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The Adoption of a Harmonized Tax System and Tax Policy for ASEAN Tax Administration

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**The Adoption of a Harmonized Tax System and Tax Policy
for ASEAN Tax Administration**

Golden Gate University School of Law

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**A Dissertation Submitted in Partial Fulfilment of the Requirements
for the Doctor of Juridical Sciences in International Legal Studies
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Abstract

ASEAN was founded in 1967. ASEAN government leaders had officially formed ASEAN Economic Community (AEC) in 2015 in order to create a single market and production base to deliver a free flow of goods, services, human capital, investment, skillful labor, and free movement of digital economy cross-border transactions to support think tanks' revenue policies for regional economic integration.

The purpose of this study will seek adoption of the **Harmonized Tax System (HTS) and Tax Policy** for ASEAN Tax Administration to reduce a tax burden to benefit taxpayers to promote a Consolidated Strategic Action Plan (CSAP) 2025 and beyond to accelerate AEC navigation. Therefore, the study of **HTS** has become interesting in the context of driven legal framework of existing tax cooperation to achieve its goal. However, a policy formation of rules-based ASEAN tax system has not been adopted due to a lack of trustworthiness, confidence, and unity dealing with tax consequences to set a harmonized tax policy system in areas of the regulatory framework under the ASEAN Charter (AC) umbrella.

In this paper, I argue that there is an urgent need for ASEAN member states (AMSs) to adopt HTS and Tax Policy. This study focuses on ASEAN-3 tax administration consisting of Cambodia, Singapore, and Thailand. What needs to be done in seeking to amend the following **Articles 20, 22 and 52** under the AC to inspire the “**Changed Rules of the Game**” under ruling international law. The stakes are very high now. The Covid-19 pandemic crisis may be a big push needed for ASEAN leaders to make a

radical change of providing a tax treatment base in the context of unprecedented waves and unpredictability. All aspects of ASEAN government's decision-making will avoid a deadlock for removing fiscal barriers and make it very difficult to form the **HTS** in reforming regulation on taxation framework. The objective of amending the AC is to open a locked door to achieve the inspiration AEC goal in the post Covid-19 pandemic era. Consistently, all ASEAN leaders should set a suitable schedule to transfer power to the ASEAN Parliament. Transferring power is a very sensitive topic but is necessary to exercise independent judiciary body under the AC that is a key part of international tax rules. From amendment perspective the above Articles will eliminate deadlock barriers to accelerate an engine of growth of the ASEAN economic integration at the same time create incentives for taxpayers and related stakeholders to trade and invest. ASEAN should build a strong institution in particular the common ASEAN Tax Court (ATC) to restore confidence in all the elements of taxpayers who are seeking current and future tax dispute resolution. The ATC will serve taxpayers and related stakeholders to meet their satisfaction to strengthen independent judiciary body rather than delivering tax disputes to the WTO's Dispute Settlement Body that spends massive transaction costs and time. In a sense, those instruments and tools are useful for AMSs to design **HTS** for serving a common interest for the healthy spirits of the ASEAN tax community to promote AEC's direction and relevant stakeholders' benefit.

In this regard, ASEAN should draw a lesson from the European Union's (EU) tax harmonization model that the EU has adopted as its tax harmonization system in responding to the global forum of international tax rules by means of finding methodology instruments and tools. The main application of the implications' study is desired that **HTS** strengthen ASEAN tax revenue policy to respond to the global forum of tax administration reform under international tax regime. This experiment of

achievement modeling of the EU's taxation system will guide ASEAN tax policymakers to serve taxpayers in the context of delivering “*Acting and Done based on Tax-Friendly Policy Forum*” to generate more revenue sources for all ASEAN government revenue package and ASEAN people to accomplish its dream of the AEC similar to the EU model and to reach the 2030 sustainable development goal in the world stage.

Key Words

ASEAN Charter, Acting and Done based on Tax-Friendly (ADTF), ASEAN Single Market, ASEAN Forum on Taxation (AFT), ASEAN Tax Administration, ASEAN Tax Community (ATC), ASEAN Tax Treaty Agreements, Consolidated Strategic Action Plan (CSAP), Direct Tax, EU Double Taxation Convention, EU Tax Treaty Network, Global Tax Treaty, Harmonized Tax System (HTS), Indirect Tax, International Standard, International Tax Community, International Tax Cooperation (ITC), International Tax Regime, International Tax Rules, International Tax Policy Reform, Minimum Corporate Tax, Model Double Taxation Convention, Negotiation Tax Treaty, OECD Model Tax Convention, Tax Controversy, Tax Coordination, Tax Development, Tax Law/Code/Act, Tax Literature, Tax Treaty (TT), United Nations Model Double Taxation Convention (UN Model), UN Tax Reform, and Worldwide Tax System.

Abbreviations

ACCC: ASEAN Customs Code of Conduct

ACJ: ASEAN Court of Justice

ADB: Asia Development Bank

AEC Blueprint 2025: ASEAN Economic Community Blueprint 2025

AEC: ASEAN Economic Community

AECD: ASEAN Economic Community Department

AEM: ASEAN Economic Ministers

AEOI: Automatic Exchange of Information

AFMGM: ASEAN Finance Ministers' and Central Bank Governances' Meeting

AFMM: ASEAN Finance Ministers' Meeting

AFTA: ASEAN Free Trade Area

AFT-WG: ASEAN Forum of Taxation Working Group

AHTC: ASEAN Harmonization Tax Community

AHTN: ASEAN Harmonized Tariff Nomenclature

AI: ASEAN Institution

AMSs: ASEAN Member States

AP: ASEAN Parliament or AIPA: ASEAN Inter-Parliamentary Assembly

APA: Advance Pricing Agreement

APSC: ASEAN Political-Security Community

ASCC: ASEAN Socio-Cultural Community

ASEAN Charter or ASEAN Constitution: AC

ASEAN: Association of Southeast Asia Nations

ASEAN-10: Brunei, Cambodia, Indonesia, Lao, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam

ASEAN-3: Cambodia, Singapore, and Thailand

ATA: ASEAN Tax Administrations/ASEAN Tax Authorities/ ASEAN Tax Agencies

ATC: ASEAN Tax Community

ATC: ASEAN Tax Coordination

ATC: ASEAN Tax Court

ATDS: ASEAN Tax Dispute System

ATI: ASEAN Taxation Institute

ATIGA: ASEAN Trade in Goods Agreement

ATTP: ASEAN Tax Treaty Policy

AUN: ASEAN University Network

BEPS: Base Erosion and Profit Shifting

BT: Business Tax

CCBT: Code of Conduct for Business Taxation

CCCTB: Common Consolidated Corporate Tax Base

CCG: Code of Conduct Group

CCTN: Common Customs Tariff Nomenclature

CEPT: Common Effective Preferential Tariff Scheme

CEEC: Committee of European Economic Cooperation

CIF: Cost Insurance Freight (Incoterm)

CRS: Common Reporting Standard

CRS: Common Reporting Standard

CT: Corporate Tax

CTR: Corporate Tax Rates

CTS: Common Transmission System

CU: Customs Union

CVA: Customs Valuation Agreement

DSB: Dispute Settlement Body

DSM: Digital Single Market

DSM: Dispute Settlement Mechanism

DSU: Dispute Settlement Understanding

DT: Direct Tax

DTAs: Double Taxation Agreements

EA-19: EA-18 + Lithuania

EC: European Commission

EC: European Council

EC: European Community

ECJ: European Court of Justice

ECSC: European Coal and Steel Community

EEA: European Economic Area

EEC: European Economic Community

EMU: Economic and Monetary Union

EOI: Exchange of Information

EP: European Parliament

EP: Economic Policy

ECM: European Common Market

ESM: European Single Market

ESM: Euro Single Market

ET: Excise Tax

EU: European Union

ECOSOC: United Nations Economic and Social Council

FDI: Foreign Direct Investment

FOB: Free on Board (Incoterm)

FP: Fiscal Policy

FTA: Forum of Tax Administration

GATT: General Agreement on Tariffs and Trade 1947

GATT: General Agreement on Tariffs and Trade 1994

GDP: Gross Domestic Product

GEL: General Exception List

GF: Global Forum

HT: Harmonization Tax

HTS: Harmonized Tax System

IF: Inclusive Framework

IL: Inclusive List

IMF: International Monetary Fund

IT: Indirect Tax

ITF: International Tax Forum

ITPR: International Tax Policy Reform

ITR: International Tax Regime

ITRS: International Tax Rules Standards

ITS: International Tax Standards

JTAP: Joint Tax Audit Program

KYC: Know Your Counterparty

KYT: Know Your Taxpayer

MAP: Mutual Agreement Procedures

MFF: Multiannual Financial Framework

MLI: Multilateral Instrument

MNEs: Multinational Enterprises

MP: Monetary Policy

MTR: Minimum Tax Rate

Non-OECD: Non-Organization for Economic Cooperation and Development

OAS: Official Assessment System

OECD: Organization for Economic Cooperation and Development

P2P: Public to Private Sector

P2T: Private to Tax Section

PCT: Platform for Collaboration on Tax

PPP: Purchasing Power Parity

RC: Revenue Collection

RCEP: Regional Comprehensive Economic Partnership

RM: Revenue Mobilization

RMS: Revenue Mobilization Strategy

RP: Revenue Package

RTI: Regional Taxation Integration

SAS: Self-Assessment System

SBT: Specific Business Tax

SC: Substantial Contribution

SDSs: Sustainable Development Goals

SGT: Goods and Service Tax

SL: Sensitive List

STP: Sharing Taxation Platform

SWOT: Strengths, Weaknesses, Opportunities, and Threats

TAs: Tax Agreements

TB: Technical Barrier

TC: Tax Coordination

TC: Tax Competition

TC: Tax Cooperation

TCLUTC: Taxation and Customs Legislation of the Union Taxation and Customs

TCP: Tax Collaboration Platform

TD: Tax Development

TD: Tax Dispute

TEL: Temporary Exclusion List

TFEU: Treaty of Functioning of the European Union

TH: Tax Harmonization

TIN: Taxpayer Identification Number

TJ: Tax Journal

TL: Tax Literature

TN: Tax Negotiation

TP: Trade Policy

TP: Transfer Pricing

TS: Tax System

TTN: Tax Treaty Negotiation

TTS: Territorial Tax System

UN: United Nations

UNC: United Nations Charter

UNMDTC: United Nations Model Double Taxation Convention between Developed
and Developing Countries

UUNMDTC: Update of the UN Model Double Taxation Convention between
Developed and Developing Countries – Technical changes proposed for
the 2021 Update of the UN Model

VAT: Value-Added Tax

WB: World Bank

WEF: World Economic Forum

WTS: Worldwide Tax System

WTO CVA: World Trade Organization Customs Valuation Agreement

WTO: World Trade Organization

YA: Year of Assessment

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The Adoption of a Harmonized Tax System and Tax Policy for ASEAN Tax Administration

Chapter I

Introduction

In the past fifty four years, the Association of Southeast Asian Nations (ASEAN) was formed by ten (10) nations. “The ASEAN foundation is an organization from and for the people of ASEAN.”¹ “The Association of Southeast Asian Nations was established on 8 August 1967.”² The main purpose of the ASEAN declaration was to “accelerate the economic growth, social progress and cultural development in the region through joint endeavors in the spirit of equality and partnership in order to strengthen the foundation for a prosperous and peaceful community of Southeast Asian Nations.”³ The ASEAN has played an important role in context of the economic integration community and unification of tax cooperation. The current ASEAN member states (AMSs) are Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam. For the increasing member state ties in the context of the evolutionary development movement, Cambodia was a baby member who was born “on 30 April 1999, making up what is today the ten Member States of ASEAN.”⁴

“The ASEAN Community, anchored on three community pillars: Political-Security Community, Economic Community, Socio-Cultural Community was launched in 2015.”⁵ Through these, ASEAN founded the ASEAN Free Trade Area (AFTA) in legal framework of “the Fourth ASEAN Summit held in Singapore on the 27-28th January 1992 set the guiding principles,

¹ ASEAN Foundation, Promoting ASEAN awareness and developing the potential of ASEAN citizens, available at <https://www.aseanfoundation.org/> (last visited December 6, 2019).

² ASEAN Secretariat, The ASEAN Charter, Jakarta, (First published: Dec. 2007).

³ ASEAN Secretariat, What We Do, ASEAN Aims, available at <https://asean.org/what-we-do> (last visited January 9, 2020)

⁴ ASEAN Secretariat, About ASEAN, available at, <https://asean.org/about-us> (last visited February 9, 2020) or see *Box5*.

⁵ ASEAN Secretariat, Our Communities, available at <https://asean.org/our-communities> (last visited January 9, 2020).

mechanisms, product coverage, timetable for AFTA.”⁶ In 2009, ASEAN member states formed the “ASEAN Trade in Goods Agreement (ATIGA).”⁷ The ATIGA is a key facilitation instrument to promote harmonized tariff rules. Therefore, it has designed to push “the objective of this agreement is to achieve free flow of goods in ASEAN as one of the principal means to establish a single market and production base for the deeper economic integration of the region towards the realization of the AEC by 2015.”⁸

In addition to this priority platform related tax development, “the ASEAN countries established the ASEAN Forum on Taxation (AFT) in 2011”⁹ dealing with main purpose of regional taxation competitiveness by reducing fiscal barriers for taxpayer burdens. Then, “the establishment of the ASEAN Economic Community (AEC) in 2015 is a major milestone in the regional economic integration agenda in ASEAN, offering opportunities in the form of a huge market of US\$2.6 trillion and over 600 million people.”¹⁰ “In 2014, AEC was collectively the third largest economy in Asia and the seventh largest in the world”¹¹ and throughout building up a common market.

“Southeast Asia is one of the fastest growing regions in the world.”¹² There is more potential growth in the fields of trade, investment, technology, digital economy, labor market and cross-border business activities that deal with concerns over regional double taxation agreements and tax treaties. “In other words, do not let the system of taxation on income in ASEAN member states become

⁶ Dr. Juanjai Ajanant, Dialogue on AFTA, Lessons for Cambodia, AFTA: An Introduction, The Thrust of AFTA, Cambodian Institute for Cooperation and Peace, pp.8-12 (Kao Kim Hourn & Sarah Kanter ed., 1997) or ASEAN Secretariat, AFTA Reader Volume II, pp.1-6 (March 1995).

⁷ ASEAN Secretariat, ASEAN Trade in Goods Agreement (ATIGA), pp.1-80 (February 2009).

⁸ ASEAN Secretariat, ATIGA, Ch.1: General Provisions, Objective, Jakarta, p. 5 (February 2009) at art. 1.

⁹ Mary Swire, ASEAN Establishes Tax Forum, Tax-News Global Tax News, Wolters Kluwer, April 11, 2011, available at https://www.tax-news.com/news/ASEAN_Establishes_Tax_Forum____48739.html (last visited February 6, 2020).

¹⁰ ASEAN Secretariat, ASEAN Economic Community (AEC), available at <https://asean.org/asean-economic-community> (last visited February 6, 2020).

¹¹ *Id.*

¹² DFDL, ASEAN Economic Profile, Taxation in Southeast Asia: an Overview, available at <https://www.lexology.com/library/detail.aspx?g=c55394a5-0ecb-4e53-8725-98db1d8c9e1e> (last visited February 7, 2020).

obstacles in the framework of the establishment of a free trade area mainly inhibits flexibility of human resources and capital flows between countries of ASEAN.”¹³

In recent years, member states have taken responsibilities and share contribution of a harmonized tax system through international tax cooperation in the context of supporting “ASEAN Identity”¹⁴ mission to reach the “ASEAN Economic Community Blueprint 2025.”¹⁵

Here is visionary of **Logo** which represents “*the ASEAN motto shall be: ONE VISION, ONE IDENTITY, ONE COMMUNITY*”¹⁶ in accordance with article 36 of the ASEAN Charter.



This study, the adoption of a Harmonized Tax System (HTS) and Tax Policy for ASEAN Tax Administration to promote economic policy, will define the ASEAN evolution as the journey of the ASEAN taxation member states in accordance with the “**AEC 2025 Consolidated Strategic Action Plan (CSAP)**”¹⁷ for effort with taxation cooperation and tax agreements to support regional economic integration policy for sustainable orientation of economic development.

The **Ship** below will represent the challenges, tax structure, tax revenue collection, competitive tax, tax policy, tax court system, harmonized tax system, and various tax administrations

¹³ Haris Fajar Afrianto, Tax Competition for Foreign Direct Investment in ASEAN: Is Corporate Income Tax Harmonization the Solution? Department of Taxation, PKN, South Tangerang, Indonesia, pp. 1106-1107 (August 8, 2020).

¹⁴ ASEAN Secretariat, The ASEAN Charter, Ch.11: Identity and Symbols, Jakarta, p.29 (Nov. 2020) at art. 35.

¹⁵ ASEAN Secretariat, ASEAN Economic Community Blueprint, Jakarta, p. 1 (Jan. 2015) or ASEAN Secretariat, ASEAN Economic Community Blueprint 2025, available at <https://aseandse.org/wp-content/uploads/2021/02/AEC-Blueprint-2025-FINAL.pdf> (last visited February 7, 2020)

¹⁶ ASEAN Secretariat, The ASEAN Charter, ASEAN Motto, Jakarta, p.29 (First published: Dec. 2007) at art. 36.

¹⁷ ASEAN Secretariat, ASEAN Updates AEC 2025 Consolidated Strategic Action Plan (CSAP), available at <https://asean.org/asean-updates-aec-2025-consolidated-strategic-action-plan-csap/> (last visited February 18, 2020).

of the “ASEAN-3”¹⁸ among “ASEAN-10”¹⁹ member countries. Key selective study of Ship will focus on three (3) countries, Cambodia, Singapore, and Thailand.



This **Ship** poses a big task to deal with remaining challenges, technical and fiscal barriers. The **Ship** direction will hit big waves, storms, and tsunamis to reach its goal. As shown above, the ASEAN taxation system, after establishment of the AEC and the AFT respectively, has a similar or identical number of issues. Some of the main issues are a lack of a) tax harmonization law; b) taxation institution competence; c) lack of mechanism for tax implementation of exchange information agreements; d) settlement of tax court dispute platform; and e) declining tax revenue collection etc.

The ASEAN (Ship) connectivity will seek adoption of HTS and Tax Policy from all member states to find a suitable solution for common interest in the AEC and taxpayers. The research study will suggest that the tax policy makers or taxation member states re-examine tax policy consideration to support the AEC Blueprint 2025 or beyond in order to achieve its goal. It seeks to simplify the taxation guidance

¹⁸ ASEAN-3 refers to three (3) economic cooperation partners that consist of Cambodia, Singapore, and Thailand.

¹⁹ ASEAN-10 refers to ten (10) economic cooperation partners that consist of Brunei, Cambodia, Indonesia, Lao, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam.

system which will be fair, efficient, and transparent to reach the Southeast Asian member states in the future. Additionally, further study is very important for many reasons in the context of continuing encounters throughout the ASEAN regional taxation policy system to evaluate fiscal policy progress. The ASEAN is looking at a suitable methodology and right resolution from political will and strong political commitment.

This Chapter will describe the background of the study, statement of problem, research questions, objective of research study, research methods, and structure of the study.

1.1. Background of the Study

“The ASEAN Charter entered into force on 15 December 2008 at the presence of ASEAN Foreign Ministers at the ASEAN Secretariat in Jakarta.”²⁰ That was a remarkable history of ASEAN people; all heads of member states were fully welcomed. The ASEAN Charter serves as a firm foundation in achieving the ASEAN Community by providing legal status and institutional framework for ASEAN.²¹ The ASEAN Charter has been fully ratified (or accepted in *Member States without Parliament or when such ratification can be done through a Cabinet decision*) in all the 10 ASEAN Member States.²² In effect, the ASEAN Charter has become a legally binding agreement among the 10 ASEAN Member States.²³

In accordance with de facto Article 1, “the purposes of ASEAN are

1. To maintain and enhance peace, security and stability and further strengthen peace-oriented values in the region;
2. To enhance regional resilience by promoting greater political, security, economic and socio-cultural cooperation;

²⁰ ASEAN Secretariat, ASEAN Charter, available at <https://asean.org/about-us/> (last visited February 20, 2020).

²¹ *Id.*

²² ASEAN Secretariat, ASEAN Charter, Significance of the ASEAN Charter, <https://asean.org/about-asean/asean-charter/> (last visited February 20, 2020).

²³ *Id.*

3. To preserve Southeast Asia as a Nuclear Weapon- Free Zone and free of all other weapons of mass destruction;

4. To ensure that the peoples and Member States of ASEAN live in peace with the world at large in a just, democratic and harmonious environment;

5. To create a single market and production base which is stable, prosperous, highly competitive and economically integrated with effective facilitation for trade and investment in which there is free flow of goods, services and investment; facilitated movement of business persons, professionals, talents and labor; and freer flow of capital;

6. To alleviate poverty and narrow the development gap within ASEAN through mutual assistance and cooperation;

7. To strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms, with due regard to the rights and responsibilities of the Member States of ASEAN;

8. To respond effectively, in accordance with the principle of comprehensive security, to all forms of threats, transnational crimes and transboundary challenges;

9. To promote sustainable development so as to ensure the protection of the region's environment, the sustainability of its natural resources, the preservation of its cultural heritage and the high quality of life of its peoples;

10. To develop human resources through closer cooperation in education and life-long learning, and in science and technology, for the empowerment of the peoples of ASEAN and for the strengthening of the ASEAN Community;

11. To enhance the well-being and livelihood of the peoples of ASEAN by providing them with equitable access to opportunities for human development, social welfare and justice;

12. To strengthen cooperation in building a safe, secure and drug-free environment for the peoples of ASEAN;

13. To promote a people-oriented ASEAN in which all sectors of society are encouraged to participate in, and benefit from, the process of ASEAN integration and community building;

14. To promote an ASEAN identity through the fostering of greater awareness of the diverse culture and heritage of the region; and

15. To maintain the centrality and proactive role of ASEAN as the primary driving force in its relations and cooperation with its external partners in a regional architecture that is open, transparent and inclusive.”²⁴

For “the principle of the four freedoms, the free movement of people, goods, services and capital, forced national public authorities to eliminate those **tax law provisions** that favored discriminatory treatment or restricted the movement of goods, capital, and persons within the Single Market”²⁵ to boost economic integration.

In dealing with new development input, Southeast Asia countries (Ship) adopted the ASEAN Charter in 2008 and formed Master Plan of the ASEAN Connectivity 2025 in 2010, respectively. This result reflects a lot of labor market movement, productive base, manufacturing waves, harmful taxation on software products, e-commerce, digital economy on competitive tax environment and e-taxing or e-paying taxation movements transfer into regional economic community that impacts on raising tax negotiation/tax cooperation, tax treaty, enforcement of double taxation challenges are happening among 10 ASEAN countries (Ship). This flow and wave movements could not stop all ASEAN leaders who are still taking various considerations to take their tax enforcement measures. Through a study outcome of "the ASEAN Moves Tax Pacts Forward"²⁶ was a significant change in the context of international tax rules, which was endorsed by “the ASEAN Forum on Taxation-Working Group (AFT-WG)”²⁷ in the Philippines in 2017.

²⁴ ASEAN Secretariat, The ASEAN Charter, Ch. I: Purposes and Principles, Jakarta, pp.3-5 (Nov. 2020) at art. 1.

²⁵ Daniela Pîrvu, Corporate Income Tax Harmonization in the European Union, Ch.1: The Tax Harmonization in the European Union, 11-14 (2012).

²⁶ Mary Grace Padin, ASEAN Moves Tax Pacts Forward (Philippines Star), December 8, 2017, available at <https://www.philstar.com/business/2017/12/08/1766505/asean-moves-tax-pacts-forward> (lasted visited February 9, 2020).

²⁷ Department of Finance (DOF), Substantial Progress Made in Talks on Regional Taxation Agreements, available at

The “ASEAN Forum on Taxation (AFT) serves as platform to address tax-related impediments and policies on regional economic integration as well as to support regional dialogue on taxation issues for regional integration”²⁸ as follows:

1. “To address tax-related impediments and policies on regional economic integration as well as to support regional dialogue on taxation issues for regional integration. Efforts have been made towards the establishment of the network of bilateral agreements on avoidance of double taxation (DTAs) and addressing withholding tax and double tax issues”²⁹; and

2. “To enhance information sharing and reduce possibility of tax evasions, ASEAN Member States (AMSs) are currently working toward regional implementation of Exchange of Information (EOI) and Automatic Exchange of Information (AEOI).”³⁰ In this regard, all member states have agreed to support the AFT which was formed in 2011 in Indonesia to “provide the region a platform to support the dialogue on taxation issues in support of regional integration, such as concerns related to withholding tax and double taxation.”³¹

From the perspective of the regional ASEAN tax meeting’s feedback inspires research scholars and government officials who are interested in studying or monitoring the AFT that reflects an approach to seek strong support from all member countries. In addition to looking forward “the ASEAN Forum on Tax is a platform for the ASEAN tax member states to share knowledge and cooperate on tax matters of interest to the region.”³²

In the context of acting tax coordination or AFT (Ship) is motivated by all AMSs to study different tax development approaches for seeking a tax resolution to deal with a mechanism of

<https://www.dof.gov.ph/substantial-progress-made-in-talks-on-regional-taxation-agreements/> (last February 9, 2020).

²⁸ ASEAN Secretariat, About AFT, available at <http://aft.dof.gov.ph/#collapseTwo> or ASEAN Secretariat, Overview, Regional Cooperation in Finance, available at

<https://asean.org/asean-economic-community/asean-finance-ministers-meeting-afmm/overview/> (last visited February 9, 2020).

²⁹ *Id.*

³⁰ *Id.*

³¹ ASEAN Secretariat, Joint Media Statement of the 15th ASEAN Finance Ministers' Meeting (AFMM), Bali, Indonesia, 8 April 2011, ASEAN Cooperation on Taxation, available at <https://asean.org/joint-media-statement-of-the-15th-asean-finance-ministers-meeting-afmm-bali-indonesia-8-april-2011/> (last visited February 10, 2020).

³² OECD, 11th ASEAN Forum on Taxation Working Group, available at <http://www.oecd.org/tax/transparency/global-forum-delivers-a-seminar-to-assist-thailand-to-fight-tax-evasion-and-a-presentation-on-the-effective-use-of-exchanged-data-at-11th-asean-forum-on-taxation.htm> (last visited February 9, 2020).

settlement of tax dispute (MSTDP). The current implementation of the MSTDP for ASEAN-3 tax-border has not been delivered a standard tax solution in the current situation. However, the MSTDP has not favored taxpayers' requirements and the ASEAN tax community (ATC) in existing the legal tax framework in dealing with harmful tax competition ahead.

1.2. Statement of Problem

A study concern is to examine 3 ASEAN taxation member states which are facing unnecessarily complicated taxation systems and cross-border business. Many issues deal with challenges that are still remaining among the ASEAN member states that do not have strong will to adopt a harmonized tax system based on tax policies in declining tax revenue collection due to many reasons for tax administration's accountability and good governance as tax doctrine consequence as follows:

- a) Lack of political will and strong support;
- b) Lack of harmonization ASEAN court tax system;
- c) Lack of harmonization tax law or code;
- d) Poor independent tax court or tribunal through appeal or supreme tax court;
- e) Lack of institution competence (taxation institute) for enhancing tax capacity building for ASEAN tax officials which will take place at the ASEAN Secretariat Headquarters in Jakarta, Indonesia;
- f) Lack of mechanism for tax information exchange agreements and settlement of tax dispute platform; and
- g) Decline of tax revenue collection.³³

These issues force the ASEAN tax administration to consider concrete harmonized tax system that was non-existent when the AEC was formed in 2015.

³³ IMF, Policy Papers, ASEAN Progress Towards Sustainable Development Goals and the Role of the IMF, (Nov. 2018) available at <https://www.imf.org/en/Publications/Policy-Papers/Issues/2018/11/07/pp101118asean-progress-towards-sdgs> (last visited February 7, 2020).

1.3. Research Questions

Several research questions highlight relevant concerns with fruitful concrete aspects of the “Adoption of HTS and Tax Policy for ASEAN Tax Administration.” These questions can investigate and review tax policies among the Southeast Nations of tax cooperation agreements. How do these four questions taxation member states work together to play an important role to take advantage or benefit from tax treaty agreements in the future ASEAN economic integration region?

- a) Why do these ASEAN-3 countries need a tax policy?
- b) Why is a harmonized tax system important?
- c) What are the remaining challenges?
- d) How can it be effectively and efficiently accomplished?

AMSs have already designed tax policy based on their domestic tax law to achieve their goal. Their domestic tax law conflicts with international tax law stated in the United Nations Model Double Taxation Convention or (UN Model Convention). “The UN Model Convention forms part of the international efforts aimed at eliminating double taxation.”³⁴ “The Model Tax Convention, and the worldwide network of treaties based on it, provide clear consensual rules for taxing income and capital across countries, while avoiding having income or capital taxed twice by two different countries.”³⁵

According to “a country's tax regime is a key policy instrument that may negatively or positively influence investment---Tax Policy in the Policy Framework for Investment (PFI) relates to the formulation of a tax strategy which is supportive to investment---It covers the advantages and disadvantages of alternative tax policy choices in meeting the twin goals of offering a tax system

³⁴ UN (2018), "Introduction", in *United Nations Model Double Taxation Convention between Developed and Developing Countries: 2017 Update*, UN, New York, <https://doi.org/10.18356/4255a754-en>. (last visited February 10, 2020).

³⁵ OECD (2019), *Model Tax Convention on Income and on Capital 2017 (Full Version)*, OECD Publishing, Paris, <https://doi.org/10.1787/g2g972ee-en>. (last visited February 10, 2020).

attractive to investment, while at the same time raising revenues to support the key pillars of a business-enabling environment, such as infrastructure.”³⁶

In this sense, AMSs, through their own judgement and decision, need to restore a bridge for bilateral tax cooperation or multiple negotiation taxation dialogue for boosting mutual investment, trade and economic cooperation based on mutual tax treaty agreement or convention.

1.4. Objective of Research Study

The main purpose of this study on formulation of HTS and Tax Policy explores “one aspect that was notably excluded in the blueprint is income tax harmonization. In the strictest sense, tax harmonization encompasses making tax rules and rates more uniform across the region and prevents competition among nations through taxation.”³⁷ Also, “the deduction in the trade costs through simplification of cross-border trading processes, including customs procedures and harmonization of technical regulations, has been an important achievement that reflects the promise of the AEC.”³⁸ Indeed, ongoing pathway, “there is substantial progress in the ASEAN regional taxation agreements that would strengthen cooperation on tax matters member states.”³⁹ Recent study is seeking high level policymakers' making decision and a solid political commitment under the direction of the ASEAN taxation member states to support AEC. One aspect of approaching endorsement on working tax cooperation and tax coordination is very significant step for several reasons for reciprocal benefit among member states. First, it requires tax policy makers to enhance development of tax code restructuring to understand the taxpayer's obligation and tax barriers. Second, the role of the ASEAN member states has encouraged their counterpart members to expand negotiation of tax agreements

³⁶ OECD, Policy Framework for Investment User's Tool KIT, Ch. 5: Tax Policy, p.2 (2013), available at <http://www.oecd.org/investment/toolkit/policyareas/41890309.pdf> (last visited February 10, 2020).

³⁷ Chung-Sim Siew Moon & Luis Coronado, Tax Harmonization in ASEAN, available at <https://www.businesstimes.com.sg/asean-business/tax-harmonisation-in-asean-singapore-should-take-the-lead> (last visited February 20, 2020).

³⁸ *Id.*

³⁹ Department of Finance (DOF), *supra* note 28.

with tax coordination to boost both regional economic integration and global digital economy trend in the long run.

1.5. Research Methods

The study methodology will design and use the European Union (EU) Tax Harmonization Model for comparative analysis. This study examines different variety aspects of difficulties tax harmonization and possible solutions to deal with raising challenges and loopholes under unprecedented international tax matters. The selective method sources will identify and collect both primary and secondary data based on webpages of the ASEAN tax institutions, ASEAN Secretariat, Asia Development Bank, International Monetary Fund, legal materials --- tax code, tax treaty convention, tax case, textbooks, journal articles, the internet materials and tax literature.

According to the study of tax literatures are defined below.

[T]ax harmonization is generally understood as a process of adjusting tax systems of different jurisdictions in the pursuit of common policy objectives.⁴⁰

“Finance Undersecretary Gil S. Beltran said these initiatives include a strategic action plan and a set of annual priorities to move ahead on harmonizing the withholding tax rates among the ASEAN member states and the exchange of information and training program for tax policy and administration in the region.”⁴¹

⁴⁰ George Kopits, *Tax Harmonization in the European Community: Ch. I: Overview*, 3 (1992).

⁴¹ Department of Finance (DOF), *supra* note 28.

Tax harmonization is essential in order to ensure fairness and balance in the competition on the community market, so the existence of different tax regimes has a direct impact on prices and locations chosen for various economic activities. Tax harmonization occurs in order to find the best tax practices dictated by market integration and free movement but not meant as a disorder of tax systems, each member state's own law with some options. The work on harmonization of EU tax systems is of utmost importance, is a very controversial issue, in this case with major implications for the fiscal sovereignty of member states and continue processing tax systems by attempts to bring them.⁴²

These studies will attempt to guide and enhance implementation of the ASEAN Harmonized Tax System in the future. This study also will challenge three (03) ASEAN tax administration's role of not having a strong political will or willingness for restoring decline of tax revenue collection. This study will also give various recommendations and suitable measures to assist these countries to strengthen implementation of a harmonized tax system to be an applicable standard as norm.

1.6. Structure of the Study

This paper is divided into many main sections that will discuss the following points below. This same chapter will also highlight status of international law in legal system of the ASEAN countries, ASEAN Free Trade Area (AFTA), current scale of the ASEAN's economy during the Coronavirus pandemic crisis, ASEAN growth of the foreign direct investment (FDI), and organizational structure of three (03) ASEAN Tax Administrations.

⁴² Szabo, Ioan & Condea, Bogdan, "Tax Harmonization Process in the European Community", *Journal of Metalurgia international*, vol. 17 (8). 122-126 (Jan. 2012).

1.7. Status of International Law in Legal System of the ASEAN Countries

A study shows implementing ASEAN legal system has had completely different status among ASEAN-3 across the Southeast Asia countries. For instance, the legal framework of Cambodia's legal system is based on monarchy and the French civil code. In addition, Singapore's legal system is based on British common law. However, Thailand's legal system is based upon a hybrid between monarchy and civil law.

From this perspective, ASEAN-3 member states' policies are being implemented based on individual legal systems in the context of the ASEAN economic community trends. It means the ASEAN legal system is performing according to their understanding of international law. Their domestic ASEAN-3 legal system's performance goes the opposite direction of “the United Nations Model forms part of the continuing international efforts aimed at eliminating double taxation.”⁴³ In this context, “the update of the UN Model Double Taxation between Developed and Developing countries – Technical changes proposed for the 2021 Update of the UN Model.”⁴⁴

“In general, the provisions of tax treaties prevail over the provisions of domestic law in the event of a conflict between those provisions.”⁴⁵ “For that purpose, both the UN and the OECD models identify various categories of income and indicate in which of the Contracting States such income “shall be taxable only” or “may be taxed”.⁴⁶

Here are the following concepts or status of international law movements:

⁴³ U.N. DEP'T OF INT'L ECON. & SOC. AFFAIRS, U.N. MODEL DOUBLE TAXATION CONVENTION between Developed and Developing Countries 2017 Update, U.N. Doc. ST/ESA/PAD/SER.E/213, U.N. Sales No. 18.XVI.1, New York, pp. iii-v (2018).

⁴⁴ U.N. DEP'T OF INT'L ECON. & SOC. AFFAIRS, Update of the UN Model Double Taxation Convention between Developed and Developing Countries – Technical changes proposed for the 2021 Update of the UN Model, E/C.18/2020/CRP.37, New York, pp.1-2 (2020).

⁴⁵ U.N. DEP'T OF INT'L ECON. & SOC. AFFAIRS, Update of the UN Model Double Taxation Convention between Developed and Developing Countries – Technical changes proposed for the 2021 Update of the UN Model, E/C.18/2020/CRP.37, New York, p.4 (2020).

⁴⁶ *Id.*

“The law of nations, now known as (public) international law [...]”⁴⁷ International law is seen as the best available moderator of human affairs, and also as a condition of the *legal* existence of states and therefore of national legal system.⁴⁸ Each legal system has, almost by definition, its own approach to the others (though in practice there is much borrowing).⁴⁹

Currently, ASEAN member states (Ship) have played a significant role to represent their legal system in the legal framework of independent states in accordance with the ASEAN Charter and principles of international law. In regional affairs, “ASEAN's Charter outlines the legal status and institutional framework of ASEAN by codifying their norms, rules, and values, setting clear targets for achievement, and presenting accountability and compliance. This Charter was entered into force on December 15, 2008 and has since served as a legally binding agreement among the ASEAN members.”⁵⁰

According to Article 2(2)(j) of the ASEAN Charter, ASEAN and its member states shall act in accordance with upholding the United Nations Charter and International Law. Exactly, the need for international law is essential for ASEAN member states (Ship) to act on the international stage. Every ASEAN member state has rights and obligation responsibilities in binding international law based upon “the Vienna Convention on the Law of Treaties and the UN Convention.”⁵¹ However, “the relationship between international and national law is often presented as a clash at a level of high theory [...]”⁵²

⁴⁷ James Crawford, *Brownlie's Principles of Public International Law*, Part I Preliminary Topics, Ch.1: Introduction, Oxford University Press, 3 (8ed. 2012).

⁴⁸ James Crawford, *Brownlie's Principles of Public International Law*, Ch.3: the Relations of International and National Law, Oxford University Press, pp.48-49 (8ed. 2012).

⁴⁹ *Id.*

⁵⁰ The University of North Carolina, *Public International Law Research, Locating ASEAN Primary Materials, ASEAN's Charter*, available at <https://guides.lib.unc.edu/internationallaw/asean> (last visited February 7, 2020).

⁵¹ UN, *United Nations Treaty Collection, Vienna Convention on the Law of Treaties*, available at https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXIII-1&chapter=23&Temp=mtdsg3&clang=_en (last visited February 7, 2020).

⁵² James Crawford, *Brownlie's Principles of Public International Law*, Part I Preliminary Topics, Ch.3: The Relations of International and Nation Law, Oxford University Press, pp.48-49 (8ed. 2012).

As a practical ASEAN case, since ASEAN's adoption of the ASEAN Charter in 2007, “The Legal Systems of Southeast Asian Nations or ASEAN Legal Systems”⁵³ are not consistent with full international law direction, but shall be directly applicable in the ASEAN community. Because it lacks clarity of the status of international law in the legal framework of the regional legal system, but applicable international law shall be applied to all ASEAN national law. Furthermore, each legal framework of ASEAN member states does not exclusively rule the position of executive and legislative branches in carrying out of international law. A way is needed to debate the status of international law in the regional ASEAN legal system as a harmonious identity or voice.

The digital revolution continues to work changes in the ways that we teach, research, and practice international law.⁵⁴

International law is binding on the state, and the state is obliged to give effect to it as a matter of international law, but international law does not replace the national law of states (sometimes referred to as “domestic,” “internal,” or “municipal” law).⁵⁵ States can approach the interface of international and national law along of a spectrum of possibilities.⁵⁶

International law requires a state to carry out its international obligation but, in general, how a state accomplishes that result is not of concern to international law.⁵⁷ Indeed, the adherence to and enforcement of international law depends on the governments of states and their constitutional and legal system.⁵⁸ Moreover, “international law requires a state to carry out its international obligations but, in general law, how a state accomplishes that result is not of concern to international law.”⁵⁹ In the context of treaty can be characterized below.

⁵³ University of Melbourne, Southeast Asian Legal Research Guide: Regional & Comparative Resources, The Legal Systems of Southeast Asian Nations, available at <https://unimelb.libguides.com/c.php?g=402982&p=4635158> (last visited February 8, 2020).

⁵⁴ Lori Fisler Damrosch & Sean D. Murphy, *International Law, Cases and Materials*, v-vi (7 ed. 2019).

⁵⁵ Lori Fisler Damrosch & Sean D. Murphy, *International Law, Cases and Materials*, Ch. 10: International Law in National Law, West Academic Publishing, pp.615-616 (7ed. 2019).

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

“A treaty is defined as any international agreement in written form concluded between two or more States or other subjects of international law and governed by international law.”⁶⁰ There is consistency with relevant treaties.

- i. “Treaties are often characterized according to the number of signatory nations. Bilateral treaties are those involving two nations, and they typically resemble contracts. Multilateral treaties are those involving more than two nations, and they can address a variety of international issues or concerns.”⁶¹
- ii. “Treaties may also go by a variety of names, including: convention, protocol, covenant, charter, statute, act, declaration, agreement, partnership, etc.”⁶²

In accordance with “Article 2(a) of the Vienna Convention on the Law of Treaties”⁶³ which applies to all treaties, provides “treaty means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation.”⁶⁴ Additional to Article 2(1)(a) also stipulates that the arrangements to which the convention extend must be ‘governed by international’; this excludes commercial arrangements made between government under one or more national law.⁶⁵ On the other hand, **“tax treaties represent an important aspect of the international tax rules of many countries.”**⁶⁶ By doing this, **“the relationship between tax treaties and domestic tax legislation is a complex one in many countries.”**⁶⁷

⁶⁰ The University of North Carolina, Public International Law Research, Treaties Terminology, available at <https://guides.lib.unc.edu/internationallaw/treaties> (last visited February 7, 2020).

⁶¹ *Id.*

⁶² *Id.*

⁶³ United Nations, Convention on the Law of Treaties, Vienna, (23 May 1969).

⁶⁴ United Nations, Article 2 (a) of the Convention on the Law of Treaties, Vienna, (23 May 1969).

⁶⁵ James Crawford, Brownlie’s Principles of Public International Law, Part I Preliminary Topics, Ch. 16: The Law of Treaties, Oxford University Press, pp.369-370 (8ed. 2012).

⁶⁶ BRIAN J. ARNOLD, An introduction to tax treaties, Ch. I: Introduction, available at https://www.un.org/esa/ffd/wp-content/uploads/2015/10/TT_Introduction_Eng.pdf (last visited February 5, 2020).

⁶⁷ BRIAN J. ARNOLD, An introduction to tax treaties, Ch. III: Relationship between tax treaties and domestic law, available at https://www.un.org/esa/ffd/wp-content/uploads/2015/10/TT_Introduction_Eng.pdf (last visited February 5, 2020).

Consistently, ASEAN member states are committed to enforcing ASEAN legal system in the context of dealing with the legal framework across the region which may benefit the ASEAN business community, ASEAN tax community to sustain AEC direction as follows:

According to the following legal system of the ASEAN-3 member countries (Ship) comprises “...Cambodia, Singapore, and Thailand”⁶⁸ that shall be reflected by their constitutions, but the ASEAN charter is not a common constitution as follows:

a). Cambodia is primarily based on French civil-law-and-monarchy democratic system. The current legal system is thus a hybrid system of all these influences in Cambodia.⁶⁹ Cambodia has undertaken both civil law and common law in recent development in dealing with economic transactions under the legal procedure for applying in the needs of a free-market orientation.

b). Singapore mainly implemented the British commonwealth in accordance with common law. The Singapore legal system is a rich tapestry of laws, institutions, values, history and culture.⁷⁰ Furthermore, a fundamental foundation of Singapore's legal system originated based on a master model of British colonization after Singapore had gained independence in 1965.

c). Thailand is mainly based on a civil-law-and-monarchy system.⁷¹ The legal system of Thailand has a predominantly civil law legal system, but it is a hybrid of many influences.⁷²

⁶⁸ ASEAN Legal Database, ASEAN Members Constitutions, available at <http://asean-law.senate.go.th/en/const-country-en.php?country=bn> (last visited February 7, 2020).

⁶⁹ Matthew Rendall, Community Legal Education Center, the Constitution and Government of Cambodia: Ch.3, Sources of Cambodia Law, English Version, pp.32-56 (May 1999 ed.).

⁷⁰ Overview, Ch.1 The Singapore Legal System, available at <https://www.singaporelawwatch.sg/About-Singapore-Law/Overview/ch-01-the-singapore-legal-system> (last visited February 7, 2020).

⁷¹ University of Melbourne, Southeast Asian Legal Research Guide: Introduction to Thailand & its Legal System, The Legal System of Thailand, available at <https://unimelb.libguides.com/c.php?g=402982&p=4832968> (last visited June 26, 2020).

⁷² *Id.*

1.8. The ASEAN Free Trade Area (AFTA)

1.8.1. Establishment of the ASEAN Free Trade Area

With global economic integration, ASEAN (Ship) is a dynamic region in the world. As a new development of the AFTA deals with the acceleration of AEC direction and has played a significant role in linking with an expansion of multiple trade partners from non-ASEAN through “the signing of the Regional Comprehensive Economic Partnership (RCEP) Agreement.”⁷³ The official formation of the RCEP agreement was founded by ten AMSs and expanding five free trade agreement (FTA) partners/nations, comprised of Australia, China, Japan, New Zealand, and the Republic of Korea on 15th November 2020. The RCEP marks ASEAN's biggest free trade pact to date, covering a market of 2.2 billion people with a combined size of **US\$26.2 trillion or 30% of the world’s GDP**.⁷⁴

From this perspective and unique inspiration, “the ASEAN Heads of State and Government decided to establish an ASEAN Free Trade Area or AFTA in 1992.”⁷⁵ “The ultimate objective of AFTA is to increase ASEAN's competitive edge as a production base geared for the world market.”⁷⁶ The AFTA revolution led to “the ASEAN Trade in Goods Agreement (ATIGA) was signed by 10 Governments of Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam, Member States of the Association of Southeast Asian Nations on 26 February 2009 in Thailand.”⁷⁷ In addition, “the ATIGA enhanced and **superseded** the Agreement on Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area (CEPT/AFTA) which was signed in 1992 and its related protocols and arrangements”⁷⁸ which is a core engine of regional economic community. ATIGA is core instrument of preferential tariffs to enter

⁷³ ASEAN Secretariat, ASEAN hits historic milestone with signing of RCEP, available at <https://asean.org/asean-hits-historic-milestone-with-signing-of-rcep/> (last visited November 16, 2020).

⁷⁴ *Id.*

⁷⁵ ASEAN Secretariat, AFTA: An Update, available at https://asean.org/?static_post=asean-free-trade-area-afta-an-update (last visited February 21, 2020).

⁷⁶ ASEAN Secretariat, Questions and Answers on the CEPT, available at <https://asean.org/questions-and-answers-on-the-cept/> (last visited February 21, 2020).

⁷⁷ ASEAN Secretariat, ASEAN Tariff Finder, ASEAN Trade in Goods Agreement (ATIGA), available at

⁷⁸ AFTA: An Update *supra* note at 75.

into force on 17 May 2010. Furthermore, AFTA is not one trade bloc agreement but also delivers mutual trade benefits to enjoy low tariff rates among member states.

As AFTA is “a vital step in this direction is the liberalization of trade through the elimination of tariffs and non-tariff barriers among the ASEAN members, this activity has begun to serve as a catalyst for greater efficiency in production and long-term competitiveness.”⁷⁹ Moreover, the expansion of intra-regional trade is giving the ASEAN consumers wider choice and better quality consumer products.⁸⁰ In this sense, all ASEAN members are obligated to support AFTA agreement which will raise competitive production bases through regional markets in the context of booming regional trade liberalization in goods in order to eliminate redundant both tariff and non-tariff barriers. Both tariff and non-tariff barriers will affect both regional markets and world markets to promote their economic scale, trade competitiveness and productivity. All ASEAN traders/ taxpayers will be benefited by lower productive costs which will attract foreign direct investment (FDI) to promote manufacturing industries in the entire AEC. Here are all ASEAN member states (Ship) which will benefit mechanism on the elimination of regional tariffs and non-tariff barriers based on productive base and another expectation.

As we can see **Figure 1** shows all member states which have enjoyed their benefits of tariff reduction based on implementation of ATIGA/CEPT scheme under AFTA. In this regard, “the CEPT is the mechanism by which tariffs on goods traded within the ASEAN region, which meet a **40%** ASEAN content requirement, will be reduced to 0-5% by the year *2002/2003 (2006 for Vietnam, 2008 for Laos and Myanmar, and 2010 for Cambodia)* ---The tariff reductions are moving ahead on both the “**fast**” and “**normal**” tracks ---Tariffs on goods in the fast track were largely reduced to **0-5%** by 2000---Tariffs on goods in the normal track will be reduced to this level by 2002, or 2003 for a

⁷⁹ *Id.*

⁸⁰ *Id.*

small number of products --- Currently, about **81%** of ASEAN’s tariff lines are covered by either the fast or normal track. ⁸¹

In general, there are **four (04) types** of all manufactured and agricultural products as follows:

- Sensitive List (SL): 1%
- Inclusive List (IL): 82%
- Temporary Exclusion List (TEL): 2%
- General Exception List (GEL): 15%

These products shall qualify and apply with tariff rates according to **Figure 1 and Figure 2.**

Figure 1: Implementation of the ASEAN Tariff Reduction on CEPT/ATIGA Scheme from 0-5% under AFTA		
Country	Product Items	Deadline Scheme
ASEAN 6: Brunei, Indonesia, Malaysia, Philippines, Singapore, and Thailand	<ul style="list-style-type: none"> ● Sensitive List ● Inclusive List ● Temporary Exclusion List ● General Exception List 	2002-2003
New Members of ASEAN:		
Vietnam		2006
Lao PDR and Myanmar		2008
Cambodia		2010
<p>Note: ASEAN-3 or ASEAN-10 are eligible to qualify tariff rates from 0-5% based on the ATIGA scheme through the ASEAN Harmonized Tariff Nomenclature (AHTN) 2017/2021.</p> <p>* The ASEAN Harmonized Tariff Nomenclature (AHTN) is an eight-digit HS-based commodity nomenclature common among the 10 ASEAN Member States.</p> <p>*HS: Harmonized System</p>		
<p>Source: ASEAN Secretariat</p>		

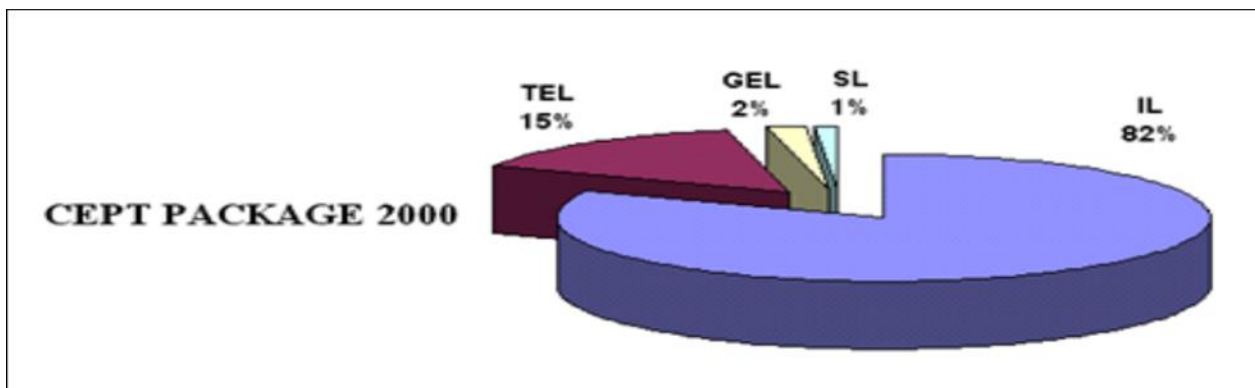
⁸¹ US-ASEAN Business Council, Region, ASEAN, Common Effective Preferential Tariff (CEPT), available at <https://www.usasean.org/regions/asean/afta/common-effective-preferential-tariff> (last visited February 18, 2020).

All AMSs (Ship) had fulfilled their deadline on preferential tariff schemes in 2010. They are continuing their new taskwork to implement Tariff Reduction on CEPT/ATIGA Scheme from 0-5% under the ASEAN Free Trade Area Agreement until 2025.

According to **Figure 2** highlights all manufactured and agriculture products which shall be qualified both tariff barriers and non-tariff barriers across the AEC market and a part of the world market.

Figure 2: All Manufactured and Agricultural Products on the CEPT/ATIGA Scheme under AFTA

Package of CEPT/ATIGA Scheme



*ATIGA replaced CEPT in 2009 which entered in force in 2010.

Source: ASEAN Secretariat

1.9. Current Scale of the ASEAN's Economy during the Coronavirus Pandemic Crisis

As Chapter I previously discussed, ASEAN member states (Ship) officially formed the AEC Blueprint which entered in force and became effective on 31 December 2015. “ASEAN had overcome two major financial crises; the Asian Financial Crisis in 1997-1998 and the Global Financial Crisis in 2008-2009”⁸² through “the outbreak of the Coronavirus 2019 (COVID-19)”⁸³ that is impacting on current development of AEC bloc. From this perspective of a birth of AEC Blueprint, all member states (Ship) will set 2025 to form an ASEAN Single Market to enhance prosperous ASEAN

⁸² H.E. Dato Lim Jock Hoi (Secretary-General of ASEAN), ASEAN Economic Integration Brief, p.2 (No. 03/June 2018), available at https://asean.org/storage/2018/02/AEIB_3rd-Issue_v3-Ready-Print-Single-Page.pdf (last visited February 20, 2020).

⁸³ ASEAN Secretariat, Press Statement by the Chairman of the ASEAN Coordinating Council (on the Special Meeting of the ACC on COVID-19), available at [https://asean.org/press-statement-chairman-asean-coordinating-council-special-meeting-acc-covid-19/#iLightbox\[gallery85169\]/null](https://asean.org/press-statement-chairman-asean-coordinating-council-special-meeting-acc-covid-19/#iLightbox[gallery85169]/null) (last visited February 22, 2020).

community activities. Therefore, the AEC Blueprint 2025 aims to strengthen and reinforce the following five (05) characteristics of the ASEAN Economic Community by 2025:

- (a) A Highly Integrated and Cohesive Economy;
- (b) A Competitive, Innovative, and Dynamic ASEAN;
- (c) Enhanced Connectivity and Sectoral Cooperation;
- (d) A Resilient, Inclusive and People-Oriented, People-Centred ASEAN; and
- (e) A Global ASEAN.⁸⁴

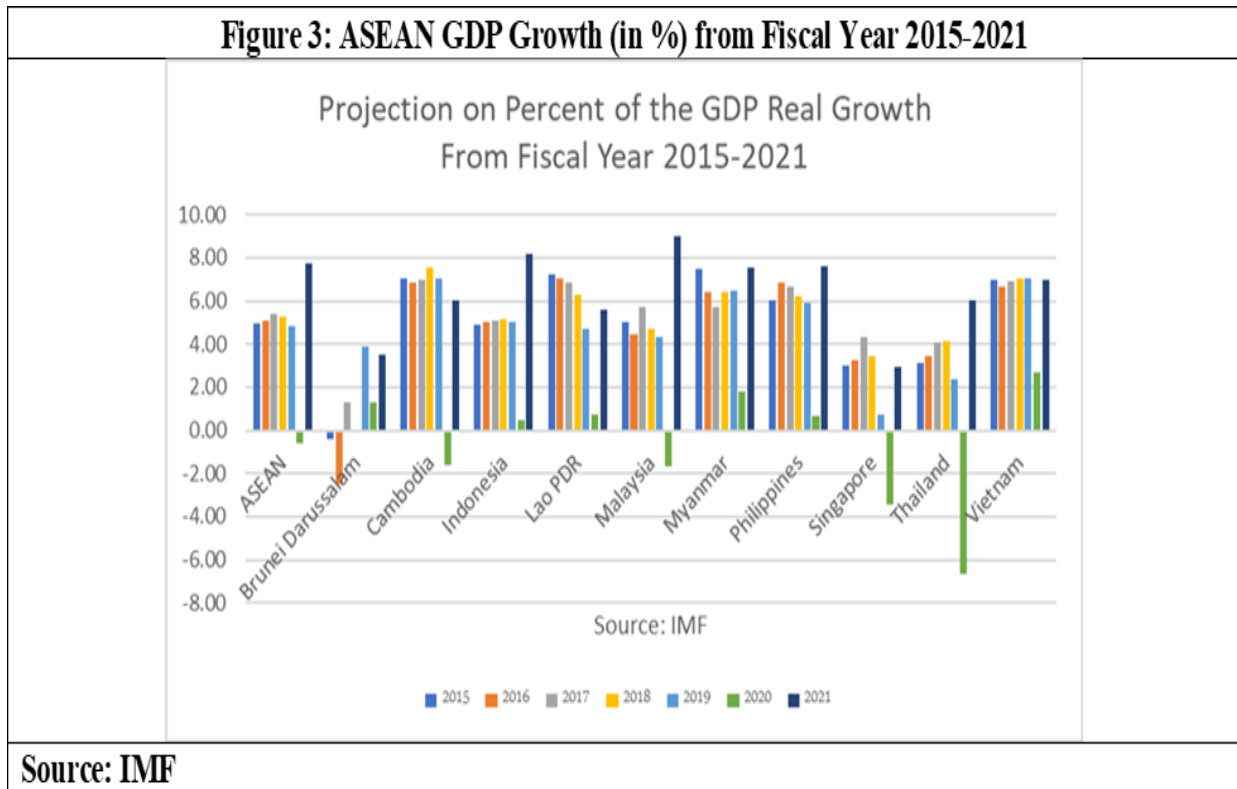
In the current global context, “in 2020, the total population of all ASEAN states amounted to an estimated 661.5 million inhabitants.”⁸⁵ In addition to fast driven economic integration zone, “ASEAN has risen to fifth place among the 5th largest economy in the World.”⁸⁶ ASEAN is a fast-track anchor in the context of fueling its AEC prospects before the Covid-19 pandemic period. The impacts of the global economics of the Covid-19 pandemic crisis were shocked a low average of the ASEAN economic growth navigation that was not a good time since 2020.

⁸⁴ ASEAN Secretariat, Fact Sheet of ASEAN Economic Community (AEC), Jakarta, pp.1-4 (May 2017).

⁸⁵ Statista, total population of the ASEAN countries from 2016 to 2026, available at <https://www.statista.com/statistics/796222/total-population-of-the-asean-countries/> (last visited November 30, 2021).

⁸⁶ ASEAN Secretariat, ASEAN Integration Report 2019, Ch. 2: Macroeconomic Environment, p. 6 (2019), available at <https://asean.org/storage/2019/11/ASEAN-integration-report-2019.pdf> (last visited February 22, 2020).

Figure 3: ASEAN GDP Growth (in %) from Fiscal Year 2015-2021



Source: IMF

According to **Figure 3** outlines gradually increased ASEAN's GDP (Ship) from the fiscal years 2015-2021. Here is the following study on dealing with the fiscal year on implementing each growth ratio index in selected concentration on three countries below.

1. Cambodia

As shown in **Figure 3** illustrates Cambodia's GDP growth prospects from the fiscal years 2015 to 2021.

- A proportion of Cambodia's GDP was 7.04 percent in the fiscal year 2015.
- In 2016, the GDP was 6.8 percent that was declined by 0.24 percent compared with the fiscal year 2015.

- In 2017, a ratio of the GDP increased 7.0 percent, which was expanded by 0.2 percent compared with the fiscal year 2016.

- In 2018, the GDP was 7.5 percent that was increased by 0.5 percent compared with the fiscal year 2017.

- In 2019, the GDP rose 7.05 percent, which was dropped by 0.45 percent compared with the fiscal year 2018.

- In 2020, the GDP was (-1.6) percent, which was a negative ratio due to the global impact of the Covid-19 pandemic crisis. It was shocked fueling economic growth.

- In 2021, the GDP expects to rise 6.0 percent after recovery from the global Covid-19 pandemic period.

2. Singapore

Figure 3 shows Singapore's economic growth outlooks from the following fiscal years 2015 to 2021.

- In 2015, the GDP growth rate reached 2.9 percent from the economic perspective.

- From 2016 to 2017, the GDP was increased ratios at an amount of 3.2 and 4.3 percent compared with 2015.

- From the fiscal year 2018 to 2020, an uncertain symptom under Singapore's economic sector has had a fragile growth indicator. In 2018, the GDP was 3.4 percent, which decreased by 0.9 percent compared with 2017.

- In 2019, the GDP was 0.7 percent, which already declined by 2.7 percent compared with 2018.

- In 2020, the GDP was (-3.5) percent, which is the lowest ratio due to the global economic impacts of the Covid-19 pandemic period to shock Singapore's economic direction.

- In 2021, the GDP regains 2.9 percent after recovery from the global Covid-19 pandemic.

3. Thailand

As can be seen **Figure 3** exhibits Thailand's economic growth outlooks from fiscal years 2015 to 2021.

- In 2015, the GDP reached 3.1 percent.

- From the fiscal year 2016 to 2018, a ratio of the GDP was 3.4, 4.07, and 4.1 percent compared with 2015. It steadily increased the proportion index between 2017 and 2018, respectively.

- In 2019, the GDP was 2.3 percent, which dropped by 1.8 percent compared with 2018.

- In 2020, the GDP was (-6.6) percent, which was a low rate due to the global impact of the Covid-19 pandemic period to hit all infrastructure sections driving Thailand's economic growth trends.

- In 2021, the GDP expects to rise 6.0 percent after recovery from the global Covid-19 pandemic.

1.10. ASEAN Growth of the Foreign Direct Investment

From 1992 to late March 2020, before the Covid-19 pandemic, the scope of the ASEAN growth of the foreign direct investment (FDI) was a much-attracted zone because of potential low tariff rates and setting corporate rates that were less than 35 percent in the ASEAN integration.

Figure 4 shows a study in the legal framework of the inflow ASEAN FDI deal from the fiscal years 2015-2020 which is divided into two stages as follows:

1.10.1 ASEAN Growth of the Foreign Direct Investment before the Covid-19 Period

The first stage highlighted an incredible figure on the ASEAN growth of FDI indicator, which shared in global in flows increased at a rate of 5.80 to 15.70 percent from the fiscal year 2015 to 2019. The above figure deal had a better indicator of global FDI flows five years after the post-impact

of the world economic crisis. At the same time, the amount growth of ASEAN FDI flow gradually played a tremendous role in regional ASEAN economic growth direction which all individual countries had enjoyed in the past.

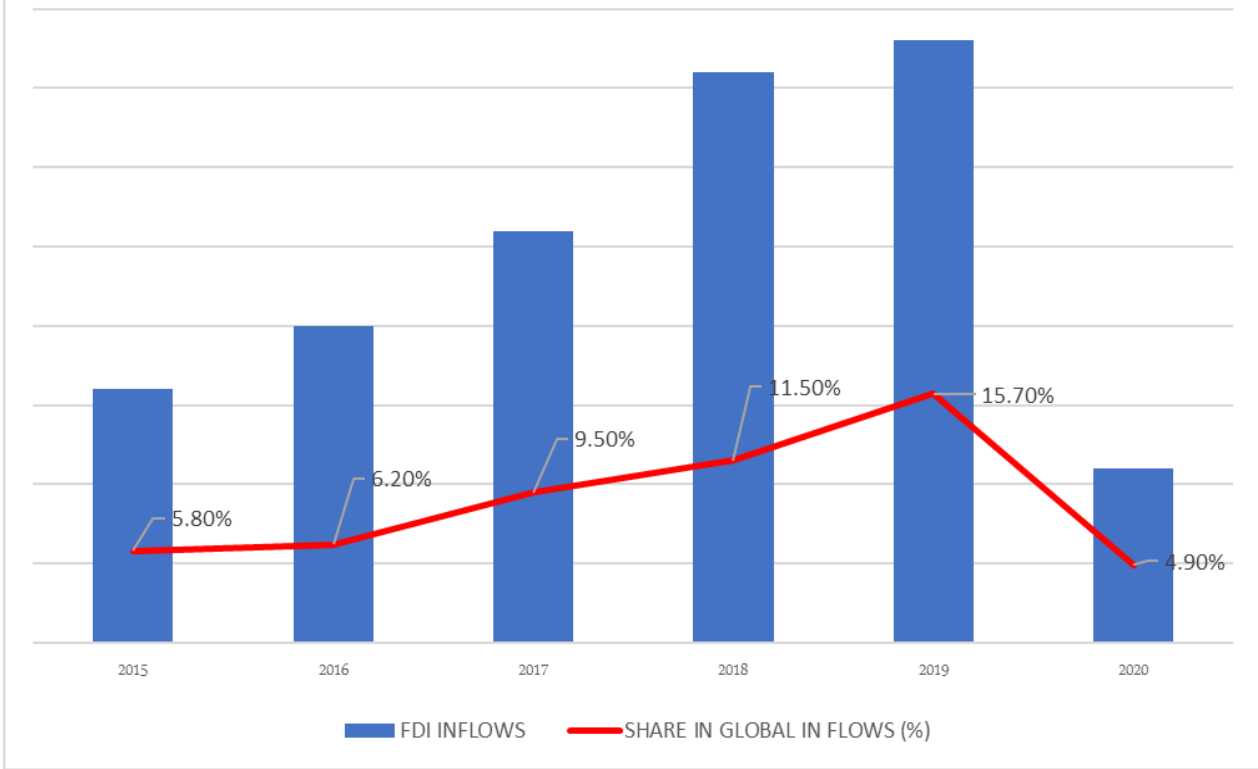
1.10.2 ASEAN Growth of the Foreign Direct Investment during the Covid-19 Period

The second stage illustrates how the inflow of ASEAN FDI outlooks had dropped in massive ratios from late March 2002 till present due to the Covid-19 crisis. **Figure 4** defines a declining low figure at a various rate from 15.70 percent to 4.90 percent in the inflow ASEAN FDI index in 2020, which shared with a global impact of the FDI trends. Due to the Covid-19 pandemic crisis in dealing with an uncertain economic wave, it hit the ASEAN growth of the FDI performance index in 2020. Because of the giant storm of the Covid-19 pandemic, it has been a shockingly hard storm to rock the entire AEC direction infrastructure, particularly the investment area and other sections across the ASEAN region during the challenging period of social isolation.

For instance, Cambodia, Singapore, Thailand, and other ASEAN countries hit a brutal storm at a difficult time in an unprecedented way. As **Figure 4** highlights, an essential projection inflow of the ASEAN FDI ratio at an amount of rebound percent after post-2020 through the future deals. According to a projection, the more of the ASEAN FDI inflow indicators will recover in the future.

FDI Flows in ASEAN from 2015-2020 (Billion of dollars and percent)

Figure 4: FDI Flows in ASEAN from FY 2015-2020 (Billion of dollars and percent)



Source: ASEAN Secretariat

1.11. Organizational Structure of Three (03) ASEAN Tax Administrations

Global taxation practices are impacting the comparative study of both regional economic integration and international tax regimes. “The role of the effective tax systems as a crucial element of domestic resource mobilisation (DRM) has received increased recognition in recent years.”⁸⁷ Besides, “tax is at the core of building better, stronger and more inclusive societies.”⁸⁸ “The Forum of Tax Administration (FTA) offers members a space to identify, discuss and influence global trends; develop new ideas to enhance taxpayer services; and exchange experiences in fortifying tax administrations around

⁸⁷ OECD, OECD Work on Taxation, Supporting domestic resource mobilisation, Paris, p.40 (2021).

⁸⁸ OECD, OECD Work on Taxation, Introduction by Pascal Saint-Amans and Grace Perez-Navarro, Paris, p.3 (2021).

the world.”⁸⁹ Additionally, “the Forum on Tax Administration (FTA) was created in 2002 and brings together tax administrations from 53 OECD and non-OECD countries.”⁹⁰ In this regard, “the FTA is a forum through which tax administrators can identify, discuss and influence relevant global trends and develop new ideas to enhance tax administration around world.”⁹¹

Here are three (3) organizational charts below which show all revenue bodies under the ASEAN tax administration (Ship). They all play an essential role in driving the ASEAN economy. The following **Figures 5, 6, and 7** are **Cambodia, Singapore, and Thailand**, tax structures, respectively. These countries have diversified to strengthen each functional tax reform structure body and their tax administration management to raise tax revenue in the context of improving level on tax compliance to support AEC activities.

1.11.1. Cambodia Tax Structure

A study shows that the current tax structure system is mainly governed based on a central government tax policy to levy at national and local levels. Furthermore, Cambodia has played a crucial role in reforming its tax structure many times in accordance with the legal framework of tax law, in particular “**Law on Taxation to Law on Financial Management**”⁹², and other tax regulations to respond to the evolution of planning the economy for a market economic system to engage with the AEC Blueprint 2025. Cambodia was ranked 105 out of 180 nations based upon the 2019 Index of Economic Freedom.⁹³ The Cambodia Tax Structure is under management of the Ministry of Economy and Finance.⁹⁴ Below, **Figure 5** outlines the organizational chart of the Cambodia tax

⁸⁹ OECD 2019, Brochure-OECD work on tax development, 33 (2019), available at

<http://www.oecd.org/ctp/tax-global/brochure-oecd-work-on-tax-and-development.pdf> (last visited February 25, 2020).

⁹⁰ OECD, OECD Work on Taxation, Strengthening tax administration, Forum on Tax Administration, Paris, p.35 (2021).

⁹¹ *Id.*

⁹² Cambodia Taxation Law, Law on Financial Management (2016).

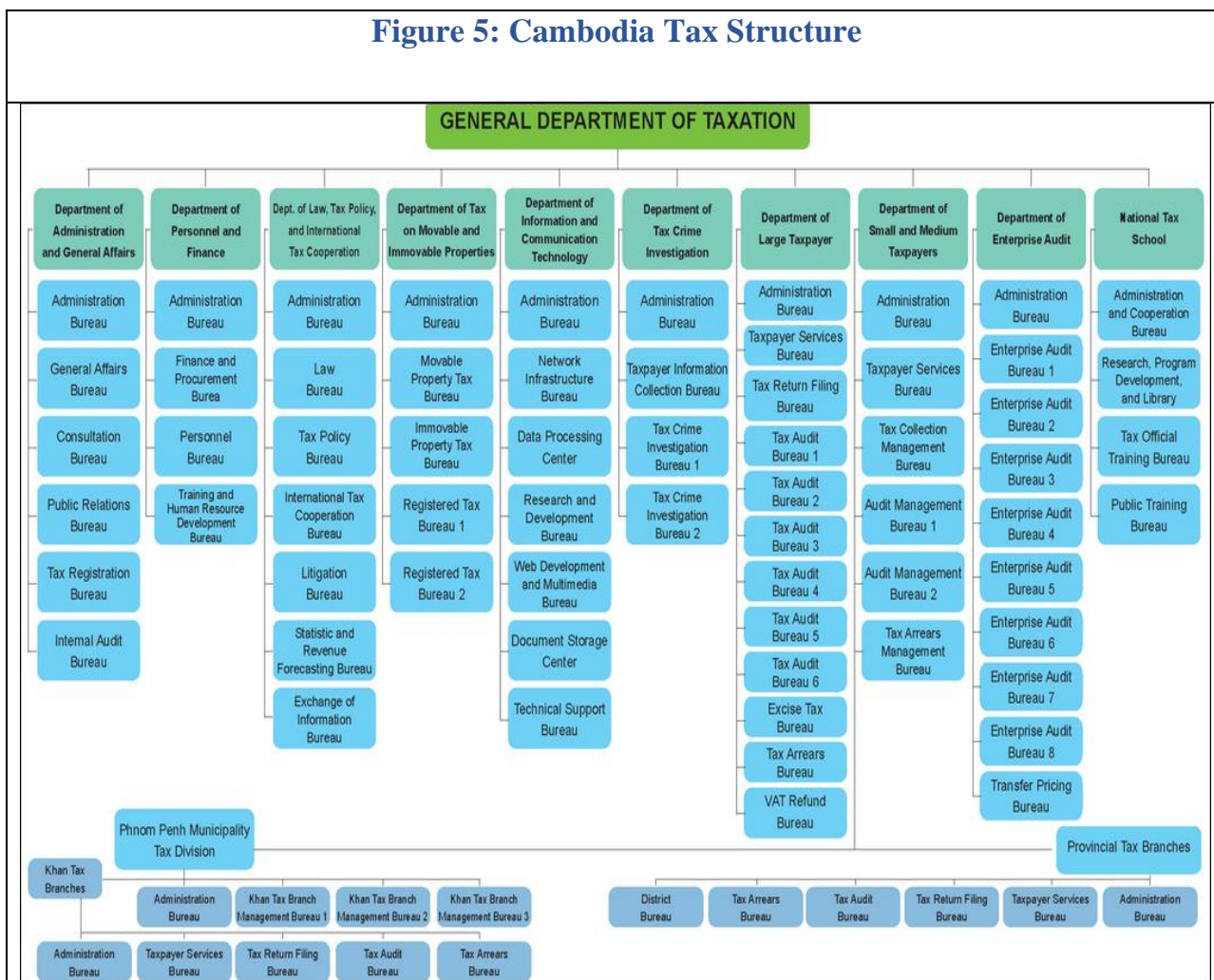
⁹³ Index of Economic Freedom, Cambodia’s Economic Freedom Score (2019), available at <https://www.heritage.org/index/country/cambodia> (last visited February 26, 2020).

⁹⁴ Cambodia General Department of Taxation, Tax Structure, available at <https://www.tax.gov.kh/files/structureen.png> (last visited February 26, 2020).

structure body. The functioning body of the Cambodia tax structure has been administered according to the Self-Assessment System (SAS). Therefore, the Cambodia tax structure had changed many times due to civil war in the past, through current tax structure to respond to global tax reform trends.

In the Cambodian government context, the Cambodia tax authority has played a very active role in the context of the CSAP for taxation cooperation and the ASEAN Forum on Taxation from 2011 until now. Cambodia is one country among all AMSs to share contributions to promote taxation cooperation for the deadline in 2025 and beyond, across the regional economic community under international tax rules.

Figure 5: Cambodia Tax Structure



Source: General Department of Taxation

1.11.2. Singapore Tax Structure

A research has found that the Singapore tax structure is not only a modern tax system but also with high tax compliance. “Income tax was introduced into Singapore, then a British colony, by an Ordinance No 39 of 1947.”⁹⁵ “The Singapore Income Tax Act remains substantially similar to the 1947 Ordinance, although there have been amendments in specific areas since that time. The current tax law is the Income Tax Act (Revised Edition 1994, Cap 134).”⁹⁶ “The Inland Revenue Authority of Singapore (IRAS) is under supervised by Ministry of Finance.”⁹⁷ “The Administration of the Income Tax Act is the responsibility of the Comptroller of Income Tax is responsible to the Minister of Finance.”⁹⁸ IRAS is a very active organization among two leading revenue authorities in Singapore.

*“Individuals and corporations are both taxed under the same statute and many features are common both to the taxation of individuals and corporations.”*⁹⁹

Singapore is ranked 1st among the AMSs. Singapore is a prominent economy among member states. The Singapore was ranked 2nd out of 180 nations based on the 2019 Index of the Economic Freedom's assessment which is one among top 10 the world's freest economy in current world forum. In addition to Singapore's economic freedom score was 89.4, making its economy the 2nd freest in the 2019 Index.¹⁰⁰ Therefore, tax structure of the IRAS operation is based on hybrid tax administration. As we can see **Figure 6** under the Singapore Tax Authority which is classified as a good structure compared with regional tax administration partners and has the best world rank index that can be achieved as its Singapore goal. Therefore, IRAS has played a very important role in the context of the

⁹⁵ Paul J Davidson & Franca Ciambella, *Investment in Southeast Asia: Policy and Laws*, Ch. VI: E. Tax Structure, pp. 218-225 (1995).

⁹⁶ *Id.*

⁹⁷ Satoru Araki & Iris Claus, *A Comparative Analysis of Tax Administration in Asia and the Pacific*: Ch. IV: Internal Organization Design of Revenue Bodies, Singapore's Inland Revenue Authority, 17 (2014 ed.)

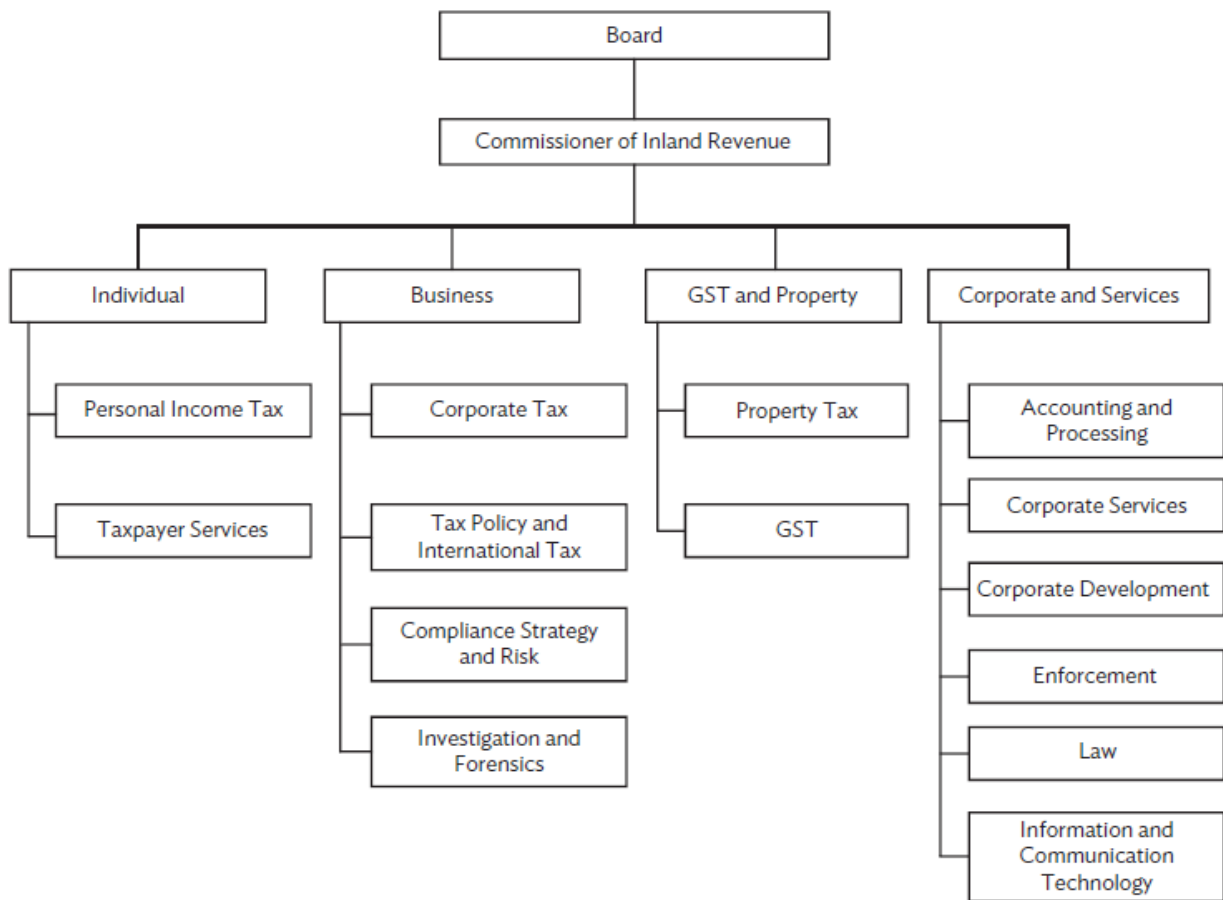
⁹⁸ Paul J Davidson & Franca Ciambella, *supra* note 95.

⁹⁹ Paul J Davidson & Franca Ciambella, *supra* note 95.

¹⁰⁰ Index of Economic Freedom, Singapore's Economic Freedom Score (2019), available at <https://www.heritage.org/index/country/singapore> (last visited February 27, 2020).

CSAP for implementing taxation cooperation and AFT since 2011. Singapore is also one country among all AMSs to share contributions to promote the taxation cooperation deadline 2025 under an integrated international tax standard.

Figure 6: Singapore Tax Structure



Source: Inland Revenue Authority of Singapore and ADB

1.11.3. Thailand Tax Structure

A body of Thailand Tax Agency is supervised by the Ministry of Finance.¹⁰¹ Therefore, Thailand has fueled economic system and tax reform regimes many times since 1946 until the current situation in many new ways. The Revenue Department of Thailand is a very active organization among two leading revenue agencies to promote social funds and various expenditure activities. The Revenue Department of Thailand is administered by a Director-General, and four Deputy Director-General under the Minister of Finance's guidance are shown in **Figure 7**.

In Thailand taxation is primarily governed by the Revenue Code, BE2481 (1938) as amended.¹⁰² The principal forms of taxation under the Code are personal income tax, companies income tax and business tax.¹⁰³

Thailand was ranked 43 out of 180 countries based upon the 2019 Index of Economic Freedom.¹⁰⁴ A function of Thailand's Revenue Department is based on organization structure body below and top management level as we can see in **Figure 7**.¹⁰⁵ In addition to this, Thailand tax structure has been restructuring body many times in order to reach an international standard based on tax code and regional forum on tax reform trends under an unprecedented tax environment. In Thailand, the central government is the main taxing structure body based on tax policy, which outlines to impose at both national and local levels. Generally, as a tax practitioner, the current Thailand tax agency model has utilized filing tax returns based on the self-assessment system.

¹⁰¹ Revenue Department of Thailand, tax structure, available at <https://www.rd.go.th/publish/6015.0.html> (last visited February 28, 2020).

¹⁰² Paul J Davidson & Franca Ciambella, *Investment in Southeast Asia: Policy and Laws*, Ch. VII: F. Tax Structure, pp. 265-273 (1995).

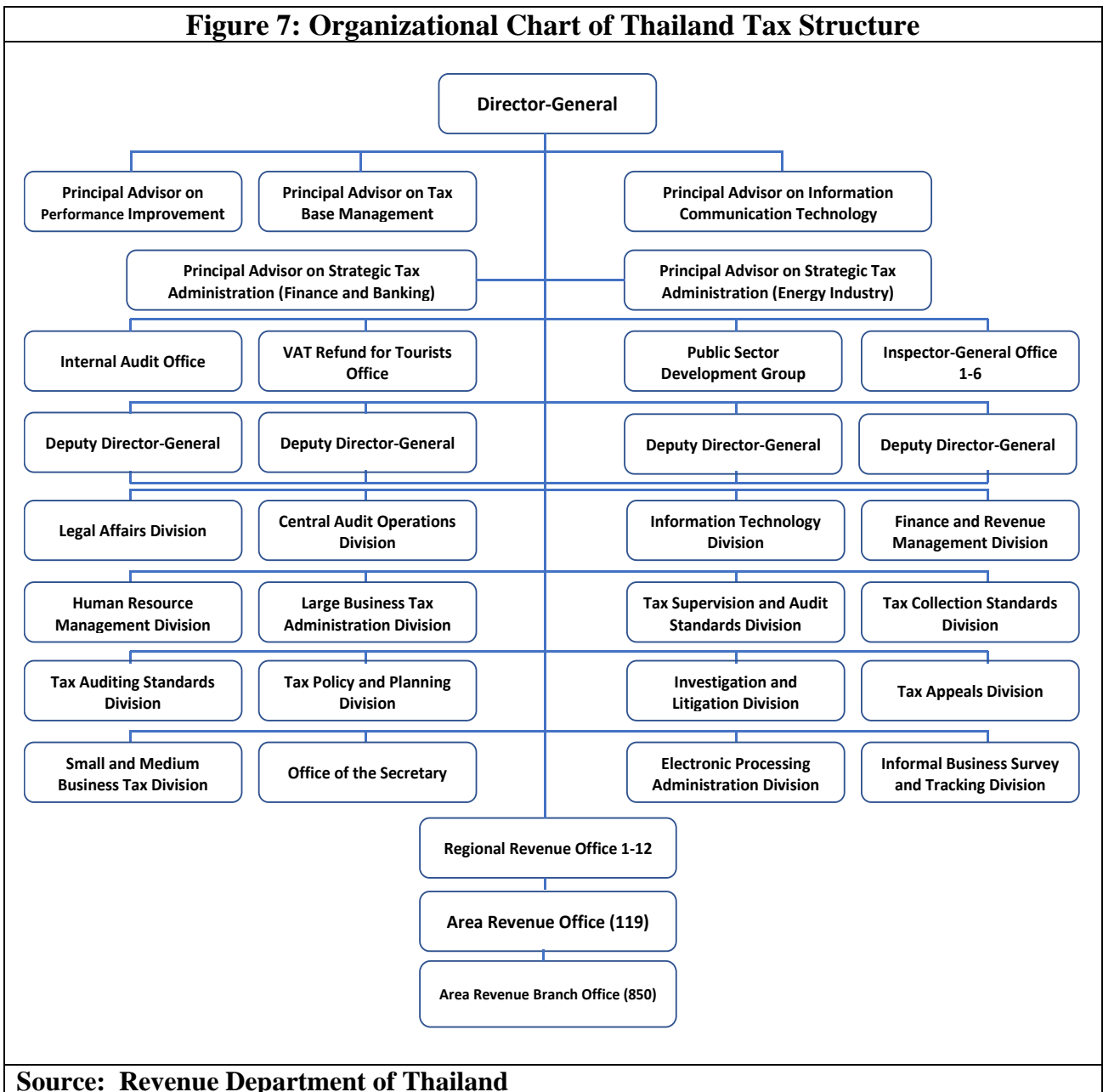
¹⁰³ *Id.*

¹⁰⁴ Index of Economic Freedom, Thailand's Economic Freedom Score (2019), available at <https://www.heritage.org/index/country/thailand> (last visited February 2, 2020).

¹⁰⁵ Thailand Revenue Department, Organizational Tax Structure, available at <https://www.rd.go.th/publish/6015.0.html> (last visited February 28, 2020).

Thailand tax agency has played a significant role in the legal framework of the CSAP for taxation cooperation and AFT from 2011 until the present. Totally, Thailand's government is one country among all AMSs that engage with a critical taxation cooperation deadline 2025 under the AEC journey to support the oriented ASEAN economic policy agenda. Here is shown a structure body of the Thailand tax agency's structure below.

Figure 7: Organizational Chart of Thailand Tax Structure



Source: Revenue Department of Thailand

Besides this, ASEAN tax structures have been designed to meet their targets for regional tax reform and to meet international tax standards. All AMSs have worked hard to re-formulate and restructure tax law to respond to world economic recession as a global tax community trend. Therefore, AMSs have already committed to dealing with international tax demand, with increasingly harmonized means.

Chapter II

Chapter II examines basic data from primary and secondary sources for the ASEAN countries (Ship) in dealing with **tax harmonization system of the ASEAN-3 tax policy** context that reflects current indirect tax and direct tax systems through revenue collection and relevant stakeholders/traders/taxpayers, etc.

There are several methods of collection data. The primary source guides to conduct research on collection data sources that come from textbooks, academic journals, ASEAN webpages and publications, and relevant useful information that deals with the “CSAP for ASEAN taxation cooperation, ASEAN Forum of Taxation”¹⁰⁶ under core envision of the ASEAN Economic Community journey. Main source comes from conducting research on each webpage of the ASEAN-3 tax administrations (Ship) across the Ministry of Finance. The secondary source comes from a selective compendium sources from the webpages of the International Monetary Fund (IMF), World Bank (WB) dealing with tax revenue collection data, Asia Development Bank (ADB), and some publication of KPMG ASEAN Tax Guide, and Asia Briefing through relevant Asia taxation websites in relation with a concept of **oriented taxation study**, respectively.

As a practical case in the ASEAN-3 member states' aspect, **Figure 8** shows a variety possibilities through each ASEAN-3 tax administration webpage, useful to provide potential data sources, particularly for **Cambodia, Singapore, and Thailand**, respectively. It is best to study data collections and attempt to utilize the IMF or WB or ASEAN Secretariat sources as a standard guidance.

¹⁰⁶ ASEAN Secretariat, ASEAN updated the AEC 2025 Consolidated Strategic Action Plan (CSAP), Strategic Action Plan 2016-2025 for ASEAN Taxation Cooperation, ASEAN Forum on Taxation, Jakarta, pp.17-18 (August 2018).

Figure 8: List of the Website of ASEAN-3 Tax Revenue Administration under Ministry of Finance	
Country	Tax Revenue Administrations
Cambodia	General Department of Taxation https://www.tax.gov.kh/en/
Singapore	Inland Revenue Authority of Singapore https://www.iras.gov.sg/irashome/About-Us/
Thailand	Revenue Department of Thailand http://www.rd.go.th/publish/index_eng.html
Source: ASEAN-3 of Tax Administrations	

Besides that, the key study offers an important definition of tax harmonization to facilitate the movement of goods, services, skilled labor, capital, business, and taxpayers to reduce tax burden to promote dynamic AEC and CSAP 2025 agenda or beyond for consistent ASEAN taxation cooperation goal.

2.1. Definition of Tax Harmonization

Tax harmonization is generally understood as a process of adjusting tax systems of different jurisdictions in the pursuit of a common policy objective.¹⁰⁷ Other definitions of tax harmonization are as follow:

“...Tax harmonization involves the removal of tax distortions affecting commodity and factor movements in order to bring about a more efficient allocation of resources within an integrated market.”¹⁰⁸ Tax harmonization may serve alternative goals, such as equity or stabilization.¹⁰⁹ “Such

¹⁰⁷ George Kopits, *Tax Harmonization in the European Community, Policy Issues and Analysis*, Ch. I: Overview, The Case for Tax Harmonization, pp. 1-21 (July 1992).

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

tax base harmonization would contribute to transparency for economic decision-making and, thus, to improved efficiency in resource allocation. In particular, a common income tax base for multi-national companies operating in different jurisdictions would be instrumental not only in enhancing efficiency, but also in preventing overlaps or gaps in tax claims by different countries.”¹¹⁰

Additionally, “the first section describes the basic tax principles that apply to international taxation of income from capital; discusses the allocative distortions that arise from differential taxation across countries; and defines the possible neutrality objectives of tax harmonization.”¹¹¹ There is no doubt, “in the absence of full tax harmonization, neutrality depends on whether the effective tax burden borne by capital is determined by the country of residence or source, rather than on who gets the tax revenue.”¹¹²

In recent years, some scholars have defined a study on harmonizing corporate income taxation to seek and eliminate double taxation and reduce the tax burden under international tax rules.

Tax harmonization exists when taxpayers face similar or identical tax rates no matter where they work, save, shop, or invest.¹¹³ Tax harmonization policies are designed to hinder the flow of jobs and capital from high-tax nations to low-tax nations.¹¹⁴

The following part of main Chapter II explores the implementation of the indirect tax system of the ASEAN-3, the direct tax system of the ASEAN, the capacity of tax cooperation of the ASEAN-3, mobilization tax revenue collection of the ASEAN (Ship) in the context of prior deadline 2025 or beyond to support the CSAP through the ACEPT/AFTA/ATIGA scheme and relevant tax corporate

¹¹⁰ *Id.*

¹¹¹ Edward H. Gardner, Ch. III: Taxes on Capital Income: A Survey, *Tax Harmonization in the European Community Policy Issues and Analysis*, pp.52-70 (1992).

¹¹² *Id.*

¹¹³ Daniel J. Mitchell, *The Economics of Tax Competition: Harmonization vs. Liberalization*, Adam Smith Institute, pp. 2-5 (2009).

¹¹⁴ Dan Mitchell, *Tax Competition and Fiscal Reform: Rewarding Pro-Growth Tax Policy*, Heritage Foundation, pp. 1-16 (2004).

environment on how AMSs should take strong efforts to reach their (Ship) goal or not based on a concept of “the Harmonized System”¹¹⁵ or “Direct and Indirect Tax Harmonization.”¹¹⁶

2.2. Indirect Tax and Direct Tax System under Tax Policy through Individual Income Tax and Corporate Business Tax of the ASEAN-3

Dealing with tax collaboration direction under an effective AEC by forming 2015 and RCEP by 2020, the ASEAN-3 (Ship) has accelerated the drive for their indirect tax and direct tax systems to maximize each economic policy to achieve running tax policy after the post-Covid-19 pandemic period. Top priorities for the ASEAN-3 government deal with both constructive strategic missions and action plans for mobilization tax revenue agendas. As practical experience for ASEAN-3 (Ship), there has been both negative and positive feedback on implementing indirect tax and direct tax to endorse ASEAN tax policy to hit their target. Some countries have met their target, and other countries have not achieved their target or goal.

The following implementation of individual ASEAN-3 indirect tax system as follows:

2.2.1. Indirect Tax System of the ASEAN-3

In the global ASEAN community context, indirect tax is playing a vital role under the ASEAN-3 indirect tax system. In recent years, the indirect tax system has fueled extremely harmonized tariff rules/ tariff policies by deducing regional barriers to expand volume trade and investment for all ASEAN stakeholders and taxpayers to impose tax revenue collection for prosperous AEC dealing with applicable Value Added Tax (VAT), Goods and Service Tax (SGT) bases. The

¹¹⁵ Hironori Asakura, World History of the Customs and Tariffs, World Custom Organization (WCO), Introduction: Development of the Customs and Tariffs, Brussels, pp.11-16 (2003).

¹¹⁶ Chris Edwards and Daniel J. Mitchell, Global Tax Revolution: The Rise of Tax Competition and the Battle to Defend It, Ch. 8: The Battle for Freedom and Competition, CATO Institute, pp.154-155 (2008).

ASEAN-3 indirect tax system is levied to impose import duties and taxes based on production of a good and service and to properly account for the price of the product items. VAT or SGT is a more popular taxation route in the ASEAN-3-member state pathway to support each ASEAN indirect tax system. Therefore, “the ATIGA 2010 entered into force on 17 May 2010 with transaction period of 180 days to ensure a smooth transition from the CEPT scheme in the ATIGA”¹¹⁷ to replace the CEPT for the AFTA in the context of tariff harmonization trends. A concept of the AFTA for the ATIGA is to accelerate fueling indirect tax system, and to keep moving forward to apply lower tax rates. In accordance with section 2 (a) (i) (4): import duties on all products are equal to or less than five percent (5%) under Article 19 in terms of the ATIGA, which provides for “Reduction or Elimination of Import Duties.”¹¹⁸ It means that all original ASEAN goods shall be taxed a tariff rate of 0% to 5%. And 98.58% of the total products in ASEAN have been brought into the ATIGA Inclusion list (IL), and tariffs of 93.67% of these products have been reduced to within 0-5%.

In this sense, ASEAN countries have gained a mutual advantage of reduction tariff rates in accordance with the CEPT schedule through the “ASEAN Trade in Goods Agreement (ATIGA) enhanced and superseded the Agreement on Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area (CEPT/AFTA).”¹¹⁹ The AFTA for the ATIGA is key mechanism of implementation of the ASEAN indirect tax system which shall be applied for import and export goods and service in entire AEC. However, external goods outside ASEAN shall be applied according to their own national laws and regulations through imposing import tariffs. For instance, the European goods or importers who export their goods to ASEAN territories are not eligible for a reduced tariff schedule.

Indeed, this is an incredible movement on all harmonization tariff lines/ instruments that have been pushed as an engine of the indirect tax system to work ahead, which is big progress among member countries from 1992 to the present. Here are **Figure 9** and **Figure 10** which highlight the

¹¹⁷ ASEAN Secretariat, ASEAN Trade in Goods Agreement (ATIGA), Jakarta, p.1 (2009).

¹¹⁸ ASEAN Secretariat, ATIGA, Ch.2: Tariff Liberation, Jakarta, p.12 (2009) at art. 19.

¹¹⁹ ASEAN Secretariat, ASEAN Tariff Finder, Jakarta, (2010).

following productive base dealing with combined standard rates of performance VAT or GST in all ASEAN countries (Ship) below.

Figure 9: All Productive Base and Applicable VAT Rates			
under Indirect Tax System across ASEAN-3 Countries			
Country		Production Base (import goods, services, certain charges or various transportation fees into ASEAN jurisdiction)	Percentage (%)
1	Cambodia	Import duty, not all import goods	10%
2	Singapore	Import duty, not all import goods	7%
3	Thailand	Import duty, not all import goods	7% to 10%
Source: ASEAN Secretariat			
*VAT or GST rate is subject to change based on each ASEAN Making Decision			

Figure 10: ASEAN Indirect Tax in ASEAN Countries		
Country	VAT/GST	Standard Rate
Cambodia	VAT	10%
Singapore	GST	7%
Thailand	VAT	7% to 10%
Source: Asia Briefing, KPMG Asia Tax Guide, and ASEAN Secretariat,		
*Tax Rate is a subject to change based on each ASEAN government.		

In this connection, **Figure 9 and Figure 10** show that each country (Ship) can implement its indirect tax system based on local law or tax act. They have set 7 or 10 VAT, or GST rates base to impose duties and taxes for the continued support of their revenue collection packages. Then, what is

going to happen in the indirect tax system after 2025 or beyond from ASEAN-3 member states (Ship)?

How will these countries (Ship) deal with the deadline of 2025 or beyond?

At present, the ASEAN-3 indirect tax system's implementation has already been implemented and has promoted the “CSAP 2025” to reach a deadline. Here are the following ASEAN countries that have driven their indirect tax system in terms of tax revenue collection from the fiscal years 2016 to 2021.

2.2.1.1. Cambodia Indirect Tax

Currently, VAT is a subject to impose a tax in accordance with tax regulations in Cambodia. The VAT plays a critical role in the Cambodian tax system, which has shared income distributions as the backbone of economic progress. “A standard VAT rate is 10 percentage which is applied to goods, services and import”¹²⁰ based on tax legislation in Cambodia territory according to **Figure 9**. Zero rate applies to exported goods and services and certain charges in relation to the international transportation of people and goods.¹²¹ There are not special indirect tax rules in Cambodia. “Taxpayers who are making taxable supplies are obliged to register for Valued Added Tax, and collect VAT from the supplying of goods or services to their customers”¹²² in General Department of Taxation before they plan on doing permanent business in Cambodia. The taxable person must file the monthly VAT return in the form prescribed by the tax administration by the 20th of the month following the month that the supplies have been made.¹²³ Cambodia imposes the VAT base to lead the indirect tax system for collection tax revenue to the support mobilization of strategic plans for public financial management reform and public finance policy.

¹²⁰ KPMG, Cambodia – indirect tax guide, (1 October 2019), available at <https://home.kpmg/xx/en/home/insights/2019/10/cambodia-indirect-tax-guide.html> (last visited March 1, 2020).

¹²¹ *Id.*

¹²² General Department of Taxation, Value Added Tax (VAT), available at <https://www.tax.gov.kh/en/content-detail/ETZGZ7476050027152> (last visited April 5, 2020).

¹²³ *Id.*

In a practical matter, Cambodia shall properly implement Article 8.2 under the GATT Customs Valuation Code in terms of “**Cost Insurance Freight (CIF) and Free on Board (FOB) Valuation**”¹²⁴ to impose duty and taxes on importing goods/items/products. Therefore, a concept of implementing indirect tax is being imposed on import and export duty and taxes below.

➤ **Importing case:**

Tax base: Cost Insurance Freight (**CIF**) price + import duty + excise tax (if any) +
other charges and fees (if any)

➤ **Exporting case:**

Free on Board (**FOB**) price + excise tax (if any) + other charges and fees (if any)

For instance, as we can see, **Figure 11** shows that the amount of ratio of indirect tax indicator shared with GDP growth performance below.

- In the fiscal year 2016, Cambodia rose indirect tax at 12.1 percent of the GDP.

- In the fiscal year 2017, Cambodia raised indirect tax at 12.8 percent of the GDP, which increased 0.7 percent compared with the fiscal year 2016.

- In the fiscal year 2018, the amount of tax data had reached an incredible 14.1 percent as a peak in the GDP, which expanded 1.3 percent compared with the fiscal year 2017 in Cambodian history's of indirect tax.

- In the fiscal year 2019, Cambodia mobilized indirect tax at 13.9 percent of the GDP, which decreased by 0.2 percent compared with the fiscal year 2018.

- In the fiscal year 2020, Cambodia collected indirect tax at 12.3 percent of the GDP, plunging 1.6 percent due to the global Covid-19 pandemic impact and the world economic crisis which demanded Cambodia's economic and indirect tax revenue mobilization trends.

¹²⁴ Laul L. Sherman & Hinrich Glashoff, Customs Valuation Commentary on the GATT Customs Valuation Code, Kluwer Law and Taxation Publishers, pp.159-165 (1988).

- In the fiscal year 2021, Cambodia projects to boost indirect tax at 13.1 percent of the GDP because of rebounding Cambodia's economic trend to show a predictability recovery index.

Figure 11: Cambodia Revenue Collection from 2016-2021 (In Percent of GDP)						
FY	2016	2017	2018	2019	2020p	2021p
Revenue	20.8	21.6	23.9	26.2	21.1	21.4
Direct Tax						
-Income, profit, and capital gains tax	3.6	4.2	4.7	6.8	4.1	4.2
Indirect Tax						
-Good and service tax	9.6	10.6	11.5	11.6	10.2	10.9
-Int'l trade & transactions tax	2.5	2.2	2.6	2.3	2.1	2.2
Grants	2.5	1.9	2.2	2.1	3.3	2.1
Other revenues	2.6	2.7	2.9	3.4	1.9	2.0
Total Expenditure	21.1	22.4	23.2	23.0	24.0	23.8
Overall fiscal balance	-0.3	-0.8	0.7	3.2	-2.9	-2.4
Source: IMF, P: Projection						

2.2.1.2. Singapore Indirect Tax

In general, the Singaporean taxation system is not designed to impose a unique indirect tax system. Singapore has designed the government revenue policy's endorsement as a benchmark to target revenue mobilization strategies. Therefore, the current indirect tax is remarkable, shown that it promotes the goods and service tax with a none-barrier tariff scheme to strengthen ASEAN-3 through ASEAN-10's fiscal policy action plan.

As a first wave, the Inland Revenue Authority of Singapore (IRAS) instituted the “Good and Service Tax (GST)”¹²⁵ at a rate of 3 percentage in 1994. The Singaporean government has amended the GST term many times to respond to tax reform evolution on both domestic indirect tax and regional tax platforms according to restructuring of ASEAN's common tariff taxes after the FTAs were adopted in the 1990s. As a second wave, the GST increased a variety of tax rates from 4% to 5% based on Singapore tax policy reform in 2004 and 2005, respectively. As a third wave, Singapore has raised its tax rate to 7 % to deal with competitive tax environment partners in 2007. The current Singapore government sets a rate of 7 percent that is to be levied on import of goods and nearly all supplies of goods and services on taxpayers. All taxpayers are both local and overseas entities which must register for GST in accordance with the IRAS's requirement. Exported goods and services face **zero** percent as alternative policy approach.

As can be seen **Figure 9 or 10**, taxpayers shall be subject to tax in accordance with Singaporean Income Tax Act. All Singaporean taxpayers enjoy low tariff rates according to the CEPT scheme for AFTA/ATIGA from 1992 until the present. Implementation of an oriented indirect tax system is a core measure to support the Singaporean tax policy, trade policy, and a healthy boon for economic growth.

¹²⁵ Inland Revenue Authority of Singapore, Overview of Goods and Services Tax (GST) in Singapore, available at <https://www.3ecpa.com.sg/resources/singapore-taxation/overview-of-goods-and-services-tax-gst-in-singapore/> (last visited March 2, 2020).

For tax practitioner, Singapore shall be applied Article 8.2 (a)(b)(c) under the GATT Customs Valuation Code in the field of “**Cost Insurance Freight (CIF) and Free on Board (FOB) Valuation**”¹²⁶ for imposing duty and taxes on imported goods/products. Implementation of indirect tax is being levied by import and export duty and taxes as follows:

<p>❖ Importing case:</p> <p>Tax base: Cost Insurance Freight (CIF) price + import duty + excise tax (if any) + other charges and fees (if any)</p>
<p>❖ Exporting case:</p> <p>Tax base: Free on Board (FOB) price + excise tax (if any) + other charges and fees (if any)</p>

For example, as shown in **Figure 12** below, indirect tax performance in percent of GDP has declined to low ratios which were against direct tax and other revenue indexes from fiscal years 2016-2021 as follow:

- In 2016, Singapore was collected a key indirect tax at an amount of 5.8 percent in the GDP.
- From 2017 to 2018, Singapore raised indirect tax at same amount of 5.1 percent in the GDP and decreased 0.7 percent of the GDP compared with 2016.
- In 2019, Singapore mobilized 4.7 percent in the GDP that declined 0.4 percent compared with 2018.
- In the 2020, Singapore collected 3.5 percent in the GDP that has shown a drop of 1.2 percent compared with 2019 due to the global economic impact of the world Covid-19 pandemic period.
- In 2021, Singapore expects to restore indirect tax at 3.6 percent of the GDP after post-the Covid-19 pandemic crisis, showing a rebound proportion from the global economic impact of the Singaporean economic trends.

¹²⁶ Laul L. Sherman & Hinrich Glashoff, *supra* note 124.

Figure 12: Singapore Revenue Collection from 2016-2021 (In Percent of GDP)						
FY	2016	2017	2018	2019	2020p	2021p
Revenue	18.9	19.1	17.9	18.2	17.7	17.3
Direct Tax	13.1	14.1	12.8	13.5	11.1	11.3
Indirect Taxes						
-Other revenue	5.8	5.1	5.1	4.7	3.5	3.6
Of which: Net investment returns contribution (NIRC)	3.3	3.1	3.2	3.3	3.1	2.4
Total Expenditure	13.1	12.9	12.8	13.0	28.5	16.1
Overall fiscal balance	5.8	6.2	5.1	5.2	-10.8	1.2
Source: IMF, P: Projection						

2.2.1.3. Thailand Indirect Tax

Thailand government implements VAT which is similar with those of the ASEAN countries. In addition to this, Thailand government imposes “Value Added Tax (VAT) has been implemented in Thailand since 1992 replacing Business Tax (BT). The VAT is an indirect tax imposed on the value added of each stage of production and distribution”¹²⁷ in accordance with the “Thailand Revenue Code.”¹²⁸ The current VAT has played a vital role to deal with relevant revenue trends. In this regard, Thailand’s government reduced the VAT rate from 10 to 7 percent, aiming for attractive investment for the booming volume of trade in existing economic growth to compete in the ASEAN tax race.

¹²⁷ The Revenue Department, Value Added Tax (VAT), available at <https://www.rd.go.th/english/6043.html> (last visited March 1, 2020).

¹²⁸ Thailand Law Library, Thailand Revenue Code, available at <https://library.siam-legal.com/thailand-revenue-code> (last visited March 5, 2020).

A standard tax rate of the VAT in Thailand, “currently, the rate is 7 percent.”¹²⁹ In addition, “any person or entity who regularly supplies goods or provides services in Thailand and has an annual turnover exceeding 1.8 million baht is subject to VAT in Thailand. Service is deemed to be provided in Thailand if the service is performed in Thailand regardless where it is utilized or if it is performed elsewhere and utilized in Thailand.”¹³⁰

An importer or taxpayer “is also subject to VAT in Thailand no matter whether one is a registered person or not.”¹³¹ Certain businesses are excluded from VAT and will instead be subjected to Specific Business Tax (SBT).¹³² Tax base of VAT is the total value received or receivable from the supply of goods or services.¹³³ Taxpayers are either subject to the VAT or the Specific Business Tax (SBT). Taxpayers cannot be subject to both taxes. SBT is an indirect tax that applies to business that are not subject to VAT. Both taxpayers are required to register for VAT. “An overseas entity must appoint a representative and meet certain conditions prescribed by the Director- General of the Revenue Department.”¹³⁴ Taxpayer or “any person or entity who is liable to VAT in Thailand must register to be VAT registered person or entity (Form VAT 01) before the operation of business or within 30 days after its income reaches the threshold.”¹³⁵ Additionally, “certain activities are liable to VAT at the rate of zero percent. Those activities include export of goods.”¹³⁶

As we can see **Figure 10**, a standard VAT rate is a subject 10 percent to reduce to 7 percent based on certain goods or services and other items which imports into Thailand territory in accordance with tax regulation.

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

¹³⁴ Thailand – indirect tax guide, <https://home.kpmg/xx/en/home/insights/2019/10/thailand-indirect-tax-guide.html> (available at March 9, 2020).

¹³⁵ See *supra* text note 127.

¹³⁶ See *supra* text note 127.

The general proper norm, the Thailand government has permanently implemented a “**Cost Insurance Freight (CIF)**”¹³⁷ concept to impose duty and taxes on imported goods or products or items in accordance with “Article 1 to 8 under the WTO Customs Valuation Agreement (CVA)”¹³⁸ or Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (GATT) 1994.”¹³⁹

There are two methods to calculate duty and taxes in using the concept of import and export based on “**Free on Board (FOB)**”¹⁴⁰ in Thailand’s case. The implementing indirect tax is being imposed on import and export duty and taxes based on the CIF with the method below.



<p> Importing case:</p> <p>Tax base: Cost Insurance Freight (CIF) price + import duty + excise tax (if any) + other charges and fees (if any)</p>
<p> Exporting case:</p> <p>Tax base: Free on Board (FOB) price + excise tax (if any) + other charges and fees (if any)</p>

Figure 13: Thailand Revenue Collection from 2016-2021 (In Percent of GDP)

FY	2016	2017	2018	2019	2020p	2021p
Revenue	21.9	21.1	21.4	21.5	21.0	21.1
Tax revenue	17.2	16.6	16.7	16.7	16.7	16.5
Direct Taxes						

¹³⁷ Sheri Rosenow & Brian J. O’Shea, A Handbook on the WTO Customs Valuation Agreement, p.XV, Cambridge University Press, (WTO First Published 2010).

¹³⁸ WCO, WTO Agreement and Texts of The Technical Committee on Customs Valuation, Brussels, pp.2-7, (2nd ed. 2008).

¹³⁹ World Trade Organization, The Legal Texts, The Results of the Uruguay Round of Multilateral Trade Negotiations, Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (GATT) 1994, WTO Publication, Geneva, pp.172-178 (2002).

¹⁴⁰ Sheri Rosenow & Brian J. O’Shea, *supra* note 137.

-Taxes on income	6.2	5.9	5.9	5.9	5.2	5.7
Indirect Taxes						
-Taxes on goods & Services	9.9	9.5	9.4	9.5	9.0	9.3
-Taxes on int'l trade	0.7	0.6	0.6	0.6	0.5	0.6
Other	0.4	0.5	0.9	0.6	0.4	0.9
Social contributions	1.1	1.0	1.0	1.0	0.8	1.0
Total Expenditure	21.3	21.5	21.4	21.8	26.2	25.9
Overall fiscal balance	0.6	-0.4	-0.3	-0.2	-5.2	-4.8
Source: IMF, P: Projection						

As shown in the above **Figure 13**, an average ratio of indirect taxes, Thailand has collected more than ten percent of GDP from the fiscal years 2016 to 2021. Therefore, indirect tax performance has provided a very efficient benchmark for revenue in Thailand's taxation system, similar to the ASEAN countries.

- Indirect tax rose at 10.6 percent of GDP in Thailand in 2016.

- The indirect tax was 10.1 percent of the GDP which declined 0.5 percent of the GDP trend in 2017 compared with 2016.

- The indirect tax reached 10.0 percent of the GDP, which decreased by 0.1 percent in 2018 compared with 2017.

- The indirect tax grew at 10.1 percent of the GDP that boosted 0.1 percent of the GDP in 2019. It was an improvement in 2019 compared with 2018.

- The performance of indirect tax worsened, at 9.5 percent of GDP in 2020 due to the global impact of the Covid-19 pandemic crisis, which affected Thailand's economic infrastructure, FDI, and trade index.

- An essential outlook projection in 2021, based on indirect tax in Thailand, is expected to rise to 9.9 percent of the GDP in 2021 because of the post-global impact of the Covid-19 pandemic period and global economic recovery.

2.3. Direct Tax System of the ASEAN-3

Dealing with direct tax is vital to all ASEAN-3 through ASEAN-10 fiscal policies after those countries formed the AEC in 2015. All aspects of successful AEC in 2015, all ASEAN member states have motivated their oriented government policy direction to concentrate on performance of a direct tax system to maximize tax revenue mobilization rather than focusing on an indirect tax view. A symptom of indirect taxation is not dealing with a low revolution on a tariff reduction scheme that has already cut tax rates from 0 to 5 percent since 2018 based on the AFTA/ATIGA pact. Primary direct tax sources have increased, maximizing volume on tax revenue mobilization since 2018 across the border of ASEAN regional tax jurisdictions. In current trend, there is a changing navigation of taxation system to concentrate on direct taxation in the AEC. Consequently, both personal income tax and corporate business tax have represented a central role in the ASEAN-3 taxation system's context to deliver marginal rates from 5 to 35 percent based on each nation's tax legislation or laws. The current direct tax system is not yet harmonized to participate actively in the ASEAN-3 or ASEAN-10 taxation bodies under the legal framework of a key deal of the AEC pathway aims to reach a final goal of "Ship."

As we can see in **Figure 14** below, percentages of marginal tax rates in dealing with different tax rates and similar business corporate tax bases through all ASEAN (Ship) have been enacted in each local tax law or

code. As individual income tax and corporate business tax rates shall be applied as tools based upon tax revenue mobilization for member states as tax policy strategies by the following scenarios:

Figure 14: Marginal Tax Rate based on Individual Income Tax Rate and Corporate Tax Rate among ASEAN-3 across ASEAN-10 Countries

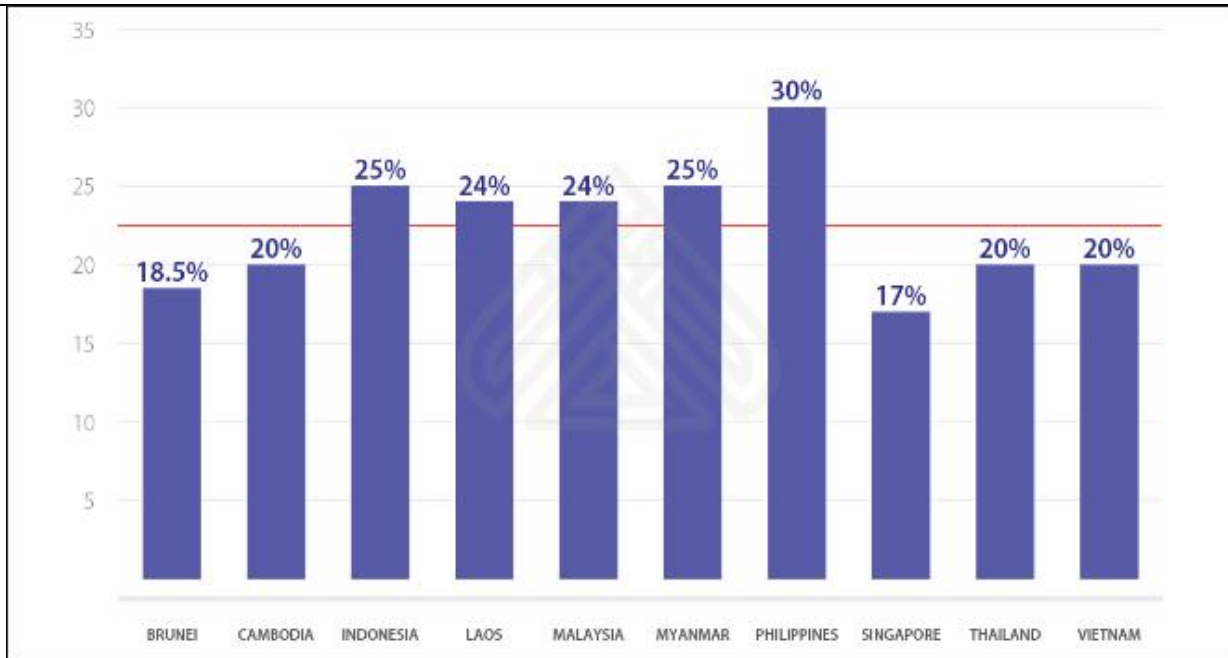
Country	Income Tax Rate	Corporate Tax Rate
Brunei	-	18.5%
Cambodia	0%-20%	20%
Indonesia	5%-35%	25%
Lao PDR	0%-24%	24%
Malaysia	0%-30%	24%
Myanmar	0%-30%	25%
Philippines	0%-35%	30%
Singapore	0%-20%	17%
Thailand	0%-35%	20%
Vietnam	5%-35%	20%
Note: Brunei imposes only corporate tax not personal income tax		
Source: ASEAN Secretariat, KPMG ASEAN Tax Guide, and ASEAN Briefing		

For instance, **Figure 14** has shown an implementation study on the ASEAN-3 direct tax system under their tax structure bodies below.

- Cambodia has imposed various marginal income tax rates on taxpayers from 0 to 20 percent under the direct tax system.
- Singapore has levied a variety of gaps in the marginal tax rate for taxpayers from 0 to 20 percent under its Singaporean direct tax system.
- Thailand is imposed a key marginal income tax gap for taxpayers from 0 to 35 percent under its Thailand taxation system.

- ❖ Here is a key to marginal corporate income tax among ASEAN-3 across ASEAN-10 countries as follows:

Figure 15: Corporate Income Tax across ASEAN-3 across ASEAN-10 Countries



Source: ASEAN Briefing

Here are three study cases by the following ASEAN-3 countries across ASEAN-10 to impose on individual corporate income tax based on **Figure 15** as follows:

- The current Cambodian direct tax is imposed at 20 percent for business taxpayers.
- The current Singaporean direct tax is charged at 17 percent for business taxpayers.
- The current Thailand direct tax is levied at 20 percent for business taxpayers.

2.3.1. Cambodia Direct Tax

The Cambodian government has still implemented a **territorial tax system** to drive a consistent and predictable tax policy arrangement to support reforming economic policy after the civil war ended in 1998.

The Cambodian tax body sets tax rates 20 percent for individual income tax and corporate business tax for taxpayers according to **Figure 16** and characterizes both individual income tax and business income tax brackets to exercise its direct tax system. A standard rate of direct tax is 20 percent in accordance with “the Law on Financial Management for 2020 was passed on 20 December 2019 and is effective as from 21 December 2019.”¹⁴¹ The Law on Financial Management guides the Cambodia has developed existing Revenue Mobilization Strategy (RMS) 2019–2023 to further improve its revenue administration and tax collection sustainability to operate a direct tax system to promote tax policy reform. Under its revenue mobilization strategy, direct tax has played an essential role in percentage of the GDP compared to indirect tax ratios.

**Figure 16: Individual Income Tax and Corporate Tax Brackets
under the Direct Tax System in Cambodia**

Amount of Individual Taxable Income	Tax Rate
0 to 1,200,000 Riel	0%
1,200,001 to 2,000,000 Riel	5%
2,000,001 to 8,500,000 Riel	10%
8,500,001 to 12,500,000 Riel	15%
Over 12,500,000 Riel	20%

¹⁴¹ Deloitte, Tax and Advisory Services, Cambodia Tax Alert: 2020 Law on Financial Management, (January 8, 2020), available at <https://www2.deloitte.com/content/dam/Deloitte/kh/Documents/tax/kh-tax-lofm2020.pdf> (last visited March 12, 2020)

Amount of Corporate Income Tax	Tax Rate
Tax on corporate profits	20%
Note: Riel is the official currency of Cambodia	Source: General Department of Taxation

As we can see in the previous **Figure 11** shows collective direct tax for an average proportion of the GDP from the fiscal years 2016 to 2021 as follows:

- In the fiscal year 2016, the Cambodia tax agency had collected direct tax at 3.6 percent of the GDP.

- In the fiscal year 2017, Cambodia mobilized direct tax at 4.2 percent of the GDP, expanding 0.6 percent of GDP compared with 2016.

- In the fiscal year 2018, Cambodia maximized direct tax at 4.7 percent of the GDP, increasing 0.3 percent of the GDP compared with 2017.

- In the fiscal year 2019, the direct tax was 6.8 percent of the GDP, raising 2.1 percent of the GDP compared with the fiscal year 2018 because Cambodia has had more diversified FDI and trade.

- In the fiscal year 2020, Cambodia increased its direct tax at 4.1 percent of the GDP and was shown uncertain data due to the global impact of the Covid-19 pandemic crisis to minimize the revenue collection gap.

- In the fiscal year 2021, Cambodia is expected to gain direct tax at the amount of 4.2 percent of the GDP based on a rebound projection compared with the fiscal year 2020.

In this regard, a direct tax is still a limited gap index in the context of revenue collection against an indirect tax rate due to the Coronavirus period's global impact through the performance of the tax system in Cambodia. Driving forward Cambodia will expect to improve a direct tax gap against the indirect tax revenue ratio trend in the future projection based on upcoming tax policy reform.

2.3.2. Singapore Direct Tax

The Government of Singapore is determined to reduce various rates from 26% to 17% to promote the direct tax system for modern “tax policy reform”¹⁴² since 1998, 2000, 2001, 2002, 2003, 2005, 2007, and 2010, respectively. Reforming symptoms of direct tax aims at maintaining the scope of investment, trade, and economic growth after the Asian financial crisis in 1997 and the global financial crisis 2007-2008. Therefore, Singapore is subject to a territorial tax system.

As we can see **Figure 17** shows Singapore imposes an individual income tax consisting of 0 to 22 percent thresholds. In addition to this, “Singapore’s current headline tax rate is capped at 17%.”¹⁴³ Singapore's rate is 17 percent for corporate business tax for taxpayers based on **Figure 17**. All elements of corporate taxes are corporate profits, capital gains, dividends, and other taxes including local income tax and foreign-sourced income like the operation of direct tax in Singapore's territory. Singapore tax jurisdiction has a lower corporate tax rate among the ASEAN countries (Ship) to promote tax competition to encourage investors who are both residents and non-residents to invest more money in the financial section, banking, and technology in driving operation expenditures and growing the economy.

As direct taxation for the year of assessment, filing individual income tax returns via e-filing is April 18, 2021. The deadline for filing individual income tax returns via paper filling is April 15, 2021. The filling period for the 2020 year of assessment begins on March 2021 in accordance with the “**Income Tax Act (Chapter 134) based on the Revised Edition 2014.**”¹⁴⁴

Here is Figure 17 below highlights individual income tax and corporate income tax thresholds under the implementation of the direct tax system in Singapore. Both individual income tax and corporate income tax are powerful elements under tax policy and the Tax Income Act.

¹⁴² Glenn Jenkins & Rup Khadka, 1998. "Tax Reform in Singapore," Development Discussion Papers 1998-03, JDI Executive Programs.

¹⁴³ Corporate Tax in Singapore, Corporate Tax Rate, Corporate Services, available at <https://www.corporateservices.com/singapore/corporate-tax-in-singapore/> (last visited March 15, 2020).

¹⁴⁴ The Statutes of the Republic of Singapore, Income Tax Act, Chapter 134, pp.15-1036 (Revised Ed. 2014).

Figure 17: Individual Income Tax and Corporate Income Tax Brackets	
under the Direct Tax System	
Individual Income Tax Brackets under the Direct Tax System	
Amount of Individual Taxable Income	Tax Rate
Up to SGD 20,000	0%
Up to SGD 30,000	2%
Up to SGD 40,000	3.5%
Up to SGD 80, 000	7%
Up to SGD 120, 000	11.5%
Up to SGD 160,000	15%
Up to SGD 200,000	18%
Up to SGD 240,000	19%
Up to SGD 280,000	19.5%
First SGD 320,000	20%
Above SGD 320,000	22%
Corporate Income Tax Brackets under the Direct Tax System	
Tax on corporate profits	17%
Tax rate on capital gains by the company	0%
Tax rate on dividends distributed to shareholders	0%
Tax rate on qualified foreign-sourced income	0%
Note: SGD is the official currency of Singapore	Source: Inland Revenue Authority of Singapore and Singapore Corporate Services

For instance, as shown in the above **Figure 12** defines a key implementation of the direct tax system to deal with tax policy reform trends.

- In 2016, Singapore was collected direct tax at 13.1 percent of the GDP.

- In 2017, the direct tax rose to 14.1 percent of the GDP that increased 1.0 percent of the GDP compared with 2016. This data was shown to be an enhanced 1.0 percent of the GDP that was a better performance in 2017.

- In 2018, the direct tax dropped to 12.8 percent of the GDP due to uncertain dealing with tax revenue mobilization to reform economic policy, compared with 2017.

- In 2019, the direct tax had played a very efficient ratio of 13.5 percent of the GDP, which was a better proportion of tax revenue gap, rising 0.7 percent of the GDP compared with 2018.

- In 2020, a proportion of the direct tax implementation decreased to 11.1 percent of GDP that does not show a significant percentage of the GDP due to the global Covid-19 world economic crisis which cut the scale of revenue collection.

- In 2021, the direct tax boosts 11.3 percent of the GDP gap based on an early prediction projection after the Covid-19 pandemic.

In this sense, most indicators of the implementation of tax revenue mobilization over 12 percent of the GDP that highlights the Singaporean direct tax system to be better off as a percentage against indirect tax index from the fiscal years 2016-2021.

2.3.3. Thailand Direct Tax

The Government of Thailand has authorized its Revenue Department, a central taxation authority, that applied to individual income tax and corporate income tax, the specific business tax, and other charges that shall be applicable in the direct tax system under its fiscal policy. Therefore, the current Thailand government is also taxable on worldwide income. Thailand imposes on income

tax in accordance with a section 38 under Chapter 3 of the “Revenue Code.”¹⁴⁵ The following income taxes are chargeable in Thailand tax jurisdiction as follows:

- a) Personal income tax;
- b) Corporate income tax;
- c) The inheritance tax;
- d) The tax for small and medium enterprise (SMEs); and
- e) The Specific Business Tax and other charges and other tax provisions.

Thailand imposes 35 percent on personal income tax and 20 percent for corporate business tax on those who are doing business across tax jurisdictions. The following rates for the personal income tax and corporate income tax are in **Figure 18** below.

Figure 18: Individual Income Tax and Corporate Income Tax Brackets under the Direct Tax System in Thailand	
Individual Income Tax Bracket under the Direct Tax System	
Amount of Individual Taxable Income	Tax Rate
THB 0 – 150,000	0%
THB 150,001 – 300,000	5%
THB 300,001 – 500,000	10%
THB 500,001 – 750,000	15%
THB 750,001 – 1,000,000	20%
THB 1,000,001 – 2,000,000	25%
THB 2,000,001 – 4,000,000	30%
Above THB 4,000,001	35%
Corporate Income Tax Bracket under the Direct Tax System as Net Profit in Thai Bath (THB)	
THB 0 to 300,000	0%

¹⁴⁵ The Revenue Department, Tax Knowledge & Code, Revenue Code, Chapter 3 Income Tax, available at <https://www.rd.go.th/english/37748.html> (last visited March 15, 2020).

THB 300,001 to 3 million	15%
Over 3 million	20%
Note: THB is the official currency of Thailand	Source: Thailand Revenue Department and PricewaterhouseCoopers

As shown above, **Figure 13** highlights the average rate of the implementation of ongoing direct tax revenue under the tax policy package in Thailand.

- In the fiscal year 2016, the direct tax ratio was 6.2 percent of the GDP in Thailand. It was a good figure representing a potential part of the revenue collection gap after Thailand has participated in an active role in both local taxes and foreign income taxes under the AEC.

- In 2017 to 2019, the direct tax ratio was 5.9 percent of the GDP, decreasing 0.3 percent of the GDP compared with the fiscal year 2016.

- In 2020, the direct tax ratio was 5.2 percent of the GDP due to the global impact of the uncertain world economic catastrophe that rocked the volume of Thailand's economic journey and trade that affected its revenue collection.

- In 2021, the direct tax ratio is expected to increase 5.7 percent of the GDP after Thailand has improved after the global economic recovery trends from the isolation from much world trade.

From legal aspects of 2016 to 2021, the direct tax gap is not a high percentage of the GDP, at the amount of over 5 percent, which indicates ratios are still a lower index against 10 percent underperformance of the indirect tax system due to global impact of the Covid-19. Implementing a direct tax revenue collection related to a future projection in Thailand shows Thailand predicts and expects to recover after the post-Covid coronavirus crisis.

2.4. Capacity of Taxation Cooperation of the ASEAN-3

In the global ASEAN economic community (Ship) in the context of building a bridge to deal with a key “**taxation cooperation**”¹⁴⁶ is very important for the ASEAN member states in dealing with tax matters under the “Charter of the Association of Southeast Asian Nations.”¹⁴⁷

The Charter of ASEAN body provides various guidelines for the legal framework of tax collaboration driven by doctrines of tax matters: bilateral tax agreements, double taxation, withholding tax structure, base erosion and profit shifting (BEPS) aiming to improve tax collection and sharing exchange information among AMSs. In terms of international tax, taxation cooperation of the ASEAN taskwork is top priority on the agenda under “The AEC Blueprint 2025, adopted by the ASEAN Leaders at the 27th ASEAN Summit in Kuala Lumpur, Malaysia, provides broad directions through strategic measures to guide the next phase of ASEAN economic integration from 2016 to 2025.”¹⁴⁸ In addition to this, the main purpose of “**tax cooperation serves as one of the key elements to support regional competitiveness in ASEAN by addressing the issue of fiscal barriers.**”¹⁴⁹

“Several ongoing and future measures have been committed to be undertaken, including:

- i. Concerted efforts to support the completion and improvement of network of bilateral tax agreements to address the issues of double taxation, and work towards the enhancement of withholding tax structure, where possible, to promote the broadening of investor base in ASEAN debt issuance;
- ii. Improve the implementation of exchange of information in accordance with international standards;
- iii. Discuss measures to address the issue of base erosion and profit shifting to ensure fiscal health;

¹⁴⁶ ASEAN Secretariat, The ASEAN Charter, ASEAN 2025: Forging Ahead Together, **B.5. Tax Cooperation**, Jakarta, pp. 75-78 (Nov. 2020).

¹⁴⁷ ASEAN Secretariat, Charter of the Association of Southeast Asian Nations, Jakarta, pp. 1-3 (Nov. 2020).

¹⁴⁸ ASEAN Secretariat, ASEAN Economic Community (AEC), ASEAN Economic Community at a Glance, Jakarta, pp.1-4 (2017).

¹⁴⁹ ASEAN Secretariat, *supra* note 146.

- iv. Explore the possibility of global taxpayers' identification number to improve tax collection and enhance monitoring of transactions; and
- v. Explore the possibility of collaboration in excise taxation and information sharing among ASEAN Member States on common excisable products.”¹⁵⁰

In the context of delivering, a study has shown a level of taxation cooperation capacity in the ASEAN-3 is still at limited capacity to move ahead in rebuilding in a post-Covid-19 pandemic period. Because the ASEAN (Ship) does not have a powerful institution “ASEAN Inter-Parliamentary Assembly (AIPA)”¹⁵¹ to adopt a common ASEAN tax treaty, ASEAN legislation, and other laws to solve tax disputes or a common tax court through a unique ASEAN tax court to serve common interests for taxpayers that takes place under the AIPA Secretariat. The AIPA organizational structure is very similar to ASEAN's early lean structure.¹⁵² The AIPA does not have only decision-making powers over ASEAN member states but also is not a strong parliament body. “AIPA is not the Parliament of ASEAN: it has no legislative powers, its resolutions are non-binding, and it does not vote on the budget of ASEAN.”¹⁵³ Under both the ASEAN Secretariat and AIPA these structures do not have a directorate of taxation in charge of tax issues or unique ASEAN Taxation Institute for delivering training to ASEAN tax officials. Acting as an international tax body delivers various technical knowledge levels to them as a standard norm. Act this way by strengthening the taxation cooperation pathway approach, and taxation always undertakes dialogues or tax negotiation through the bilateral agreement in carrying out domestic tax laws among the ASEAN-3 tax administrations under the international tax umbrella. On the other hand, implementing taxation cooperation among AMSs are not a very productive move since the AEC has affected in 2015 until present due to many

¹⁵⁰ ASEAN Secretariat, *supra* note 146.

¹⁵¹ AIPA Secretariat, ASEAN Intern-Parliamentary Assembly, Organizational Structure, available at <https://aipasecretariat.org/about/organisational-structure/> (last visited March 18, 2020).

¹⁵² Imelda Deinla, Giving the ASEAN Inter-Parliamentary Assembly a Voice in the ASEAN Community, Membership and Structure of AIPA, International IDEA, pp. 9-10 (2013).

¹⁵³ Laurence Vandewalle, The ASEAN Inter-Parliamentary Assembly (AIPA): A privileged interlocutor for the European Parliament in Southeast Asia, Directorate-General for External Polices, Policy Department, European Parliament, pp.1-13 (2015).

reasons and tax consequences that are still happening when dealing with tax coordination, tax treaty, and tax harmonization which might not reach a target goal in the future.

All member states have studied updates to the “ASEAN Economic Community 2025 Consolidated Strategic Action Plan”¹⁵⁴ for seeking solid support the ASEAN tax cooperation to push the “ASEAN Forum on Taxation-Working Group (AFT)”¹⁵⁵ to engage at high levels on technical taxation for driving each bilateral agreement or memorandum of understanding (MOU) through tax coordination to avoid harmful tax competition and fiscal barriers, etc. Therefore, the progressive use of the AFT platform will expect to project a better outlook for taxpayers or stakeholders to the direction of the ASEAN economic community.

2.5. Comparative Revenue Collection of the ASEAN-3 During the Covid-19 Pandemic

Tax revenue is influenced by many factors.¹⁵⁶ Tax revenue is defined as the revenues collected from taxes on income and profits, social security contributions, taxes levied on goods and services, payroll taxes, taxes on the ownership and transfer of property, and other taxes.¹⁵⁷ Besides, ASEAN-3 tax revenue collection has played an essential role in running healthy economic or pro-growth governance through generation of high-income distribution for each member state. In addition to this, tax revenue is an extremely important to the health of all aspects of the ASEAN-3 government revenue sources, making balance checks with their expenditures and public investment infrastructures during the unprecedented Covid-19 pandemic. Each ASEAN-3 government is an independent body in dealing with their revenue collection package. ASEAN-3 member states have struggled with a difficult mission to impose on all factors through all types of sources of tax revenue sources during

¹⁵⁴ ASEAN Secretariat, ASEAN updated the AEC 2025 Consolidated Strategic Action Plan (CSAP), Strategic Action Plan 2016-2025 for ASEAN Taxation Cooperation, ASEAN Forum on Taxation, Jakarta, pp.17-18 (14 August 2018).

¹⁵⁵ *Id.*

¹⁵⁶ Makmun Syadullah, 2015. "Governance and Tax Revenue in ASEAN Countries," Journal of Social and Development Sciences, AMH International, vol. 6(2), pp. 76-88.

¹⁵⁷ OECD (2020), Tax revenue (indicator), <https://doi.org/10.1787/d98b8cf5-en> (Accessed on 19 March 2020).

the first wave and second wave in the isolated year 2020 from unique world business transactions.

Here are three actors as the ASEAN-3 (Ship) are driven by revenue across the AEC as follows:

Figure 19 highlights the ASEAN-3 taxation member states who have shown the volume of comparative tax revenue collection before the Covid-19 pandemic through the post-Covid-19 pandemic period.

2.5.1. Cambodia

- From the fiscal year 2016, total tax revenue collection reached 20.8 percent of the GDP.

- From the fiscal year 2017, total tax revenue collection was 21.6 percent of the GDP, expanding 0.8 percent of the GDP was comparable with the fiscal year 2016.

- From the fiscal year 2018, total tax revenue collection was 23.9 percent of the GDP, increasing 2.3 percent of the GDP compared to the fiscal year 2017.

- From the fiscal year 2019, Cambodia collected total tax revenue at the amount of 26.2 percent of the GDP, rising 2.3 percent of the GDP. There was a much-improved revenue collection in the context of the tax policy reform trend in the past three years ago.

- From fiscal year 2020, total tax revenue was 21.1 percent of the GDP, decreasing to 5.1 percent of the GDP due to the global economic impact of the Covid-19 pandemic period. A massive tax deduction gap affected the GDP indicator's total revenue.

- From the fiscal year 2021, total tax revenue mobilization is expected to rise 21.4 percent of the GDP according to a projection after recovering from the global world economic impact of the Covid-19 pandemic disaster. There will regain revenue mobilization in the upcoming year.

2.5.2. Singapore

- In 2016, the Singapore government mobilized total tax revenue of 18.9 percent of the GDP.

- In 2017, total mobilization revenue was 19.1 percent of the GDP, which rose 0.2 percent of the GDP compared with 2016.

- In 2018, revenue collection grew 17.9 percent of the GDP that decreased 1.2 percent of the GDP compared to fiscal year 2017.

- In 2019, mobilization revenue was 18.2 percent of the GDP that rebounded back 0.3 percent of the GDP compared with 2018.

- In 2020, mobilization revenue expanded the GDP growth gap by 17.7 percent due to the fragile global worldwide economic impact of the Covid-19 pandemic which smashed the Singaporean economy infrastructure, FDI, and trade.

- In 2021, the Singapore government expects to maximize 17.3 percent of the GDP, decreasing to 0.4 percent of the GDP after the post-Covid-19 pandemic period.

2.5.3. Thailand

- In 2016, total revenue collection was 21.9 percent of the GDP in Thailand.

- In 2017, total revenue collection increased 21.1 percent of GDP, shrinking 0.8 percent of GDP compared to fiscal year 2016.

- In 2018, total revenue collection was 21.4 percent of GDP, increasing 0.3 percent of GDP compared to fiscal year 2017.

- In 2019, total revenue collection was 21.5 percent of the GDP, expanding 0.1 percent of GDP compared to fiscal year 2018.

- In 2020, the total revenue collection rose 21 percent of GDP due to the uncertain world economic impact of the Covid-19 pandemic and political turmoil in Thailand.

- In 2021, the total scope of mobilization tax revenue expects to recover 21.1 percent of GDP after the post-Covid-19 pandemic period.

2.6. The Perspective of Rebuilding in the Post-Covid-19 Pandemic's Revenue Mobilization of the ASEAN-3 Member States

From the perspective of post-Covid-19 in terms of restoring tax revenue collection of the ASEAN-3 tax agencies (Ship) is needed to take a new flexible strategy for optional tax policy formation through collaboration in e-tax administration. Furthermore, the prosperous action plan reflects challenges and difficulties in rebuilding and modernizing the infrastructure of the expansive scope of revenue collection across the ASEAN-3 member states isolated from the world. Taking a concrete e-tax administration is ASEAN-3 revenue package's driver. Restructuring e-tax policy with the current Covid-19-economic period is guided more advantageous for tax agency responsibilities and taskwork through adjustments. It would help restructuring confidence in taxpayers or traders for understanding their obligation during the Covid-19 and after the post-Covid-19 economic period. The e-tax administration deal would be an incredible platform to benefit both taxpayers and tax agencies in the legal framework in pro digital tax integrity ahead of e-filing tax returns.

In this regard, with a prosperous revenue gap for ASEAN-3, Singapore is leading rebuilding prosperous e-tax agencies among three countries compared with Cambodia and Thailand. The current Singaporean application of the digital tax integrity system is more advanced, utilizing e-tax payment under e-tax administration guidance for taxpayers' benefit to reduce risk for filing tax returns during the Covid-19 pandemic period. Singapore has smoothly implemented the *digital tax integrity system* based on the ability of taxpayers to understand them through strengthening tax education supported by the tax community and tax policymakers.

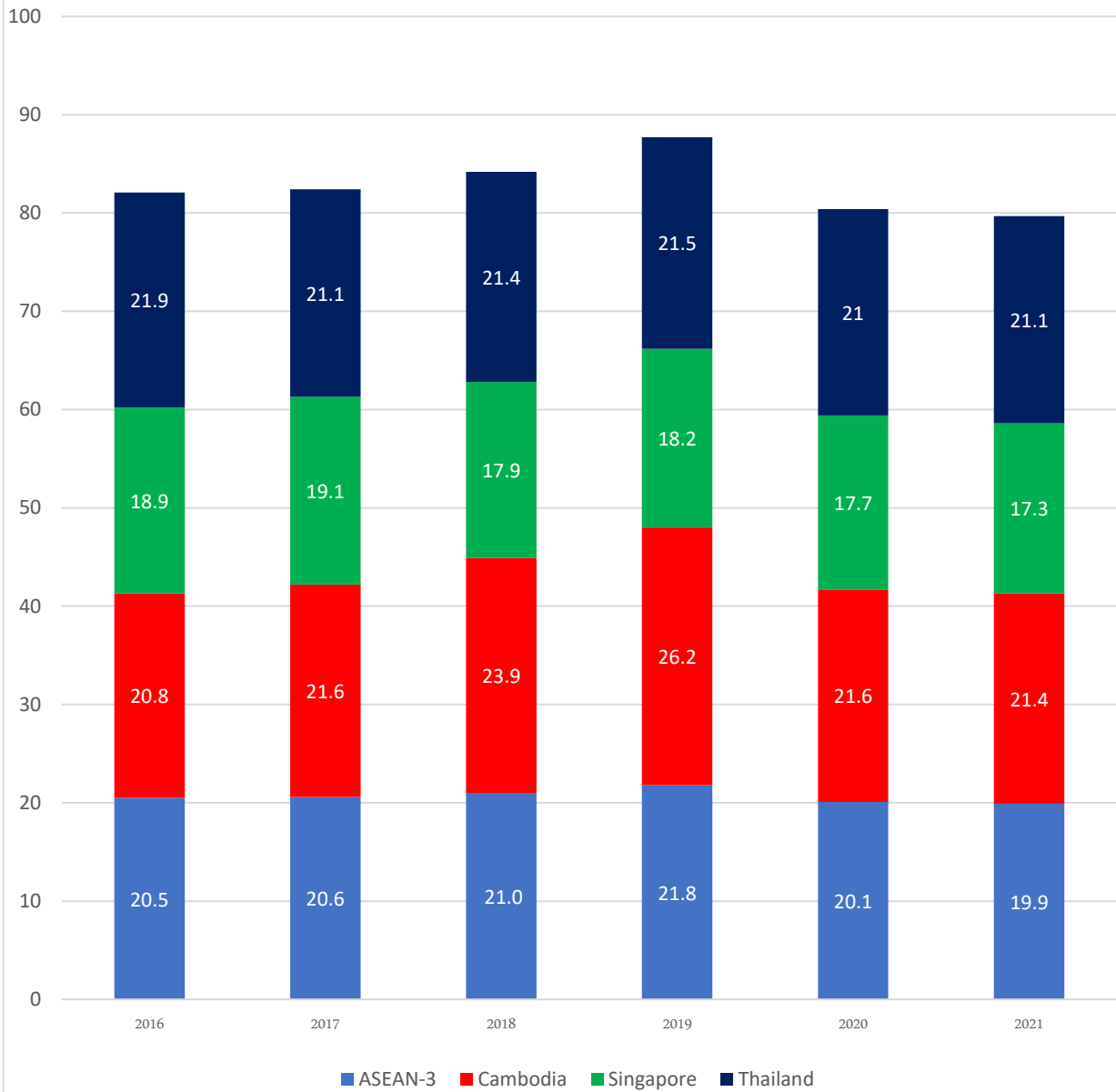
For instance, there is not much support for a strong application to promote a pro digital tax integrity system in Cambodia and Thailand because of limited tax capacity during the global economic impact of the Coronavirus pandemic.

Overall, ASEAN-3 tax agencies categorized a crucial role in their taskwork for accomplishing strategic action plans for revenue mobilization from 2016-2019 before the Covid-19

pandemic period based on **Figure 19**. Some countries enjoyed their tax collection in dealing with overall expenditure balance trends while meeting their target level at the same time.

From 2020, ASEAN-3 countries have been affected by shrinking revenue collection to endorse tax policy direction from the Covid-19 pandemic due to the global world economy's uncertain impact. This has been nearly two years of catastrophe across deduction transactions of e-tax payments through border-trade deals from both tax agencies and taxpayers. For example, a detailed figure in the context of a prominent Singapore case study shows above in **Figure 12** and below in **Figure 19**. Singapore was the only country to hit its target to achieve tax revenue collection from 2016-2019 compared with two countries before the Covid-19 economic period. Other countries had not driven very efficiently to run the mobilization of tax revenue compared with Singapore due to lack of good governance, optional formation of modern tax policy, and accountability. (Ship) those three tax agencies collected tax revenue was low target of GDP in the past period based on **Figure 11**, **Figure 12**, and **Figure 13**. Consistently, two member countries (Cambodia and Thailand) lack pro-public finance management and tax policy administration reform through efficient implementation and formation of tax structures which do not meet standard accreditation and tax enforcement standards. They (Ship) are still needed to deal with big storms, waves, and tsunamis in the context of the declining driver of revenue collection for the emergency Covid-19 period. Declining revenue collection will reverse after rebuilding in the post-Covid-19 economic wave endorsed by e-tax administration policymakers in the long term.

Figure 19: Comparative Revenue Collection of ASEAN-3 with GDP Growth (% of GDP) from FY 2016-2021



Source: IMF

According to the same study shown in **Figure 19** deals with an average proportion of revenue collection of the GDP. Overall, ASEAN-3 tax agencies (Ship) have mobilized at over 20 percent tax revenue collection of the GDP from the fiscal years 2016-2021 after three member states have engaged with active participation under the golden master plan of ASEAN economic integration. This data has shown limited tax revenue package compared with the GDP gap in the ASEAN-3 countries among

the ASEAN-10 member states. In this sense, the ASEAN-3 government revenue policy needs to work hard to recover maximization for tax revenue collection after the massive decline of the GDP as an average weight of normal track, to build back to better future trends.

Chapter III

Chapter III investigates current ASEAN-3 tax harmonization and tax competition practices that deal with current ASEAN-3 taxation law in accordance with the legal framework of member states that have different tax systems.

The following discussion of previous the AEC (Ship) includes a variety essential parts of the tax environment under targeting international tax approaches as follows:

3. Overview of Current ASEAN-3 Tax Harmonization

A global trading system has merged into the initial ASEAN Free Trade Area (AFTA) bloc which has progressed to become the unique AEC through dynamic diversification in the economic competitiveness zone. In the context of ASEAN tax environment evolution and harmonization tariff rules, as known the ASEAN Harmonized Tariff Nomenclature (AHTN) 2022, a forward moving international tax trend has changed and fast-tracked the AEC direction after the Covid-19 pandemic impact of the global economic uncertainty.

An excess tax mobilization represents a vital actor of government revenue sources to promote public investment infrastructure, public goods, and better living standard of a nation's treasury. “Without taxation, there would be no public amenities such as schools, hospitals, roads, bridges, and others. Taxation system is a means by which governments finance their expenditure by imposing charges on citizens and corporate entities.”¹⁵⁸

¹⁵⁸ Kasim Mansur, ASEAN Fiscal and Taxation Policy: Comparative Studies between Malaysian Taxation System and Selected ASEAN Countries towards a Sustainable Economic Development, Universiti Malaysia Sabah (UMS), pp.2454-6186 (2019).

Six years after AEC's establishment, AEC have become active bloc that may be deal with a key sound of harmonized taxation navigation. The AEC nations have reduced harmonization tariffs, going some way to level the playing field among member states to absorb a massive volume from boosting trade across the borders in the region.

“This study also examines the case for tax harmonization and the Southeast Asia experience and it is concluded that the progress of tax harmonization between countries has tended to difficult to achieve between of the differences among the countries in terms of tax structures and level of economics.”¹⁵⁹ Several studies also recognize different pattern of harmonization.¹⁶⁰ Peter offers two types of tax harmonization.¹⁶¹ First, he refers to similarity of tax rates or the standardization of methodology, definitions and administrative practices, including rules and procedures.¹⁶² Second, he refers to tax structures, mostly related to statistical data, for example, the similarity of share of direct to indirect taxes in the countries under consideration.¹⁶³ “Harmonization can be obtained in full harmonization, by developing identical tax bases or rates; or in partial harmonization which embraces a minimum or maximum tax rate or elimination of double taxation”¹⁶⁴ It is not easy to accomplish full harmonization.¹⁶⁵

In recent years, reduction of corporate tax rates has been steady among AEC member states that attract direct foreign investment (FDI) into the ASEAN bloc. At present, from the perspective of the declining direction of collecting indirect tax, revenue has driven the growth of potential direct tax revenue trends through “Favorable Tax Environment.”¹⁶⁶ Additionally, the AEC nations (Ship) have committed to reciprocal advantage for a production base in accordance with “the

¹⁵⁹ Aprinto Berlianto, *Tax Competition and Harmonization in Southeast Asia*, p.ii, Lambert Academic Publishing AG & Co. KG, (2010).

¹⁶⁰ Aprinto Berlianto, *Tax Competition and Harmonization in Southeast Asia*, p.7-8, Lambert Academic Publishing AG & Co. KG, (2010).

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ Dezan Shira & Associates, *ASEAN Briefing, Why Setting Up in Singapore Makes Sense for Business in ASEAN, Favorable Tax Environment*, available at <https://www.aseanbriefing.com/news/why-setting-up-in-singapore-makes-sense-for-business-in-asean/> (last visited March 20, 2020).

Agreement on Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area (AFTA).”¹⁶⁷ Under the CEPT Scheme for the AFTA, import duties imposed on all goods from the old ASEAN and new ASEAN member states have been reduced based on “the ASEAN Harmonized Tariff Nomenclature (AHTN) 2017”¹⁶⁸ or AHTN 2022 to 0-5% by the year 1992 to 2018 and beyond.

The existing CEPT Scheme for the AFTA has amended “the ASEAN Trade in Goods Agreement (ATIGA)”¹⁶⁹ that has inspired the ongoing endorsement backbone of ASEAN government revenue policy to deal with indirect harmonization tax processes. At the same level, the implementation of common tariff treatment has produced a *harmonization role of indirect tax but not of an entire direct tax*. However, the CEPT Scheme for the ATIGA has remained a part of non-tax harmonization in dealing with corporate income tax and individual income tax. These issues have become a sensitive topic from the outcome of “CEPT) Scheme for the AFTA”¹⁷⁰ and the ATIGA in the context of reciprocal benefits and profits for their respective production bases. The implementation of the agreement of the CEPT Scheme for the AFTA/ATIGA is still facing corporate income tax matters in order to build up a whole tax harmonization system in the AEC nations and alter the taxpayers' burden or technical barriers.

How to deal with seeking support among the AEC nation-states to establish a tax harmonization system for serving taxpayers' interest? There are several development agenda to deal with AEC nations that have developed tax policies and simplified tax legislation. From the perspective of **setting taxation rates among member states**, some countries *have designed similar rates of corporate income tax and individual income tax*. Other counties **have not yet designed similar rates of both corporate income tax and individual income tax** because **they have a different internal**

¹⁶⁷ ASEAN Secretariat, Agreement on the Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area, available at <https://asean.org/asean-economic-community/asean-free-trade-area-afta-council/agreements-declarations/> (last visited March 20, 2020).

¹⁶⁸ ASEAN Secretariat, ASEAN Trade Repository, 1 Tariff Nomenclature, available at <https://atr.asean.org/read/tariff-nomenclature/39> (last visited March 28, 2020).

¹⁶⁹ ASEAN Secretariat, ASEAN Tariff Finder, ATIGA, available at <https://tariff-finder.asean.org/index.php?page=atiga> (last visited March 21, 2020).

¹⁷⁰ *Id.*

tax policy vision. The driven ASEAN economic policies (Ship) combined with tax legislation consist of the same or similar taxation direction. In contrast, these different taxation directions will be considered and taken into account by the future ASEAN-3 policymakers (Ship). Here are examples of performance roles related to the same taxation directions.

3.1. Same Taxation Direction through Implementation of Digital Tax during the Covid-19 Pandemic Period

In the region's economic dynamism, the ASEAN member states have previously simplified taxation infrastructures to create a “self-assessment system (SAS)”¹⁷¹ in order to respond to the international tax reform regime to deal with regional taxation vision that stipulated with each local tax law in the context of a long-term harmonization of tax systems between ASEAN member states. Here is a country by a country foundation of SAS to support their corporate income tax and individual income tax under the ASEAN tax system and relevant tax regulations acting through digital tax access.

3.1.1. Cambodia

Cambodia adopted its official assessment system under the Law on Taxation in 1994 to be replaced by “self-assessment system for the filing of corporate income tax or tax on profit returns”¹⁷² under Article 4 which was amended by the Law on Financial Management in 2016. Simultaneously, in 2016, Cambodia introduced SAS to benefit taxpayers in reducing transaction costs to avoid meetings face by face between taxpayers and tax officers. Every taxpayer is obligated to file tax

¹⁷¹ James J. Freeland & Daniel J. Lathrope, *Fundamentals of Federal Income of Taxation*, Ch.31: SAS, pp. 893-894 (7th ed. 2018).

¹⁷² KPMG, *Cambodia Tax Profile, Compliance requirements*, p.1 (June 2016), available at <https://home.kpmg/content/dam/kpmg/pdf/2016/08/country-tax-profile-cambodia.pdf> (last visited March 23, 2020).

returns through approaching SAS before 31 March of the ending fiscal year (**Figure 20**).

As every aspect of the existing SAS to design “e-Tax Services” promotes the e-filing tax returns process through “Web App and Android App,” which stipulates relevant tax regulations to require taxpayers to meet at a difficult time during the Covid-19 pandemic period. Furthermore, implementing e-Tax Services seeks to remove the “Thick and Hard Paper’s Tax Administration” era to support Cambodian digital tax adventures in the legal framework of the “e-Commerce” role model in the 21st century. Therefore, implementing e-Tax services access is based on dealing with “**e-Tax App**” which reduces administrative or transactive costs to deliver filing e-tax payment access to benefit taxpayers and the tax agency through e-banking norms. In the current situation, for instance, each type of each taxpayer is enabled to file e-tax payment based on the e-Tax App rather than submitting the “Hard Paper” to replace by e-Tax Services. In addition, Cambodia has designed e-Tax Services to respond to help taxpayers' demand for delivering practical tax solutions during the Covid-19. The corporate income tax or tax on profit returns are filed annually and are due three months after the end of the tax year.¹⁷³

As we can see, **Figure 20** highlights a foundation of SAS which supports regional ASEAN Tax Policy and Strategic Action Plan 2016-2025 in Cambodia through implementing digital tax instruction in 2020. This digital tax has been a good move for taxpayers since 2020 to promote tax policy in Cambodia during the global impact of the world economic trend. The Cambodian government has imposed individual income and corporate income tax since 1998 at 20 percent for taxpayers in the existing implementation of its SAS journey as shown in **Figure 20** below.

¹⁷³ *Id.*

**Figure 20: Foundation of Self-Assessment Systems for ASEAN
across Individual Income Tax Rates and Corporate Income Tax
through Implementation of Digital Tax**

Country	Period of Filing Tax Returns	Date of Adoption of SAS	Individual Income Tax Rate	Corporate Income Tax Rate
Brunei	30 June of fiscal year	2012	-	18.5%
Cambodia	31 March of ending fiscal year	2016	20%	20%
Indonesia	Fourth month of ending fiscal year and two months by notifying General Director of Taxation	1984	30%	25%
Lao PDR	10 March of ending fiscal year	2012	24%	24%
Malaysia	7th month of ending fiscal year Inland Revenue Board Malaysia	1998	28%	24%
Myanmar	By 30 June of ending fiscal year	2014 and amendment in 2019	20% (employment income); 30% (other income); and 35% (non-resident foreigners)	25% (company) 35% (branch)
Philippines	15 days of fourth month before ending fiscal year	1959	35%	30%
Singapore	30 November of ending fiscal year	2014	22%	17%
Thailand	150 days before ending accounting year	1972	35%	20%
Vietnam	90 th day before ending fiscal year	2006	35%	20%

Source: Source: Webpage of the ASEAN Tax Authorities and ASEAN Tax Guide, ASEAN Secretariat, KPMG, and NTRC Tax Research Journal

3.1.2. Singapore

The Singapore government adopted the self-assessment system under the “Income Tax Act”¹⁷⁴ in 2014 and 2019 to replace the official assessment system in 1948, which dealt with tax reform responses according to **Figure 20**. Of course, the Singaporean government has applied SAS in collecting more taxes to hit a targeting plan. The SAS is an efficient and effective tool to promote coverage for taxpayers to fulfill tax liability. There is “no tax liability arises until an assessment has been issued.”¹⁷⁵ An assessment is normally issued based on a return submitted by a taxpayer.¹⁷⁶ In absence of a return, or if the then Inland Revenue Authority of Singapore (IRAS) believes that the return submitted does not reflect the correct income, the IRAS can issue an assessment based on its own estimates of the taxpayer's income.¹⁷⁷ Once an assessment is issued the taxpayer has 30 days to make the corresponding payment.¹⁷⁸ Failure to do so or to make arrangement to pay by installment can result in late payment penalties.¹⁷⁹

Singapore briefly commented on why the alternative systems of self-assessment and pay-as-you-earn may not be acceptable on balance in the Singaporean context as taxpayers may still not declare their true income.¹⁸⁰ In this regard, Singaporean income tax is charged on a preceding year basis; it is important to distinguish between a “year of assessment” and the “basis period” for a year of assessment. In practice in Singapore, assessments are made by way of notices of assessment. The tax is normally due for payment within 1 month from the date of issue of the notice of assessment.

“31 December. The Singapore tax year runs from 1 January to 31 December annually. The tax charged for a particular Year of Assessment (“YA”) is based on income accrued / derived in the

¹⁷⁴ The Statute of the Republic of Singapore, Income Tax Act (Chapter 134), Part XVI to XVII: Returns, Assessments & Objectives, pp. 925-962 (Revised Ed. 2014).

¹⁷⁵ Background on the Methods of Assessments Adopted by the ASEAN Countries for Tax Purposes, Singapore, NTRC Tax Research Journal, Vol. XXI.6, p.5 (Nov-Dec 2009).

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

calendar year preceding that YA.”¹⁸¹ The year of assessment is the year of which the income tax is charged after calculation based on re-engineering “**e-Services or e-filing process**” platform to support digital tax deal to drive economic growth gap during the Covid-19 period. For example, the 2021 year of assessment is the period from 1 January 2021 to 31 December 2021.

In a practical sense, Singapore is a leading role in performance SAS compared with ASEAN-3 or other counterparts in terms of the e-tax technology icon to reach digital tax deal and a high level of tax compliance. Singapore also has the advantage of strong capacity building in the context of an oriented tax education program. In addition, Singapore government is a taxable personal income tax at a rate of 22 percent and corporate income tax at a rate of 17 percent for taxpayers carrying out SAS or assessment of tax instruction. As shown in the above **Figure 20** exhibits the implementation of SAS to support regional ASEAN Tax Policy and Strategic Action Plan 2016-2025 in Singapore.

3.1.3. Thailand

Thailand adopted a self-assessment system in 1972. “Majority of the taxes collected in Thailand are based on the self-assessment systems whereby the taxpayers are required to determine initially their own tax liabilities.”¹⁸² “Taxpayers have to file a tax return together with payment for tax liabilities calculated on or before the last day of March following the tax year.”¹⁸³ “In addition to the self-assessment system, the power to assess tax by assessment officers is also provided for in the Revenue Code.”¹⁸⁴ “The authoritative assessment system in Thailand is similar for both the

¹⁸¹ KPMG, Singapore – Taxation of International Executives, Overview & Introduction, Income Tax, Tax Returns and Compliance, (January 2021), available at <https://home.kpmg/xx/en/home/insights/2011/12/singapore-income-tax.html> (last visited May 27, 2021).

¹⁸² Background on the Methods of Assessments Adopted by the ASEAN Countries for Tax Purposes, Thailand, Vol. XXI.6, NTRC Tax Research Journal, p.6 (Nov-Dec 2009).

¹⁸³ *Id.*

¹⁸⁴ *Id.*

personal income tax and corporate income tax.”¹⁸⁵ “Under this system, the tax officers still have the task to verify the tax computations as well as their underlying facts.”¹⁸⁶ “From this process, additional assessments are made.”¹⁸⁷

“The authoritative assessment may be made prior to or after the returns' filing date.”¹⁸⁸ Assessments made prior to returns filing are for purposes of tax collection.¹⁸⁹

Thailand operates a self-assessment system for filing income tax returns, with significant penalties for non-compliance.¹⁹⁰ Corporate income tax is payable in two instalments each year.¹⁹¹ Half-year corporate income tax returns must be filed by the end of the eighth month of the accounting year.¹⁹² Annual corporate income tax returns must be filed within 150 days following the end of accounting year.¹⁹³

As can be seen, **Figure 20** illustrates a foundation of SAS which supports regional ASEAN Tax Policy and Strategic Action Plan 2016-2025 in Thailand. In addition to this, the Thailand government imposes an individual income tax at a rate of 35 percent and corporate income tax at a rate of 20 percent for taxpayers under implementing SAS guideline. In dealing with tax liability, every taxpayer shall file tax returns under SAS within 150 days before ending an accounting year in conformity with the Thai revenue code.

During the Covid-19 pandemic period, Thailand has begun digital tax transactions in terms of “e-Form”¹⁹⁴ in response to be applied for digital tax promotion through the fulfillment of tax obligation deals for taxpayers under SAS since May 2020. In this regard, Thailand applied the same taxation direction through SAS during the challenging time of the Covid-19 pandemic among

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

¹⁹⁰ KPMG, Thailand Tax Profile, 1. Corporate Income Tax, Compliance Requirements, p.1-11 (June 2015).

¹⁹¹ *Id.*

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ The Revenue Department, e-Form (Filable Tax Return), available at <https://www.rd.go.th/english/29040.html> (last visited March 28, 2020).

ASEAN member states.

3.2. Different Taxation Direction

A study shows ASEAN-3 (Ship) comprise of performing different taxation routes in driving their tax policy purposes during the impact of the global Covid-19 period.

In this current performance, ASEAN-3 has developed their indirect taxation system dealing with the value added tax (VAT) and goods and service tax (GST).

Besides this, ASEAN-3 has designed various taxation elements consisting of corporate income tax and personal income tax to boost trade and investment deals. They have launched corporate tax and personal income tax that have contributed a vital role in responding to their tax reform policies to accomplish ASEAN economic policies in the long run. Therefore, ASEAN-3 has their different taxation directions to deal with geopolitics and political economies in attracting investment needed to enhance trade and expansion in the scope of market production base across ASEAN-3 tax jurisdictions as follows:

- ✚ Impact of different tax law and cultural tax;
- ✚ Marginal rates of tax base;
- ✚ Scope of attracting investment (as Foreign Direct Investment);
- ✚ Volume of trade;
- ✚ Volume of tax collection mobilization of sharing with the GDP indicators; and
- ✚ Scope of economic growth index.

The practical ASEAN-3 taxation system has different tax policy guidelines to support regional ASEAN Tax Policy under the Strategic Action Plan 2016-2025 for merging future ASEAN single market under the AEC's tax environment perspective.

For example, **Figure 20** highlights SAS's implementation to deal with different directions for marginal individual income tax rates and corporate income tax approaches. Those member states

have implemented their different taxation direction, which has stimulated their orientated tax policy through supporting economic policy and fiscal policy direction. Then each government in ASEAN countries takes certain policies such as tax policies so that the target of state revenue is achieved, and the wheels of government run smoothly including the development of the state goal that has been declared by each country's leaders.¹⁹⁵ In accordance with the policy, not a few types of tax are required in each country as well as the **applicable tax rate**, sometimes even the applicable tax rates in the country undergo changes either down or up according to their respective policies and targets.¹⁹⁶ In this sense, all member states have yet simplified taxation systems because AEC nations do not have a powerful ASEAN parliament or a trustworthy coordination institution to deal with this task force to reach future purposes before the fiscal year 2025 or beyond.

Figure 21: The Current Corporate Tax Rates across ASEAN and Future Projection

Country	1992--	--1997-	--2014	2015	2016	2017	2018	2019	2020-2025	2025 and beyond	Change
--	1992-1997-2014			--							
Brunei	N.A	N.A	N.A	20	20	18.5	18.5	18.5	18.5	-	1.5
Cambodia	N.A	N.A	20	20	20	20	20	20	20	-	0
Indonesia	30	30	28	25	25	25	25	25	25	-	5
Lao PDR	N.A	N.A	N.A	24	24	24	24	24	24	-	0
Malaysia	30	28	25	25	25	25	25	25	25	-	5
Myanmar	N.A	N.A	N.A	N.A	N.A	N.A	25	25	25	-	0
Philippines	35	32	30	30	30	30	30	30	30	-	5
Singapore	26	22	20	17	17	17	17	17	17	-	9
Thailand	30	30	23	20	20	20	20	20	20	-	10
Vietnam	35	32	28	22	22	20	20	20	20	-	15

Source: Webpage of the ASEAN Tax Authorities and ASEAN Tax Guide, ASEAN Secretariat, KPMG, and NTRC Tax Research Journal

¹⁹⁵ Tarmidi, D., Nurlis, Erfiansyah, E., & Rustandi. (2019). Comparative Study of Tax Services in ASEAN Countries. *International Journal of Academic Research in Business and Social Sciences*, 9(7), 485-486.

¹⁹⁶ *Id.*

The complicated different ASEAN-3 taxation direction trend is moving or driving various rates in the legal framework of corporate income tax directions, **promoting a common formation strategy for a tax policy role to reach ASEAN Motto approaches shall represent one identity**



under AEC target approaches.

As shown above, **Figure 21** illustrates key changes in terms of various corporate tax rates which have reduced many gaps among each ASEAN tax reform evolution in the framework of governing differentiation in local ASEAN tax laws for over two decades. These have been significant changes to respond to regional taxation phenomenon under global taxation trend in unprecedented AEC directions below.

3.3. Tax Competition Practices among ASEAN-3

“The ASEAN Economic Community (AEC) is envisioned to be the realization of ASEAN economic integration by 2015”¹⁹⁷ through attracting foreign direct investment (FDI). The AEC is one of the top 5 world markets. ASEAN was the fifth-largest economy in the world with a gross domestic product (GDP) of around \$3 trillion.¹⁹⁸ The rotation of the FDI scheme becomes more paramount to capture investors' eyes to look at low tax jurisdictions in the AEC. This unprecedented fact inspires the ASEAN-3 governments to provide favorable conditions for investment through reasonable

¹⁹⁷ ASEAN Secretariat, Articles on AEC 2015, available at <https://asean.org/asean-economic-community/aec-monitoring/articles-on-aec-2015/> (last visited March 30, 2020).

¹⁹⁸ The Phnom Penh Post, ASEAN becomes the world's fifth-largest economy, Asia News Network, (27 November 2019) at 21:42 ICT.

deductions for low tax instruments. Steadily, delivering corporate tax becomes necessary in dealing with tax competition schemes and the FDI atmosphere. Therefore, this fact has shown that corporate tax plays a critical role in representing the AEC flagship after ASEAN governments took force in 2016. From 2016 until the current situation, the FDI trend has moved in the AEC direction. AEC has accomplished attracting FDI after its AEC was formed in 2015.

In general, tax competition practices are a very sensitive issue for further study on implementing all tax policies to enrich economic policies and political economies in the context of the current AEC. Tax competition exists when people can reduce tax burdens by shifting capital and/or labour from high-tax jurisdictions to low-tax jurisdictions.¹⁹⁹ Tax competition is just one slice of this competition among countries, but it is increasingly important because of the growing of capital and labour.²⁰⁰ The tax competition battle revolves largely around the tax treatment of capital.²⁰¹ From this perspective of the ASEAN-3 tax competition phenomenon among ASEAN-3 member nations in terms of “tax competition is the use by governments of low effective tax rates to attract capital and business activity to their country.”²⁰²

In 1998, there was a key study of the OECD approach to “tax competition in the form of harmful tax practices can distort trade and investment patterns, erode national tax bases and shift part of the tax burden onto less mobile tax bases, such as labor and consumption, thus adversely affecting employment and undermining the fairness of tax structures.”²⁰³

As globalization advances, individuals and businesses are gaining greater freedom to work and invest in countries in lower rates.²⁰⁴ A battle is unfolding between those policymakers wanting to

¹⁹⁹ Daniel J. Mitchell, *The Economics of Tax Competition: Harmonization vs. Liberalization*, Adam Smith Institute, 1 (2004).

²⁰⁰ Daniel J. Mitchell, *The Economics of Tax Competition: Harmonization vs. Liberalization*, Adam Smith Institute, 2 (2004).

²⁰¹ *Id.*

²⁰² Richard Teacher, *The Benefits of Tax Competition*, The Institute of Public Affairs, p.25 (2005).

²⁰³ OECD (1998), *Harmful Tax Competition: An Emerging Global Issue*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264162945-en>. available at https://www.oecd-ilibrary.org/taxation/harmful-tax-competition_9789264162945-en (last visited March 31, 2020).

²⁰⁴ Chris Edwards & Daniel J-Mitchell, *Global Tax Revolution, the Rise of Tax Competition and the Battle to Defend It*, Introduction, pp.1-4 (2008).

maximize taxation and those understanding that competition is leading to beneficial tax reforms.²⁰⁵


Tax competition is broadly defined as the tax cutting influence that countries exert on one another.²⁰⁶

Presently, tax competition practitioners or tax policymakers are dealing with two key tax collection sources in area of corporate income tax and personal income tax in the AEC battle. In most ASEAN-3 the elements of tax competition among member countries are visible by lowering corporate tax rates as each tries to attract FDI in boosting economic growth.

In this sense, all tax policymakers are taking into consideration may lead the taxation trend for attracting foreign direct investment based on digital taxation through their tax laws.

Figure 21 shows the current ASEAN-3 corporate tax ratios are 17 to 20 percent are imposed on taxpayers. Here is a competitive tax list of ASEAN-3 countries in terms of delivering corporate income tax rate that classifies into two groups below:

 Lower rate: 0 percent to 17 percent and

 Medium rate: 0 percent to 20 percent.

3.3.1. List of Countries by Low Corporate Income Rate in ASEAN-3

ASEAN-3 countries are the Cambodia, Singapore, and Thailand governments who have reduced rates of their corporate income tax since 2016 as shown in **Figure 21**. In addition to this, the Singapore government imposes a lower corporate tax rate among the AEC nations as regional tax practitioners aim at attracting investment and growing trade and capital. The following corporate tax rates under tax competition practices aim to expand the level of investment target in ASEAN-3 as follows:

1. **Singapore:** a corporate income tax is 17 percent to apply within the tax jurisdiction.
2. **Cambodia:** a corporate tax rate is 20 percent to apply within the tax jurisdiction.

²⁰⁵ *Id.*

²⁰⁶ *Id.*

3. **Thailand:** a corporate tax rate is 20 percent to apply within the tax jurisdiction.

Cambodia and Thailand have the same corporate tax rate, but Singapore is the lowest corporate tax rate among ASEAN-3 counterparts.

3.3.2. List of Countries by High Corporate Income Rate in ASEAN-3

As member states, some countries have enacted high tax rates and tax regulations. The highest rate of corporate income tax is 20 percent according to **Figure 21**. The following high tax jurisdictions are below.

1. **Cambodia:** a corporate tax rate is 20 percent to apply in the tax jurisdiction body.
2. **Thailand:** a corporate tax rate is 20 percent to apply in the tax jurisdiction body.

3.3.3. List of Countries by Low Personal Income Rate in ASEAN-3

As shown in **Figure 22** displays a list of countries by personal income tax rate in ASEAN-3 countries. There are three (03) countries to classify into the following rates below.

✚ Lower rate: 0 percent to 20 percent.

✚ Medium rate: 0 percent to 22 percent.

✚ Highest rate: 0 percent to 35 percent.

Here is a lower rate by countries below:

Figure 22: The Current Individual Tax Rates across ASEAN and Future Projection											
Country	1992-	--	--	2015	2016	2017	2018	2019	2020-	2025	Change
	-	1997-	2014						2025	and	
		-								beyond	
--	1992-1997-2014			--							

Brunei	0	0	0	0	0	0	0	0	0	-	0
Cambodia	N.A	N.A	20	20	20	20	20	20	20	-	0
Indonesia	30	30	30	30	30	30	30	30	30	-	0
Lao PDR	N.A	N.A	N.A	24	24	24	24	24	24	-	0
Malaysia	26	26	26	25	25	25	25	25	25	-	1
Myanmar	N.A	N.A	N.A	N.A	N.A	N.A	25	25	25	-	0
Philippines	35	35	32	32	32	32	32	32	32	-	3
Singapore	N.A	N.A	20	20	20	20	20	22	22	-	0
Thailand	37	37	35	35	35	35	35	35	35	-	2
Vietnam	N.A	N.A	35	35	35	35	35	35	35	-	0
Source: Webpage of the ASEAN Tax Authorities and ASEAN Tax Guide, ASEAN Secretariat, KPMG, and NTRC Tax Research Journal											

In **Figure 22** emphasizes the following list of countries comprising lower rates of individual tax under tax competition practices in ASEAN. As tax practitioners and taxpayers in ASEAN-3, lower rates comprise zero (0) percent to 35 percent are:

1. **Cambodia:** a personal tax rate is 20 percent to apply in the tax jurisdiction.
2. **Singapore:** a personal income tax is 22 percent to apply in the tax jurisdiction.
3. **Thailand:** a personal tax is taxable 35 percent to apply in the tax jurisdiction.

3.3.4. List of Countries by Medium Personal Income Rate in ASEAN-3

As taxpayers in ASEAN-3, medium tax rate comprises 20 percent to 22 percent below.

1. **Singapore:** a personal tax rate is 22 percent to apply to both Singaporean taxpayers and foreigners who are residents doing business in Singapore.

3.3.5. List of Countries by High Personal Income Rate in ASEAN-3

As taxpayers in ASEAN-3, the highest rates consist of 22 percent to 35 percent is:

1. **Thailand:** a personal income tax is 35 percent to apply to both Thai taxpayers and foreigners who are residents doing business in Thailand tax jurisdiction.

3.4. Implementation of Transfer Pricing in ASEAN-3

After ASEAN governments were officially formed AEC at ending 2015, multinational enterprises (MNEs) have become essential financing for business, trade, and economic activities particularly in AEC. This fact has motivated the ASEAN-3 governments to attract multinational corporations to collect more revenues for their governments. After AEC took effect in 2016, ASEAN-3 has started to develop their transfer pricing guidelines based on the “OECD transfer pricing guidelines”²⁰⁷ to open the door to welcome many business corporations to invest in the Southeast Asian countries. As a result, most recently, there are many MNEs transactions inflows in AEC because of growing economics of the GDP gap and openly welcoming parents, branch, and subsidiary corporations around the globe. ASEAN-3 has produced a various key-concept-of transfer-pricing model using arm's length principles under their tax jurisdictions in accordance with each domestic tax law or relevant tax regulation.

The implementing application of transfer pricing rules or methods are very important guidelines for MNEs to use to deal with a tax planning and business analysis or business planning under the AEC perspective. Multinational Enterprises and many business corporations are looking

²⁰⁷ OECD (2017), OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017, OECD Publishing, Paris, <https://doi.org/10.1787/tpg-2017-en>, available at <https://www.oecd.org/tax/transfer-pricing/oecd-transfer-pricing-guidelines-for-multinational-enterprises-and-tax-administrations-20769717.htm> (last visited March 31, 2020).

forward to working with ASEAN investors and ASEAN-3 tax agencies to offer transfer pricing rules in dealing with their profitable business and paying tax purposes.

Shall they deal with their investment-related to business corporations in the ASEAN market? Why do they need transfer pricing rules to deal with their business planning or tax planning?

Research suggests the answer is, yes. ASEAN-3 has designed transfer pricing guidelines to open business interests and for collecting more tax revenue. The transfer pricing rules expect to help them in dealing with unprecedented business plans or investment plans to occur to avoid harmful business or consequences of double taxation issues that affect their profitable income taxes related to their investment or business plan approaches.

ASEAN-3 has produced a transfer pricing module based on the manifestation of arm's length principles in ASEAN-3 tax jurisdictions in accordance with each local tax law or relevant tax regulation. They (ASEAN-3) have adopted transfer pricing aims to promote transfer pricing rules to allow ASEAN member states to adjust prices for many cross-border transactions through all elements of transfers of tangible or intangible property, services, and loans. The task is to promote inflowing and regional liberalization in financial markets and globalization technology that has arisen in multiple nation enterprises as parents and subsidiary companies to avoid double taxation, tax evasion, tax loopholes and tax avoidance for ensuring the level of high compliance between business corporations, tax authorities, and related parties. These countries have administered a transfer pricing model based upon “the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017”²⁰⁸ to respond to the evolution of global tax reform and support of regional ASEAN Tax Policy through the Strategic Action Plan 2016-2025 for merging the ASEAN single market. As we can see, **Figure 23** emphasizes a list of countries implementing transfer pricing rules in ASEAN-3 member countries among their counterparts as follows:

²⁰⁸ *Id.*

Figure 23: Implementation of Transfer Pricing in ASEAN

Countries	Transfer Pricing Rules	Regulation of Transfer Pricing
Brunei Darussalam	Yes	Waiting for a final list of the OCED membership for performing the arm-length principle.
Cambodia	No. Ministry of Economy and Finance issued launching transfer pricing to exercise the arm-length principle. This is only generally accepted that any cross-border transaction related parties.	<p>No specific national legislation on Transfer Pricing Model. Introducing the first transfer pricing rule based on the arm's length principle as articulated in the OECD Transfer Pricing Guidelines by Praka (announcement) No. 986 on 10 October 2017.</p> <p>The tax authority has the rights to authorize and re- determine the related party transactions in order to impose pricing that arms' length parties would have contracted for in the transactions.</p> <p>Cambodia's tax regulation of income and expense between related parties (i.e transfer pricing rule) is based on the guiding concept of "arm's length" principle. The tax authority accepts five methods (CUP, Resale, Cost Plus, TNMM, and Profit Split).</p> <p>There is not Advance Pricing Agreement or Mutual Agreement Procedures regime.</p>
Indonesia	Yes	Directorate General of Tax Regulation No. 32/PJ/2011 The transfer pricing regime is based on OECD Guidelines. Here, Directorate General of Tax (DGT) has the extended authorization from all domestics to cross-border transaction.
Laos	No	No formal regulation concerning Transfer Pricing.
Malaysia	Yes	<p>* Malaysia introduced the Transfer Pricing Rules 2012 based on the Income Tax Act 1967. The issuance of the transfer pricing and advanced pricing agreement rules were issued in May 2012. Implementing transfer pricing rules make it mandatory for taxpayers to prepare contemporaneous transfer pricing documentation for their related party transactions.</p> <p>*The 2012 Malaysian transfer pricing guidelines in accordance with governing standard for transfer pricing, which is the arm's length principle as established in the OECD Transfer Pricing Guidelines (OECD Guidelines). Therefore, the Malaysian tax authority accepts CUP, Resale Price, Cost Plus, Profit Split and TNMM. *Effective date from 15 July 2017.</p>

Myanmar	No	No formal national regulation Transfer Pricing.
Philippines	Yes	<p>Revenue Regulations 2-2013 dated 23 January 2013. The regulations mainly follow the provisions stipulated under OECD Guidelines.</p> <p>The tax authority has the power to allocate income between the related parties to prevent the tax evasion and transfer mispricing. The tax authority is using the arms'-length principle on evaluating the cross-border transaction.</p> <p>The Philippines tax authority accepts CUP, Resale Price, Cost Plus, TNMM, and Profit Split.</p>
Singapore	Yes	<p>Transfer Pricing Guidelines 2006, dated 23 February 2006 – issued by Inland Revenue Authority of Singapore.</p> <p>The legislation strongly follows the OECD Guidelines. Singapore's tax authority is endorsing the arms'-length principle on conducting the review on transfer pricing. IRAS does not have a specific preference for any of the 5 methods outlined in the OECD guidelines, method that produces the most reliable results shall be selected.</p> <p>However, IRAS tends to endorse comparable uncontrolled price for the loan transactions.</p>
Thailand	Yes	<p>Departmental Instruction no. Paw 113/2545 (DIP 113), dated 16 May 2002</p> <p>It follows the OECD Guidelines on TP.</p> <p>The Thai Revenue Department (TRD), by default, accepts TNMM, although they would also accept CUP, Resale Price, Cost + and other commercially used methods, such as the Profit Split, as specified in the OECD Guidelines</p>
Vietnam	Yes	<p>Vietnam Tax Authority issued Circular 66/2010/TT/BTC jo Decision No. 1250/QD-BTC.</p> <p>The tax authorities have the authority to adjust the transfer price with respect to non-arms' length related party transactions and taxpayer to comply with the Transfer Pricing requirement.</p> <p>The regulations are generally based on the OECD Guidelines.</p>

		Circular 66 permits the use of the following methods: CUP, Resale Price, TNMM, Cost Plus, and Profit Split. Taxpayers must use the most appropriate method under the regulations. There is no hierarchy among the methods, although recent practice shows that the Vietnam tax authority has a growing preference for the CUP method.
Source: ASEAN Tax Authorities, http://www.oecd.org/tax/transfer-pricing/transfer-pricing-country-profiles.htm		

The following date of implementing transfer pricing rules in the ASEAN-3.

3.4.1. Cambodia

Currently, Cambodia is not yet an OECD member. Furthermore, the Cambodia government “joined the fight against tax evasion under the Global Forum on Transparency and Exchange of Information for Tax Purposes”²⁰⁹ is a big part of the OECD body, which has as 144 members in 2017.

The Cambodia government issued an announcement to implement the first transfer pricing rules based on the arm's length principle as articulated in the OECD Transfer Pricing Guidelines by Praka (announcement) No. 986 on 10 October 2017. Therefore, Cambodia adopted the transfer pricing rules to welcome multinational corporations to gain more benefits from business investment opportunity from ASEAN counterparts and outside the AEC. In this regard, the Cambodia tax authority has the full rights to allocate income between the related parties with a concept of the arm-length rules to evaluate the cross-border transaction. Here are five (05) methods consisting of Comparable Uncontrolled Price (CUP), Resale Price Method, Cost Plus Method, Transactional Net Margin Method (TNMM), and Profit Split. Cambodia also has no Advance Pricing Agreement or Mutual Agreement Procedures.

²⁰⁹ OECD, Global Forum on Transparency and Exchange of Information for Tax Purposes, Cambodia, Greenland, Haiti and Madagascar join the fight against tax evasion, available at <https://www.oecd.org/tax/transparency/cambodia-greenland-haiti-and-madagascar-join-the-fight-against-tax-evasion.htm> (last visited April 5, 2020).

3.4.2. Singapore

Singapore is neither member of the OECD nor G20. In addition, the Singapore government introduced the arm-length principle in the framework of “these rules are the Income Tax (Transfer Pricing Documentation) Rules 2018 and come into operation on 23 February 2018.”²¹⁰ The changes came about as a result of the Income Tax (Amendment) Act 2017 as well as the gazetted Income Tax (Transfer Pricing Documentation) Rules (the “TPD Rules 2018”) that is “provided under section 34F of the Income Tax Act (“ITA”), are effective from the year of assessment 2019.”²¹¹ Singaporean's Transfer Pricing (TP) is the pricing of goods, services, and intangibles between related parties.²¹² In addition, Singapore has adopted the Organization for Economic Co-operation and Development (“OECD”) Base Erosion Profit Shifting (“BEPS”) Action Plan 13 in terms of the three-tier documentation and global minimum tax under Pillar 2 in dealing independently with a standard taxation system to respond to the global outlook of tax reform in Singaporean tax history. As with the arm's length prices, the Singapore uses five (05) methods consists of Comparable Uncontrolled Price (CUP), Resale Price Method, Cost Plus Method, Profit Split Transactional Net Margin Method (TNMM), and Profit Split. In this sense, Singapore also offers administrative approaches for tax facilitation for taxpayers to apply the “Advance Pricing Agreement and Mutual Agreement Procedures”²¹³ dealing with tax claims. This is a better move for taxpayers to get the advantage of the advance pricing agreement and mutual agreement procedures. Moreover, the key

²¹⁰ Income Tax (Transfer Pricing Documentation) Rules 2018, Income Tax (Ch: 134), Citation, commencement and application, available at <https://sso.agc.gov.sg/SL/ITA1947-S93-2018?DocDate=20180222#pr1>- (last visited April 5, 2020).

²¹¹ The Inland Revenue Authority of Singapore, Introduction to Transfer Pricing, Transfer Pricing Documentation Requirements, available at <https://www.iras.gov.sg/irashome/Businesses/Companies/Working-out-Corporate-Income-Taxes/Specific-topics/Transfer-Pricing/Introduction-to-Transfer-Pricing/> (last visited April 5, 2020).

²¹² IRAS, Specific Topics, Transfer Pricing, available at <https://www.iras.gov.sg/irashome/Businesses/Companies/Working-out-Corporate-Income-Taxes/Specific-topics/Transfer-Pricing/> (last visited April 5, 2020).

²¹³ Singapore, Transfer Pricing Country Profile, available at <https://www.oecd.org/tax/transfer-pricing/transfer-pricing-country-profile-singapore.pdf> (last visited April 5, 2020).

instruments of “Advance Pricing Arrangements under the Mutual Agreement Procedure (“MAP APAs”)²¹⁴ are benefits for Singaporean taxpayers and foreign residents (taxpayers) doing business in the Singapore tax jurisdiction.

3.4.3. Thailand

Thailand is not a member of the OECD but is only an observer. Thailand's transfer pricing regime is consistent with the OECD model (i.e. arm's length basis).²¹⁵ “Thailand introduced transfer pricing guidelines in 2002 in the form of a Departmental Instruction, which is not a law”²¹⁶ that was amended by “the Additional Revision of the Thai Revenue Code No.47 (TRC47) on 22 November 2018.”²¹⁷ The Thailand government implements transfer pricing rules associated with the OECD Transfer Pricing Guidelines. In addition, Thailand accepts CUP, Resale Price, Cost Plus, Profit Split, and TNMM. The Thai Revenue Department plays a very important role and accepts the Advance Pricing Arrangement (APA) to commit to implementation of the OECD instrument to achieve a long-term vision.

3.5. Implementation of Tax Treaty in ASEAN-3

ASEAN-3 member states play a key role in generating a regional AEC 2025 Consolidated Strategic Action Plan to develop a proper withholding tax body structure among the ASEAN-3. ASEAN tax administration supports regional competitiveness in ASEAN by establishing bilateral tax treaty networks to improve the AMSs Double Tax Agreement (DTA) based on a key concept of “the United Nations Model

²¹⁴ OECD, Guidelines for APA, available at <https://www.oecd.org/ctp/transfer-pricing/guidelinesforapa.htm> (last visited April 6, 2020).

²¹⁵ KPMG, Thailand Tax Profile, 2 Transfer Pricing, Requirements, p.17 (July 2018).

²¹⁶ *Id.*

²¹⁷ DFDL, Thailand Tax Alert: New Law on Transfer Pricing, p.1 (November 29, 2018), available at <https://www.dfdl.com/resources/legal-and-tax-updates/thailand-tax-alert-new-law-on-transfer-pricing/> (last visited April 9, 2020).

Double Taxation Convention between Developed and Developing Countries”²¹⁸ to inflow capital and technology in cross-border transactions. Currently, DTA performs a critical role in cross-border transactions across the Southeast Asian nations. **The AMSs has already started to negotiate and sign a tax treaty as well as DTA through bilateral agreement in the purpose of avoiding double taxation, tax evasion and tax avoidance.**

As shown, **Figure 24** highlights the following implementation of tax treaty across ASEAN-3 as follows:

Figure 24: Implementation of Tax Treaty Network Coverage and Signing of Tax Agreements										
	Brun	Cam	Indo	LPDR	Mal	Myan	Phil	Sing	Thai	VN
Brun		2017	2000		2010			2005	2017?	2008
Cam	2017		2017					2016	2017	2018
Indo	2000	2017		2011	1991	2003	1993	1990	2001	1997
LPDR			2011		2010			2014	1997	1996
Mal	2010		1991	2010		1998	1982	2004	1982	1995
Myan			2003					1999	2002	
Phil			1993					1977	1982	2001
Sing	2005	2016	1990	2014	2004	1999	1977		1975	1994
Thai	2017		2001	1997	1982	2002	1982	1975		1992
VN			1997	1996	1995		2001	1994	1992	

Source: All ASEAN Tax Authorities Webpages, ASEAN Briefing, and ASEAN Tax Guide

***Note: Brun:** Brunei Darussalam, **Cam:** Cambodia, **Indo:** Indonesia, **LPDR:** Lao PDR, **Mal:** Malaysia, **Myan:** Myanmar, **Phil:** Philippines, **Sing:** Singapore, **Thai:** Thailand, and **VN:** Vietnam

²¹⁸ United Nations, Department of Economics and Social Affairs, United Nations Model Double Taxation Convention between Developed and Developing Countries, available at <https://www.un.org/en/desa/united-nations-model-double-taxation-convention-between-developed-and-developing#:~:text=The%20UN%20Model%20Double%20Taxation,this%20income%20between%20two%20countries> (last visited April 10, 2020).

3.5.1. Cambodia

Cambodia has not yet adopted a specific tax treaty convention under **the Law on Financial Management**. However, Cambodia has begun to sign tax treaties based upon tax negotiation since 2017. Cambodia enforces a double taxation agreement through bilateral tax treaty networks among AMSs and non-AMSs to support the CSAP 2016-2025 agenda. As a practical matter, Cambodia has signed “avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income with the AMSs such as Brunei, Indonesia, Singapore, Thailand, and Vietnam.”²¹⁹ Cambodia has also signed non-AMSs, comprised of the People's Republic of China and the Government of the Hong Kong Special Administrative Region of the People's Republic of China, and Republic of South Korea.

Currently, the Cambodia government is seeking tax negotiation process with remaining ASEAN counterparts such as Lao PDR, Myanmar, and Philippines in the context of legal framework for avoiding double taxation.

After the Covid-19 pandemic period, the Cambodian government is looking forward to signing with endorsement bilateral tax treaty with non-AMSs to expand more trade and investment in collecting more tax revenue purposes.

3.5.2. Singapore

Singapore signed the Multilateral Convention or (Multilateral Instrument) with the OECD in 2017. The Singapore government ratified the Multilateral Convention (MC) to implement tax treaty related measures to prevent “Base Erosion and Profit Sharing (BEPS)” on 21 December 2018.²²⁰

²¹⁹ General Department of Taxation, Int'l Relation, available at <https://www.tax.gov.kh/en/ir> (last visited April 10, 2020).

²²⁰ Inland Revenue Authority of Singapore, Singapore Ratifies the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Sharing, <https://www.iras.gov.sg/irashome/News-and->

After depositing “the Instrument of Ratification for the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting”²²¹ from the OECD's decision in the fiscal year 2018. The Singaporean government also pushed the “Multilateral Instrument” to enter into force on April 1, 2019 after ratification from a parliament. The Multilateral Instrument aims to seek facilitation and the implementation of tax-treaty-related measures through elimination of double taxation through tax evasion or avoidance, and tax disputes, etc.

As a practical matter, Singapore has signed tax treaties with internal ASEAN member states comprised of Brunei Darussalam, Indonesia, Malaysia, Myanmar, Philippines, Thailand, and Vietnam based on **Figure 24**. Additionally, Singapore has not yet signed other ASEAN tax treaties, but the bilateral party process is still under tax negotiation among Cambodia and Lao PDR. Besides, Singapore has also signed with non-ASEAN member states such as Albania, Australia, Austria, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Bulgaria, Canada, China, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, Estonia, Fiji, Finland, France, Georgia, Germany, Guernsey, Hungary, India, Ireland, Isle of Man, Israel, Italy, Japan, Jersey, Kazakhstan, Kuwait, Latvia, Libya, Liechtenstein, Lithuania, Luxembourg, Malta, Mauritius, Mexico, Mongolia, Morocco, Netherlands, New Zealand, Norway, Oman, Pakistan, Panama, Papua New Guinea, Poland, Portugal, Qatar, Romania, Russian Federation, Rwanda, San Marino, Saudi Arabia, Seychelles, Slovak Republic, Slovenia, South Africa, South Korea (Republic of Korea), Spain, Sri Lanka, Sweden, Switzerland, Taiwan, Turkey, Ukraine, United Arab Emirates, United Kingdom, and Uzbekistan.

In the current situation, the Singapore government is looking forward to signing an ASEAN bilateral tax treaty with the AMSs and non-AMSs to collect more tax revenue to deal with a growing volume of promotion of trade and investment after the Covid-19 pandemic period.

Events/Newsroom/Media-Releases-and-Speeches/Media-Releases/2018/Singapore-Ratifies-the-Multilateral-Convention-to-Implement-Tax-Treaty-Related-Measures-to-Prevent-Base-Erosion-and-Profit-Sharing/ (last visited April 12, 2020).

²²¹ *Id.*

3.5.3. Thailand

Thailand has launched a tax treaty with ASEAN member states and non-ASEAN member states show in **Figure 24**. The Thailand government has introduced a double tax avoidance agreement through bilateral tax treaty networks among AMSs to support the Strategic Action Plan 2016-2025. **Figure 24** reveals the Thailand government has signed various double tax agreement with the ASEAN trading counterparts such as Brunei Darussalam, Cambodia, Indonesia, Lao, Malaysia, Myanmar, Philippines, Singapore, and Vietnam. The government of Thailand has not yet joined the OECD's Convention on Mutual Administrative Assistance in Tax Matters. In addition to the ASEAN bilateral tax treaty process, so Thailand is still looking forward to signing with AMSs and non-AMSs purposes in gathering more tax revenue to expand more potential trade agreements (FTAs) and FDI purposes after the Covid-19 pandemic period.

Chapter IV

Empirical Evidence

A Framework for What Needs to Be Done

Chapter IV sets forth a framework for what needs to be done to bridge the gap from the forum of tax coordination practices among ASEAN-3 (Ship) across tax-oriented policy under AEC approaches. A better understanding of designing taskwork targets and related to various vital stakeholders and actors have represented the ASEAN tax agency bodies in the legal framework to fuel a core taxation forum that can reach international standard requirements since 2016. This setting for tax policy is careful to re-design the tax model to attract trade and investment for promoting strategic interest in the Southeast nations. It needs to prioritize the action plan, which is an imperative, driving a basic concept of dealing with international tax regime. How to deal with this?

This taskwork has driven the ASEAN Economic Community (AEC) Consolidated Strategic Action Plan (CSAP) 2016-2025. The CSAP sets up a preliminary tax planning agenda for all ASEAN-3 tax agencies for tax purposes for a deadline of 2025 or beyond. No doubt, the ASEAN-3 needs to continue with its working ties with all stakeholders to build an ASEAN tax project through connection and future networks for a more dynamic AEC driver to strengthen the master plan on various tax development under international tax standards. They need to gain their right decision and political will to drive an element action plan based on comprehensive competitiveness to promote the possibility of global tax collaboration to raise enough tax revenue among AMSs. For approaching a strategic goal, everything depends on ASEAN-3 or ASEAN-10 leadership's decision to build taxation capacity based upon a platform framework and tax coordination if they wish to get this work done.

The CSAP is a significant critical part of the ASEAN Work Program (AWP) on tax coordination's platform, naming the ASEAN Forum of Taxation Working Group (AFT-WG) in all fields of high level on new developments on technical tax matters. Therefore, AFT-WG is a core

mechanism to serve as one of the main elements to endorse regional tax competitiveness in ASEAN in seeking a flexible study on tax practices to deal with strategical tax policy barriers. All AMSs have agreed with each other to provide either a green lane or a red lane under umbrella AEC 2025 to act in various working groups for the ASEAN taxation platform that supports regional dialogues on taxation issues related to withholding tax structures. As implementation enables member states to do what needs to be done in terms of promulgating tax regulations, that is particularly vital for policy options through taskwork to work together consistently.

Here is a list of the sub-action plans under the CSAP, which defines a key part of the priority scheme required to discuss through AFT, and relevant stakeholders need to accomplish--in the context of a legal framework of the ASEAN-3 (Ship) using a roadmap under the international tax regime deal below.

- ▶ Forum of Tax Coordination Practices
- ▶ Strengthening and Building for ASEAN Tax Coordination and ASEAN AEC Department
- ▶ Implementation of the Exchange of Information for Tax Purposes in ASEAN
- ▶ Implementing and Monitoring Projection of the Base Erosion and Profit Shifting (BEPS)
- ▶ Concrete Steps and Creation of ASEAN Taxation Institute to Study Withholding Tax Structure Purposes
- ▶ Avoiding Tax Controversies/ Tax War

In this sense, it means that it needs a strong requirement in the context of the tax environment framework as “Acting and Done based on Tax-Friendly Policy” that allows stakeholders to benefit taxpayers' interest to facilitate access as a simple norm. Many ASEAN-3 tax practitioners in some countries have done great taskwork. For instance, Singapore is an advantaged actor from driving the international tax standard rules among counterparts forward less difficulty. The Singapore tax agency has delivered less paper to reduce complexity by offering better tax services for taxpayers acting in cross-border investment and trade to support tax policy approaches. Singapore ranked in the top 10 every fiscal year among 190 countries based on world rank (World Bank 2015-2020).

Singapore ranked number 1 in terms of paying taxes or burdens in the context of the 10 most competitive taxation countries among ASEAN counterparts through world rank assessment in 2020 (2020 Index of Economic Freedom). Singapore has led top rank every annual year among AMSs in the context of performance of work plans under “**Acting and Done based on Tax Friendly Policy.**” By contrast, other member states, Cambodia and Thailand were ranked behind Singapore in 2020 (2020 Index of Economic Freedom). It reviews, analyzes, and shares contributions to push a critical tax capacity development for the ASEAN tax policy administrations to reach their strategic goal with future direction tasks as follows:

4.1. Forum of Tax Coordination Practices

The goal of taxation coordination has become a necessary role to work with ASEAN-3 through ASEAN-10 tax agencies to represent their government revenue policy in dealing with the **ASEAN Forum on Taxation (AFT)** after the world economic downturn in 2008.

In this regard, a solid effort from the ASEAN Finance Ministers, relevant key actors, and stakeholders have formed taxation initiatives during the 2010s. The effective formation of tax coordination practices came from the outcome of the “Joint Media Statement of the 15th ASEAN Finance Ministers’ Meeting (AFMM), Bali, Indonesia, 8 April 2011.”²²² All 10 Finance Ministers have represented the ten countries’ governments to support a preliminary “**Establishment of the ASEAN Forum on Taxation (AFT)**”²²³ to make the first regional ASEAN taxation bloc in history. The current forum is an essential platform in dealing with the tax coordination of task force activities among ASEAN-3 tax agencies through ASEAN-10, and other key relevant taxpayers in the ASEAN economic region. This forum represents a tremendous platform to engage with various action plans

²²² ASEAN Secretariat, Joint Media Statement of the 15th ASEAN Finance Ministers’ Meeting (AFMM), Bali, Indonesia, 8 April 2011, ASEAN Cooperation on Taxation, available at <https://asean.org/joint-media-statement-of-the-15th-asean-finance-ministers-meeting-afmm-bali-indonesia-8-april-2011/> (last visited April 15, 2020).

²²³ *Id.*

with in the “ASEAN Integration Monitoring Directorate of the ASEAN Economic Community Department”²²⁴ acting as coordinators under the ASEAN Secretariat body.

The AFT-WG has worked significantly as a core manifesto in engaging “Public-Private Sector”²²⁵ in dealing with tax issues to support the CSAP under sectional work program of the ASEAN Finance Cooperation and Economic Cooperation. Therefore, the AFT-WG drives key contributions through dialogue, annually hosting meetings rotating among AMSs (Ship). Also, they (Ship) have worked very hard to develop many tax areas for strengthening and building bridges for ASEAN tax coordination in reaching their destination.

From the global tax aspect, the ASEAN tax coordination platform is attractive, concentrating on conducting research and study in the ASEAN taxation jurisdictions through scholars' eyes. This move looks forward to reciprocal benefits for consistent tax collaboration and coordination networks through regional and bilateral partners to tackle the avoidance of tax controversies to enhance the growing economic gap in trade, and across investment crossroads toward desired economic integration.

Figure 25: Establishment of Historical ASEAN Forum of Taxation and Projection of Meeting Agenda Under Consolidated Strategic Action Plan 2016-2025 among ASEAN Member States through ASEAN Secretariat

2011	Forming ASEAN Forum on Taxation (AFT) in Bali, Indonesia
2012---2016	-----under ASEAN Finance Minister’s Meeting progress agenda
2017-2018	Offering Host Meeting on AFT in Manila, Philippines
2019	Delivering Workshop on AFT in Bangkok, Thailand
2020	Absent Tax Activities due to the Covid-19 Pandemic Crisis
2021---2025	-----Continuing Projection for Studying Tax Coordination

²²⁴ ASEAN Secretariat, ASEAN Organizational Structure, available at <https://asean.org/asean/asean-structure/organisational-structure-2/> (last visited April 16, 2020).

²²⁵ ASEAN Secretariat, The ASEAN Charter, ASEAN 2025: Forging Ahead Together, D.3. Public-Private Partnership, Jakarta, pp.91-94 (Nov. 2020).

or 2025---2030	
Source: ASEAN Secretariat and Other ASEAN Tax Authorities Websites	

Figure 25 emphasizes the establishment of the AFT and continuing study for pushing the tax coordination-projection process from 2016-2025 or 2025-2030. This AFT has made history with its study of the ASEAN tax development movement for the first time. A taxation framework outlines what the needs are in dealing with active participation among member states through a host meeting agenda in the past and for the near future. The engagement scenarios' priority tasks need to be in the hands of the ASEAN government's judgment and commitment. They shall act with the following work in leading steps and measures locally and internationally through mutual tax coordination approaches.

4.2. Strengthening and Building for ASEAN Tax Coordination and ASEAN Economic Community Department

Effective 1 January 2016, the AEC Department body has played an important role in dealing with ASEAN-3 through ASEAN-10 tax agencies to build bridges to facilitate ASEAN tax coordination to strengthen the AFT-WG's goal. Certainly, both ASEAN tax coordination and AEC Department have become good partners in terms of dealing with a tax collaboration platform. Furthermore, the AEC Department represents the ASEAN Secretariat to work with ASEAN tax agencies to host annual meetings in rotation each fiscal year. The roles of the AFT and ASEAN AEC Department have served as a sophisticated **“a platform to support regional dialogue on taxation issues for regional integration, particularly related to withholding tax and double taxation”** ²²⁶ through tax development trends.

²²⁶ Satoru Araki, ITR Correspondent, Enhancing cooperation among tax administrators in Asia-Pacific, Other frameworks for regional co-operation, (January 28, 2014), © 2021 Euromoney Institutional Investor PLC, available at <https://www.internationaltaxreview.com/article/b1f9jyxq74nqd9/enhancing-cooperation-among-tax-administrators-in-asia-pacific> (last visited January 5, 2021).

In this regard, it has formulated initiatives which would allow the ASEAN to move forward with tax agreements in support of regional taxation integration. Currently, AFT is an active platform to prepare, organize, conduct, and deal with and to share experience and knowledge through the ASEAN cooperation on taxation issues to benefit the AMSs under the AEC flagship.

Figure 25 shows past events related to ASEAN tax agencies, relevant actors, and AEC Department activities to work to build strong regional economic ties. Above the sharing taxation platform is substantial contribution in engaging with a core forum for ASEAN tax coordination in implementing expansion on taxation capacity and other tax matters among AMSs.

4.3. Implementation of the Exchange of Information for Tax Purposes in ASEAN-3

Figure 26: Implementation of the Automatic Exchange of Information among ASEAN Member States					
Country	Global Forum Member?	Global Forum Ranking (EOIR)	Signatory	AEOI Commitment? By specific date?	Entry into Force (Assessed by specific date)
Brunei	2010	Largely compliant	2018	Yes – 2018	Not assessed
Cambodia	2017	Not reviewed	Not		Not assessed
Indonesia	2011	Largely compliant	2018	Yes -2018	Yes – passed
Lao PDR	-	-	-	-	-
Malaysia	2011	Largely compliant	2018	Yes – 2018	Yes – passed
Myanmar	-	-	-	-	-
Philippines	2011	Largely compliant		Yes - no date	Not assessed
Singapore	2010	Compliant	2018	Yes – 2018	Yes – passed
Thailand	2017	Not reviewed		Yes - no date	Not assessed
	2020	Not reviewed	-	Yes - no date	Not assessed

Source: All Webpages of the ASEAN Tax Authorities and OECD
(http://www.oecd.org/ctp/exchange-of-tax-information/Status_of_convention.pdf)
or <https://www.oecd.org/g20/oecd-secretary-general-tax-report-g20-finance-ministers-july-2018.pdf>

A main role in leading is needed to act to deal with commitment for taking responsibilities for and by AMSs to push forward to serve the interest of the AEC. Therefore, the implementation of the exchange of information (EOI) for tax purposes has endorsed the CSAP 2016-2025 in the context of the “Joint Statement of the 4th ASEAN Finance Ministers' and Central Bank Governances' Meeting (AFMGM) that took place in Vientiane, Lao PDR on April 4, 2016.”²²⁷ All member states deal with “recent developments in the establishment of bilateral tax agreements under the ASEAN Forum on Taxation.”²²⁸

The main purpose of the 2nd AFMGM agenda that has played a dynamic role is to “encourage all AMSs to improve the implementation of the EOI for tax purposes in accordance with international standards, and to enhance cooperation on capacity building on taxation matters”²²⁹ which comply with their timelines. Moreover, implementation of the EOI in ASEAN is to follow up “the Automatic Exchange of Information (AEOI) portal provides a comprehensive overview of the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) in the area of the automatic exchange of information, in particular with respect to the Common Reporting Standard.”²³⁰

The evolution of the OECD development instrument is a useful tool for benefiting tax agencies worldwide to comply with international tax regimes. Therefore, many tax agencies have been involved in participating in international tax forums. Moreover, “this widespread move to the automatic exchange of information is particularly remarkable when it is considered that all the jurisdictions exchanging information had to (i) introduce detailed domestic rules requiring their financial institutions to collect and report the data to be exchanged, (ii) put in place international agreements with each of their partners to deliver the widespread networks necessary for automatic

²²⁷ ASEAN Secretariat, Joint Statement of the 2nd ASEAN Finance Ministers' and Central Bank Governors' Meeting (AFMGM), available at <https://www.asean.org/storage/2016/04/Joint-Statement-of-the-2nd-AFMGM-FINAL-clean.pdf> (last visited January 10, 2021).

²²⁸ *Id.*

²²⁹ *Id.*

²³⁰ OECD, Automatic Exchange Portal, available at <https://www.oecd.org/tax/automatic-exchange/> (last visited January 17, 2021).

exchange, and (iii) put in place the technical solutions to link into the Common Transmission System (CTS) that was put in place by the OECD's Forum on Tax Administration and which is being managed by the Global Forum.”²³¹ By June 2018, 122 tax jurisdictions had agreed to automatically exchange information for tax purposes under the Amended Convention under “the OECD's Automatic Exchange of Information (AEOI)”²³² framework.

More importantly, implementing of the EOI for tax purposes has become sensitive as an agenda among all ASEAN tax agencies. Additionally, the role of implementing EOI is under guidance of the AEC's strategic action plan in ASEAN regional taxation in accordance with standard international tax rules. In addition to this, accelerating EOI for tax purposes is one of the priority tasks under the ASEAN international tax policy system. Some countries have played a significant role to deal with counterparts in the legal framework of member states through bilateral tax agreements, as long as these countries have signed their double tax agreements (DTAs) or tax treaty coverage with each as defined above and shown in **Figure 24 and Figure 26**. The process to deal with the EOI is based on each country's assessment through bilateral tax negotiations and investment considerations. However, other member states may wish to share contributions to deal with issues of information exchange for tax purposes. The ongoing efforts of all ASEAN tax agencies have been focused on opening dialogue with member states to accelerate exchange of information in accordance with international tax rules in the ASEAN region.

In the context of ASEAN international tax affairs, some ASEAN countries have taken a decision to join the Global Forum; other countries will not join it. As we can see above, **Figure 26** emphasizes all member states have joined “the Global Forum on Transparency and Exchange of Information for Tax Purposes”²³³ to implement the Automatic Exchange of Information Standard among ASEAN-3 countries across the ASEAN Community as follows:

²³¹ OECD, Automatic Exchange of Information Implementation Report 2018, Executive Summary, available at <https://www.oecd.org/tax/transparency/AEOI-Implementation-Report-2018.pdf> (last visited January 20, 2021).

²³² OECD, Automatic Exchange of Information, available at

<https://www.oecd.org/tax/exchange-of-tax-information/automaticexchange.htm> (last visited January 23, 2021).

²³³ OECD, Global Forum on Transparency and Exchange of Information for Tax Purposes, Peer Reviews, available at

4.3.1. Cambodia

Cambodia has designed its taxation system to deal with the international tax regime, in three-levels, including the local and global, below.

First, Cambodia has developed its taxation system to undertake critical parts of the sub budget program to enhance “the Revenue Mobilization Strategy (RMS) 2019-2023.”²³⁴

Second, Cambodia has been driven by existing the Exchange of Information for Tax Purposes under the legal framework for tax cooperation. The following year, the Cambodian government has already signed other ASEAN counterparts and continued negotiating tax treaties in the past fiscal year as discussed in Chapter three.

Third, “the Cambodia has joined the Global Forum on Transparency and Exchange of Information for Tax Purposes as its 144th members”²³⁵ in 2017. This was a better move for the Cambodian tax agency. “This move also affirms their participation, with the rest of the international community, in the improving international tax transparency and the fight against international tax evasion and avoidance.”²³⁶ Furthermore, Cambodia is one member of 161 countries of the Global Forum on Transparency and Exchange of Information for Tax Purposes. From this point, Cambodia has taken its state responsibility to participate in the international standard tax regime.

Cambodia has yet to set a deadline for the implementation of the OECD Automatic Exchange of Information. However, Cambodia is obligated to undertake the Exchange of Information under the CSAP 2016-2025 in the context of sharing best practices on the implementation of automatic exchange of financial account information in accordance with international standards in regional

https://www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-peer-reviews_2219469x (last visited January 25, 2021).

²³⁴ Ministry of Economy and Finance, Revenue Mobilization Strategy 2019-2023, (ed. 2019).

²³⁵ OECD, the Global Forum on Transparency and Exchange of Information for Tax Purposes, Cambodia, Greenland, Haiti and Madagascar join the fight against tax evasion, available at <https://www.oecd.org/tax/transparency/cambodia-greenland-haiti-and-madagascar-join-the-fight-against-tax-evasion.htm> (last visited January 27, 2021).

²³⁶ *Id.*

cooperation for the next ten years. For instance, as a two-actor protocol, the governments of Cambodia and Singapore have signed their first bilateral agreement on avoidance of double taxation in dealing with the legal framework of “Agreement Between the Royal Government of Cambodia and the Government of the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income”²³⁷, which includes Brunei Darussalam, Indonesia, Malaysia, Thailand, and Vietnam. Besides, Cambodia is planning to negotiate agreements for the avoidance of double taxation among its ASEAN counterparts to enhance its approach to tax transparency.

4.3.2. Singapore

Singapore is not only a developed country but also adopted a productive tax system among the AMSs. Generally, the government of Singapore has legal rights and obligations to fulfill a domestic and global forum under international tax regime approaches as follows:

First, Singapore has carried out a local forum to sustain its Singapore taxation system to strengthen the fiscal policy to hit a target.

Second, Singapore needs to adapt its tax system to comply with participation in the CSAP. Besides, Singapore is a member of 161 countries of the Global Forum on Transparency and Exchange of Information for Tax Purposes. To this end, Singapore joined the Global Forum on Transparency and Exchange of Information for Tax Purposes in 2011.

Third, Singapore shall be responsible for participating in the legal framework that complies with international tax standards. This is not an easy task; Singapore needs to deal with it. Singapore is committed to implement the Common Reporting Standard (CRS) initiative under the CSAP 2016-2025 in the context of sharing best practices on the implementation of the automatic

²³⁷ Cambodia General Department of Taxation of Ministry of Economy and Finance, International Relation, available at <https://www.tax.gov.kh/en/ir.php> (last visited January 26, 2021).

exchange of financial account information according to international standards in regional ASEAN cooperation for the next ten years. That shown a fast track is moved forward adopting country.

As can be seen, **Figure 26** shows Singapore is ranked at outstanding status. The Global Forum has assessed the “**Compliant**” ratio that is top score initiative if compared with the ASEAN-3 or ASEAN-10 member states. It means that Singapore is standing at a high tax compliant level in comparison with Cambodia and Thailand among the same ASEAN counterparts. In this regard, Singapore is leading all the member states as a reflective of the regulatory framework of the dedicated tax integrity system under international tax rules.

4.3.3. Thailand

By existing international tax rules, Thailand is one country among the AMSs acting in an independent role. Thailand is eligible for governing a local tax level and global forum to meet its target below.

First, the government of Thailand has participated in a local tax project to support its Thailand tax policy approaches.

Second, Thailand also requires complying with participation in the international tax regime. To meet international tax rules, the government of Thailand shall be obliged to fulfill all relevant criteria under the Global Forum of Transparency and Exchange of Information for Tax Purposes to reach all regulation requirements. Therefore, Thailand has joined the Global Forum on Transparency and Exchange of Information for Tax Purposes in 2017. Furthermore, Thailand is also one member of 161 countries of the Global Forum on Transparency and Exchange of Information for Tax Purposes. “Thailand has joined the Global Forum on Transparency and Exchange of Information for Tax Purposes as its 139th member.²³⁸ Thailand is expected to implement the full CRS initiative by

²³⁸ OECD, Thailand joins the Global Forum on Transparency and Exchange of Information for Tax Purposes, available at <https://www.oecd.org/ctp/exchange-of-tax-information/thailand-joins-the-global-forum-on-transparency-and-exchange-of-information-for-tax-purposes.htm> (last visited January 29, 2021).

January 1, 2022. Moreover, Thailand will set up a timetable to implement the OECD's AEOI in 2023 or later.

Third, Thailand is one member of the AMSs, which needs to participate in the AEOI under the CSAP 2025. Thailand has actively implemented the CRS initiative under the CSAP 2016-2025 in the context of sharing best practices on the implementation of the automatic exchange of financial account information under international standards in regional ASEAN taxation cooperation for a decade.

4.4. Implementing and Monitoring Projection of the Base Erosion and Profit Shifting (BEPS)

Technically, the application of international standard tax has become a tremendous model or tool for many governments, researchers, scholars, and academic institutions worldwide. The OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (IF) has agreed a two-pillar solution to address the tax challenges arising from the digitalization of the economy.²³⁹ Therefore, a new tax development for those countries is to apply for the **Basic Erosion and Profit Shifting (BEPS)** project on a fast track for tax agencies to assist their tax administration to move forward the international tax regime's goal. In addition, “the scope of the work on international tax and the interest that it has attracted both at the highest political levels and with the public demonstrates that the G20's efforts to shape the international tax architecture over the past decade have had real impact.”²⁴⁰

Together with governments, policy makers and citizens, we work on establishing evidence-based international standards and finding solutions to a range of social, economic and environmental challenges.²⁴¹ An international tax platform was born in 2002 that engaged 53 tax jurisdictions from 53 OECD and non-OECD countries. The international tax platform has been named the Forum on Tax Administration. “**The Forum on Tax Administration (FTA)** aims to influence the

²³⁹ OECD, Secretary-General Tax Report to G20 Leaders, Attachment A. Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitation of the Economy, Introduction, Italy, pp.10-14 (Oct. 2021).

²⁴⁰ OECD, Secretary-General Tax Report to G20 Leaders, Introduction, Italy pp.4-9, (October 2021).

²⁴¹ OECD, Together, we create better policies for better lives, Who we are, available at <http://www.oecd.org/about/> (last visited January 30, 2021).

environment within which tax systems operate: to move away from a confrontational dialogue to more constructive engagement with taxpayers.”²⁴² FTA has played an extremely important role to represent the international tax community. “To find solutions, we must join together and start a conversation.”²⁴³ It means that both OECD and non-OECD members shall benefit from “**Approach on Pillar One and Pillar Two**”²⁴⁴ based on international tax reform rules in global minimum corporate tax endorsed by G20 Finance Ministers in Italy, October 2021.

The international tax community stands together: “the IMF, OECD, United Nations, and the World Bank Group are working together under the **Platform for Collaboration on Tax**, to enhance their cooperation and improve the support and assistance they provide to governments.”²⁴⁵

From this perspective, it defined “*the Base Erosion and Profit Shifting (BEPS) Project*”²⁴⁶, initially founded by the OECD/G20 Finance Minister's Meeting in Saint Petersburg, Russia in 2013. “The OECD supported the group in designing this new Action Plan - from the angle of structural reforms, contributing to make them more concrete, specific and assessable.”²⁴⁷ Moreover, “leaders endorsed the Action Plan on Base Erosion and Profit Shifting (BEPS) and encouraged all interested countries to participate to the G20/OECD BEPS project.”²⁴⁸

As an aspect of the OECD officially formed the **Inclusive Framework (IF)** in the context of encouraging tax authorities to enable them to collaborate in the implementation of the BEPS which was supported by G20 leaders and international organizations in January 2016. At the OECD/G20 on

²⁴² OECD, tax administration, form of tax administration, available at <http://www.oecd.org/tax/administration/> (last visited January 30, 2021).

²⁴³ *supra* note 241 or (Richard Branson, Founder of the B-Team, available at <http://www.oecd.org/about/> (last visited January 31, 2021).

²⁴⁴ OECD, OECD/G20 Base Erosion and Profit Shifting Project, Statement on a Two-Pillar Solution to Address the Tax Challenges Arising From the Digitalisation of the Economy, (1 July 2021), or OECD, Action 1 Tax Challenges Arising from Digitalisation, Top story, available at <https://www.oecd.org/tax/beps/beps-actions/action1/> (last visited January 31, 2021).

²⁴⁵ UN, International tax cooperation overview, Platform for Collaboration on Tax, available at <https://developmentfinance.un.org/international-tax-cooperation-overview> (last visited January 31, 2021).

²⁴⁶ Michael P. Devereux et al., Taxing Profit in a Global Economy, Ch.3: The Current International Tax Regime, pp.85-88 (1st ed. 2021).

²⁴⁷ OECD, St. Petersburg, Russian Federation 2013, Main Achievements, available at <https://www.oecd.org/g20/summits/saint-petersburg/> (last visited January 30, 2021).

²⁴⁸ *Id.*

Inclusive Framework's meeting on 25 - 27 January 2017 in Paris, many advanced tax agencies announced their intention to join the IF. “Under the OECD/G20 Inclusive Framework on BEPS, over 135 countries are collaborating to put an end to tax avoidance strategies that exploit gaps and mismatches in tax rules to avoid paying tax.”²⁴⁹ Therefore, the OECD /G20 meeting took 135 tax jurisdictions together to collaborate on the implementation of “the BEPS project.”²⁵⁰

The current BEPS project is in a sensitive implementation phase among 116 countries involved in a particular majority of developing countries. The tax purposes of the Base Erosion and Profit Shifting (BEPS) or the OECD/G20 Inclusive Framework on BEPS are **“to tackle tax avoidance, improve the coherence of international tax rules and ensure a more transparent tax environment.”**²⁵¹ In this connection, “developed in the context of the OECD/G20 BEPS Project, the 15 actions set out below equip governments with domestic and international rules and instruments to address tax avoidance, ensuring that profits are taxed where economic activities generating the profits are performed and where value is created.”²⁵²

The foundation of the OECD's BEPS Inclusive Framework is an important mirror that reflects imagining ASEAN-3 through ASEAN-10 tax agencies to enhance partnership-taxation guidelines. Moreover, the BEPS is one priority agenda under the ASEAN Consolidated Strategic Action Plan 2016-2025 that is needed to act together among member states in improving tax transparency.

Currently, all member states have alternative cost-benefits whether they participate or not because those countries have different choices to follow within the OECD/G20 BEPS project. As the common approach to the OECD/G20 BEPS project progresses, there are two member states among ASEAN-3 who have become more active, except *Cambodia*. For example, ASEAN-3 member states,

²⁴⁹ OECD, International collaboration to end tax avoidance, available at <https://www.oecd.org/tax/beps/> (last visited January 31, 2021).

²⁵⁰ Michael P. Devereux et al., *Taxing Profit in a Global Economy*, Ch.3: The Current International Tax Regime, pp.106-107 (1st ed. 2021).

²⁵¹ OECD, International collaboration to end tax avoidance, available at <https://www.oecd.org/tax/beps/> (last visited January 31, 2021).

²⁵² OECD, BEPS Actions, available at <https://www.oecd.org/tax/beps/beps-actions/> (last visited January 31, 2021).

Singapore and Thailand's government, have displayed a prominent role in participating in the OECD's BEPS project. De facto, those two tax agencies are starting to implement it under the international instrument, convention, treaty, or agreement on tax matters that are duly ratified. AMSs are committed to participation in the OECD Common Reporting Standard initiative. However, another ASEAN member state is not a member of the BEPS project. For instance, Cambodia has a different reason to participate in the OECD/G20 BEPS project as a non-adopting member state instead.

The growing importance of endorsing the BEPS project has moved ahead. Broadly, ASEAN-3 member states except Cambodia have played a highly active role in undertaking the BEPS project in responding to the comprehensive taxation system reform in the context of the global tax competitiveness trends. Some countries among ASEAN member states act to ensure fiscal health to attract investment opportunities and contribute to a growing economy, capital, and technology etc. **Figure 27** highlights regional countries among ASEAN member states who participate in the BEPS project to benefit their countries under international tax rules as follows:

Figure 27: Signatories and Parties to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (BEPS)					
Country	Signatory	Deposit of Instrument of Ratification, Acceptance or Approval	Entry into Force	Notification made pursuant to Article 35(7)(6) of MLI	Notifications made after becoming a Party
Brunei	2019		2020		
Cambodia					
Indonesia	07-06-2017	28-04-2018	01-08-2020		
Lao PDR					
Malaysia	24-01-2018				
Myanmar					
Philippines					
Singapore	07-06-2016	21-12- 2018	01-04-2019		
Thailand	21-06-2017				
Vietnam	21-06-2017				
Source: All ASEAN Tax Authorities Webpages and OECD (http://www.oecd.org/ctp/exchange-of-tax-information/Status_of_convention.pdf) or (http://www.oecd.org/tax/treaties/beps-mli-signatories-and-parties.pdf)					

4.4.1. Cambodia

Cambodia has yet to join the OECD's BEPS project. However, Cambodia remains a non-BEPS-associate country. Cambodia shall learn best practices of the BEPS project from ASEAN member states to support the Consolidated Strategic Action Plan 2016-2025, which is a key to participating in international standards in the legal framework of international tax policy reform.

4.4.2. Singapore

Singapore is one of the Members of the OECD/G20 Inclusive Framework on the BEPS project. Therefore, Singapore is neither member of the G20 nor the OECD. When the government of Singapore began to apply for a negotiation protocol of the Multilateral Instrument (MLI) was completed in 2016 in Paris. "Singapore joined the Inclusive Framework on the Base Erosion and Profit Shifting (BEPS) on June 7, 2016 as a BEPS Associate."²⁵³ For committing protocol, "with this joining, Singapore committed to implementing the four internationally-agreed standards under the BEPS project, namely the standards on countering harmful tax practices, preventing treaty abuse, country-by-country reporting and enhancing dispute resolution."²⁵⁴

As tax policy actor, Singapore is one of a non-contracting party that is committed to a global implementation of the OECD's BEPS project to support its own tax policy as part of modern tax administration. Singapore is one among of "the BEPS Inclusive Framework of 102 members as of July 2017."²⁵⁵ In addition, Singapore has deposited to the BEPS a project-related Multilateral

²⁵³ IRAS, IRAS FAQs on the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting ("MLI"), https://www.iras.gov.sg/irashome/uploadedFiles/IRASHome/Quick_Links/2019-04-01%20MLI%20FAQs.pdf (last visited January 31, 2021).

²⁵⁴ Ministry of Finance, Singapore's Tax Incentives Meet International Standards on Countering Base Erosion and Profit Shifting (BEPS) Activities, (16 Oct, 2017), available at [https://www.mof.gov.sg/newsroom/press-releases/Singapore-s-Tax-Incentives-Meet-International-Standards-on-Countering-Base-Erosion-and-Profit-Shifting-\(BEPS\)-Activities](https://www.mof.gov.sg/newsroom/press-releases/Singapore-s-Tax-Incentives-Meet-International-Standards-on-Countering-Base-Erosion-and-Profit-Shifting-(BEPS)-Activities) (last visited January 31, 2021).

²⁵⁵ Ministry of Finance, Singapore's Tax Incentives Meet International Standards on Countering Base Erosion and Profit Shifting (BEPS) Activities, About the Forum on Harmful Tax Practices, (16 Oct 2017), available at

Instrument to the Secretary-General of the OECD on 21 December 2018. The effective date of the BEPS project was 1 April 2019. **Figure 27** shows Singapore to be participating with the BEPS project to support the Consolidated Strategic Action Plan 2016-2025 to meet international standards.

In this regard, Singapore has undertaken to implement the BEPS project initiative among counterpart member states because the majority of Singaporean tax practitioners, including stakeholders and relevant actors, are proficient with professional skills and high compliance compared with other ASEAN stakeholders.

4.4.3. Thailand

The government of “Thailand joins the Inclusive Framework on BEPS and participates in first joint programme for the implementation of international tax standards”²⁵⁶ in 2017. In addition, “Thailand has become the 98th jurisdiction to join the Inclusive Framework on BEPS (“IF”) [...]”²⁵⁷

Thailand has obliged to fulfilling all required criteria of the BEPS Inclusive Framework. Thailand is a member of the OECD/G20 Inclusive Framework on BEPS project. As associate of the OECD’s BEPS project, Thailand shall be committed to act four (04) minimum standards as follows:

- ✚ Action 5 is Countering Harmful Tax Practices;
- ✚ Action 6 is Preventing Treaty Abuse);
- ✚ Action 13 is Transfer pricing documentation and country-by-country (CbC) reporting; and
- ✚ Action 14 is Dispute Resolution as well as Country-by-Country (CbC) reporting under the BEPS for improving dispute resolution mechanisms (Action 14).

As we can see, **Figure 27** demonstrates the OECD's BEPS has entered into enforce for

[https://www.mof.gov.sg/newsroom/press-releases/Singapore-s-Tax-Incentives-Meet-International-Standards-on-Countering-Base-Erosion-and-Profit-Shifting-\(BEPS\)-Activities#_ftn1](https://www.mof.gov.sg/newsroom/press-releases/Singapore-s-Tax-Incentives-Meet-International-Standards-on-Countering-Base-Erosion-and-Profit-Shifting-(BEPS)-Activities#_ftn1) (last visited February 1, 2021).

²⁵⁶ OECD, Thailand joins the Inclusive Framework on BEPS and participates in first joint programme for the implementation of international tax standards, available at <https://www.oecd.org/tax/beps/thailand-joins-the-inclusive-framework-on-beps-and-participates-in-first-joint-programme-for-the-implementation-of-international-tax-standards.htm> (last visited February 2, 2021).

²⁵⁷ *Id.*

Thailand to support the Consolidated Strategic Action Plan 2016-2025 to implement the international standards as well.

4.5. Concrete Steps and Creation of ASEAN Taxation Institute to Study Withholding Tax Structure Purposes

For more than 50 years, the IMF has provided capacity development (technical assistance and training) on critical economic issues to central banks, finance ministries, **tax authorities** and other economic institutions. ²⁵⁸ Development needs to be economically, socially and environmentally sustainable. ²⁵⁹ This is to highlight “the Sustainable Development Goals (SDGs) are a set of global development targets adopted by the member countries of the United Nations (UN) in September 2015.” ²⁶⁰ The SDGs will guide the global development agenda through 2030. ²⁶¹

Concrete steps for pushing “capacity-building is defined as the process of developing and strengthening the skills, instincts, abilities, processes and resources that organizations and communities need to survive, adapt, and thrive in a fast-changing world.” ²⁶² In addition to this, “the Sustainable Development Goals are the blueprint to achieve a better and more sustainable future for all.” ²⁶³ Every aspect of this institution study needs human capital development.

The purpose of the creation of the ASEAN Taxation Institute (ATI) to study withholding tax structure is essential for delivering tax capacity development to ASEAN tax officials for improving and utilizing the successes and failures under the Consolidated Strategic Action Plan 2016-2025. The

²⁵⁸ IMF, About Capacity Development, About Us, available at <https://www.imf.org/en/Capacity-Development/About>, (last visited February 2, 2021).

²⁵⁹ IMF, The IMF and the Sustainable Development Goals (SDGs), available at <https://www.imf.org/en/Capacity-Development/About> (last visited February 3, 2021).

²⁶⁰ *Id.*

²⁶¹ IMF, IMF and the Sustainable Development Goals, available at <https://www.imf.org/en/About/Factsheets/Sheets/2016/08/01/16/46/Sustainable-Development-Goals> (last visited February 3, 2021).

²⁶² UN, Academic Impact, Capacity-building, <https://academicimpact.un.org/content/capacity-building> (last visited February 3, 2021).

²⁶³ UN, About the Sustainable Development Goals, available at <https://www.un.org/sustainabledevelopment/sustainable-development-goals/> (last visited February 3, 2021).

ATI must design a taxation curriculum model that associates with a university campus, with lecture theatres, dorms, cafeterias, sporting facilities, and related infrastructure. The current ASEAN University Network (AUN) does not yet deliver an advanced program consisting of Master of Taxation, Master of Laws (LLM) in Tax Law, Master of Tax Policy and Administration, and Advance Degree of Taxation and Management. From this advance curriculum/program of graduate tax, it will guide and assist future ASEAN tax policymakers and tax administrations in supporting the AEC direction.

Moreover, the advanced program of taxation will benefit young taxpayers and stakeholders who become tax practitioners in the future. This curriculum is a required task to deal with forming the future of the ATI that is the pathway to make successful the building of taxation capacity guidance. Without ATI, without an advanced curriculum, without a bright future for tax policymakers, strengthening capacity building for development will not enhance incredible tax practitioners for inspiring the young generation. This concrete step must move forward to establish the ATI to study a new tax structure in an unprecedented timeline under the uncertain global economy after the Covid-19 pandemic era. The ATI will be a backbone and massive asset for enhancing the AEC in the future. Everything is based upon the willingness and political will, if all ten ASEAN leaders are considering whether it is a critical taxation institute to improve professional tax capacity and tax practitioners. **“Where there's a will, there's a way.”**²⁶⁴ It means that all member states can find a way to achieve what they want, even if it is very difficult. They must deal with “Concrete Steps and Creation of ATI to Study Withholding Tax Structures”; this ATI will guide and generate many benefits for young taxpayers and other stakeholders. Tomorrow will dawn a bright future for the young generation based on their political commitment from their ASEAN leaders' legacy.

²⁶⁴ English proverb, the 18th century England, available at <https://www.theidioms.com/where-theres-a-will-theres-a-way/> (last visited February 5, 2021).

4.6. Avoiding Tax Controversies/ Tax War

Is an ASEAN Tax Court Necessary?

“An ASEAN Tax Court” is a very necessary platform to generate and inspire better tax solutions or tax disputes in tax-related conflicts for future taxpayers as a fair and equal judiciary body. It is an independent tax judicial system that is not related to prospective ASEAN tax agencies. The objective of the ASEAN tax court (ATC) shall work and serve all types of people, with equality, and justice in dealing with tax litigation, tax disputes, harmful tax practices, and tax consequences across border-business transactions. In addition, a diversifying future of the unique ATC is a powerful judiciary body to restore strong confidence in taxpayers to trust its tax court.

A key definition of “the tax court is a specialized court of law that hears and adjudicates tax-related disputes and issues.”²⁶⁵ “The tax court has the authority to provide rulings on a wide range of taxation subjects.”²⁶⁶ Therefore, the tax court does not work for any tax agencies and taxpayers. The independent tax court system is equally beneficial to both tax administration and taxpayers that reflect fairness in all stakeholder's perspectives. Precisely, most true investors and taxpayers need the independent tax court to protect their investment properties and paying the amount of tax revenue.

Today's tax controversy environment emphasizes a storm of competitive factors after ASEAN government leaders have officially formed AEC in 2015. Particularly, all ASEAN-3 or ASEAN-10 tax agencies have already initiated their self-assessment system or self-assessment regime under each tax law that member states follow. Daily tax audit operation is a sensitive subject of tax dispute or controversy between the tax agency and taxpayer due to complex tax regulation and tax rulings because of delivering level of tax compliance and tax procedures that have impacted both corporate business tax and income tax flow among border-business in connection with financial

²⁶⁵ Investopedia, Tax Court, available at <https://www.investopedia.com/terms/t/taxcourt.asp> (last visited February 5, 2021).

²⁶⁶ *Id.*

transactions through various tax jurisdictions. This shows that, “a tax administrative issues a large quantity of tax imposition decisions as part of its daily operations, and taxes often are of a highly specific and technical nature, such as, for example, the application of corporate income tax to cross-border financial transactions.”²⁶⁷ As ASEAN Tax Dispute System (ATDS) always performs based upon each specific national organization where is located, whose tax authorities through review the ministry of finances' decision. This is a lack of tax-dispute-resolution system as an independent tax court system among ASEAN-3 or ASEAN-10 member states.

According to the current ATDS always act based upon each national tax tribunal process. This study shows each local tax tribunal is not an independent body with strong confidence to seek tax solutions for taxpayers. Furthermore, local tax tribunals have not made a good deal to avoid tax controversies to support the CSAP direction in the context of an unprecedented tax atmosphere.

All taxpayers and stakeholders are living under the justice umbrella of a tax court. The roadmap of ATC aspect will look forward to finding an independent body to benefit taxpayers. For instance: the proper implementation of every trial procedure shall “file a petition with 90 days or less”²⁶⁸ in the legal framework of tax disputes or late payment through “a Notice of Deficiency Letter or Statutory Notice of Determination”²⁶⁹ from the tax agency. Each case of tax court starts at the filing of a petition and paying the amount of fee in accordance with administrative judiciary procedure between taxpayers and tax agencies. Every case always conducts a hearing by a single judge and taxpayers who are represented legal tax practitioners. Taking steps in dealing with the ASEAN tax court process shall create a milestone to fast-track guidelines to accomplish this in the future.

We (taxpayers and stakeholders) need to deal with the CSAP under tax collaboration the tax platform in the ASEAN Charter in the context of pushing ahead on both normal track and fast track. It is a very important for ASEAN stakeholders to identify all issues connected to tax

²⁶⁷ Satoru Araki & Iris Claus, *A Comparative Analysis of Tax Administration in Asia & Pacific*, Ch. VI: Administrative Arrangements for Tax Disputes, pp-60-61 (ADB 2014).

²⁶⁸ Steve Johnson et al., *Civil Tax Procedure (Graduate Tax)*, Ch. 8: Tax Court Litigation of Deficiency Determinations, pp. 225-259 (3rd ed. 2008).

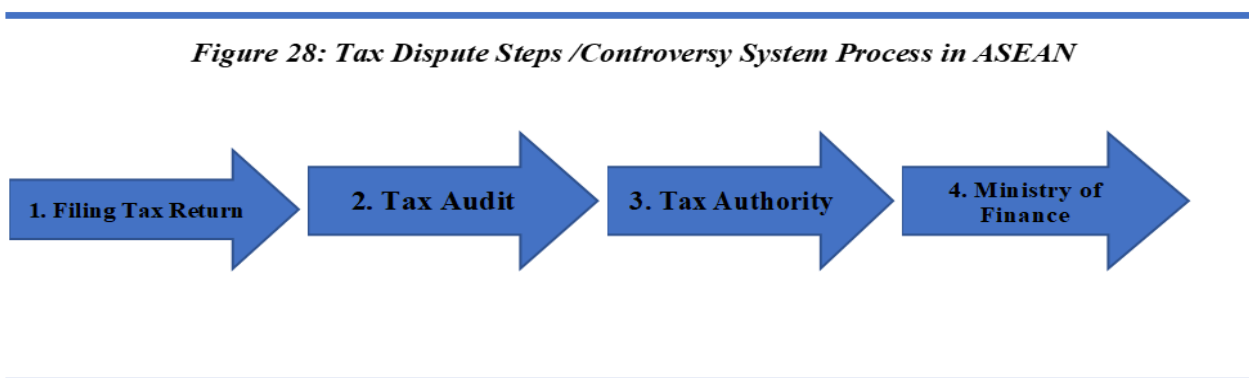
²⁶⁹ *Id.*

consequences. The needs to be a deal to create an ATC to seek fairness for both stakeholders and taxpayers related to MNEs for the future regional economic integration and connected to resolve disagreement of tax rulings. This deal faces many technical barriers.

In this context, many stakeholders need to deal with an independent juridical body related to disagreement with tax rulings for every big business controversy because every taxpayer does not agree with these; they have different opinions about protecting their acquisition and preventing property loss. Those stakeholders need to file a petition to the tax court before paying the amount of money to the tax agency in relation to tax disputes while looking for suitable solutions when disagreements about pricing.

Figure 28 shows the tax dispute steps/controversy system process in ASEAN.

This is key finding case of administrative operations in the context of tax disputes in ASEAN-3 or ASEAN-10. Here is tax authority in dealing with tax disputes in ASEAN as follows:



Source: ADB & OECD

From number 1 to 4 represents the legal framework of the tax dispute system process in ASEAN-3 member states across all tax jurisdictions below.

Number 1 is the first step that represents filing tax returns.

Number 2 is the second step representing a tax audit barrier when taxpayers do not agree with the tax ruling and procedures.

Number 3 is the third step that represents ongoing tax litigation access to tax authorities' making decisions about amounts of paying, tax liability except in various small cases.

Number 4 is the final step that represents the Ministry of Finance's decision. The decision-making steps do not have representative tax court acting as independent body to promote mutual satisfaction between taxpayers and tax authorities in accordance with juridical tax process.

Concerning the ASEAN finance ministers' policymaking, and political will are needed to make a deal with forming tax court's task work for avoiding tax controversies to support the CSAP 2016-2025 in the context of this unprecedented period.

Every taxpayer and stakeholder are looking for an independent tax platform or judicial institution to provide an excellent tax dispute solution across the ASEAN tax community. However, there are case studies that represent taxpayers who do not believe in each local tax court. So, they had brought their tax dispute cases to the WTO panel to solve their tax issues, instead.

Here are selective *three* case studies in dealing with statistical data on tax disputes in ASEAN countries that delivered to the WTO dispute settlement panel below:

Figure 29: Statistical Data of ASEAN Countries for Participation in the WTO Dispute Settlement System from 1995-2021				
Countries	Compliant	Respondent	Third Parties	Total
Brunei	0	0	0	0
Cambodia	0	0	0	0
Lao PDR	0	0	0	0
Indonesia	6	4	8	18
Malaysia	1	1	3	5
Myanmar	0	0	0	0
Philippines	5	6	9	20
Singapore	1	0	8	9
Thailand	13	3	57	73
Vietnam	2	0	15	17
ASEAN				142
Source: WTO				

As shown in **Figure 29** above, ASEAN member countries have/had brought disputed cases in the area of commodity items to the WTO Panel without undertaking their ASEAN judiciary system to resolve tax litigation in the past.

Why is it essential for a tax dispute resolution? Why “ASEAN-3 Revenue Agencies”²⁷⁰ among “ASEAN-10 Revenue Agencies”²⁷¹ do not utilize a binding legal institution of dispute settlement to resolve the above disputed cases? **Why select three cases?** Why did they bring their disputes to the WTO Panel?

This analysis outlines and re-examines three (03) case studies. Why is it a very important subject for the ASEAN taxpayers and stakeholders to deal with a tax dispute settlement? Because there are selective topic aims to strengthen AMSs Tax Court System in order to reduce transaction costs and tax burdens for improving the ASEAN Dispute Settlement Mechanism (DSM), rather than using the WTO mechanism. In doing so, in this context, this study analyzes DSM under the legal framework of the ASEAN tax court platform that is not a powerful judiciary function with rule-based dispute tax resolution, based on an orientation tax cooperation direction through ruling by the WTO panel forum.

In a recent study, **142** cases had risen regarding tax litigation or trade disputes among the AMSs taxpayers due to weak institutions of judiciary function after forming AFTA in 1992, ASEAN DSM in 2004 under the AEC in 2015, respectively. Why ASEAN taxpayers or stakeholders do not utilize own domestic tax court systems to resolve their asset-investment-property or tax lawsuits in the context of recent tax administration development are as follow:

Figure 29 draws information for selective study on three matters related to sensitive contracting parties. The Philippines filed against Thailand, Singapore filed against Malaysia, and Vietnam filed against Indonesia, among 142 cases from 1995 until 2021 as follow:

²⁷⁰ ASEAN-3 revenue agencies shall refer to 3 tax cooperation partners that consist of Cambodia, Singapore, and Thailand.

²⁷¹ ASEAN-10 revenue agencies shall refer to entire 10 tax cooperation partners that consist of Brunei, Cambodia, Indonesia, Lao, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam.

1. The first study has dealt with tariff or tax dispute cases in terms of products or commodities in the context of international obligations with other counterpart trading partners in the AEC among competitive economic partners and revenue authorities. As a practical resolution of the case: ► the Philippines (compliant party) filed against Thailand (respondent party) subject to the **WTO Dispute Settlement Body** (DSB) or **Dispute Settlement Understanding** (DSU) process with both AEC and the WTO members that was an instructive study model compared with other ASEAN countries. The proceeding took place in the WTO DSB around 2008. For instance, the Philippines has been accused by Thailand “**WT/DS371/45**”²⁷² in a case of violation of duties and taxes over imposing cigarette-import, including licensing fees and value added tax by the Thai Revenue Authority from 2006 to 2007 in favor of a **deductive method** that is stipulated under the rules of the GATT/WTO Customs Valuation Agreement (CVA). The key disagreement was taken the process of tax valuation for purposes in terms of duty and tax measures that was driven by a lack of fairness and equity for the importer as a multinational company.

The respondent was favored by a protective Thailand Tobacco Monopoly (TTM) as a domestic industry or a state-controlled entity for a related-party transaction as family or parent relationship. The rules of the CVA shall not allow Thailand government or relevant authority to protect a third party as a related party transaction. It means that it is a violation rules in accordance with the GATT/WTO CVA.

All relevant parties shall act according to their duties as independent obligations. In addition to this case, the Thai Revenue Authority violated **Article III:2** and **Article III:4** of the GATT/WTO rules during that time without any reasons to do so. Indeed, the Thai Revenue Authority already understood the mechanism for mutual preferential treatment agreement among ASEAN member countries. Why does the Thai Revenue Authority not offer favorable treatment to Philippines' importer in the legal framework of low tariff rates under the ATIGA for all provisions in the CEPT-AFTA?

²⁷² WTO, Dispute Settlement Body, The Appellate Body: The proceeding case of the Philippines vs Thailand released by April 6, 2021.

Under the CEPT-AFTA Pact, both parties (or AMSs) shall benefit from low tariff duties and taxes from trade agreement among ASEAN counterparts on how policymakers can be dealt by revenue administration to make sure to provide mutual reciprocity on the CEPT-AFTA Pact for importers or stakeholders properly. This interesting case shows the need for deep agreement of the CEPT-AFTA' benefit for all 10 AMSs for maximizing benefit or favorable treatment with each other under the ASEAN Charter. The Philippines and Thailand disputes reveals an infringement of obligations under the WTO CVA. Also, all 10 ASEAN countries are current WTO members who must comply with all elements of Article of the WTO CVA, a sensitive subject of a dispute process with trading partners.

This dispute study means that Thailand Revenue Authority took action to discriminate against certain products of the Filipino's cigarette-import-business.

As complaining party was the Philippines about exporting cigarettes into Thailand to sell its commodity items in accordance with the WTO CVA. As Thailand was respondent party who allowed the Philippines's to import cigarettes into own jurisdiction to benefit from the low tax rate. However, Thailand took its own action to impose a high duty and tax rates against the Philippines's cigarette-imports. Looking forward, AMSs always gains a tariff benefit from 0-5 percent according to implementation of mutual trade agreement as previously shown in **Figure 1**. Both complaining and respondent players did not respect trade agreement rules, in particular, the Thailand party. The Philippines did not favor of Thailand's decision. The Philippines was not confident about the Thai domestic court system during that time, after the Thai Revenue Authority imposed a high duty and tax rate on the Philippines's cigarettes. The Philippines has full rights to protect itself in terms of low tax schemes under the *ASEAN Charter*. The Philippines party decided to deliver a complaint to the WTO Panel to re-rule over its own importing cigarette's tax litigation. The Thailand party also agreed with the complaint with the Philippines to bring a dispute case to the WTO DSU. The WTO DSU process had taken a long time to rule in favor of both parties. This was a very complicated and remarkable controversy in terms of tariff or tax consequences, which took over a decade to resolve between the Philippines and Thailand. The WTO Dispute Settlement Panel took time to study both the dispute,

and they contacted parties in the field of the Philippines's cigarette-imports. As a result, the WTO panel was in favor of the Philippines over Thailand according to the judgment based upon **Article III:2** and **Article III:4** of the WTO CVA in 2010 and Appellate Report in 2011. The WTO panel has also ruled that Thailand Revenue Authority had not met its international obligation under the WTO CVA regarding cigarettes imported by the Philippines. This remarkable case has cost massive money and a very long time. The above study was an incredible model for ASEAN countries to consider establishing an ASEAN Tax Court in the near future as model for local dispute resolution rather than delivering a tax dispute case to the WTO Panel, which meets in Geneva. However, the proceeding dispute process of **WT/DS371/45** between the ASEAN neighborhood and comprehensive economic partners is unresolved. Whether Thailand will withdraw or suspend this fiscal measure or not, or whether the Thailand party will appeal to the next round to remains to be seen.

2. The second case is to examine a feature of import restriction and a prohibition on “Polyethylene (PE) and Polypropylene (PP)” between contracting parties of **Singapore and Malaysia** which had reflected a duty and taxes, and other charges in the legal framework of a technical barrier acting as an international trade cost under “**WT/DS1, WT/DS1/2, & WT/DS1/3**”²⁷³ in 1995. The Singapore government was complainant, and the Malaysian government was a respondent.

The study analyzed two specific types of quantitative restrictions and prohibitions on the import of PP and PE that reflected a characteristic of implementing Malaysian tariffs or tax policy and a mechanism of effective trade policy. As contracting parties, Malaysia and Singapore, are ASEAN countries eligible for the benefit of preferential treatment in applying for the AFTA under the competitive world trade system. These two trading partners would benefit from the fiscal measures from the ATIGA for AFTA scheme in the AEC direction. The respondent was initially a contracting party to impede Singaporean commodities from delivering industry products to support the supply

²⁷³ Dispute Settlement Body, The Appellate Body: various terms of WT/DS1/2, {(95-0587), (95-0037), (95-0776)} was being submitted a proceeding case of Malaysia vs Singapore released by March 29, 1995.

chain. In this regard, Singapore was not satisfied with the Royal Malaysia of Revenue Authority to ban its Singaporean products caused by the manufacturing process. In this context, Singapore is the WTO member who has a legal obligation in applying rules of the GATT. The Singapore government is qualified to bring a dispute to the WTO DSB to resolve restrictions and prohibitions on PP and PE during that time.

The Malaysian government had also accepted the Singaporean government's consultation on a petition file from the WTO DSB's notification after taking nearly one year. The two disputing parties studied all barriers, all elements, all factors, and administrative costs that were linked by all relevant issues from a third party under the WTO panel. At the final round, the complainant Singapore decided to drop a filing dispute against respondent Malaysia in the same year nullifying case.

3. The third case study investigates a dispute of a complainant who was represented by the **Vietnam** government and a respondent represented by the **Indonesia** government over importing iron/ steel. Complainant Vietnam has argued with a respondent Indonesia over import duties and taxes, and other charges in a legal file of “**DS496**”²⁷⁴ submitted to the WTO DSB in 2015. Both parties seek to submit further documents to the WTO body over a disagreement of importing steel/iron measures.

The key findings identified by a notable study for driving the Vietnam government and Indonesia government in dealing with iron/steel dispute process. The initial dispute arose from the plan of the Head of the Fiscal Policy of the Finance Ministry of Indonesia to impose import taxes on Vietnam Iron/Steel, which aimed to protect a local industry in contributing to its economic growth in 2015. This move would promote Indonesian sectors to meet demands for promoting local iron/steel products to support a national industry. In dealing with both the GATT/WTO CVA and AFTA, Vietnam is eligible to benefit from mutual fiscal treatment. Consistently, as a legal act in the context of international obligations, Vietnam is the WTO member who has legal rights to file a suit against Indonesia in applying for a violation of Article I:1 and Article XIX under the GATT/ WTO CVA. The

²⁷⁴ WTO, Dispute Settlement Body, The Appellate Body: The proceeding case of Indonesia vs Vietnam released by August 27, 2018.

WTO panel as a third party has studied for three years to examine all elements and all relevant issues from both parties via its communication and consultation mechanism. The WTO body found that Indonesia violated a ruling of the GATT/WTO CVA. The WTO panel ruled that the Vietnam government wins over the Indonesia government and issued “Appellate Report for DS496” as a decision in 2018.

Overall Analysis of Assessment under three Case Studies:

The above study is based on re-assessment of a second case study which produced a nullification of a case between the Singapore government and the Malaysian government. However, the first and third case studies have produced same outcome, but it cannot find an acceptable tax resolution for the Philippines and Thailand because both cases have yet to be resolved. The scope of two case shows that care is needed to identify taxpayers and stakeholders to deal with the current ASEAN court system, which has not reflected strong confidence in judiciary body. AMSs may create a common ASEAN tax court to replace the current legal system to resolve ASEAN taxpayers' tax disputes in a compulsory manner. This could lead to risky factors on tax burdens and technical barriers to tax cooperation under the ASEAN in competitive economic affairs and alternative cost-benefits under the AEC. In doing so, each ASEAN Revenue Authority has designed different policy choices to produce tax policy to protect their domestic industry that impacts a broken agreement or rulings under the GATT/WTO measures. How to build a better ASEAN Tax Court System to reduce transaction costs for lacking of the ASEAN judiciary tax system in the near future?

Dealing with this matter may be based on everything depending upon all 10 ASEAN leaders' political will and commitment. Workforce and willingness are urgently needed to form a new common ATC for serving ASEAN taxpayers to repair and reduce massive tax burdens relevant to many business corporations or MNEs through transaction costs. Cutting complex barriers is strongly required to secure international trade and international tax cooperation to benefit for loss in the past

and for current generation, after the post-global impact of the AEC pandemic crisis and beyond. Building truthfulness also requires creating a common ATC to treat taxpayers better to support harmonized trends for international tax purposes in the entire AEC. To fix this is to repair a lack of transparency and build confidence in the ATC for the next generation to meet the demand of ASEAN taxpayers and stakeholders to secure investment, trade, and easing the tax burden or harmful taxes for transaction costs, to produce a better growth to fulfill the AEC goal.

Chapter V

Chapter V is designed to be divided into two parts. **Part I** examines the European Taxation System. **Part II** emphasizes the EU's tax harmonization as the best model for ASEAN. How will ASEAN learn from the European Union?

Chapter V highlights Foundation of the European Community. In addition, **Part I** outlines the Overview of New Development Taxation System in the European Union, Harmonization Direct Taxation of the European Union, Indirect Taxation System of the European Union, Harmonization of Indirect Tax, Harmonization of Value-Added Tax and Excise Tax, Tax Competition, Tax Coordination during the Covid-19 Pandemic Cases, and Tax Cooperation of the European Union during the Covid-19 Pandemic Cases. This explores the smooth revolution of European tax policy reform, and how its tax harmonization system associates with relevant trade policy, monetary policy, economic policy, and fiscal policy in the European Community. The Chapter further studies a comparative analysis of how economic integration impacts current ASEAN and EU tax harmonization systems. It deals with consequences for individual income tax and corporate tax. Exploration of both tax harmonization systems according to Strengths, Weaknesses, Opportunities, and Threats (SWOT) guides information on how different local tax laws are implemented in the ASEAN community.

5. Foundation of the European Community

The European community is a leading diverse organization with enriched economic community resources. Therefore, there many potential areas for study in multiple cultures, diplomacy ties, trade, investment, potential special economic zones, and political activity worldwide through its trade movement around the globe.

Many studies show that “the European Union has delivered more than 60 years of peace, stability, and prosperity in Europe, helped raise our citizens’ living standards, launched a single European currency (the Euro), and is progressively building a single Europe-wide free market for goods, services, people, and capital.”²⁷⁵ However, there were several reasons for forming “the European Economic Communities”²⁷⁶ under Article 1, which shall be provided by “**the Treaty of Rome.**”²⁷⁷ Forming the European Union Customs Union shall be given by Article 3. An establishing Common Market shall be provided by Article 2. Therefore, the Treaty of Rome is the father foundation of an official establishment of the “European Economic Community (EEC).”²⁷⁸ In addition to this, the purpose of the Treaty of Rome “sets up the **European Economic Community** (EEC) which brought together **6 countries (Belgium, Germany, France, Italy, Luxembourg, and the Netherlands)** to work towards integration and economic growth, through trade.”²⁷⁹ Similarly, “the European Economic Community (EEC) created a common market and a customs union [...]”²⁸⁰ in 1957 which aims to reduce global tariffs under a protocol of supporting harmonized system under the General Agreement on Tariffs and Trade (GATT). Later, 22 other members joined. Moreover, the EEC inherited “the European Coal and Steel Community (ECSC)”²⁸¹ which was a remarkable model. In other words, “the Treaty of Rome has been amended on a number of occasions, and today it is called the Treaty on the Functioning of the European Union (TFEU).”²⁸²

Economic integration has evolved speedily according to the world competitiveness and world markets. The European Customs Union, the European Economic Area (EEA), and Euro Single Market

²⁷⁵ Marian L. Tupy, The European Union: A Critical Assessment, Economic Development Bulletin No. 26, (June 22, 2016), Cato Institute, available at <https://www.cato.org/publications/economic-development-bulletin/european-union-critical-assessment> (last visited February 10, 2021).

²⁷⁶ Arthur Dale, Tax Harmonization in Europe, Ch. I: The European Economic Communities, pp.9-16 (1963).

²⁷⁷ Arthur Dale, Tax Harmonization in Europe, Appendix III: Extracts from the Treaty of Rome, Part One, Principles, pp.111-113 (1963).

²⁷⁸ *Id.*

²⁷⁹ European Union, Treaty of Rome (EEC), Access to EU Law, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:xy0023> (last visited February 12, 2021).

²⁸⁰ See *supra* text note 275.

²⁸¹ See *supra* text note 277.

²⁸² *Id.* or see *supra* text note 277.

were created by the European Union (EU) and the highest-level from supporting decisions from the European Commission (EC) and the European Parliament (EP). The EU created **the European Constitution to deliver power to the EP** based on reforming the structure and functioning body of a powerful independent institution since 2007.

A principal role is to work together under the EU pillar to “promote the general interest of the EU by proposing and enforcing legislation as well as by implementing policies and the EU budget.”²⁸³ The following provisions of the treaty deal with Free Movement of Goods, Agriculture, the Free Movement of Persons, Services and Capital and Transport and so on. Besides, Article 2 of the Treaty of Rome provides power to the EEC member states to establish a “**Single Market.**”²⁸⁴ Article 4 of the Treaty of Rome offers member states to be accountable for an economic affairs, consultative capacity and relevant actors. Article 4 (1) defines “the achievement of the tasks entrusted to the Community shall be ensured by the following institutions:

an ASSEMBLY,

a COUNCIL,

a COMMISSION,

a COURT OF JUSTICE.”²⁸⁵

The EEC was a regional organization that aimed to bring about economic integration among its member states.²⁸⁶ It created a common market based on the free movement of: goods, people, services, and capital.²⁸⁷ The EEC has expanded its member states year by year according to diversification trends of the special economic zone, trade, and investment.

²⁸³ Madam Ursula von der Leyen, EU president, European Union, European Commission, Overview, available at https://europa.eu/european-union/about-eu/institutions-bodies/european-commission_en (last visited February 12, 2021).

²⁸⁴ Arthur Dale, Tax Harmonization in Europe, Appendix III: Extracts from the Treaty of Rome, Part One, Principles, Taxation Publishing Company Limited, London, p.111-121 (1963).

²⁸⁵ *Id.*

²⁸⁶ European Union, Treaty of Rome (EEC), Access to EU Law, *supra* note 277.

²⁸⁷ *Id.*

The European Single Market, Internal Market or Common Market is a single market which seeks to guarantee the free movement of goods, capital, services, and labour – the ‘four freedoms’ within the European Union (EU).²⁸⁸ The European Union has colorful culture, religion, and nations which speaks 24 languages within the European Commission. In accordance with the Article 1-8 of the European constitution, the motto of the Union shall be “**United in Diversity**”²⁸⁹ under the motto of the EU. Moreover, the European Union (EU) is a political and economic union of 27 member states. Therefore, there are “the three pillars of the European Union (Amsterdam, 2 October 1997)”²⁹⁰ as follows:

1. European Community (EC)
2. Common Foreign and Security Policy (CFSP) and
3. Policy and Judicial Cooperation in Criminal Matters (PJCC).

Unfortunately, UK decided to withdraw from the EU at the end of January 2020. Totally, the current EU members consist of 27 member countries. Here are “Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia Republic, Slovenia, Spain, and Sweden.”²⁹¹

In recent years, the EU has still ranked as the second-largest economy in the world, both in nominal terms after the United States and according to purchasing power parity (PPP) after the UK left early 2020.

“Over the years, the EU has been moving away from the production of labour-intensive, low-value products in order to specialise in higher-value, branded goods. With its open economy, trade is

²⁸⁸ *Id.*

²⁸⁹ The European Union, The EU Motto, available at https://europa.eu/european-union/about-eu/symbols/motto_en (last visited February 13, 2021).

²⁹⁰ The European Union, EU Law, EU Treaties, available at https://europa.eu/european-union/law/treaties_en (last visited February 15, 2021).

²⁹¹ The European Union, Country profiles (27), available at https://european-union.europa.eu/principles-countries-history/country-profiles_en (last visited July 30, 2021) or see *Box 6*.

essential to the EU.”²⁹² Since the European Union was established, “the single market is the EU's greatest achievement”²⁹³ supported by many generations of its EU leaders and to enrich its people. In the European economic community, driving a single market is needed for strong support with tax policy, trade policy, economic policy, and monetary policy coordination through a relevant policy framework.

The movement of implementing a single Euro market has pushed EU governments to adopt many compulsory provisions for dealing with legislative tax requirements for serving the interests of taxpayers and other stakeholders. Those tax provisions and relevant tax reforms have driven direct and indirect tax directions under the European tax laws governed by the “**Taxation and Customs Union of the European Commission**”²⁹⁴ body under the EU taxation system.

Part I

5.1. Overview of New Development Taxation System in the European Union

An OECD study states that “the outbreak of COVID-19 is resulting in a health crisis and a drop-in economic activity that are without precedent in recent history.”²⁹⁵ It argues “tax policy can aid governments in dealing with the COVID-19 crisis.”²⁹⁶ Where recovery is anaemic, there may be a case for a longer period of expansionary fiscal policy to stimulate broader demand.²⁹⁷ The best way

²⁹² The European Parliament, The European Union and its trade partners, available at <https://www.europarl.europa.eu/factsheets/en/sheet/160/the-european-union-and-its-trade-partners> (last visited February 14, 2021).

²⁹³ European Parliament, Economy, science and quality of life, available at <https://www.europarl.europa.eu/factsheets/en/chapter/210/economy-science-and-quality-of-life> (last visited February 15, 2021).

²⁹⁴ The European Commission, Taxation and Customs Union, available at https://ec.europa.eu/taxation_customs/index_en (last visited July 31, 2021).

²⁹⁵ OECD, Tackling coronavirus (COVID-19), Contributing to a global effort, Key policy responses from the OECD, Tax and fiscal policy in response to the Coronavirus crisis: Strengthening confidence and resilience, available at <http://www.oecd.org/coronavirus/policy-responses/tax-and-fiscal-policy-in-response-to-the-coronavirus-crisis-strengthening-confidence-and-resilience-60f640a8/> (last visited February 15, 2021).

²⁹⁶ *Id.*

²⁹⁷ *Id.*

to boost tax revenue will be to support solid growth, including through sufficiently strong and sustained stimulus.²⁹⁸

At a recent G7 Finance Ministers Meeting, they agreed to set “a global minimum tax of at least 15% on a country by country basis,”²⁹⁹ which took place in the United Kingdom in early June 2021. In addition, a key research study has founded “130 countries back global minimum corporate tax of 15%,”³⁰⁰ which has shown both OECD and non-OECD nations to support a new framework in dealing with uncertain “international tax policy reform.”³⁰¹ It has reflected that global tax rates will harmonize future trends with international tax rules in the 21st century.

What does tax harmonization mean?

Due to the evolution of uncertain global economic competition rise of digital taxation through operation Euro currency in the Eurozone around the world, tax harmonization has become an increasingly important topic for scholarly contribution going forward for both EU and non-EU members. Here is a taxation ideology or concept of tax harmonization below.

“The establishment of the European Common Market in the 1960s --- and the consequent transformation into the European Union in the early 1990s --- recognized the need for (some form of) harmonization of the national tax system.”³⁰² Therefore, “the European Commission proposed a tax reform that contained two parts: The first is a *shift* from the destination principle to origin of taxation; the second, is *harmonization* of tax rates across the members of the European Union.”³⁰³

²⁹⁸ *Id.*

²⁹⁹ David Milliken et al, G7 finance ministers agree global minimum tax of at least 15%, available at <https://www.reuters.com/business/g7-finance-ministers-agree-global-minimum-tax-least-15-2021-06-05/> (last visited June 8, 2021).

³⁰⁰ Leigh Thomas, 130 countries back global minimum corporate tax of 15%, available at <https://www.weforum.org/agenda/2021/07/oecd-global-minimum-corporate-tax> (last visited July 2, 2021).

³⁰¹ OECD, 130 countries and jurisdictions join bold new framework for international tax reform, available at <https://www.oecd.org/newsroom/130-countries-and-jurisdictions-join-bold-new-framework-for-international-tax-reform.htm> (last visited July 3, 2021).

³⁰² Marine Achelashvili, Tax Harmonization and Tax Competition when Countries Differ in Size, Ch.2: Tax Competition/Harmonization, LAP LAMBERT Academic Publishing, pp.8-16 (2011).

³⁰³ *Id.*

“Tax harmonization is making taxes identical or at least similar in a region.”³⁰⁴ To promote certainty, in the context of the European tax harmonization --- the “commission shall consider how to further the interests of the common market by harmonizing the legislation of the various member states concerning turnover taxes, excise duties and other forms of indirect taxation, including compensatory measures in respect of trade between member states.”³⁰⁵ In other words, in accordance with Article 220 under the fiscal provisions --- “member states shall, in so far as necessary, enter into negotiations with each other with a view to ensuring for the benefit of their nationals:

-----The abolition of double taxation within the community.”³⁰⁶

“In order to analyze the economic effects of corporate income tax harmonization, the complexities of the tax system must be reduced to a succinct measure of the effective tax burden.”³⁰⁷ In addition to this, “tax harmonization within the EU does not mean a common policy in the field of taxation, but also the adjustment of national fiscal policies for the proper functioning of Single Market.”³⁰⁸ In this sense, “the manifestation of the phenomenon of tax competition (particularly in terms of capital and corporate income taxes) was the starting point of the debate on corporate income tax harmonization”³⁰⁹ as follows:

How will the EU deal with a new developing taxation system after massive economic impacts of the Covid-19 period or beyond through facilitation of problem-solving in economic health crisis?

The current EU 27-countries have driven the ongoing challenges of taxation systems that impact of the fixing of “the Global Coronavirus Pandemic Crisis or Force Majeure of the COVID-19 Pandemic or Global Economic Impacts of the Covid-19 Outbreak” across all sections that have made

³⁰⁴ The Web's Largest Resource for Definitions & Translations in terms of Freebase: Tax Harmonization.

³⁰⁵ Arthur Dale, Ch. II: The Fiscal Provisions, Article 99 of Harmonization, Tax Harmonization in Europe, Taxation Publishing Company Limited, pp.17-22 (1963).

³⁰⁶ *Id.*

³⁰⁷ Keorge Kopits, Tax Harmonization in the European Community, Policy Issues and Analysis, Ch.3: Taxes on Capital Income, Effect of Corporate Income Tax Proposal, 63 (1992).

³⁰⁸ Daniela Pîrvu, Corporate Income Tax Harmonization in the European Union: Introduction, pp.1-7 (2012).

³⁰⁹ *Id.*

worsened economic growth, trade, investment, and revenue collection. Indeed, “the COVID-19 pandemic constitutes an unprecedented challenge with very severe socio-economic consequences.”³¹⁰

Tax policies can create a better environment for our business.³¹¹ Consistently, new developments in the taxation system in the EU guide two components comprised of **direct taxation and indirect tax system** harmonization effects. Indirect tax policy systems are going forward to harmonized taxation under supporting European tax laws and relevant tax provisions. Changes in direction of indirect tax policy systems have already been enforced and achieved their goal. However, the direction of direct tax policy system is not going smoothly because real performances are facing challenges among member states due to both personal income tax rates and corporate tax rates not yet harmonized among member states of the EU.

The objective of the European tax policy “**is to make them fair, efficient and growth-friendly.**”³¹² This is important to ensure clarity on the taxes paid by people who move to another EU country, or businesses that invest across borders.³¹³

Currently, the **EU tax system** has played a role in responding to international tax policy reform in global tax collaboration forums.

In the European context, the aim of tax harmonization adopted specific provisions regarding taxation under Articles 95 to 113 of the TFEU. The main focus of EU tax policy is the smooth operation of its single market to ensure that individuals and businesses establish fiscal provisions.

The idea of “tax harmonization is generally understood as a process of adjusting tax systems of different jurisdictions in the pursuit of a common policy objective.”³¹⁴

³¹⁰ The European Council, Report on the comprehensive economic policy response to the COVID-19 pandemic, available at <https://www.consilium.europa.eu/en/press/press-releases/2020/04/09/report-on-the-comprehensive-economic-policy-response-to-the-covid-19-pandemic/> (last visited February 16, 2021).

³¹¹ Stephen Quest, Tax Policies in the European Union 2020 Survey, Brussels, EU, pp. 4-5 (3 February 2020).

³¹² EU, taxation, towards fair, efficient and growth-friendly taxes, available at https://europa.eu/european-union/topics/taxation_en (last visited February 16, 2021).

³¹³ *Id.*

³¹⁴ George Kopits, Tax Harmonization in the European Community, Ch. I: Overview: The Case for Tax Harmonization, pp.3-5 (July 1992).

Acting within the EU rules, “tax harmonization can be achieved spontaneously (through market forces), by the actions of European institutions (fiscal policy coordination, the **harmonization of tax laws**, etc.), or by action of the **European Court of Justice (prohibiting certain national tax rules that violate EU rules)**.”³¹⁵

A harmonized EC tax system may pave the way to greater tax coordination between EC and non-EC member countries.³¹⁶

Every aspect is based on designing tax policy directions and orientating tax policymaker guidance to deal with in the development in the evolution of direct taxation and indirect taxation systems in the EU direction. In this regard, both indirect and direct taxation have moved forward to a support-oriented taxation direction when “the European Commission adopted its first proposal for the EU's long-term budget, the 2021-2027 multiannual financial framework (MFF) package --- a revamped long-term EU budget on 27 May 2020”³¹⁷ to support the economic impact in the current COVID-19 outbreak. In this connection, “**the EU budget 2021-2027 package is EUR 1,850 billion**”³¹⁸ in dealing with restoration and preparation for the next generation by taking the initiative for a new era of long-term growth as follows:

5.1.1. Harmonization Direct Taxation System of the European Union

A current study model, driving a direct taxation system, is being controlled by the Taxation and Customs Union under the European Commission's guidance or “TAXUD (Taxation and Customs Union Directorate General).”³¹⁹

³¹⁵ Daniela Pirvu, Corporate Income Tax Harmonization in the European Union, Section 1.3: The legal basic of tax harmonization, pp.11-13 (2012).

³¹⁶ George Kokpits, Tax Harmonization in the European Community, Policy Issues and Analysis, Ch. I: Overview, pp.1-21 (July 1992).

³¹⁷ European Council, Long-term EU budget 2021-2027, available at <https://www.consilium.europa.eu/en/policies/the-eu-budget/long-term-eu-budget-2021-2027/> (last visited February 16, 2021).

³¹⁸ *Id.*

³¹⁹ The Free Dictionary, TAXUD: Taxation and Customs Union Directorate-General, Acronym, (1988-2018) or European Commission, Taxation and Customs Union, available at https://ec.europa.eu/taxation_customs/index_en (last visited July 15, 2021)

Recent guidelines towards a common corporate tax policy start from a general goal – to simplify and streamline tax systems to ensure a better functioning of the Single Market – and go to include specific and operational objectives such as: reducing compliance/administrative costs, facilitating expansion of cross-border activities in the EU and minimizing the distortions caused by national differences in terms of investment and tax bases.³²⁰

From the perspective of tax practitioners, all EU tax jurisdictions seek to implement a direct taxation system associated with tax harmonization trends. Why does the European Commission (EC) need a harmonization direct taxation system? Because of the various shortages of revenue collection, investments, trade, and economic growth trends. The massive weights from the European taxation association, international communities, relevant public EU institutions have pressured the EU. The movement of harmonization of direct taxation was born in the 21st century in dealing with marginal tax burdens and corporate business requirements. As discussed in ... “relevant the EC because the drive to remove all barriers to the flow of goods, labor, and capital under the Single European Act will fully expose investment decision to differences in tax burdens across member countries.”³²¹ Early studies showed “the development of the EU tax provisions is geared towards the smooth running of the single market, with the harmonization of indirect taxation having been addressed at an earlier stage and in greater depth than that of direct taxation.”³²²

The EU direct taxation system has imposed two components consisting of “personal and company taxation.”³²³ From the following “proposals to harmonise corporation tax have been under discussion for several decades (1962: Neumark report; 1970: Van den Tempel report; 1975: proposal for a directive on the alignment of tax rates between 45% and 55%).”³²⁴ However, in 1995, the **Court**

³²⁰ Daniela Pîrvu, *supra* note 315.

³²¹ Angel de la Fuente & Edward H. Gardner, *Tax Harmonization in the European Community*, Ch. IV: Corporate Tax Harmonization and Capital Allocation, 72 (1992).

³²² European Parliament, *Tax Policy, General Tax Policy*, PE 606.781 (2017).

³²³ European Union, European Parliament, *Direct taxation: Personal and company taxation*, available at <https://www.europarl.europa.eu/factsheets/en/sheet/80/direct-taxation-personal-and-company-taxation> (last visited February 16, 2021).

³²⁴ *Id.*

of Justice of the European Union (CJEU) ruled (in Case C-279/93) that Article 45 TFEU is directly applicable in the field of taxation and social security: that article stipulates that freedom of movement for workers entails “the abolition of any discrimination based on nationality [...] as regards employment, remuneration and other conditions of work and employment.”³²⁵ For “Article 55 of the Treaty on the Functioning of the European Union (TFEU) forbids discrimination between the nationals of Member States as regards participation in the capital of companies.”³²⁶ Nevertheless, a number of directives and the case law of the Court of Justice of the European Union (CJEU) establish harmonised standards for taxation of companies and private individuals.³²⁷ Moreover, actions have been taken to prevent tax evasion and double taxation.³²⁸

In the context of designing tax resolutions, “in 1996, the Commission launched a new approach to taxation.”³²⁹ “In the field of company taxation, the main result was the *Code of Conduct for Business Taxation*, adopted as a Council resolution in 1998.”³³⁰ “The Council also established a Code of Conduct Group (known as the ‘Primarolo Group’) to examine cases of unfair business taxation.”³³¹ In this regard, the principle of the European philosophy tax law is highly necessary to make any deal. In doing so, *everything business or investment transaction in European tax jurisdiction is needed to deal with the EU tax law.*

The aim of EU direct taxation can be driven by individual income and corporate business taxes in terms of “full tax harmonization of corporate tax bases and tax rates.”³³² The current tax harmonization of tax rates or corporate tax base is not going to meet common understanding because of disagreement of proposal tax legislation among the EU member states. In the EU, “Corporate income tax harmonization is likely to have positive effects on some member states, but also negative

³²⁵ *Id.*

³²⁶ *Id.*

³²⁷ *Id.*

³²⁸ *Id.*

³²⁹ *Id.*

³³⁰ *Id.*

³³¹ *Id.*

³³² Daniela Pîrvu, *Corporate Income Tax Harmonization in the European Union*, Ch. 6: Effects of Corporate Income Tax Harmonization/Coordination in the European Union, pp.138-142 (2012).

effects on others.”³³³ The direct taxation function can drive a scope of economic growth and the market economy destination. In dealing with the legal framework of fiscal provision, “Article 115 of the TFEU, which authorises the Union to adopt directives on the approximation of laws, regulations or administrative provisions of the member states which directly affect the internal market; these require unanimity and the consultation procedure.”³³⁴

The legal framework of the direct taxation system has driven member states to support common EU economic policy and tax policy in the European economic community. “Two specific objectives are the prevention of tax evasion and the elimination of double taxation.”³³⁵ In general terms, a degree of harmonisation of company taxation is justified in order to prevent distortions of competition.”³³⁶

The study of proposal corporate tax harmonization is motivated by international tax experts in responding to demand from the EU taxpayer community and global tax reform trends. As an additional legal framework requirement, “the Commission adopted an action plan for a fair and efficient corporate tax system in the European Union (COM(2015) 0302), with provisions for reforming the corporate tax framework in order to combat tax abuses, ensure sustainable revenue and support an improved environment for business in the internal market in 2015.”³³⁷

The EU has officially launched the “Common Consolidated Corporate Tax Base (CCCTB)”³³⁸ in 2011. In addition to fiscal provision, “Re-launching the CCCTB”³³⁹ was introduced in 2016.

The objective of “*the Commission re-launched the CCCTB, to make corporate taxation in the EU fairer, more competitive and more growth-friendly.*”³⁴⁰ It is intended to benefit the sustainable expansion of trade and investment properly.

³³³ *Id.*

³³⁴ *Id.*

³³⁵ *Id.*

³³⁶ *Id.*

³³⁷ *Id.*

³³⁸ European Commission, Common Consolidated Corporate Tax Base (CCCTB), available at https://ec.europa.eu/taxation_customs/business/company-tax/common-consolidated-corporate-tax-base-ccctb_en (last visited February 16, 2021).

³³⁹ *Id.*

³⁴⁰ *Id.*

In this sense, “the CCCTB aims to overcome these problems by offering companies one single set of corporate tax base rules to follow and the possibility of filing a single, consolidated tax return with one administration for their entire activity within the EU.”³⁴¹ In this regard, the concept or idea of CCCTB effects benefits all corporate business taxpayers who deal with capital mobility, multinational corporation, and massive business transactions across the EU Single Market and would achieve the European economic integration policy.

Here is **Figure 30** shows various ratios of direct taxation performance in the EU.

Figure 30: Ratio of Direct Tax Revenue Collection as percent of GDP from FY 2015-2020						
EU	2015	2016	2017	2018	2019	2020
EU-28	13.1	13.2	13.4	13.4	13.6	12.5
EU-27	13.0	13.1	13.2	13.3	13.4	11.8
EA-19	12.8	12.9	13.1	13.3	13.5	12.3

Source: EU

For a proportional outlook, the EU-27 played a significant role in dealing with ratios of direct tax revenue collection of the GDP growth compared with the EA-19 and EU-28 from the fiscal years 2015 to 2020. The various direct taxation performance, which had shared contributions to the GDP growth, did not have a different outlook six years ago. GDP growth had an average rate of over 13 percent, that had steadily increased in the last six years as follows:

-In 2015, the EU-27, proportion of direct taxes was 13.0 percent of GDP compared with the EU-28, which reached 13.1 percent, but the EA-19 maximized 12.8 percent in the same year.

³⁴¹ European Commission, European corporate tax base: making business easier and cheaper, https://ec.europa.eu/commission/presscorner/detail/en/IP_11_319 (last visited February 16, 2021).

-In 2016, the EU-27 reached 13.1 percent of direct taxes as GDP compared with the EU-28, which was 13.2 percent, but the EA-19 was 12.9 percent in the same year. All EU-27, EU-28, and EA-19 increased 0.1 percent of GDP compared with 2015.

-In 2017, the EU-27 increased 13.2 percent of direct taxes as part of GDP; the EU-28 was 13.4 percent, and the EA-19 was 13.1 percent. All EU-27, EU-28, and EA-19 increased small percentages of the GDP compared with 2016.

-In 2018, the EU-27 and EA-19 collected the same percent, 13.3 as direct taxes of the GDP. However, the EU-28 collected 13.4 percent, which matched GDP growth. The EU-28 was leading of 0.1 percent direct taxes that shared with the GDP compared with the EU-27 and EA-19 in the same year.

-In 2019, the EU-27 had 13.4 percent of direct taxes as GDP, the EU-28 was 13.6 percent, and the EA-19 was 13.5 percent. All EU-27, EU-28, and EA-19 still expanded a tiny percent of the GDP compared with 2018. The EU-28 was leading in direct taxes as part of the GDP compared with the EU-27 and EA-19.

-In 2020, the EU-27 decreased direct taxes in an amount of 11.8 percent, the EU-28 was 12.8 percent, the EA-19 collected 5.5 percent due to the regional EU economic impact of the global Covid-19 pandemic crisis.

-In 2021, the EU-27, EU-28, and EA-19 expect to raise the proportion of direct tax of GDP after the recovery from the global Covid-19 crisis.

5.1.2. Harmonization Indirect Taxation System of the European Union

Since the 1950s, the study of indirect taxation system has originated the heritage of the effective function of the EU Single Market, which eliminated or removed administrative costs and technical barriers to generate a common EU tax policy. Therefore, a key idea of forming a Single Market produced tax doctrine to drive indirect taxation under the EU tax body. It remains a strong foundation and tax base to deal with goods and services through selling and buying in exponential consumption across the Eurozone.

In the context of tax practice, since the early 1990s until the current present, the European Union has harmonized the indirect taxation system, but not wholly its direct taxation system. The Treaty on the Functioning of the European Union has guided the substantial harmonization indirect taxation as a key instrument that has highlighted the legal framework under **Article 93** to encourage the European Council's power to produce its Fiscal Provisions and Multiple Directives. Those Fiscal Provisions have reflected the impact of harmonization on each EU member state through their national tax laws to achieve their goal through the Common Market and the European Economic Community. The fiscal provisions and multiple directives of the TFEU are potential instruments in dealing with mobilization of revenue policy to benefit the 27-EU countries. Dealing with the tax income is a substantial part of the EU package in the context of removing taxation barriers and the framework of administrative burdens to support freedom of movement --- persons, goods, services, and capital. Moreover, **Article 99** of the TFEU of the European Union underlines harmonization --- “the commission shall consider how to further the interests of the Common Market by harmonizing the legislation of the various member states concerning turnover taxes, excise duties and other forms of indirect taxation, including compensatory measures in respect of trade between member states.”³⁴²

³⁴² Arthur Dale, Tax Harmonization in Europe, Ch. II: The Fiscal Provisions, pp.19-22 (1963).

Article 99 has provided full authorization to deliver proper harmonization of indirect tax deals with international tax concerns. However, indirect taxation rates have been reduced since the 1990s, responding to investment, trade, and economic competition in the EEC area where was infected by uncertain global economic impacts. The harmonization of indirect taxation can be facilitated to enhance the freedom of the Single market. The harmonization of indirect taxation includes the value-added tax, and the excise duties on alcohol, tobacco, and energy. The establishment of the Treaty of Rome, the Single European Act, the Maastricht on the Economic and Monetary Union Amendments, respectively, in the European Economic Community, have driven the rapid evolution of the indirect taxation direction over nearly 70 years, responding to consistent characteristics oriented forward European economic integration and regional tax reform. Formally, “taxes and other fiscal levies can influence phases of social reproduction, depending on specific public interests.”³⁴³

As shown, **Figure 31** illustrates massive ratios of maximizing the growth of indirect tax revenue in the EU-27 countries compared with the EU-28 and EA-19, which had moved forward from the fiscal years 2015-2020.

Figure 31: Ratio of Indirect Tax Revenue Collection as percent of GDP from FY 2015-2020						
EU	2015	2016	2017	2018	2019	2020
EU-28	35.3	35.0	34.8	34.7	34.9	32.1
EU-27	34.5	34.3	34.2	34.1	34.2	31.5
EA-19	33.1	32.9	32.7	32.7	32.8	30.3
Source: EU, Notice: EA: Euro Area, and EA-19 (from 1 January 2015, EA-18 + Lithuania)						

- In 2015, the EU-27 maximized 34.5 percent of indirect tax revenue collection as a GDP, compared with the EU-28, which reached 35.3 percent, but the EA-19 expanded 33.1 percent in the

³⁴³ Daniela Pîrvu, Corporate Income Tax Harmonization in the European Union: Introduction, 1 (2012).

same year. In this sense, a percent of the GDP for the indirect tax revenue index, the EU-28 had the top rate. Therefore, the EU-28 had a tiny growth ratio, which shared the GDP compared with the EU-27 and EA-19.

-In 2016, the EU-27 had 34.3 of indirect tax as a GDP compared with the EU-28, which was 35.0 percent, and the EA-19 was 32.9 percent. The EU-28 still led the growth of indirect tax revenue compared with the EU-27 and EA-19.

-In 2017, the EU-27 collected 34.2 percent of indirect tax as a GDP compared with the EU-28, which was 34.8 percent; the EA-19 was 32.7 percent. In this regard, the EU-28 was also leading the growth of the mobilization indirect tax index.

-In 2018, the EU-27 reached 34.1 percent of indirect tax collection as a GDP compared with the EU-28, which was 34.7 percent, but the EA-19 was 32.7 percent. The EU-28 was still leading the EU-27 and EA-19 in the Eurozone.

-In 2019, the EU-27 increased indirect tax collection at 34.2 percent of the GDP, the EU-28 was 34.9 percent, and EA-19 reached 32.8 percent. The ratio of the EU-28 was strong compared with the EU-27 and EA-19.

-In 2020, the EU-27 ratios of indirect tax collection declined, at 31.5 percent, the EU-28 was 32.1 percent, the EA-19 was 30.3 percent owing to the regional EU impact of the global Covid-19 pandemic crisis.

-In 2021, the EU member states expect to regain ratio as indirect tax collection of GDP after recovery from the global economic impacts of the Covid-19 pandemic period.

5.1.3. Harmonization of Value-Added Tax and Excise Tax

In the modern tax administration of the EU member states, tax revenue has been a very important source for Eurozone revenue budgets. Without fueling VAT and excise tax, the EU might not run its engine. In this context, maintaining application of its taxation regime and applying

harmonization of the VAT is critical in reaching its goal. In accordance with Article 113 of the TFEU, EU countries have been driven to deal with the Value-Added Tax (VAT), that has reflected output based upon the Treaty of Rome since it was signed in 1957. Most of the EU has imposed the VAT based to rise tax revenue. Currently, the implementation of the harmonization of VAT is a sensitive tax issue for these with the highest tax rates in the Eurozone. In the context of implementation of VAT, France has displayed its VAT to guide as an early model among the EU member states to deal with raising tax revenue since the 1950s.

The value-added tax (VAT) and excise tax are very popular in the European tax system. The VAT and excise tax play an essential role in imposing a tax on taxpayers because most European taxpayers have a high compliance level and a long history of tax burdens, with a culture accustomed to an income tax system in the Euro single market. In this sense, “VAT harmonization has a proceeded in various stages with a view to achieving transparency in intra-community trade.”³⁴⁴ In addition, the adoption of a minimum standard VAT rate is 15 percent based on Directive 92/77/EEC in 2018 that has reviewed every two years.

As new development of VAT, in November 2019, “the council adopted new measures to modernise the VAT rules for e-commerce.”³⁴⁵

Figure 32 illustrates various proportions of harmonization of excise taxes and VAT from fiscal years 2015 to 2020. Taking excise tax and VAT as a percent of the GDP shows the EU compared with EU-28 and EA-19 thresholds below.

Figure 32: VAT and Excise Duty Collection (% of GDP) in EU from FY 2015-2020						
EU	2015	2016	2017	2018	2019	2020
EU-28	7.4	7.5	7.6	7.6	7.7	6.15
EU-27	7.5	7.5	7.6	7.7	7.8	6.45

³⁴⁴ European Parliament, Tax Policy, General Tax Policy, VAT, (2017).

³⁴⁵ EU, Indirect Taxation, Recent Development, available at <https://www.europarl.europa.eu/factsheets/en/sheet/81/indirect-taxation> (last visited February 17, 2021).

EA-19	7.3	7.3	7.4	7.4	7.5	5.85
Source: EU, Notice: EA: Euro Area, and EA-19 (from 1 January 2015, EA-18 + Lithuania)						

-From 2015 to 2016, the EU-27 raised 7.5 percent of VAT and excise tax collection as GDP compared with the EU-28, which reached 7.4 percent, but the EA-19 maximized at 7.3 percent in the same year. As a percent of the GDP, the growth index was not so different. This means that the EU-27 and EU-28 were leading with a tiny rate of 0.1 percent in the past two years.

-In 2017, the EU-27 and EU-28 collected VAT and excise tax at a same amount of 7.6 percent of the GDP; the EA-19 reached 7.4 percent. In this regard, there was an increase of 0.2 percent compared with the EA-19.

-In 2018, the EU-27 collected 7.7 percent of VAT and excise tax as GDP compared with the EU-28 at 7.6 percent, but the EA-19 had 7.4 percent. The EU-27 was still leading the EU-28, and EA-19, as a small proportion of the GDP.

-In 2019, the EU-27 increased VAT and excise tax collection to 7.8 percent rate, the EU-28 was 7.7 percent, and EA-19 was 7.5 percent. The ratio of the EU-27 was ahead compared with the EU-28 and EA-19.

-In 2020, the EU-27 dropped VAT and excise tax collection to ratio of 6.45 percent; the EU-28 was 6.15 percent, the EA-19 was 5.85 percent due to the regional EU impact of the global Covid-19 pandemic crisis.

-In 2021, most EU countries expect to rebound in their excise tax and VAT collection, which shares GDP after recovery from the regional EU impact of the global Covid-19 pandemic.

5.2. Revenue Collection of the European Union

A previous study of both direct and indirect taxation systems of all aspect to 27-EU countries have undertaken their tax revenue collection based on its tax law and relevant tax provisions. In this

context, further legal taxation framework is required to deal with mobilization tax revenue and input action based on tax policies through the European parliament's approval and engaging with individual tax authority's participation. It has ratified priority tax provisions that are needed to drive tax law to benefit all types of taxpayers before the economic impacts of the Covid-19 and beyond. Consistently, exercising revenue collection is an essential source for the EU member states to cure recovery of the health economic impacts of the Covid-19 era, which has approached long-term roadmap.

“The Covid-19 crisis is affecting every facet of people's lives in every corner of the world.”³⁴⁶

Here are the following reasons why 27 countries deal with a tax revenue collection of GDP is based on a root cause of tax burden and economic activity due to the global economic impacts of Covid-19 outbreak period.

Figure 32 shows the total percent of GDP growth of revenue collection from 2015 to 2021 that has infected the global impacts of the Covid-19 pandemic catastrophe. Consequently, from 2020 to 2021, the same study defines in **Figure 32** that most EU member states have had a difficult period dealing with revenue collection due to the global impact of the world economic crisis. As a result of mobilization revenue, the seventeen countries have displayed a vital role to represent the EU taxation body: Austria, Belgium, Croatia, Denmark, Finland, France, Germany, Greece, Hungary, Italy, Luxembourg, Netherlands, Portugal, Slovakia Republic, Slovenia, and Sweden to collect a tax revenue more than 40 percent shared with the growth indicator from 2015-2021. However, the other ten countries are Bulgaria, Czech Republic, Estonia, Ireland, Latvia, Lithuania, Malta, Poland, Romania, and Spain to collect less than 40 percent of the GDP in same time from 2015-2021.

Figure 32: Revenue Collection (% of GDP) in EU from FY 2015-2021							
Country	2015	2016	2017	2018	2019	2020	2021

³⁴⁶ World Economic Forum, what you need to know about economic growth, revival and transformation, available at <https://www.weforum.org/agenda/2020/10/what-you-need-to-know-about-economic-growth-revival-and-transformation/> (last visited March 2, 2021).

Austria	50.0	48.5	48.2	48.8	48.5	46.1	48.2
Belgium	51.3	50.7	51.2	51.4	50.3	48.4	49.7
Denmark	53.2	52.4	52.8	51.4	53.6	48.1	51.3
Finland	54.1	53.9	53.0	52.4	51.8	50.5	52.1
France	53.2	53.0	53.6	53.6	52.8	50.7	51.9
Germany	45.0	45.5	45.7	46.4	46.8	44.5	45.9
Greece	47.9	49.5	48.4	47.8	48.3	43.8	45.3
Ireland	27.0	27.1	25.8	25.4	25.7	21.8	24.2
Italy	47.8	46.7	46.3	46.3	47.1	45.9	47.0
Luxembourg	42.9	42.4	43.2	44.6	45.2	42.3	45.7
Netherlands	41.8	42.8	43.7	43.5	43.8	39.9	42.5
Portugal	43.8	42.8	42.4	42.9	42.9	40.9	43.4
Spain	38.7	38.1	38.2	39.2	39.3	35.8	37.5
Sweden	48.5	49.8	49.7	49.6	48.7	45.3	47.3
Source: IMF							

5.3. Tax Coordination during the Covid-19 Pandemic Cases

In recent years, the numerous studies in the context of the European tax coordination have become more a sensitive item. Since the Eurozone crisis until the global economic impacts of the Covid-19 pandemic crisis, the EU tax coordination has played a very important role to represent the EU-27 tax jurisdictions to deal with shortage of revenue collection trend, which has impacted the global economic downturn. Therefore, the tax coordination is a better forum mechanism to facilitate and rebound tax revenue collection from uncertain infrastructure of the EU economic policies, fiscal barrier, tax structure, and fiscal provisions to deal with investment rebirth, and economic growth. The

EU tax coordination's need can generate all elements of harmonization direct taxation, harmonization indirect taxation, tax rates, corporate tax through common market based on previous data (**Figure 31 to 32**), as discussed above. From **Figure 31 to 32** shows, different harmonization tax aspects are needed to coordinate and support the long-term era of economic growth and mobilization tax revenue trend based on principal tax rules.

As the context of real practices, many coordination stakeholders have done their taskwork to open dialogue all European institutions and actors to deal with tax coordination system in the past, present, and future. Indeed, “the EU also works with EU countries on the coordination of economic policies and corporate and income taxes. The aim is to make them fair, efficient and growth-friendly. This is important to ensure clarity on the taxes paid by people who move to another EU country, or businesses that invest across borders. This coordination also helps to prevent tax evasion and avoidance.”³⁴⁷ Further step, the European Union, European Council, European Commission, and European Parliament have worked very hard task to coordinate all 27 tax jurisdictions to tackle tax resolution and other items to benefit all member states.

According to current president of the EU speech: “the recovery plan turns the immense challenge we face into an opportunity, not only by supporting the recovery but also by investing in our future: the European Green Deal and digitalisation will boost jobs and growth, the resilience of our societies and the health of our environment. This is Europe’s moment. Our willingness to act must live up to the challenges we are all facing. With Next Generation EU we are providing an ambitious answer.”³⁴⁸ Furthermore, “building on the considerable progress that has already been made in the European Parliament and the Council, the Commission now proposes to deploy a reinforced EU

³⁴⁷ European Union, Taxation, available at https://europa.eu/european-union/topics/taxation_en (last visited February 17, 2021).

³⁴⁸ European Commission, Ursula von der Leye, President of the European Commission, available at <https://ec.europa.eu/newsroom/ecfin/items/678860/en> (last visited February 17, 2021).

budget to help repair the immediate economic and social damage brought by the coronavirus pandemic, kickstart the recovery and prepare for a better future for the next generation.”³⁴⁹

How can member states work together in the context of reciprocal commitment to balance high tax rates and low tax rates through tax coordination system? The outcomes of the work of tax coordination consequences in the European Community has undertaken priority task, linking the European common market. The European Commission has produced and proposed fiscal provisions to achieve its EU goal based on the White Paper after establishment Single Market Act in 1980s. This is moving forward is necessary step to be done. High level of support proposals has undertaken fruitful tax provisions on tax harmonization and various tax regulation from Commission and President of EU and relevant actors wholly endorses its EU mission and visionary in the long run to deal with relevant *tax policy, monetary policy, trade policy, and economic policy* direction. It is a strong need for a coordination approach. Without a unique tax coordination approach, without moving taskwork. The need to be done is a dynamic engine for tax coordination to move forward.

Current objectives of the EU have “increased tax policy coordination would ensure that the member states' tax policies support wider EU policy objectives, as set out most recently in the Europe 2020 strategy for smart, sustainable and inclusive growth.”³⁵⁰ It is a value noteworthy for indirect harmonization tax, but it is not enough direct harmonization tax. In this regard, the EU's direct taxation policy problems are possibly not fully harmonized and would be addressed based on a unique EU motto, and this voice may reach taxpayers' satisfaction. For future coordination, action will need to provide equal benefit for all 27-tax jurisdictions and stakeholders in terms of equity of competition, necessary for the completion of a sustainable common market to be accountable for member states' responsibilities after the ending of the global economic impacts of the Covid-19 pandemic. The

³⁴⁹ European Union, Publications Office of the European Union, The EU budget powering the recovery plan for Europe, available at <https://op.europa.eu/en/publication-detail/-/publication/e0956910-a0c9-11ea-9d2d-01aa75ed71a1>, (last visited March 1, 2021).

³⁵⁰ European Union, Tax Policy, PE 606.781 (07/12/2017).

moving step is needed to drive a cornerstone of the tax coordination trend to achieve its EU goal for next-generation of taxpayers' interests after the global Covid-19 pandemic ends.

5.4. Tax Competition during the Covid-19 Pandemic Cases

Many governments have responded to globalization with tax cuts designed to improve competitiveness and spur growth.³⁵¹ A battle is unfolding between those policymakers wanting to maximize taxation and those understanding that competition is leading to beneficial tax reforms.³⁵²

Globalization is transforming separate national economies into a single world economy.³⁵³ That process is occurring through rising trade and investment, migration of workers, and transfers of technology.³⁵⁴ In this sense, “that is the good news. The bad news is that some governments and international organizations are trying to restrict tax competition.” Tax competition has been driven by a handful of leading countries, which have inspired others to pursue similar reforms.³⁵⁵

“**Friedman** also missed the growing importance of tax competition.”³⁵⁶ “As individuals and businesses have gained freedom to take advantage of foreign opportunities, the sensitivity of economic decisions to taxation has increased.”³⁵⁷ This mobility is creating increased pressure on countries to reduce tax rates.³⁵⁸ Individual income tax rates have also been cut sharply.³⁵⁹ The average top rate in the OECD has plummeted 26 percentage points since 1980s.³⁶⁰ “*Again the trend is global,*

³⁵¹ Chris Edwards & Daniel J. Mitchell, *Global Tax Revolution: The Rise of Tax Competition and the Battle to Defend It*, Ch. 1: Introduction, CATO Institute, pp.1-14, (2008).

³⁵² *Id.*

³⁵³ *Id.*

³⁵⁴ *Id.*

³⁵⁵ *Id.*

³⁵⁶ *Id.*

³⁵⁷ *Id.*

³⁵⁸ *Id.*

³⁵⁹ *Id.*

³⁶⁰ *Id.*

with the average top rate falling by a similarly large amount in Africa, Asia, Europe, Latin America, and North America.”³⁶¹

Most countries have also cut tax rates on dividends and capital gains.³⁶² Many countries have cut or eliminated taxes on estates and inheritances, and many have abolished annual taxes on health, which used to be popular in Europe.³⁶³

Since the EU had formed a common market in accordance with “**the Single European Act of 1987** [...]”³⁶⁴ which has inflowed and outflowed cross-border in the field of tax competition in the Eurozone area. As common sense, tax competition is a sensitive battle in the 21st century because most taxpayers prefer to invest their money in a low tax jurisdiction rather than in high tax soil to return their profit. Most recently, “tax competition is broadly defined as the tax-cutting influence that countries exert on one another.”³⁶⁵ That influence operates through many channels.³⁶⁶ Policymakers worry that the tax base will shrink if they do not respond to foreign tax reforms, and business lobby governments for tax cuts to remain competitive.³⁶⁷

To witness, according to a below study on **Annex1** and **Annex2**, there is an impregnable barrier through all elements of taxation trends that have caused harmful tax competition among member states. In this regard, both **Annex1** and **Annex2** show the tax competition phenomenon across the European market and Eurozone area.

Why shall they do this? All EU tax jurisdictions have reduced their minimum personal income tax rates and corporate tax packages based on responding to global tax reform and on both internal and external factors, which have benefited from various low tax movements in the European common market. Some countries among the EU member states need to deal with attracting investment

³⁶¹ *Id.*

³⁶² *Id.*

³⁶³ *Id.*

³⁶⁴ George Kopits, Tax Harmonization in the European Community, Ch. I: Overview, pp.1-2 (1992).

³⁶⁵ Chris Edwards & Daniel J. Mitchell, Global Tax Revolution: The Rise of Tax Competition and the Battle to Defend It, Introduction, Tax Competition in Action, CATO Institute, pp.3-6 (2008).

³⁶⁶ Chris Edwards & Daniel J. Mitchell, Global Tax Revolution: The Rise of Tax Competition and the Battle to Defend It, Introduction, CATO Institute, p.3 (2008).

³⁶⁷ *Id.*

to boost the volume of trading partners and economic growth strategies to achieve targeted tax revenue collection sources based on their own tax policy's design. In dealing with the competitiveness taxation manifesto, the EU has provided “*within this framework, the main priorities for EU tax policy are the elimination of tax obstacles to cross-border economic activity, the fight against harmful tax competition, tax evasion and tax fraud* [...]”³⁶⁸ In this regard, the tax competition trends have stepped in to propose the code of conduct for business corporate tax deals. Following tax competition direction is provided by **Articles 107 to 109** of the TFEU.

At a practical level, according to **Annex1** highlights Bulgaria, Czech Republic, Estonia, Hungary, Lithuania, and Romania have reduced a minimum low individual income tax brackets, at average 10 to 22 % among the 27-EU counterparts from 2015 to 2020. Besides this, average individual income tax rates are up 25 to 57% among 27-EU member states. But the highest cases of personal income tax rates are Austria, Belgium, Denmark, Finland, France, Netherlands, Slovenia, Spain, Sweden, and other member states, shown on **Annex1**.

Reflecting alternative cost benefits low minimum averages of up 10 to 16% in the case of corporate income tax brackets were implemented by Bulgaria, Cyprus, Hungary, Ireland, Lithuania, and Romania based on **Annex2**. In contrast, those maximizing the highest corporate income taxes of up 18 to 35% include Austria, Belgium, France, Germany, Greece, Malta, Netherlands, Spain, and other member states, according to **Annex2**.

How to deal with tax competition in the EU?

Consistently, EU has conducted and designed fiscal provisions and relevant code of conduct for business taxation to deal with tax resolution issues for the European taxpayers since 1997.

The current EU has adopted “the Code of Conduct for business taxation was set out in the conclusions of the Council of Economics and Finance Ministers (ECOFIN) of 1 December 1997.”³⁶⁹

³⁶⁸ European Parliament, General Tax Policy, Objectives, available at <https://www.europarl.europa.eu/factsheets/en/sheet/92/general-tax-policy> (last visited February 17, 2021).

³⁶⁹ European Commission, Taxation and Customs Union, Harmful Tax Competition, Code of Conduct, available at https://ec.europa.eu/taxation_customs/business/company-tax/harmful-tax-competition_en (last visited February 17, 2021).

In addition, “the Code is not a legally binding instrument but it clearly does have political force. By adopting this Code, the Member States have undertaken to

- ▶ roll back existing tax measures that constitute harmful tax competition and
- ▶ refrain from introducing any such measures in the future ("standstill”).”³⁷⁰

Additionally, basically, “the Code of Conduct requires Member States to refrain from introducing any new harmful tax measures ("standstill") and amend any laws or practices that are deemed to be harmful in respect of the principles of the Code ("rollback”).”³⁷¹ The code covers tax measures (legislative, regulatory and administrative) which have, or may have, a significant impact on the location of business in the Union.³⁷²

Here is “the criteria for identifying potentially harmful measures include:

- ▶ an effective level of taxation which is significantly lower than the general level of taxation in the country concerned;
- ▶ tax benefits reserved for non-residents;
- ▶ tax incentives for activities which are isolated from the domestic economy and therefore
- ▶ have no impact on the national tax base;
- ▶ granting of tax advantages even in the absence of any real economic activity;
- ▶ the basis of profit determination for companies in a multinational group departs from internationally accepted rules, in particular those approved by the OECD;
- ▶ lack of transparency.”³⁷³

As the study above mentions, ‘the Code of Conduct for business taxation and harmful measures’ is helping European business and corporate taxpayers associated with benefits for non-residents who are doing business in the Eurozone and fighting European economic battles.

³⁷⁰ *Id.*

³⁷¹ *Id.*

³⁷² *Id.*

³⁷³ *Id.*

As tax consequences of these efforts, there have been negative and positive indicators in dealing with tax competition in the European market battles after adopting the code of conduct to prevent harmful tax competition since the 1990s.

5.5. Tax Cooperation of the European Union during the Covid-19 Pandemic Cases

Practicing tax cooperation is one main priority of EU tax policy strategy agendas. Formal discussion on tax-driven cooperation is a necessary mechanism and a step when dealing with all 27 tax jurisdictions and their national tax laws. Presently, tax cooperation has played a core role in dealing with relevant taxation frameworks, trade, economics, monetary and fiscal policies. Therefore, tax cooperation is also strongly required that engages all tax jurisdictions, relevant stakeholders, and participation from supporting taxpayers to improve the main scope of good governance and tax compliance. Mutual tax cooperation shall be provided by “(Articles 326-334 TFEU) can be applied in respect of tax matters.”³⁷⁴ The main feature of EU tax provisions with regard to the adoption of acts is the fact that the Council decides on a Commission proposal by unanimity, with Parliament being consulted.³⁷⁵ Provisions adopted in the tax field include directives approximating national provisions, and Council decisions.³⁷⁶

The EU has approved a “Guide on administrative cooperation between Member States and Businesses,”³⁷⁷ undertaking the EU VAT system.

The purpose of the guide is to facilitate and encourage increased administrative cooperation

³⁷⁴ European Parliament, General Tax Policy, Legal Basic, available at <https://www.europarl.europa.eu/factsheets/en/sheet/92/general-tax-policy> (last visited February 18, 2021).

³⁷⁵ *Id.*

³⁷⁶ *Id.*

³⁷⁷ European Commission, Cooperation between tax administrations and businesses, available at https://ec.europa.eu/taxation_customs/business/tax-cooperation-control/administrative-cooperation-mutual-assistance-overview/cooperation-between-tax-administrations-businesses_en (last visited February 18, 2021).

between Member States and Businesses in order to effectively combat fraud without further complicating the EU VAT system.³⁷⁸ Key provisions are as follows:

“The Guide should facilitate:

- ▶ a better and more pro-active interaction with legitimate business before new anti-fraud measures are introduced in order to evaluate impacts on legitimate business
- ▶ concrete actions to be taken by the various stakeholders on a pan-European level and nationally to share understanding of how businesses and markets operate, and to identify and jointly work on measures where the market is vulnerable to VAT fraud and thus foster timely and efficient cooperation.
- ▶ the implementation of these actions through national measures, thanks to recommendations on how this can be achieved
- ▶ increased development and exchange of best practices across the EU especially around cooperative compliance between legitimate business and tax administrations, know your counterparty-procedures (KYC) and know your taxpayer-procedures (KYT).”³⁷⁹

³⁷⁸ *Id.*

³⁷⁹ *Id.*

Part II

Part II investigates possible features of the priority design of the EU's harmonized tax system that has accomplished the EU's goal of driven tax policy to support a dynamic common market, which is the best model for ASEAN navigation through two different taxation systems' performance. From the perspective of the EU's harmonized taxation experiences, it has developed a guidance model to guide all elements of a gateway performance of tax laws' diversification for ASEAN tax administration.

How will ASEAN learn from the European Union's experiences?

If the European Union model is the best harmonized taxation for ASEAN countries? Why?

There are many viewpoints in the context of the EU's experiences, which have accomplished the implementation of a harmonized taxation model in guiding ASEAN in the future direction in various ways as follows:

- Adoption of harmonized indirect taxation, in particular, a common VAT system.
- Adoption of harmonized indirect taxation with establishment of a Single Market goal without importing duties or low tariffs among 27 EU member states.
- Adoption of harmonized taxation in strengthening the backbone of the European economic community, create jobs and balance social funding benefits.
- Adoption of harmonized taxation in moving high tax jurisdiction pressures to shift toward low tax countries' bases to reduce tax burdens to benefit taxpayers and investors.
- Adoption of harmonized taxation with a powerful formula for growing Germany and France's economies and for the benefit of other member states.
- Adoption of harmonized taxation in administrative body processes to empower the European Commission and the European Parliament to take a leading role in opening dialogue for pushing a framework for coordination, communication influences, and super advocates of delivering tax

harmonization instruments. In dealing with harmonized taxation instruments and Directives in accordance with tax-legislation Article 110 to 113 of the TFEU.

- Adoption of harmonized taxation rules by “the Court of Justice of the European Union (CJEU)”³⁸⁰ through solidly prohibiting the enactment of certain national tax laws that violate EU rules.
- Adoption of harmonized taxation can be accomplished by various means or guidance i). to guide tax jurisdictions to impose a same tax rate burden and ii). to stop harmful tax competition.
- Adoption of harmonized taxation can be led by simplification and fairness under territorial taxation systems in Eurozone jurisdictions, depending on self-declaration systems or self-assessment systems to improve tax compliance through bureaucracy barriers.
- Adoption of harmonized taxation guides the official launch of a proposed Common Consolidated Corporate Tax Base (CCCTB) which is considered to be a tax solution calculated to create fairer and more efficient taxation in the EU in 2011 and 2016 (discussed part I under Chapter V). The proposal, CCCTB, will deal with solid tax accomplishments and with non-binding common individual income tax bases, capital, and corporate taxes which required vigilant tax regulation associated the with the relevant long-term journey of tax policy, economic policy, trade policy, and monetary policy trends listed below:

* Guidance on the adoption of the proposal CCCTB is the right direction to assist the EU member states in adjusting their tax regime to support the advantage of participating in a common market.

* Reduction of the tax burden among the EU stakeholders and taxpayers across the Eurozone in dealing with the potential Euro single currency and monetary policy.

* Reduction of the massive burden of tax compliance, looking for tax resolution issues of elimination of double taxation through cross-border transactions.

³⁸⁰ European Union, EU Institution, Court of Justice of the European Union (CJEU), available at https://europa.eu/european-union/about-eu/institutions-bodies/court-justice_en (last visited 20 June 2021).

* Reduction of fiscal obstacles and administrative costs in the context of **removal four (04) barriers to the movement of goods, service, capital, and people** through reopening business borders for supporting trade-oriented policy.

* Reduction of tax fraud, tax evasion, and tax avoidance to level the playing field of the tax environment.

* Suppression of the phenomenon of harmful tax competition pressure.

* Facilitation of use by tax practitioners to apply transfer pricing methods and the advance pricing agreement (APA) to meet tax policy trends.

* Facilitation of an all 27-EU comparison study related to tax bases and effective tax burdens.

* Harmonized taxation is a desirable policy for promoting sustainable development in emerging economies to achieve their economic integration policy progress.

- Harmonized taxation can lead the ‘Improvement of Efficiency of the Tax System.’
- Consolidation/ Simplification can fuel harmonized taxation work.
- Adoption of doctrine instruments of harmonized taxation to enhance effects of tax coordination to benefit the EU economic growth and fiscal-policy-driven navigation.
- Adoption of proposal harmonized taxation to sustain the engine growth of economic development trends and boost the volume of international trade among trading partners.
- Creation of proposal harmonized taxation guides to deal with fair tax competition.
- Adoption of harmonized taxation to lead to modern, fair, and growth-friendly tax rules to support the growth of the Digital Single Market through the Common Market where effective of revenue erosion may result in the short run, but be beneficial in the long run through e-digital tax economy movements.
- Adoption of harmonized taxation shall be driven by fairness and equity investments and by legitimate international trade in accordance with Article VI and Article VII under the WTO rules.
- Adoption of harmonized taxation would favor a large economic scale base to benefit Germany, France, and some western countries. This symbol of harmonized taxation progress can reduce tax

burdens and promote the scope of investment for small country such as Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Ireland, Latvia, Luxembourg, Malta, Romania, Slovakia, and Slovenia in the Eurozone.

- Adoption of harmonized taxation can facilitate and promote bilateral international tax audit missions for exchange of information for improvement of tax compliance in assisting ostensible support to help multination enterprises (MNEs) among member states. For instance, only two tax agencies adopted Pilot Projects across tax-borders between Germany and the Netherlands among 27 member states, which had conducted the initiative Joint Tax Audit Program (JTAP). The JTAP aims to promote mutual tax treaty agreement procedures (MAP) from year to year to avoid international tax conflicts in the field of deductions, double taxation, sharing tax exchanges of information, and taxpayer reporting, etc.

If the European Union model is not best tax harmonization for ASEAN nations, why not?

The EU harmonized taxation system is not the best model because this system could not guide the ASEAN harmonized taxation direction for several reasons or due to distortion barriers.

- Disconnection tax cooperation movements work in different ways or directions between tax policy makers with differing political will (27 politicians) because they do not have common voices to represent the EU motto. They have carefully worked to remain vigilant in the area of tax rate bases, common individual income taxes and common corporate taxes to support common market goals. EU tax policymakers and politicians have worked with conflicts of interest which does not always satisfy taxpayers' will. The current design of implementing corporate taxes is not a good model to support the legal framework of the EU's regional economic community policy trend. Because currently the EU taxation system is not yet a 100 percent harmonized direct taxation system, it argues with the objective of the ASEAN Charter and AEC 2025 CSAP, linked with planning form ASEAN Single Market in the future. The CSAP has been supported by the highest level of the ASEAN Economic Ministers (AEM), AEC Council Ministers, ASEAN Finance Ministers (AFM), and relevant stakeholders.

5.6. Comparative Analysis on Implementation of Harmonized Tax Systems between ASEAN and European Union in the Legal Framework of Similar Direction and Different Direction

5.6.1. Implementation of Similar Harmonized Tax Systems between ASEAN and European Union

The study of the evolution between the active component of the ASEAN and the EU has revealed a harmonized tax system. Both ASEAN and EU economic communities have already launched a harmonized tax system in accordance with their de facto tax laws and the legal framework of free trade in order to respond to the global world trading system and the competitive uncertainty of speculation about global international tax policy reform and world economic trends.

Initial pressure from many international organizations and other stakeholder entities have pushed national tax agencies to reform their international tax regimes in the context of the uncertain and unpredicted world phenomena to build a resilient, harmonized tax system to satisfy taxpayers. This will help existing HTS and Tax Policy to reach its AEC objective, in the same or similar direction of that of the European Union.

Can ASEAN be a similar to EU?

There is adaptability in the ASEAN's context similar to what the EU has undertaken as a harmonized tax system since forming a common market to achieve its goal based on **Box1**, which outlines the following:

**Box1: List on Implementation of Similar Harmonized Tax Systems between ASEAN
and European Union**

Area	ASEAN	European Union
FY	Similar Direction	Similar Direction
	*ASEAN enacted a harmonized indirect tax in 1992 based on the AFTA and ATIGA.	*EU enacted a harmonized indirect tax based on Article 110 to 113 TFEU, which support the internal market direction.
	* ASEAN has applied a harmonization tariff base under the legal framework of the ASEAN Customs Code of Conduct in driving economic cooperation trends since 1995.	*EU has applied a harmonization tariff bounded with the Common Customs Tariff Nomenclature to deal with a harmonized tax system driving the European Economic Community in 1968.
	*ASEAN has a harmonized tax system to deal with the ASEAN Harmonized Tariff Nomenclature Agreement (AHTN) under the ASEAN Customs Cooperation Pact, which was approved by 10 ASEAN Finance Ministers in 2003.	*EU has driven an application of harmonized tax system in dealing with the Taxation and Customs Legislation of the Union Taxation and Customs through dialogues or consultations with all 27-EU Finance Ministers, re-enhancing EU tax policy since 2001.
	* Most ASEAN countries apply to implement the VAT system to support a harmonized indirect tax system direction.	* Most EU countries apply to undertake the VAT system to endorse a harmonized indirect tax system direction.
	*VAT is commonly used in ASEAN.	*VAT is commonly used in the EU.

Source: ASEAN Secretariat and European Union

5.6.2. Implementation of Different Harmonized Tax Systems between ASEAN and European Union

On the contrary, dealing with a different aspect and envisioning a driven harmonized tax system between ASEAN and the European Union is very completed differentiated. Therefore, there are several differentiation approaches in a field of framework features of legal institutions associated with tax rules, tax policies, and scope of economic growth indicators in the context of the AEC and EEC structures. Because of two ASEAN and EU actors have driven their strategical way to deal with different HTS based on for each national tax policies and tax laws to support their economic growth activities. The study on different approaches has carefully implemented policy formation of the ASEAN taxation system and EU. There is a necessary way direction approach consists of positive and negative things for adaptability success for building a better tax area. In this sense, ASEAN follows the EU model that can be argued with the EU is not full harmonized corporate tax base; that is a significant way in which has happened different variety matters before and after the global economic impacts of the Covid-19 pandemic to deal with fixing a better for harmonized tax issues. Here is **Box2** highlights a different way approach of a list of implementing different harmonized tax systems between ASEAN and the EU in which be not similar direction as follows:

Box2: List on Implementation of Different Harmonized Tax Systems between ASEAN and European Union		
Area	ASEAN	European Union
FY	Different Direction	Different Direction
	* ASEAN has not yet formed a harmonized direct tax system which will be not supported by AIPA.	* EU has constituted a harmonized direct tax based on Article 115 TFEU, which supports

		internal market trends through consultations or communications.
	* ASEAN has not yet applied a harmonization tax related to individual or personal income tax and company.	* EU has applied an individual income tax and company taxes under limited rules of personal income tax base or capital taxes.
	* ASEAN is not applied a harmonized direct tax base to deal with multinational enterprises or corporations.	* EU is driven with an application of a harmonized direct tax system under the Proposal CCCTB through consultation with all 27-EU Finance Ministers among member states for supporting the EU tax policy since 2011 and 2016.
	* Most AMSs apply VAT rates through importing and exporting and other service tax burdens, not harmonization tax rates.	* Most EU nations seek to undertake the common VAT system at a rate of 15 percent based on the EU tax rules.
	* Current ASEAN Secretariat or AIPA exist; there is no ASEAN Court of Justice in dealing with tax coordination and tax cooperation issues. Therefore, AIPA does not authorize to rule tax issues.	* VAT is applicable to various directives of the European Court of Justice (ECJ) that is only an authorization to set a standard rate for individual income tax and company. In this regard, the ECJ is authorized to prevent and prohibit various certain national tax rules that violate EU rules.
	* The scale of the VAT revenue mobilization has a limited ratio of the GDP growth trends in ASEAN.	* The scale of the VAT revenue has a big ratio to the GDP growth trends in the EU.

	* Implementing the ASEAN taxation of field level is limited by experience and youth.	* Implementing the EU taxation of field level is of long experience, health, and old aging, especially France, Germany, Spain... and other member states.
	* AIPA is not a powerful institution. There is no coordination institution in dealing with tax matters under the ASEAN Charter or a common ASEAN taxation regulation.	* The European Parliament is one among the EU powerful institutions that have worked for a flexible coordination role with relevant institutions in dealing with harmful taxation under the TFEU.
	* Limited ratio of performance revenue mobilization as an overall excess 18 to 19 percent of the GDP in ASEAN according to Figure 33 .	* High ratio of performance revenue mobilization as an overall excess 44 to 46 percent of the GDP in the EU according to Figure 33 .
Source: ASEAN Secretariat and European Union		

5.7. Comparative Revenue Mobilization between ASEAN and European Union

Figure 33: Comparative Revenue Mobilization (%) of the GDP Growth Indicator between the ASEAN and European Union from 2015 to 2021							
FY	2015	2016	2017	2018	2019	2020 proj.	2021 proj.
ASEAN	19.6	18.9	18.7	19.1	19.0	18.0	18.1
EU	46.3	46.2	46.2	46.5	46.5	44.5	45.7
Source: IMF							

Figure 33 shows that comparative revenue mobilization as an overall average percent of the GDP economic growth indicator to represent two economic community projections between the ASEAN and European Union from 2015 to 2021. According to **Figure 33** also represents revenue

ratio performance outlooks moving forward from a projection before the Covid-19 outbreak through a mid-Covid-19 pandemic era and beyond.

♥ ASEAN

- In 2015, the ASEAN revenue mobilization reached 19.6 percent of the GDP.

- From 2016 to 2017, the ASEAN revenue mobilization was 18.9 percent and 18.7 percent as the GDP that dropped by 0.7 percent and 0.9 percent, respectively, compared with 2015 and 2016, because of the global economic downturn.

- In 2018, the ASEAN revenue collection raised 19.1 percent, which increased 0.4 percent of the GDP compared with 2017.

- In 2019, the ASEAN revenue ratio was 19.0 percent of the GDP that was reflected a decline symptom at 0.1 percent compared with 2019 due to impact to the ASEAN economic growth outlook.

- In 2020, the ASEAN revenue proportion was 18 percent of the GDP due to its global economic impact of the Covid-19 pandemic. It had hurt the ASEAN economic growth that affected the overall revenue collection index in ASEAN-3 or ASEAN-10 member states.

- Soon or later, in 2021, the ASEAN revenue ratio is expected to reach 18.1 percent of the GDP after recovery from the global economic impact of the Covid-19 pandemic.

♥ European Union

- In 2015, a ratio of the EU tax revenue collection rose 46.3 percent of the GDP.

- From 2016 to 2017, the EU tax revenue collection had the same proportion of 46.2 percent as the GDP, which was decreased by 0.1 percent compared with 2015 because of the impact of uncertain Eurozone economic trends.

- From 2018 to 2019, a ratio of the EU tax revenue collection increased by 46.5 percent; this expanded by 0.3 percent as the GDP compared with 2016 to 2017. It was a good indicator.

- In 2020, the EU tax revenue ratio was 44.5 percent of GDP due to the global economic impact of the Covid-19 pandemic period. It harmed the EU economic growth that affected revenue collection among 27-EU member states.

- In 2021, a ratio of the EU tax revenue regains 45.7 percent of the GDP growth as recovery from the global economic impact of the Covid-19 pandemic.


Overall, a proportion of the EU revenue mobilization trend has led the ASEAN from fiscal years 2015 to 2021 which highlights its projected performance index.


5.8. Study Analysis on Harmonized Tax Systems between ASEAN and the European Union in terms of Applicable with Strengths, Weaknesses, Opportunities, and Threats (SWOT)

The ASEAN and the European Union's harmonized tax systems have been moving in completely different directions. The following study of two tax jurisdictions between ASEAN and EU discusses the main principle of the **Strengths, Weaknesses, Opportunities, and Threats (SWOT)** driving different tax cultures in a legal framework of an international tax regime for improving tax compliance. Here is **Box3** to show an analysis to guide tax policymakers and tax practitioners for pushing a taxation deal below.

Box3: Study Analysis of Harmonized Tax Systems between ASEAN and European Union	
in terms of Applicable with Strengths, Weaknesses, Opportunities, and Threats	
EU	ASEAN
Strengths	
<ul style="list-style-type: none"> ▶ EU is a strong institution. ▶ All aspects of the European harmonized tax system status everything deals with a common EU tax law. ▶ European parliament delivers power to 27 member states which comply with national tax law. ▶ The Court of Justice of the European Union (CJEU) establish harmonized standards for taxation companies and private individual. In this sense, European produces tax law to prevent taxpayers in the context of harmful tax competition and business and investment deal. ▶ EU adopted Transfer Pricing and Advance Pricing Agreements (APAs) in 2007 to deal with cross-borders among member countries based on using a concept of communication to support the Joint Transfer Pricing Forum (JTPF) in 2019. The EU JTPF and APAs aim to help tax issues to avoid risk in relation to preventing transfer pricing disputes and double taxation arising to improve dispute tax avoidance and tax resolution. ▶ EU also adopted guidelines on Small and Medium Enterprises (SMEs) Transfer Pricing in dealing with pricing on tax matters in 2012. 	<ul style="list-style-type: none"> ▶ ASEAN is not strong in the same way. ▶ AEC has yet to adopt ASEAN as common tax law. ▶ All AMSs is applicable with national tax law. Everything shall deal with individual tax law.
Weaknesses	
<ul style="list-style-type: none"> ▶ There is not a common harmonized corporate tax, but harmonization is only on the indirect tax system accordance 	<ul style="list-style-type: none"> ▶ ASEAN Secretariat is not powerful organization. ▶ Everything shall not deal with the ASEAN tax law.

<p>with Article 99. By the way, <i>the objective of the European tax policy is to “make them fair, efficient and growth friendly.”</i></p>	<ul style="list-style-type: none"> ▶ AEC has not yet adopted an independent tax court. ▶ ASEAN parliament is not a powerful institution or legislative branch. ▶ ASEAN needs to adopt Advance Transfer Pricing that will benefit big corporations or MNC/MNE.
<p>Opportunities</p>	
<ul style="list-style-type: none"> ▶ Tax law shall apply to all taxpayers. ▶ All taxpayers are eligible to sue tax agencies to the CJEU if each tax agency does everything wrong, or act in violation of tax rules. ▶ The EU has played a very important role to respond to international tax regime. ▶ The European commission adopted first proposal for the EU's long-term budget 2021-2027 multiannual financial framework package --- a revamped long-term budget on 27 May 2020 to support the economic impact in the current Covid-19 outbreak. The EU budget package is EUR 1,850 billion to deal with recovering European economy. 	<ul style="list-style-type: none"> ▶ Taxpayers have more opportunities to use domestic tax law applicable to filing tax returns and other tax regulations for fulfilling tax liabilities or burdens. ▶ There is a limited scope among AMSs to respond to the international tax regime. However, the study shows all ASEAN leaders are eligible for taking consideration to apply for the adoption of a harmonized tax system.
<p>Threats</p>	
<ul style="list-style-type: none"> ▶ There is not an entire (100%) harmonized corporate tax to prevent harmful tax competitiveness. 	<ul style="list-style-type: none"> ▶ Lack of funding to recover the Covid-19 or other issues. ▶ Lack of ASEAN tax court due to ASEAN is more threats in tax jurisdiction than EU because ASEAN does not have an independent tax court to prevent taxpayers' property and investment and business deal. ▶ Taxpayers (MNE/MNC) are not confident on local court.

Annex1: Personal Income Tax Rates in Percent in EU from FY 2016-2021								Future forward to Projection on Deduction Rates
Country	2016	2017	2018	2019	2020	2021	Change 2016-2021	2022-
Austria	55	55	55	55	55	55		
Belgium	50	50	50	50	50	50		
Bulgaria	10	10	10	10	10	10		
Croatia	40	36	36	36	36	30	-10	
Cyprus	35	35	35	35	35	35		
Czech	22	22	22	22	22	23	1	
Denmark	56.4	55.7	55.8	55.8	55.8	56.5	0.1	
Estonia	20	20	20	20	20	20		
Finland	54.2	54	53.7	53.7	56.9	56.9	2.7	
France	22.5	49	49	45	45	45	22.5	
Germany	45	45	45	45	45	45		
Greece	45	45	45	45	44	44	-1	
Ireland	48	48	48	48	48	48		
Italy	43	43	43	43	43	43		
Luxembourg	44	48.7	45.7	45.7	45.7	45.7	1.7	
Netherlands	52	52	51.9	51.7	49.5	49.5	-2.5	
Portugal	48	48	48	48	48	48		
Spain	45	45	45	45	45	47	2	
Sweden	57.1	57.1	57.3	57.1	32.2	52.8	-4.3	
EU Average	37.58	38.06	38.00	37.81	36.92	37.77	0.19	
Source: KPMG								

Annex2: Corporate Income Tax Rates in Percent in EU from FY 2016-2021								Future forward to Projection on Deduction Rates
Country	2016	2017	2018	2019	2020	2021	Change 2016-2021	2022-
Austria	25	25	25	25	25	25		
Belgium	33.9	33.9	29	29	25	25	-8.9	
Bulgaria	10	10	10	10	10	10		
Croatia	20	18	18	18	18	18	-2	
Cyprus	12.5	12.5	12.5	12.5	12.5	12.5		
Czech R.	19	19	19	19	19	19		
Denmark	22	22	22	22	22	22		
Estonia	20	20	20	20	20	20		
Finland	20	20	20	20	20	20		
France	33.3	33.3	33	31	28	26.5	-6.8	
Germany	29.7	29.7	30	30	30	30	0.3	
Greece	29	29	29	28	24	24	-5	
Hungary	19	9	9	9	9	9	-10	
Ireland	12.5	12.5	12.5	12.5	12.5	12.5		
Italy	31.4	24	24	24	24	24	-7.4	
Latvia	15	15	20	20	20	20	5	
Lithuania	15	15	15	15	15	15		
Luxembourg	29.2	27.08	26.01	24.9	24.9	24.9	-4.3	
Malta	35	35	35	35	35	35		
Netherlands	25	25	25	25	25	25		
Poland	19	19	19	19	19	19		
Portugal	21	21	21	21	21	21		
Romania	16	16	16	16	16	16		
Slovakia R.	22	22	22	21	21	21	-1	
Slovenia	17	19	19	19	19	19	2	
Spain	25	25	25	25	25	25		
Sweden	22	22	22	21.4	21.4	20.6	-1.4	
EU Average	22.17	21.41	21.37	20.90	20.79	20.71	-1.46	
Source: KPMG								

Chapter VI

Conclusion and Implications

The ASEAN-3 through ASEAN-10 (Ship) spent nearly three decades to take concrete actions to build a healthy indirect tax harmonization system in the context of the expansion goal of implementing ATIGA under the CEPT-AFTA pact. However, a formal rules-based regional tax system has not been adopted because of the lack of trustworthiness, confidence, and unity within the ASEAN community. In this study, I argue that there is an urgent need for ASEAN to adopt *HTS and Tax Policy*, which will require the political will of ASEAN political leaders to build a stronger regional tax institution. The HTS and Tax Policy will empower the AEC to achieve its goal before introducing the oriented ASEAN single market and production base in 2025 or beyond.

Now the economic crisis caused by the Covid-19 pandemic has compelled ASEAN political leaders to prioritize an action plan for driving the ASEAN tax policy integration to restore dynamic growth and realize the AEC vision (Ship). The ASEAN governments' think tanks have seriously studied how to design a HTS institution and a formal regulatory framework to address a complex tax system to support the AEC. Without a harmonized tax system, deeper economic integration within ASEAN community is not going to happen. The HTS will make it possible for reducing technical barriers, tax liabilities, and tax burdens for all ASEAN public institutions, taxpayers, and relevant stakeholders. Deeper economic integration will allow ASEAN to have more economic leverage and prevent each ASEAN member from being economically isolated. Thus it is necessary for ASEAN leaders to modernize and simplify regional tax rules that comply with the digital economy's international tax regime in the modern age.

Tax about people, people about taxpayers. Tax revenue is collected from both direct and indirect tax sources as discussed in Chapter II and Chapter V. Tax revenue is crucial for delivering ASEAN public goods and services, expanding equity, and assisting ASEAN macroeconomic stability.

Of course, the ASEAN tax community desires to restore trust, hope and confidence for generating revenue sources. Indeed, they must work together if ASEAN needs to achieve the restructuring AEC goal. Certainly, ASEAN taxpayers have enjoyed low tariff rates (0-5 percent), established by all ASEAN government revenue policymakers in 1992, but an applicable and more robust tax regime is needed for groundbreaking and far-reaching economic integration in this region. By adopting the HTS, ASEAN can begin to build a common integrity within ASEAN tax community through rules-based regional tax system. This HTS and Tax Policy need to comply with each national tax code and would not allow any countries to violate another country member's tax system. More importantly, it requires strategic measures to target a HTS that would persuade all head of states. The strategic measures include the following:

6.1. Conclusion

i). Accelerating ASEAN Forum on Taxation

The existing ASEAN Forum on Taxation-Working Group (AFT-WG) is a crucial platform for ASEAN Finance Ministers to negotiate a collective agreement on tax policy and regional consultation among ASEAN leaders through all ASEAN tax agencies. The AFT-WG serves as the only acceleration mechanism to help all ASEAN government leaders work closely with the ASEAN secretariat, and push for a workable HTS framework.

ii). Strengthening Tax Coordination Mechanism

Regional tax coordination is another important mechanism needed to produce harmonized taxation and share best practices to all AMSs. The key participating tax coordination mechanism is a manifesto to encourage all stakeholders and relevant other ASEAN taxation integration sections. This

approach is required to work with all tax policymakers for constructing the HTS to support the CSAP 2025.

iii). Continuing Tax Cooperation Program

Tax cooperation mechanism plays a highly valuable role in dealing with tax issues among AMSs. As tax cooperation is another key significance of the AEC pathway, it is needed to drive the HTS. Therefore, ASEAN leaders need to engage other relevant stakeholders to strengthen tax cooperation to build a more robust regional tax system. Opening dialogue is the driver for all AMSs to solve tax matters aimed at reaching the CSAP agenda by 2025. The full implementation of the CSAP 2025 would fuel the regional tax cooperation program deal. The CSAP has also outlined plenty of sub-action plans to extend tax cooperation deals with tax agency counterparts to establish a new working group dealing with the AEC target.

iv). Avoiding Harmfulness Tax Competition

As tax practices, prohibiting harmful tax competition is needed to facilitate and accelerate the flow of trade in this region. Enforcing harmonized taxation would prevent harmful tax competition against anti-dumping and reduce unfair investment, and illicit trade. It would also discourage tax business competition across the ASEAN region.

Under individual ASEAN tax policies under the regulatory framework, marginal corporate tax rates for MNEs have not been the same across ASEAN since AEC was formed in 2015. The implementation of such individual tax policies is actually harmful because they encourage business taxation competition across the ASEAN region. In this sense, AMSs are required to avoid violation establishing for corporate tax rates by individual countries. Therefore, all ASEAN leaders need to

input further information on transparent taxation provisions under the CSAP 2025; prohibiting harmful tax competition should be a priority.

v). Promoting Good Governance for Restoring Tax Revenue Collection after the Post Covid-19

Strengthening tax governance for recovering the decline of tax revenue collection caused by the Covid-19 pandemic is essential across AEC. Therefore, ASEAN needs to agree on better good governance for offering tax incentives for taxpayers to reduce unnecessary administrative costs to deal with complicated tax systems across tax-border transaction deals to recover mobilization tax revenues. Doing this may improve the environment, *eliminate fiscal barriers*, and provide fairness and justice for legitimate investment and trade environment across ASEAN so that this regional grouping can reach the UN sustainable development goal by 2030 regarding AEC's better tax enforcement measures. All AMSs may need key formation tax policies to collaborate and work together to build AEC to improve bureaucratic behaviors for promoting the entire ASEAN good governance program. Here are several aspects for promoting a good governance program below.

a). This requires creating awareness objectives for the public to private sector (**P2P**), and engaging private to tax section (**P2T**), particularly in the ASEAN business community and tax community in the all-ASEAN countries across all industrial sectors (ASEAN taxpayers). The connection between P2P and P2T are interacted with all stakeholders to incentivize taxpayers to reduce tax burden and tax relief program to be effective, efficient, transparent, and accountable.

b). The above-mentioned point in (a) is important for ensuring the transparency of ASEAN governments, encouraging all taxpayers to avoid dealing with bureaucracy, and improving anti-corruption environment initiative cross tax-border movement that would connect with all sectors for the entire AEC.

c). These are to promote accountability in public goods and are expected to increase tax compliance to respond to the needs for better good governance reform. Indeed, good tax governance

will strengthen the government's reputation and integrity and attract more investment and legitimate trade through fair tax competition and the reduction of administrative costs for doing business.

vi). Developing ASEAN Tax Treaty Policy

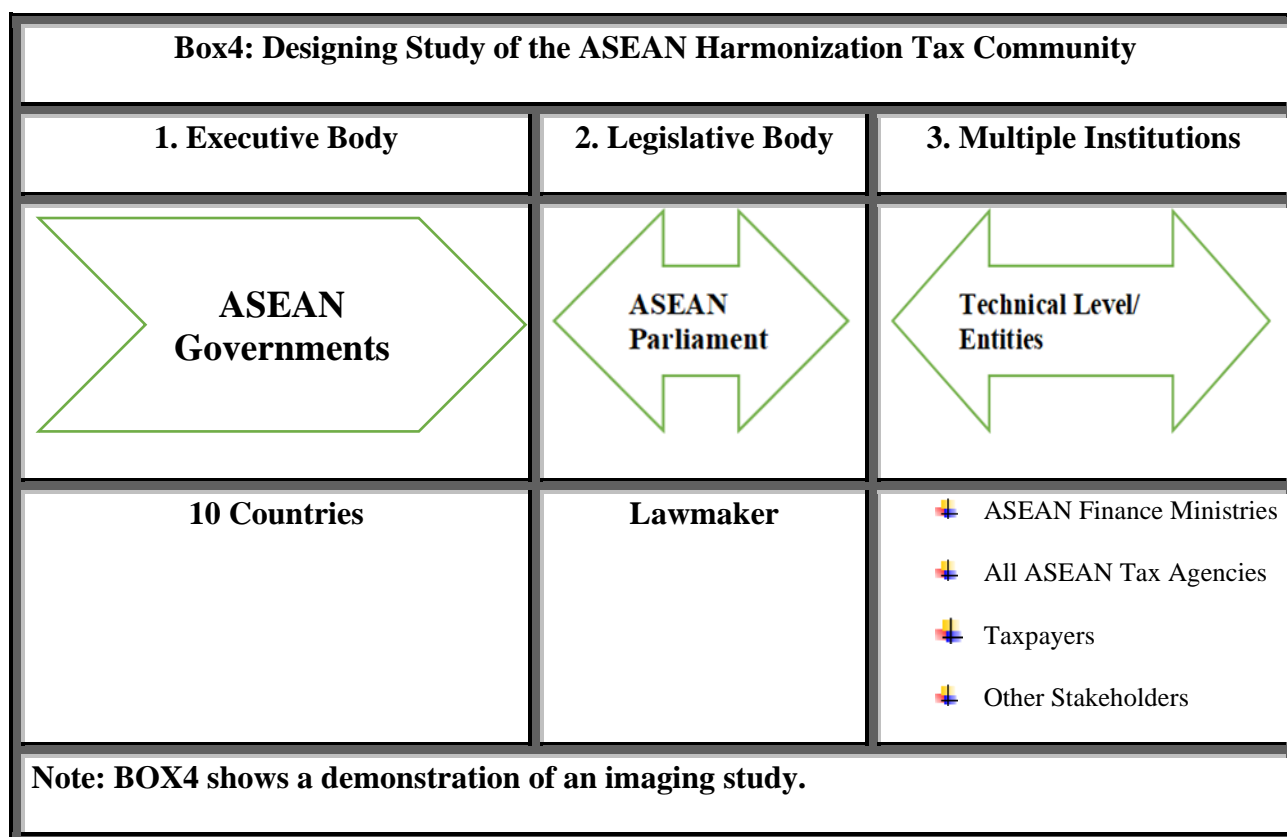
In this context, AMSs leaders need to be pushed to support and to promulgate tax provisions to develop the ASEAN tax treaty policy to approach HTS, drawing on the instruments of UN or OECD tax convention models or the EU tax treaty model. I contend that the EU tax treaty model is a helpful tool that would benefit AEC. The UN or OECD tax convention model combines with the EU tax treaty model would provide an even better instrument and tool to encourage all AMSs to expand tax negotiation activities required to support existing CSAP and avoid double taxation in the HTS. This is a key motivation for developing ASEAN Tax Treaty, which will stipulate in the ASEAN Charter as a modeling doctrine.

vii). Enhancing Regulatory Framework of the BEPS Project

In dealing with this task, all AMSs are required to update the legal framework of the existing BEPS project to meet international standards. Each local tax policymaker is totally required to implement and comply with international tax rules. Therefore, tax policymakers' more awareness and confidence play a very important role in tackling tax avoidance and tax evasion for expanding the consistency of the international tax regime and for ensuring a more transparent tax environment to improve massive gaps of tax revenue lost. All ASEAN tax policymakers' prerequisites must comply with international tax rules to promote the regional ASEAN tax regulation framework. In this regard, it is desirable to strengthen the existing BEPS project to meet international tax rules to support the ACAP 2025 agenda which supports ASEAN integration for all sectors for reciprocal benefits for the ASEAN tax community.

6.2. Implications

There are many possibilities for future study to adopt HTS and Tax Policy for the ASEAN tax community in support of the AEC vision (Ship). This study suggests the “**Changed Rules of the Game**” in ASEAN's principle and regulatory framework under the ASEAN Charter to reform the tax institution. This recommendation is intended to avoid a conflict of international tax regime among AMSs. It also will propose a further study on legal framework for tax reform and for the adoption of a new ASEAN tax development in the context of the "**Acting and Done based on Tax-Friendly Policy Forum.**" In other words, the following proposal will guide the ten ASEAN government leaders to amend legislation, especially articles 20, 22, and 52 that have been stipulated in the ASEAN Charter (Constitution) as follows:



This “**Box4**” represents the design of the ASEAN harmonization tax community.

- ▶ Number 1 represents all ASEAN ten governments as the executive body.
- ▶ Number 2 represents the ASEAN Parliament as the legislative body.
- ▶ Number 3 represents multiple institutions that play critical roles in delivering technical entities in driving the ASEAN tax community (ATC), consisting of all ten ASEAN Finance Ministries, all ASEAN tax agencies, taxpayers, and relevant stakeholders that will participate a harmonized tax study.

From the perspective of a designing study of "**Box4**" is a willingness to inspire the ASEAN government leaders to hand over power to the ASEAN Parliament called AIPA as an *independent body*. Then lawmakers of the AIPA will study all the facts and taxation issues to amend the tax legislation to deal with a generation of the ASEAN taxpayers' common interest. Here are **12** main points for the best solution for discussion of the vital implication study below:

1. Articles 20, 22, and 52 need to be amended. Those articles create more obstacles for removing fiscal barriers and make it very difficult to establish an ASEAN harmonized taxation system to avoid a deadlock. The purpose of amending the ASEAN Charter is to open a locked door achieved the desired AEC by 2025. To reconstitute a legal framework, all ASEAN leaders should set a timeframe to transfer power to the AIPA. Transferring power is a sensitive topic but is necessary to strengthen the ASEAN Charter's juridical system as an independent legislation body. Amending the above articles will remove deadlock barriers for supporting AEC goal and at the same time create incentives for taxpayers and related stakeholders to invest and trade. The ASEAN Court of Justice or ASEAN Tax Court will have to take place in the future. Therefore, adopting HTS will require ASEAN leaders to transfer the political power to and ensure the independence of the AIPA. Such institutional change must happen so that ASEAN can produce a harmonized tax law to generate a common tax system for the ASEAN taxpayers to respond to the ASEAN tax community demand. In this regard, only the AIPA will have or become a powerful legislative body to amend the above articles under the ASEAN Charter and to enact new priority articles to seek a common interest in the ASEAN

community. For instance, the “*Legal Continuity*”³⁸¹ status in accordance with article 52 under the ASEAN Charter shall be: “*all treaties, conventions, agreements, concords, declarations, protocols and other ASEAN instruments which have been in effect before the entry into force of this Charter shall continue to be valid.*”³⁸²

For example, conducting a study on article 20 shall discuss in Chapter VI in terms of applying for “*Decision-Making*”³⁸³ under the ASEAN Charter. This will bring a big deal with the ASEAN tax community's response to adopt the HTS and Tax Policy approach. The following articles 20 and 52 may be decided by all ten (10) leaders through the ASEAN Summit. In this sense, those articles shall highlight a key part of the public international law that ASEAN will necessitate to deal with or amend this article 20 if all ASEAN leaders wish to do so after the post Covid-19 pandemic period. Besides, all AMSs will need to re-study **article 52** to add up tax convention model associated with similar UN and EU tax convention model to be done. Therefore, adoption of the HTS will benefit the AEC and ASEAN tax community in long run. For this reason, the ASEAN tax community will drive and become an effective role as independent AEC status. That will lead the HTS to reach future generations for sustainable development to promote strong ASEAN tax policy integration.

2. The adoption of HTS will demand all AMSs to create the **ASEAN Tax Institute (ATI)**, inspiring all types of tax curriculums to improve taxability or tax capacity development for ASEAN tax officials to support various levels of the AEC mission. ATI is a motivation institute required to offer training to all tax officials from all ASEAN countries to absorb tax knowledge to bring back to home countries about new capacity development to generate more income tax sources from all levels of taxpayers and stakeholders. In doing this, the ATI curriculum will need to provide a short-term, medium, and advance (Master of Taxation or Master of Laws in Taxation) for all tax officials from all AMSs to connect with the ASEAN University Network for generation tax policymakers to younger

³⁸¹ ASEAN Secretariat, The ASEAN Charter, Jakarta, pp. 22-36 (Nov. 2020) at art. 20, art. 22 through art. 52.

³⁸² *Id.*

³⁸³ *Id.*

generations of tax policymakers. This will promote the future tax policymakers' tax capacity development for a better implementation across the AEC.

3. The adoption of the HTS will need AMSs to raise the ASEAN annual budget to create an ASEAN journal of international tax to conduct tax research across the ASEAN region.

4. The adoption of the HTS will be required to develop harmonized tax legislation in advance that aims to form the ASEAN single currency and single market through production base to reach the AEC purposes.

5. The adoption of the HTS will require implementing regulators to avoid the moral hazard problems at same level of each member countries whereas its HTS will raise to hit a core target to improve volume of mobilization tax revenue gap like the EU case. It means that ASEAN government leaders will be responsible for their tax liabilities to reduce transaction costs and bureaucratic activities should be motivated. This may increase good governance and more accountabilities for all AMSs; they will gain more benefit from the HTS.

6. The adoption of the HTS will need to develop a common set of ASEAN goals regarding the SMEs Transfer Pricing Method and Advance Pricing Agreement to deal with tax matters in the field of tax dispute deal, tax avoidance, and double taxation.

7. The adoption of the HTS will have to take into account the results from this further study. HTS will distribute these to national ASEAN tax systems to ensure high fairness and equitability to avoid discrimination tax measures. It should not encourage disadvantages or demerits for harmful taxpayers (people), capital, goods, and services between one member state and other member states across tax- borders. In this regard, all relevant ASEAN institutions must prioritize the workflow harmonized indirect tax and adapt adequate income corporate tax policies based on good decision-making through the ASEAN government revenue policies.

8. The adoption of the HTS will benefit ASEAN to avoid harmful tax competition in the AEC, and enhance stability and trade growth, investment, and inflow of capital market to capture more MNEs in context of fair competitiveness of driven free market economic system.

9. The adoption of the HTS will assist traders or investors or taxpayers to reduce borrowing costs from banking to invest more money on the capital market.

10. The adoption of the HTS will promote increased economic growth by reducing tax evasion activities, tax avoidance, and double taxation. It will also narrow the economic competitiveness gap to sustain ASEAN economic development process in the long term.

11. The adoption of the HTS will adjust re-engineering for the ASEAN dispute settlement system under article 22 on the “**Settlement of Disputes**”³⁸⁴ under the ASEAN Charter. Article 22 shall aim to create a new ASEAN tax court to resolve tax disputes among all ASEAN taxpayers. In doing so, the court provides legal mechanisms for conflict resolution within the ASEAN tax community and will help to expand the AEC activities and integration in other sections. Furthermore, its cascade effects at the national level can be in the form of strengthening local judiciary systems. The ASEAN tax court will serve all level of taxpayers across Southeast countries and facilitate deep cooperation by reducing transaction costs. Moreover, creating the ASEAN tax court will reduce costs by ensuring that tax dispute resolutions are legitimate and enforceable. ASEAN tax court reputation as an independent judiciary branch will provide an alternative to the WTO dispute settlement mechanism as well. The WTO Dispute Settlement Panel causes ASEAN states to spend massive money and lose much valuable time and resources to settle tax disputes. This new ASEAN tax court will restore the trust of investors, taxpayers, and relevant stakeholders and increase investors' confidence in ASEAN as a regional organization. An independent ASEAN judiciary system is the key to achieving the ASEAN's common goal of AEC in 2025.

12. The adoption of the HTS will provide huge benefit for all ASEAN taxation agencies to access economic integration based on a common ASEAN entity to deal with all cross-border business transactions and tackle unfair tax burden to avoid lengthy and costly tax litigations. Therefore, there is a possibility that AMSs will seek to adopt the EU harmonization tax model to be their own "HTS."

³⁸⁴ *Id.*

This model should design a new ASEAN tax policy to achieve ASEAN member states' goal for constructing ASEAN Single Market and production base as follows:

- a). Restructuring tax policy, good governance, and tax administration for fostering trade and development through establishment of a common market to expand tax cooperation program among AMSs;
- b). Seeking high support and political will from all AMSs;
- c). Pushing the HTS from all member states, government' effort and political commitment in supporting the ASEAN motto shall be “One Vision, One Identity, One Community” that can be a desired AEC's milestone.

To sum up, these **12** main points above, I argue, are instrumental tools available for ASEAN leaders to achieve the AEC goal in the post Covid-19 era. Those tools are creative instruments that will help guide AMSs to design a “**HTS and Tax Policy**” for the common benefit of the ASEAN tax community to reach AEC objective and goal. Those instruments and tools will generate common revenue sources for building a better life for ASEAN people and better ASEAN tax community to meet healthy AEC development goals --- i) produce a flexible design study on an incredible harmonized tax system and fiscal responsibilities from all ASEAN leaders ii) fully understand to introduce an international tax to deal with the BEPS across tax borders that make companies (MNEs) quickly move their transaction profit to low tax jurisdictions among the AMSs to avoid paying tax, and iii) build up future infrastructure of the ASEAN economic recovery. However, *it requires ASEAN leaders to give up some of their national sovereignty and the political will to transfer some power to an independent ASEAN parliament to inspire the "Changed Rules of the Game."* From the viewpoint of the “**Changed Rules of the Game**” under the ASEAN Charter, the establishment of HTS and Tax Policy will produce a better new tax treatment system to satisfy all ASEAN taxpayers' needs for equal opportunity in the entire ASEAN tax community; this will foster the AEC's goals. The stakes are very high now. The Covid-19 pandemic crisis may be the big push needed for ASEAN leaders to make a radical change. Once established, **HTS and Tax Policy** will generate common revenue sources for

the ASEAN political endorsement from legislative framework reforms at every level to achieve its dream of an economic community similar to the European Union model and to reach the sustainable development goals --- a bright future to satisfy young taxpayers' expectations for a more resilient economy.

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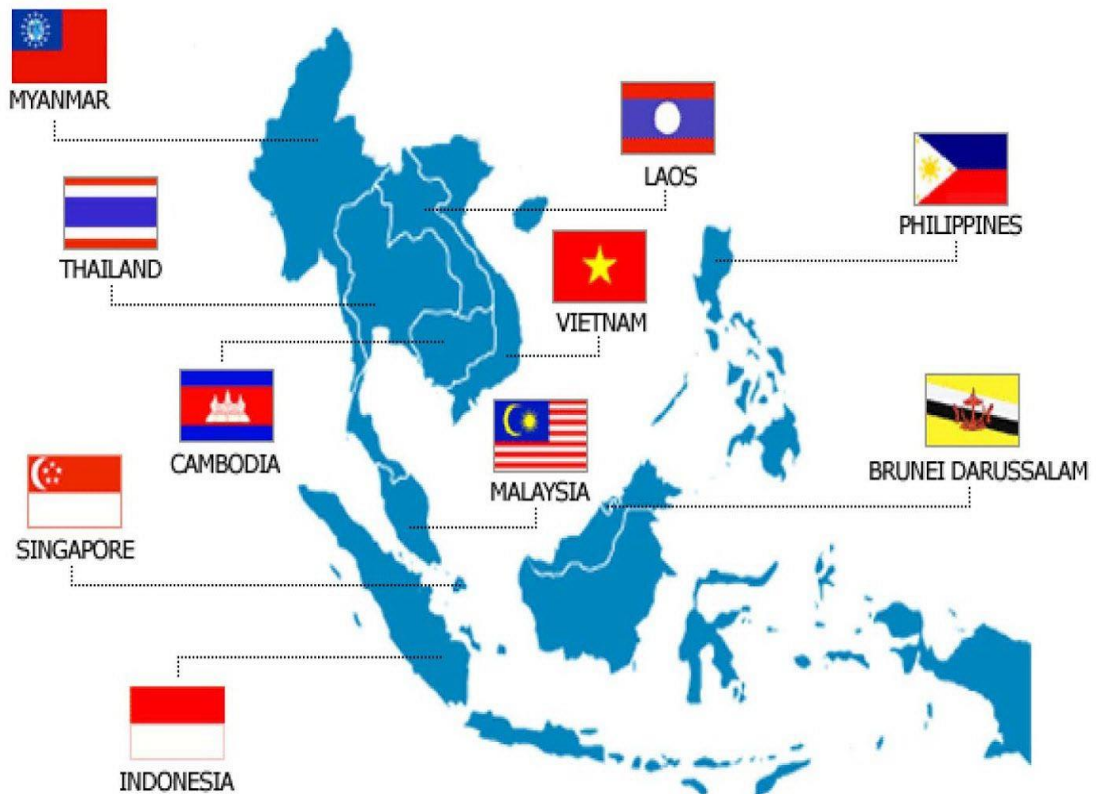
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Map of the ASEAN and European Union

Box5: Map of the ASEAN

ASEAN Member Countries



Source: ASEAN Secretariat

Box6: Map of the European Union



Source: The European Union