South East Asia's new economic community could go a number of ways for tobacco

Creating a common market in South East Asia – which way for tobacco?

By the end of next year, the increasingly wealthy 10-member Association of Southeast Asian Nations (ASEAN) bloc aims to establish its own European Union-style common market for a combined population of 600 million, including some of the East's major tobacco markets.

Experts say that the new ASEAN Economic Community (AEC) is expected to deepen cohesion and liberalisation within a regional market that has already made significant strides in removing trade barriers that can impact tobacco product sales.

The immediate benefit for the sector will however be the removal of remaining tariffs restricting cross-border sales within ASEAN of tobacco products.

Duties on tobacco and tobacco products range from zero to 5 per cent in most ASEAN countries. There are exceptions though – and this shows how the AEC is a looser construction than the EU, where the power of treaty commitments to remove tariffs is rigorously applied.

In Vietnam, for instance, cigarettes and unmanufactured tobacco are placed on a 'general exclusions' (GE), so that its World Trade Organisation's (WTO) most-favoured-nation (MFN) bound import duty rates of 135 per cent on cigarettes and 30 per cent on tobacco leaf can apply, even after the AEC is launched on December 31, 2015. Imported cigarettes are de-facto banned in Myanmar through a strict application of its tough import licensing system.

"Although it is a stated objective of the AEC to remove to such tariff- and non-tariff barriers, there is no strict obligation under the AEC for Vietnam to remove cigarettes from the GE list and for Myan- ▶

mar to lift its ban on imported cigarettes through amending its import licensing regime," said Daniel A Witt, president of the Washington DC-based International Tax and Investment Center (ITIC), in an interview with Tobacco Journal International.

Given that the duty rates are already zero in the majority of ASEAN member states, the entry into force of AEC 2015 will influence rather than have a major impact on manufacturers' sourcing decisions, which are in any case also influenced by other factors, notably wage levels and the freedom to market and advertise tobacco products (rules are also often more liberal than in the EU). According to Paul Beevor, Asia regional compliance officer for manufacturer Universal Leaf (Asia) Pte Singapore, because intra-ASEAN raw tobacco tariffs have been reduced in the run up to the AEC's establishment, the region has already seen a realignment of tobacco trades, with the purchase of "more sustainable, compliant and cheaper growths flourishing to the detriment of less competitive countries, namely Malaysia."

Mr Beevor said he expects this trend to continue, with additional factors, such as increased land pressure for food crops and political will, to be at work as well. As to leaf imports from outside the ASEAN bloc, mainly from China, Africa and the Americas, he predicted little change, adding that in the AEC era, they will "continue to play very important roles, even though duty structures and freight cost put them at a disadvantage compared to regional growths."

Reflecting that the bloc's member states are not quite ready to relinquish their autonomy on as far-reaching scale as in the EU, the entry into force of AEC will not affect member countries' national sovereignty on fiscal matters, including excise tax policy. Mr Witt stressed that unlike in the EU, full border controls within the AEC will be maintained, so there is less pressure on member governments to use the AEC to align excise tax levels.

"Individual countries can maintain 'personal allowance limits' on the volumes of duty-paid cigarettes that travellers can bring into their country," he said. "This restricts the potential for tax differentials between ASEAN countries to lead to large-scale cross-border purchasing by consumers."

Indeed, Mr Witt warned that moves towards tobacco excise tax harmonisation across ASEAN could even lead to "tax shocks" that can destabilise markets and government revenues, "especially given the very marked differences in consumer living standards between ASEAN member states." (See below table).

As with the EU, the AEC establishes clear systems for drafting ASEAN directives that can create common laws for member states that harmonise regulatory systems. And the tobacco sector is one where restrictions could in some cases be levelled down to create more liberal system.

Generally, such free-trade agreements make anti-tobacco campaigners nervous, however, and there is concern amongst them that the tobacco industry may use the AEC to chip away national anti-tobacco control measures.

To that end it is interesting that Jeffrey Drope, the American Cancer Society's managing director for economic and health policy research sees potential within the AEC for a liberalising of regional restriction on tobacco additives.

ASEAN members' GDP varies widely

The wealth of ASEAN countries is widely divergent, especially for a free trading bloc. Here are World Bank assessments of member countries' national GDP per capita in USD for 2013:

Country	USD
Singapore	55,182
Brunei	38,563
Malaysia	10,514
Thailand	5,779
Indonesia	3,475
The Philippines	2,765
Vietnam	1,911
Laos	1,646
Cambodia	1,008
Myanmar*	824

* 2012 figure

"That is something the industry is very interested in; an example on how national control measures on additives can be undermined by trade treaties was when Indonesia dragged the US into WTO [World Trade Organisation] dispute settlement after the US banned cloves" as a flavouring. Mr Drope recalled that Indonesia then won on grounds that the US itself failed to ban menthol.

"We are also seeing these points of tension in Australia's efforts to have plain packaging for tobacco products, with the issue now being in WTO dispute settlement," said Drope. "There are lots of other such examples in bilateral investment treaties and also in the EU." He is looking for lobbying for a right for tobacco companies to secure a positive right to use their trademarks "however they please" under the AEC, essentially ruling out plain-paper packaging initiatives.

Of course, as the tobacco sector knows well, regulatory harmonisation can cut both ways regarding health controls and related fiscal policies, and there are signs that ASEAN governments are becoming increasingly concerned about the impact of cancer on their working populations, replacing a previous overwhelming focus on infectious diseases.

"When we visited the region in the past, we talked to health ministries but lately it has been the finance ministries because they are starting to see burden," said Mr Drope.

"Notably in this regard, the Philippine tax reform [Republic Act No. 10351] was crafted by the finance ministry, not the health ministry," said Mr Drope, referring to a law that in January 2013 lifted excise tax on tobacco and alcohol significantly higher than the previous law required. Low-priced cigarettes and high-end brands have been slapped with Philippines Peso PHP 17 (USD 0.34) and PHP 25 (USD 0.58) excise tax respectively; by 2017, the unitary tax will rise to PHP30 and will have a 4 per cent yearly increase thereafter.

This has worried Philippines tobacco companies, with "industry sources expressing their dismay at the decline in demand expected from the almost-double price increase," reported UK-based market researcher Euromonitor.

By Jens Kastner, in Taipei