rigorous product standards allow the market to innovate and achieve health objectives without the unintended consequences associated with heavy handed prohibition-based interventions.

Experience from the United States, Sweden, Japan, and other advanced economies demonstrate that open-market regulatory frameworks calibrated to the **different risk profiles of individual product categories** can simultaneously support prevention, harm reduction, protect vulnerable populations, and cultivate a competitive investment environment. This is why an increasing number of countries are moving away from prohibition-based approaches towards one supported by real world data, scientific evidence, and rigorous product standards.

1. Restrictions on market access may affect competitiveness and the investment environment

Countries that impose trade barriers prevent their populations from achieving their full potential. The Trade Barrier Index finds only five percent of the world's people live in the countries with the fewest trade barriers, but they produce 21 percent of global GDP. On the other hand, 42 percent of the world's people live in countries with the highest trade barriers, they produce only 9 percent of global GDP. Being able to buy and trade goods and services across borders on mutually agreed terms allows people to maximize their potential. Barrier-free trade ignites the type of competition that fuels innovation with spillover effects benefitting all industries.

Unfortunately, at 117th out of 122 on the Trade Barrier Index, Vietnam is in the latter category. High trade barriers contribute to Vietnam's people underperforming in the global market. Home to 1.23 percent of the world's people, Vietnam only produces 0.42 percent of the world's nominal GDP.

Fortunately, very few countries impose or consider implementing a complete ban on ENDs and nicotine alternatives. The unintended consequences of violence from black markets, missed tax revenue, and consumer health are not worth it. Among the side effects of a ban, intended to protect consumer health, is creating greater access to more harmful combustible cigarettes than to the less harmful electronic nicotine devices and other delivery systems.

In 2023 the Tholos Foundation published a "Study on Global Restrictions on Vapes and Vaping-Impacts on. Trade and Public Health."[3] At the time, a total of 23 countries imposed the type of ban forbidding citizens to buy, sell, trade, import and export ENDS devices. In the last three years at least four countries have moved to break their bans to allow sales and imports in a regulated market, reversing the trend. While a ban is in place consumers have only two options for nicotine

[3] https://tholosfoundation.org/wp-content/uploads/2026/08/TBI_2023CaseStudy_Vaping_v1.pdf

consumption. They can use the more harmful combustible cigarettes, or they can participate in the illicit market to find harm reduction alternatives. There products face no safety standards and distributors use violence to claim market exclusivity. It is worth noting, no country imposes a ban on combustible cigarettes.

Further, as a highly restrictive, and uncommon, trade barrier a ban invites trade disputes in a region already sensitive to geopolitical tensions between the poles of the global trading world. Vietnam is already subject to United States Section 301 investigations for unfair trade practices, Section 232 measures for national security, and several Anti-dumping/ Countervailing duty investigations. Similarly, Vietnam is under investigation or already facing anti-dumping/ countervailing duty tariffs from Australia, Taiwan, South Korea, India, Canada, the United Kingdom and the European Union.

Vietnam should use this opportunity to set an example for the region. The region is seeing bans as a regulatory tool trending on semiconductor chips, social media access, and at times even agricultural products, as well as nicotine. These are limited, not only by their inability to achieve policy goals, but by temperate political and market forces to sustain them. Vietnam should lead the region back to science led, evidence-based policymaking that promotes market-based solutions and weighs risk with proportionality. A careful, pragmatic approach, also signals to the international investment community the consistency in Vietnam's policy environment, regulatory capacity, and long-term economic attractiveness.

2. Global practice shows that smoking reduction can be achieved through harm reduction and a diversity of consumer choice

The Tholos Foundation fully respects the Government of Vietnam's objective of protecting public health and reducing tobacco use. The focus on this comment is whether a statutory ban, customs blockage, and other procedures restricting Electronic Nicotine Devices and harm reduction consumables achieves the public health goal.

At the most basic level these measures restrict supply of nicotine, not demand. Economic first-principles tell us this increases prices creating incentives for producers, distributors, and consumers to find their way to greater supply through illicit or licit means. In this context, the unintended consequences of a ban drives consumers back to the more harmful combustible cigarettes or to the illicit market, as noted earlier.

A consumer-focused, evidence-driven, policy that utilizes market-driven solutions implements a supply increasing strategy. At first this seems counter to a nicotine-reduction public health goal. Yet, by utilizing market demand for less harmful products, through approvals, licenses, and permits Vietnam can ensure consumers have access to a wide array of products that are less harmful, this will naturally drive down use of more harmful combustible products. This can be complimented with a demand reduction strategy that provides scientific information to the public on the harms of combustible smoking vs. ENDs and other alternative nicotine delivery systems.

In our report *Safer Nicotine Works*,[4] we noted that in Japan, the male smoking rate fell below 30 percent in 2020 after heated tobacco products were commercialized from 2014. According to the report, this figure declined sharply by approximately 32% over a five-year period, following many years of only gradual reductions.

In Sweden, the latest official figures from the Public Health Agency of Sweden show that the daily smoking rate fell to approximately 5.4% in 2024, the lowest level in the European Union. In 2025, data from the Swedish Council for Information on Alcohol and Other Drugs (CAN) indicated that the daily smoking rate had declined further to 3.7%, below the 5% threshold commonly used to describe a smoke-free society. According to CAN, this trend occurred in a context where adults in Sweden have legal access to smoke-free nicotine products such as snus and nicotine pouches under a separate regulatory framework.

3. Policy decisions should be based on comprehensive scientific evaluation of each product

The global trading community thrives on certainty. Regulatory policy based on consistency, predictability, and transparency signals openness to the global marketplace- even when those regulations are quite complex.

By basing regulatory policy on scientific data and a systemic review process Vietnam can signal openness while championing consumer safety and smoking reduction as its primary health policy goal.

Vietnam is already familiar with international standards and Mutual Recognition Agreements in ASEAN for cosmetics, medical devices, electronic and telecommunications equipment. Vietnam is also party to limited recognition agreements on food safety and pharmaceuticals. Regrettably, there is no international standard or recognition agreement focused on approvals for nicotine delivery systems that can provide the same level of certainty and predictability.

However, the United States' Food and Drug Administration has developed an evidence-based, risk-proportionate regulatory framework for smoke-free nicotine products. Each product is assessed independently through a rigorous scientific review process. That process considers toxicology, potential appeal to youth, adult use behavior, and projected population-level public health impacts. This approach is important because it does not treat youth protection, harm reduction, and innovation as mutually exclusive. Instead, the FDA seeks to advance these objectives together through consistent scientific standards. The result is a regulatory model that can protect public health while also preserving a predictable legal environment for lawful trade, investment, and innovation.

For Vietnam, FDA scientific assessments are already used as points of reference in many areas, including pharmaceuticals, medical devices, and other products related to public health. FDA

[4] https://tholosfoundation.org/wp-content/uploads/2023/10/Tholos-Safer-Nicotine-Works.pdf

decisions have long served as valuable references for regulators around the world. The same principle should apply to the scientific data reviewed by FDA in relation to heated tobacco products and nicotine pouches. Such evidence should be fully considered in Vietnam's policymaking process to ensure that regulatory decisions are grounded in a science-based risk assessment and international regulatory practice.

The Tholos Foundation fully respects the right of the Government of Vietnam to pursue its public health objectives. We respectfully advise, that decisions concerning smoke-free nicotine products should be made only after extensive scientific assessment, full impact analysis, and consideration of evidence reviewed by regulatory authorities such as the FDA.

In this manner Vietnam can provide the transparency and rigorous scientific review process its citizens, and consumers, deserve. As Vietnam continues to strengthen its institutions and deepen its integration into the global economy, reducing unnecessary trade barriers, maintaining a transparent policy environment, and ensuring that all products are evaluated fairly on the basis of scientific evidence will strengthen competitiveness, reinforce investor confidence, and improve the quality of national governance.

In Service,



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Tholos Foundation

Cc:
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- *Department of International Relations*

(2) Ministry of Health
- *Department of Legal Affairs*
- *Department of International Cooperation*

(3) Ministry of Foreign Affairs
- *Department of Americas*
- *Department of Economic Affairs*

(4) US Embassy
- *Economic Section*