

# Excise taxation of key commodities across South East Asia: a comparative analysis ahead of the ASEAN Economic Community in 2015

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## Abstract

As the Association of Southeast Asian Nations (ASEAN) moves towards the formation of its Economic Community (AEC) in 2015, it is worth considering the extent, if any, of any major differences in the excise taxation systems across the ASEAN membership. The issues which could arise will ultimately be determined by the actual final 'shape' of the AEC on its commencement, and the extent to which the 'single market' objectives of the AEC will allow for the free movement of goods and investment. Without harmonisation or indeed any form of standardisation or at least coordination of excise and like taxes, there could well be issues for ASEAN members to manage in the areas of local production and distribution moving across borders; import and regional distribution arrangements being reviewed; and cross-border 'shopping' or trade in non-commercial volumes of excise duty paid goods. Each of these issues potentially requires a regional level policy discussion, as well as local policy consideration, but most importantly, the need to look at various administrative arrangements to monitor the movement of excisable goods across ASEAN. This paper looks at various analytical approaches to comparing the differences across the ASEAN excise tax systems.

In 2003, the leaders of the various states of the Association of Southeast Asian Nations (ASEAN)<sup>1</sup> agreed to the formation of an Economic Community (AEC) as part of its larger 'ASEAN Vision 2020' plan.<sup>2</sup> A 'road map' for implementation was then laid out in 2007 in a document titled the 'ASEAN Economic Community Blueprint' in which the following 'characteristics' of the new regional economic integration were outlined as being:<sup>3</sup>

- the creation of a single market and single production base
- a highly competitive economic region
- a region which is equitable in terms of economic development
- a region which is fully integrated into the global economy.

As this paper is focused on the area of excise taxation, of interest in this study is the first of these characteristics: the formation of a single market and a single production base with the ASEAN region. Excise is primarily a tax on the production (or import) of certain goods, although it can also be found being applied to some services.

Significantly, excise taxes represent different priorities for different countries in terms of being a source of revenue, and increasingly, excise taxes are now often being set by governments to meet certain policy objectives around the consumption of those goods, for example, tobacco excises may be utilised so that retail pricing meets a certain level and reduces demand, or fuel excises may have exemptions on alternative clean burning fuels to stimulate demand for those fuels over fossil fuels.

In terms of a move towards the ‘single market’ aims of the AEC, there is the potential for issues to arise in policy particularly where production (or import) of excisable goods occurs in one member state, but consumption occurs in another. This situation could arise in a truly single market where industry could be expected to look at distribution arrangements that saw all production (or import) moving to low excise rate member states for ‘free flow’ to higher taxing member states.

Therefore, to set some context to the comparative study, a review of the AEC blueprint was made to identify the actual nature of the 2015 vision of a single market and determine to what extent there would be a ‘free flow’, and within this, would ‘free flow’ be extended to excisable goods. This question is important in terms of the future movement of excise goods across ASEAN, as indeed there are several possibilities to consider in the operation of a single market – firstly, that excise becomes payable at the place of manufacture (or the first post of import into the ASEAN region), or secondly, excise is payable in the country of consumption irrespective of place of manufacture (or import) and, as such, will need some form of border tax adjustment or administration over the movement of those goods to that place of consumption. These types of single market operations need to be understood so that potential impacts can be understood in terms of the potential movement of investment in production and re-structure of distribution from 2015, should the excise tax systems of the 10 ASEAN members be significantly different.

At this point it is important to define ‘excise taxation’ as this is not a term used by all members of ASEAN despite the fact they all levy ‘excise type’ taxes. Therefore, in this paper, the term ‘excise’ will relate to a form of indirect taxation which is applied to a narrow base of goods (and often services), being goods which are primarily ‘luxury’ or ‘consumer based’ in nature. Excise taxation is common throughout ASEAN as it is an important component of the overall tax systems of each member.

This approach is consistent with the classification of ‘excise taxes’ by the OECD<sup>4</sup> which considers excise taxes to be those taxes that are:

levied on particular products, or on a limited range of products ... imposed at any stage of production or distribution and are usually assessed by reference to the weight or strength or quantity of the product, but sometimes by reference to the value (OECD 2004).

Excise is not a value added tax (VAT) or sales tax, which the OECD differentiates by reference to the application of such taxes (and tax credits for business inputs) at each stage or tier within the supply chain, as well as a generally broader tax base.<sup>5</sup> Excise is not usually levied instead of such taxes but rather levied in addition to such taxes.

To determine what taxes are included in this study, we will use the OECD classification above. In this context for example, it is noted that the Vietnamese have a ‘Special Consumption Tax’, the Indonesians have a ‘Luxury Sales Tax’, the Thai’s have both a ‘Liquor Tax’ and a ‘Tobacco Tax’, although increasingly many ASEAN members have been reforming these types of taxes and incorporating the term ‘excise’ in many recent amendments.<sup>6</sup>

Returning to an initial analysis of the ASEAN AEC to provide context to our comparative analysis of excise tax systems, the blueprint states that there will be a creation of a single market and single production base which is to be achieved in several ways. The first of these has been described as providing for a ‘free flow of goods’,<sup>7</sup> however the extent of the term ‘free’ will need further discussion as it appears that despite the stated objective of a ‘single market’, there will be no ‘un-restricted movements’ across intra-regional borders of ASEAN origin goods, or ‘un-restricted movements’ across intra-regional borders of any imported goods fully cleared through Customs in a member state, but indeed full border controls will remain in place between member states.

Instead, it appears that the term ‘free flow’ is more likely to relate to import duties applying to ASEAN origin goods as they pass intra-regional borders, in conjunction with a removal of any remaining non-

tariff barriers to trade. This position is based primarily on the statements contained in paragraph 13 of the blueprint which indicates that under the Common Effective Preferential Tariffs for ASEAN Free Trade Area (CEPT AFTA) the elimination of import duties on ASEAN origin goods by 2015 in the Free Trade Area for the ASEAN 6 (and by 2018 for ASEAN CLMV)<sup>8</sup> – although some flexibility will be allowed for sensitive goods. Further, a review of paragraph 14 seeks the elimination of non-tariff barriers, in a transparent fashion by 2015, again with some flexibility for ASEAN CLMV to remove such barriers by 2018. As such, ‘free flow’ of goods in the blueprint is not akin to the ‘free circulation’ of goods say, under the European Union (EU) definition which allows goods of EU origin, or non-EU goods which have cleared customs controls (and not subject to other procedures) to move freely across intra-regional borders in most cases.<sup>9</sup> In the case of the AEC, ‘free flow’ appears to be a reference to the fact that duties, levies, fees and other restrictions will not apply should the goods be of ASEAN origin.

‘Free flow’ of goods will also be enhanced by improvements to procedures and technology, thus increasing the speed at which goods may be cleared at intra-regional borders. Paragraphs 15 to 18 of the AEC Blueprint call for better trade facilitation initiatives such as the simplification and transparency of relevant import/export procedures, as well as calling for improved customs integration between member states of ASEAN.

The call for increased customs integration in conjunction with the calls for full tariff reductions and removal of non-tariff barriers actually suggests that the concept of the AEC is a little confusing, and perhaps economic integration is not achieving the ‘single market’ or ‘common market’ objective as is generally understood by those terms. Therefore, it is useful to briefly look at the progressive stages of economic integration and understand what stage ASEAN is seeking to reach by 2015 and from here, the study can then better determine the impacts of members having differing excise taxation systems.

Holden (2003) has summarised the literature into the key stages of economic integration as being:

- Free trade agreement (FTA) or preferential trade in which members reduce tariffs to zero for intra-regional trade and reduce non-tariff barriers
- Customs Union which is an FTA with a common external tariff, free flow of goods across borders but maintenance of national economic policies
- Common Market which is a Customs Union with free flows of services, investment, labour and capital, with some harmonisation of economic policies
- Economic Union which is a Common Market with common economic policies and common political and economic institutions.

If these stages are analysed against the ASEAN context, it appears that the blueprint suggests that ASEAN is moving from a Free Trade Area to a Common Market without first implementing a Customs Union. Certainly the Free Trade Area of AFTA will be close to, if not fully implemented with further commitments to remove non-tariff barriers, however, there are no components of a Customs Union and confusion has crept in by the desire to implement, by 2015, a free flow of services, investment, labour and capital.

From this, the study believes that the AEC 2015 is not realistically a ‘single market’ but rather an enhanced Free Trade Area with enhanced facilitation of intra-regional cross border movements and free flows of services, investment, labour and capital. This position will now form the basis of the following review of excise taxation policies across the ASEAN membership.

The issues for excise taxation from 2015 for policymakers now seem to focus on several key areas:

- Will production of certain excisable goods move to certain low taxing members, and duty paid products move to other member states for consumption, and if so, how will this be administered at the borders by way of any border tax adjustments, including ensuring compliance by importers and the possible need to monitor the movement of excise goods?

- Will production of certain excisable goods move to lower production cost members to reduce excise duty liabilities in the member state where goods will be consumed?
- Will policies and procedures be needed to manage the non-commercial movement of excisable goods from member states with low excise rates to member states with higher excise rates?

To begin analysis of these questions there needed to be some form of benchmarking of existing ASEAN excise systems. This proved to be a very difficult exercise given a lack of consistency across these regional excise systems. The main obstacles to a clear analysis and benchmarking of excise systems included:

- Differing ranges of goods (and services) subject to excise. Only five commodities were found to be taxed across all ASEAN member states and these were: motor vehicles; beer; wine, distilled spirits; and packaged tobacco (cigarettes). These five commodities will be used as a guide in this study to understand the extent of differences between the excise taxation systems of the ASEAN members.
- Some categories of goods (and services) are subject to excise in only limited numbers of member states. Examples of goods here include non-alcoholic beverages which are subject to excise in Cambodia, Laos PDR, Malaysia and Thailand, whilst examples of services include karaoke club revenues which are payable only in Cambodia, Laos PDR, Myanmar, Thailand and Vietnam.
- Approaches to excise taxation vary between member states and include:
  - value based or ‘*ad valorem*’ duties
  - quantity-based or ‘unitary’, ‘specific’ or ‘volumetric’ duties
  - a mixture of both an *ad valorem* and a specific rate of duty, and
  - in the case of Thailand,<sup>10</sup> a mixed rate *ad valorem* and specific excise rate tariff in which the tax payer calculates against both rates and pays the higher of the two.
- Approaches to the tax base, or basis of excise tax calculation differed across the members’ excise tax systems. Here the study found that in:
  - *Ad valorem* excise systems, taxable value was ex-factory selling price (or CIF + import duties for like imported goods) being the most common; in Thailand, it is an excise and local tax inclusive ex-factory selling price (or CIF + customs duty + excise duty + local tax for like imported goods); in Cambodia, it is 65% of the customer’s invoice price; and in Myanmar, it is sales receipt value.
  - Specific rate excise systems, taxable volume was either per litre (for liquid fuels, alcoholic beverages, non-alcohol beverages); per litre of alcohol (for alcoholic beverages); per stick for cigarettes; or per kilogram for cigarettes and tobacco.
  - Some definitions of tobacco contain reference to either ‘per stick’, or ‘per pack’, in the case to cigarettes.
  - Some classifications for excise items are linked to retail pricing (in the Philippines, for alcohol) and then for tobacco, there are also classifications which are in terms of per stick (Indonesia) or per pack (Philippines) for tobacco products.
- A lack of transparency in ‘effective excise rates’ particularly in the taxation of fuels with a range of both subsidies in place, and the use of ‘temporarily cut’ excise rates and ‘rate discounts’ for goods meeting certain criteria.

In order to overcome some of these issues, the study looked to standardise the various excise systems of ASEAN. In this process, two approaches were adopted depending upon the nature of the goods. Where pure *ad valorem* taxation was utilised across ASEAN, such as motor vehicles, the items under that commodity were reviewed to establish whether any commonalities or similarities were present on which

a 'standard' commodity classification could be developed. In terms of motor vehicles, see Table 1 below, it was noted that where the commodity item was broken down into sub-items, the division was based upon engine size for passenger cars, and for larger passenger transports like buses, sub-items were based upon number of passenger seats. This approach was therefore taken in Table 1, however, it needs to be clearly stated that the engine size divisions created here are not consistent across the excise systems of all member states but, generally, it has been possible to use these divisions and not impact on the prescribed excise of each engine size in each excise system.

Also of note was the concession given for the 'pick-up' vehicle by Thailand and Vietnam, the pick-up vehicle being one which contains both a passenger cab and a goods carrying capacity. Because of this, a separate sub-item was created for this scenario.

*Table 1: A comparative analysis of motor vehicle excise duties in ASEAN*

Country	<2000cc	2-3000cc	>3000cc	10-16 seat	>16 seat	Pick-up
Indonesia	20%	40%	75%	10%		
Brunei	20%	20%	20%	20%	10%	20%
Cambodia	45%	45%	45%			
Laos PDR	65%	75%	90%	20%	20%	20%
Malaysia	80%	90%	105%	105%	105%	
Myanmar	25%	25%	25%	20%	20%	
Philippines	15%	50%	100%			
Singapore	20%	20%	20%	20%	20%	20%
Thailand	30%	40%	50%			3%
Viet Nam	45%	50%	60%	30%	15%	15%

Source: Preece 2012.

A common feature here is the increase in excise rate with increasing engine size, with the exception of Brunei, Myanmar and Singapore, although none of these countries has a vehicle manufacturing sector. Five countries have a concessional rate of excise for the pick-up truck, with the other five countries having the engine size determine the excise rate for all passenger vehicles. There are some quite large rate differentials across the countries, with Malaysia having the highest rates in all categories, and these rate differentials stay fairly consistent as engine size increases. Analysis in terms of production costs would be interesting at some point, as vehicle production requires significant long term investment. With the AEC providing for free flow of capital and investment, one issue to explore is whether vehicle producers looking at high excise rate markets like Malaysia, or at certain high excise rate market segments like large engine vehicles in Indonesia or the Philippines, could look to invest in production in low cost centres to reduce the taxable value of the vehicle and therefore its competitiveness in those markets or market segments.

There would also seem to be some attractiveness for 'cross border shopping' or private individuals purchasing their vehicles in lower taxed neighbouring countries and then driving these vehicles home. With a 'free flow' of people across borders, it may become increasingly difficult to even identify potentially excisable vehicles in such border crossing settings.

More difficult to analyse are those excise tariffs relating to alcoholic beverages and tobacco products as they possess a range of different approaches to the way in which the goods are taxed. Table 2 (alcohol) required all types of beverage to be bought to a standard 'litre of pure alcohol' rate. For Brunei, Indonesia, Malaysia and the Philippines, this meant making an assumption that beer is a standard 5% alcohol by volume (a/v), wine 12.5% a/v and spirits 40% a/v. The specific rates were then further standardised to Thai Baht equivalent.<sup>11</sup>

Table 2: A comparative analysis of alcohol excise duties in ASEAN

Country	Beer Tax	Wine Tax	Spirits Tax
Indonesia	740	1,047 (local) 1,392 (import)	815 (local) 1,415 (import)
Brunei	1,415	1,038	1,475
Cambodia	25%	10%	10%
Laos PDR	50%	60%	70%
Malaysia	1,525 + 15%	987 + 15%	308 +15%
Myanmar	50%	50%	50% (rural) 60% (local) 200% (import)
Philippines <sup>12</sup>	157 (cheap) 230 (mid price) 303 (premium)	131 (still wine <14%) 262 (still wine >14%) 1,093 (sparkling cheap) 3,07 (sparkling premium)	118 (cheap) 236 (mid price) 473 (premium)
Singapore	1,161	1,694	1,694
Thailand	100 or 60%	100 or 60%	400 (special spirit) or 50% 300 (mix spirit) or 50% 120 (local white) or 50%
Viet Nam	45%	25%	45%

Source: Preece 2012.

The study still has a problem with comparative analysis across Table 2, as there remains the issue of trying to compare tax systems which are *ad valorem*, specific excise, and in the case of Malaysia, mixed rates, or Thailand which has the ‘greater of’ an *ad valorem* or a specific rate. To overcome this issue, it was decided that the study would select three representative products from the Thai alcoholic beverage market, one each of beer, wine and spirits, and then proceed to classify each of these beverages in each ASEAN member’s excise tax system, and calculate the respective excise duty payable in each system – and use this ‘excise payable per representative product’ as a guide only as to the extent of excise rate differentials across the region.

The three representative products mentioned in Table 3 had information on their labels to identify the volume and alcohol strength or the product to determine the ‘litres of pure alcohol’ (lals) and used details of the taxable ex-factory value from the Excise Department’s authoritative assessment list.<sup>13</sup>

Table 3: Representative alcoholic beverages

Beer	Wine	Spirits
Chang 330ml	Monsoon 750ml	Songsam Rum 700ml
5% a/v	12.5% a/v	40% a/v
0.0165 lals	0.09375 lals	0.28 lals
Ex-factory THB 19.13	Ex-factory THB 165	Ex-factory THB 180

Source: Preece 2012.

The results of this analysis are found in Table 4 below, and outline for the same product, the amount of excise duty payable in Thai Baht in each ASEAN member state, allowing some insight into the extent rate differentials exist for the taxation of alcoholic beverages.

*Table 4: Excise payable on representative products in each ASEAN member country*

Country	Chang Beer 330ml THB per can	White Wine 750ml THB per bottle	Rum 700ml THB per bottle
Indonesia	12.21	98.1 (local) 130.63 (import)	228.1 (local) 396.5 (import)
Brunei	23.39	97.51	413.17
Cambodia	4.86	167	18.23
Laos PDR	9.72	99	106.33
Malaysia	27.95	117.57	113.62
Myanmar	9.72	83.54	91.1 (rural) 109.3 (local) 334.1 (import)
Philippines	2.49	12.46	132.76
Singapore	19.15	158.58	473.32
Thailand	11.47	99	112
Viet Nam	8.51	41.92	82

*Source:* Preece 2012.

There are several areas of interest in the comparative analysis. The beer excise payable in the highest taxing country, Malaysia, is some 11 times higher than that of the lowest taxing country, the Philippines. A similar differential exists between Singapore and the Philippines in wine excise payable, but for spirits excise the tax payable in Singapore, as the highest excise rate, is some 26 times higher than it is for Cambodia, the lowest tax rate. These are fairly significant rate differentials and it would not be surprising if these differentials are already contributing to cross border movement of excisable goods, including in many cases in an illicit manner, to avoid excise payment in countries of consumption.

Another area of interest is the use of excise as a non-tariff barrier by Indonesia and Myanmar where both have prescribed rates of excise higher for imports than for the 'like' domestically produced product. The Philippines may also have an issue with transparency in non-tariff barrier use, given that classification is based partly on net retail price and given the nature of imported product and those costs involved in moving the goods to the Philippines, imports will generally pick up the higher retail values and therefore higher excise rates. Non-tariff barrier removal is a key aspect of the AEC blueprint and undertakings to remove these are contained in paragraph 14 as was discussed above.

It will be interesting to note whether similar rate differential and non-tariff barrier issues are also present in tobacco, another traditional product subject of smuggling and protection of local industry.

Table 5 looks at packaged tobacco products which include cigarettes and kreteks, and again the study has issues similar to those with alcohol in terms of the different approaches to excise taxation by the different ASEAN states.

Table 5: A comparative analysis of packaged tobacco excise duties in ASEAN

Country	Cigarettes	Kretek/handmade
Indonesia (factory makes >2bn sticks)	1,525	817 or 1,068 (hand kretek/RSP) 1,362–1,494 (machine kretek/RSP)
(factory makes <2bn sticks)	512, 796, or 985 (depending on RSP) NB: RSP = Retail Selling Price	441–525 (hand kretek/RSP) 988 or 1,136 (machine kretek/RSP)
Brunei	1,467	
Cambodia	10%	
Laos PDR	15% (<5.7 prod cost/pack) 30% (5.7+ prod cost/pack) 3,570 per 500 fixed excise (import)	
Malaysia	20% + 70.23	
Myanmar	50%	
Philippines	3.59 (<3.3/pack) 9.98 (3.3-4.2/pack) 15.84 (4.2-0.6.6/pack) 37.36 (>6.6/pack)	3.59 (handmade)
Singapore	8619	
Thailand	85%	
Viet Nam	65%	

Source: Preece 2012.

With the range of differing structures of tobacco taxes and the different approaches to taxing tobacco across ASEAN, it was again decided to utilise a ‘representative product’ to classify and calculate excise for each country. The representative product is Thailand’s largest selling brand ‘Krong Thip 90’<sup>14</sup> where details of the product, including contents and cost builds as at 2010 were taken from the World Health Organization (WHO).<sup>15</sup> Details of the product are in Table 6 below.

Table 6: Representative tobacco products

Retail Price:	THB 58
Pack size:	20 sticks (20 x 0.8 grams)
Excise:	THB 34.79 ( <i>ad valorem</i> )
Ex-factory:	THB 30.4

Source: Preece 2012.

Using the representative product, classification based on ex-factory, retail price or weight as appropriate, Table 7 is the results of the exercise expressed as excise per pack in Thai Baht for each ASEAN country.

Table 7: Excise payable on representative product in each ASEAN member country

Country	Krong Thip excise in THB per pack
Indonesia	30.5 (if factory >2bn) 19.7 (if factory <2bn)
Brunei	29.34
Cambodia	3.04
Laos PDR	9.62 (69.58 imports)
Malaysia	48.63
Myanmar	15.03
Philippines	18.23
Singapore	172.38
Thailand	34.79
Viet Nam	19.76

Source: Preece 2012.

Again it is seen that considerable rate differentials exist with the excise payable in Singapore (the highest excise rate) some 57 times that of the excise payable in Cambodia (the lowest excise rate) for this representative product. Such differentials could again facilitate the possibility of smuggling, including the cross border movement of duty paid products from low excise countries into higher taxed neighbours. Laos PDR also has a substantial trade barrier in the form of an excise rate which is fixed for imports and in the case of this representative product, that rate will be effectively seven times greater than for a 'like' domestic product.

Finally, the study looked at a range of other goods and services but limited this to those commodities which are subject to excise in at least four ASEAN countries. These goods and services are outlined in Table 8 below and where applicable, have been standardised to Thai Baht equivalent rates per litre.

Table 8: Excise rates on selected goods and services in ASEAN

Country	Gasoline	Diesel	Fuel Ethanol	Non-alcohol beverages	Karaoke/ Nightclub
Indonesia					
Brunei					
Cambodia		4.35%		10%	10%
Laos PDR	20%	10%		5% 10% (imports)	10%
Malaysia*	5.92	1.99		10%	
Myanmar	170%	90%	20%		30%
Philippines	1.74	0.65	2.01		
Singapore	8.4**	8.4**			
Thailand	7.00	0.05***	Ex	25% (soda) or 0.77 per 440ml 20% (other) or 0.37per 440ml	10%
Viet Nam	10%	10%	10%		30%

\* Specific rate sales tax

\*\* Assume regular unleaded

\*\*\* Temporary rate, usually 5.31 THB/litre

Source: Preece 2012.

Table 8 is not so significant for rate differentials but for the important point that there are inconsistencies in terms of excise tax scope in the first instance. For many commodities, and in particular fuels, excise is levied to both raise significant amounts of revenue and to achieve certain policy outcomes such as road user externalities, emissions externalities and energy supply management. In relation to fuels, these could be seen as ASEAN-wide issues, and increasingly so from 2015. Take, for example, a Vietnamese registered vehicle filling up with fuel for a journey through Laos, into Thailand, and back through Laos under a transit arrangement. The excise paid fuel will be purchased in Vietnam, but externalities addressed through the excise system will mostly occur in Laos and Thailand.

Further issues will also arise where excise is payable on certain goods in one member country but not in another in the same fashion as where goods have significant excise rate differentials. Simply, it makes business or consumer sense to purchase such goods excise free in one country with a view to bringing those goods back to a country that has excise payable. However, the added risk in this case is that any goods not subject to excise in one particular country – manufacture of such goods will be outside the licensed excise system meaning no controls will be in place for the movement and future export of those goods – that is, no audit trail will commence. This could be an administrative issue that needs to be addressed in the future.

Excise on services will also be significant and warrants separate studies. In terms of this study, only nightclub revenues were analysed and the risk to the revenue may not be material for cross border movements to visit nightclub entertainment venues. However, the issue will be significant for services such as telecommunications and gambling.<sup>16</sup> The AEC blueprint will allow for a free flow of services,<sup>17</sup> and with technological capabilities for example, consumers of excisable mobile phone services in one country may be able to select a mobile phone service provider from a neighbouring excise free country.

Looking at these types of issues, including the substantive differences in approach to excise tax across ASEAN, there may be merit in the membership of ASEAN looking at some form of standardisation and/or harmonisation of at least excise taxation policy. This does not mean that any member of ASEAN needs to give up sovereignty over their domestic tax systems and reform excise taxes to align with all members but rather, some benchmarks for reform are agreed to in which there are some common standards across the region.

The EU is a full ‘economic union’, however in terms of excise, individual member states have retained the right to set their own excise tariffs, albeit under the guidance of a set of ‘Directives’ issued by the European Parliament. These differences do mean that certain administrative arrangements are needed to manage the differences, and indeed this will be a question for ASEAN also as 2015 approaches.

In the EU, excises are generally limited to alcoholic beverages, tobacco products as well as hydrocarbon fuels and energy. EU Directives binding on member states then set out standards by which EU members must reform their excise systems. In summary, this today includes:

- Alcohol – use of specific rate taxation, with minimum excise rates per hectolitre of pure alcohol.<sup>18</sup>
- Tobacco – taxation by all members must consist of a ‘proportional (*ad valorem*) duty, calculated as a % of the maximum Retail Selling Price (RSP), and a specific duty, calculated per unit of the product’. *Ad valorem* rates are set as a percentage of the ‘tax inclusive’ Retail Selling Price (TIRSP). Specific rates are set per unit of product (usually per 1,000 sticks). In terms of the *ad valorem* and specific components of the duty, these are to be set by reference to cigarettes falling into the ‘most popular price category’ (MPPC). Total excise must be at least 57% of the ‘TIRSP’ of MPPC and total excise must be a minimum of €64 per 1,000 sticks. Specific duty may be set so that it is between 5% and 55% of the total tax burden (excise + VAT).<sup>19</sup>
- Fuel and energy – minimum excise rates per litre (with some country-based reduced rates and exemptions) are set for categories of fuel including fuels used for motor vehicles, and fuels used for heating and electricity generation, with an objective of eventual harmonisation of rates.<sup>20</sup>

This study sees merit in further research in the area of developing and proposing a set of ‘ASEAN Excise Guidelines’ for members to follow in future excise tax reform so that certain consistencies can occur in terms of potential:

- standard use of *ad valorem* or specific rate taxation for certain goods, including standard weight/volume measures, taxable values
- standard definitions where appropriate, for use in all excise tariff legislation
- minimum rates of excise for certain products, particularly tobacco, and possibly alcohol and certain fuels
- use of some reduced rates or some exemptions in cases where member states can demonstrate problems with the standard
- adoption of a ‘harmonised nomenclature’ for excise goods similar to AHTN.

Such ‘guidelines’ do not mean that all ASEAN members will have identical excise tax systems, certainly the members of the EU Community do not, however, there will be a degree of harmony, standardisation and transparency that will allow policymakers, administrators and industry to better understand excise taxation in the region. It may also begin to remove certain issues such as the need for industry to restructure supply chains, move investments, or indeed remove some of the current incentives and opportunities for cross border smuggling and manipulation of excisable values.

Finally, the study believes that further research is required in terms of future administration of excise duties, which may need to take on a regionally coordinated approach from 2015. Whilst the study believes there will not be a true free flow of excisable goods in the foreseeable future, and excise will be collected in the country where those goods are consumed, the study does believe the intra-regional movement of excisable goods will begin increasing substantially from 2015.

Given the nature of excise goods with their high tax rates, price sensitivities and high consumer demand, there will continue to be a link to smuggling and tax evasion, and this increased movement of excisable goods will need to be managed to protect revenues in the countries of consumption. In this context, and with the non-harmonisation of excise rates and the anticipated increased volumes of their intra-regional movement from 2015, the following areas of administration need further study:

- The principle of excise duties payable in country of consumption and the need to manage the movement of excisable goods from place of manufacture or place of first import into the ASEAN region to that country of consumption. In other words, some form of transit arrangement to manage the physical movement of excisable goods from origin to destination, including the possibility of those goods crossing several borders.
- Options to manage the safe transit of excisable goods across ASEAN, such as:
  - documentary approaches with audit trails and reconciliations between member states involved in the movement
  - IT-based approaches, perhaps the use of connected National (and eventually) ASEAN Single Window
  - use of securities to cover losses of excise duties
  - use of border tax adjustments.
- Consideration of supporting technology-based solutions for managing the movement of excisable goods across ASEAN such as ‘Track & Trace’ products, Radio Frequency Identification (RFID), and Global Position Systems (GPS).
- The establishment of some form of regional coordination in managing the movement of excisable goods across ASEAN.

## Conclusions

In conclusion, as ASEAN moves towards its version of a ‘single market’ by 2015, significant differences that exist in the excise systems could well see changes in investment and distribution arrangements in the major excise goods categories of motor vehicles, tobacco products and alcoholic beverages. An analysis of the 10 ASEAN excise tax systems suggests that certain excise rate differentials will create this incentive to move production and distribution arrangements. This will allow producers to lower production costs and reduce taxable values in the country of intended consumption. As a result, there will likely be an increase in the movement of excisable goods across ASEAN and risks will be associated with this. Therefore, this study believes that ASEAN should look at a number of areas to reduce this risk:

- standardise and/or harmonise some aspects of excise taxation policy to remove some of this potential movement of production and distribution, for example, guide-lines for member states that perhaps introduce specific rates of excise to remove the incentive to reduce excisable values, and/or set minimum rates of excise on certain goods
- regional coordination of the intra-regional movement of excisable goods by creating a regional excise transit system which is supported by technology such as ‘track & trace’, RFID or GPS-based solutions
- standardise definitions and structures of excise taxation systems again through ASEAN-issued guidelines to improve transparency and ease of business and administration in the intra-regional trade of excise goods.

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## Notes

- 1 ASEAN membership includes Brunei Darussalam, Cambodia, Indonesia, Laos PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam.
- 2 Paragraph 1, 'Declaration of ASEAN Concord II' (Bali Concord II) 2003, viewed 29 March 2012, [www.aseansec.org/15159.htm](http://www.aseansec.org/15159.htm).
- 3 Paragraph 8, ASEAN Economic Community Blueprint 2007.
- 4 OECD 2004, Classification of taxes and interpretative guide, paragraph 61, classification sub-heading 5121.
- 5 OECD 2004, Classification of taxes and interpretative guide, paragraphs 53-58, classification heading 5100, sub-headings 5110-5113.
- 6 See, for example, Indonesia's reform of alcohol and tobacco items in the Luxury Sales Tax to be 'Excise Tariffs', Vietnam to use the term 'excise in reforms of alcohol and tobacco items of the Special Consumption Tax, and Thailand's proposal to bring provisions of the Liquor Act and Tobacco Act into the general Excise Act.
- 7 Paragraphs 10-19, ASEAN Economic Community Blueprint (2007).
- 8 ASEAN 6 includes Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore, and Thailand, and ASEAN CLMV includes Cambodia, Laos PDR, Myanmar, and Vietnam.
- 9 Articles 79-90, Section 2, Community Customs Code established under Council Regulation EEC 2913/92, 12 October 1992.
- 10 In many cases this value is actually set by the Excise Department itself in a system known as 'authoritative assessment'.
- 11 Currency conversions at 12 February 2012 via XE Currency conversion.
- 12 Philippines uses Net Retail Price per litre for classification. In table 2, Beer cheap = less than 14.50 peso, mid price = 14.50 to 22 peso, and premium = greater than 22 peso. Wine cheap sparkling = less than 500 peso and premium = greater than 500 peso. Spirits (except made with local raw materials: cheap = less than 250 peso, mid price = 250 to 675 peso, and premium = greater than 675 peso.
- 13 As per latest 19/12/2552 BE (2009).
- 14 Manufactured by the Thai Tobacco Monopoly (TTM).
- 15 World Health Organization (WHO) 2011.
- 16 Telecommunications is subject to excise in Thailand, and gaming is subject to excise in Thailand and Vietnam.
- 17 Paragraphs 20-22, AEC Blueprint.
- 18 EU 92/883 EEC approximation of excise duties on alcohol.
- 19 EU 92/79 EEC approximation of tobacco excise.
- 20 EU 2003/96 EU restructuring Community framework on energy and electricity.

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