



## spiritsEUROPE ASEAN Strategy

December 2022

### ASEAN: a promising, yet largely untapped market for EU spirits

#### ASEAN: A key market in EU spirits' diversification strategy

The last years have been marked by significant geopolitical and economic unpredictability, which has deeply affected EU spirits' operations and exports and creates uncertainty for the future. In order to continue supporting jobs and growth in Europe – especially in rural communities – EU spirits will need to increase their resilience.

While EU spirits can be enjoyed worldwide, the bulk of EU spirits' exports in value tends to be concentrated in a limited number of markets: in 2021, 60% of these exports were destined for only 3 markets (USA, China and the UK). This significant concentration is a source of vulnerability, should these markets be affected by negative geopolitical or economic developments. While replacing these established markets is neither possible nor desirable, greater diversification through new opportunities would strengthen the EU spirits' sector's resilience – focusing on emerging regions with high potential.

With a population of over 655.5 million inhabitants, the ASEAN Region is expected to become the world's 4th largest economy and the 3rd most populous by 2030. Growth projections remain positive for the region at 5.5% for 2023. Over the next years, the confluence of favourable demographics rising income levels and the emergence of a growing middle class will create significant opportunities in the region for EU spirits exporters. This will confirm the place of the ASEAN region as a key priority for EU spirits exporters and a cornerstone of EU spirits' trade diversification strategy – to complement existing well-established markets.

Pre-COVID, Southeast Asia was an in-demand destination for world travellers, with six countries among the world's top 50 international tourist destinations<sup>1</sup>. As we enter a post-COVID world, ASEAN member states have positioned the region to be a single tourism destination by 2025<sup>2</sup>. The reopening to the rest of the world in 2022 has already unleashed pent-up demand in the region. In the first two months of this year, Southeast Asia welcomed more than 580,000 international visitors in total and several countries have set ambitious targets for the rest of the year<sup>3</sup>. The hospitality sector has been quick to react, ensuring it stays competitive for international tourists and caters for growing demand for premium international spirits. In 2022 alone, three of the World's 50 Best Bars can be found in Southeast Asia (Singapore and Thailand).

#### EU spirits trade with ASEAN: an overview

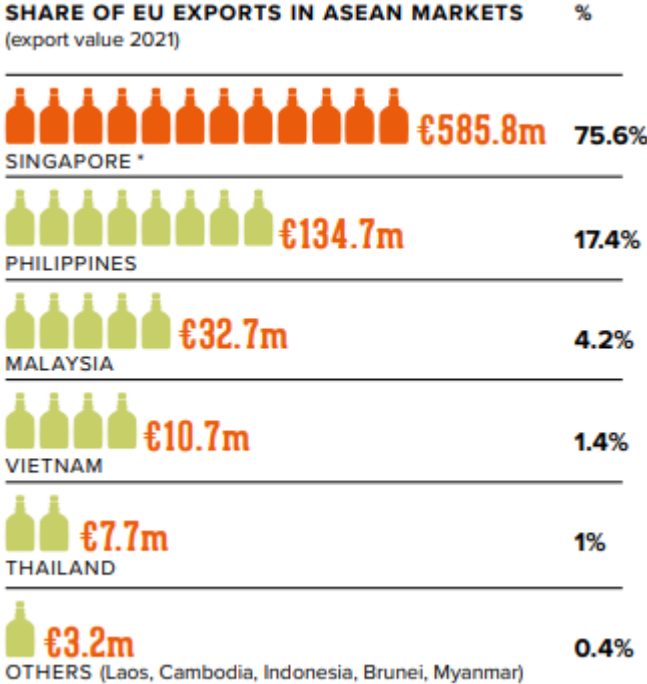
There are still significant untapped trade opportunities in the region. Singapore\* and the Philippines are already part of EU spirits' top 10 export destinations, thanks to no or relatively low tariffs, and present further growth potential. Other markets, such as Malaysia, Thailand and Indonesia, are promising, but the combination of high tariffs and taxation – which fuels illicit trade -, tax

<sup>1</sup> [UNWTO World Tourism Barometer and Statistical Annex, June 2018 | UNWTO](#). Markets include Thailand, Malaysia, Singapore, Vietnam, Indonesia and Philippines

<sup>2</sup> The 25<sup>th</sup> Meeting of ASEAN Tourism Ministers, 19<sup>th</sup> January 2022. [https://asean.org/wp-content/uploads/2022/01/JMS-25th-M-ATM-Final\\_Adopted.pdf](https://asean.org/wp-content/uploads/2022/01/JMS-25th-M-ATM-Final_Adopted.pdf)

<sup>3</sup> Vietnam is aiming for 5 million, Thailand is expecting 5.5 million, Indonesia 3 million, and the Philippines 2 to 5 million - [APAC tourism: Southeast Asia leading 2022 \(joneslanglasalle.co.jp\)](#)

discrimination, restrictive national alcohol policies and difficult regulatory environments has prevented European companies from tapping their potential.



\* The Singapore hub is the cornerstone of our supply chain model. We welcome the Commission's efforts to ensure that rules of origin allow for the use of the regional hubs that provide for economies of scale – while retaining the eligibility for the preferential tariff agreed in FTAs.

Source: Eurostat 2021

In order to harness the growth potential and export opportunities in Southeast Asia we call on the EU to follow a three-pronged approach and:

1. Accelerate FTA negotiations with Indonesia and restart negotiations with Malaysia, Thailand and the Philippines
2. Intensify regulatory cooperation to address and prevent regulatory barriers
3. Initiate a dialogue with ASEAN countries to fight illicit trade

Please find below our detailed ideas and proposals on each of these three areas.

**1. Accelerate FTA negotiations with Indonesia and restart negotiations with Malaysia, Thailand & the Philippines**

Trade agreements are the most effective instrument to open new markets and enable trade diversification, not least by addressing high import tariffs. In addition, trade agreements are important instruments to support & build economic and political cooperation and provide a platform for further dialogue with third countries – including in relation to climate change.

**EU spirits' priority countries for FTA negotiations in the ASEAN region**

1. With a population of 276 million and a GDP of 1.19 trillion USD, **Indonesia** is the largest country and economy in the region. In spite of its evident potential, Indonesia has been a difficult country to access for spirits exporters, not least due to the import tariff of 150% on imported spirits. The silent import ban in force from 2019 to 2021 for European wine and spirits exporters has had a lasting negative impact on EU exports. Other barriers include tax discrimination between domestic & imported products and complex and bureaucratic import approval processes. Against this backdrop, EU spirits producers have and continue to welcome and support the ongoing trade negotiations with Indonesia. **It is important to accelerate the**

**pace of negotiations with Indonesia, in line with the EU-Indonesia joint pledge to accelerate negotiations made in the margins of the recent G20 trade ministerial meeting.**

2. **Malaysia** is a key EU spirits' priority in the region for a trade agreement, due to a combination of high barriers, good penetration of EU spirits and looming competition with international competitors from CPTPP<sup>4</sup> countries, who benefit from preferential tariffs following Malaysia's accession to CPTPP.

The CPTPP entered into force in Malaysia on 29 November 2022. For the first time, Malaysia has granted tariff concessions to alcoholic beverages. Therefore, spirits producers from Japan, Mexico or Canada, for instance, will benefit from a tariff reduction of 37.5% as of 1 January 2023, significantly lower than the current MFN tariff rates (from 58 MYR/litre to 36.25 MYR/litre<sup>5</sup>). There is also a strong possibility that the UK joins CPTPP, meaning that Scotch Whisky will be eligible for the same tariff benefits. In contrast, EU exporters will not benefit from these reductions. **We urge the EU to restart FTA negotiations with Malaysia to restore the level playing field between EU spirits & their international competitors.**

3. **Thailand** is another promising market for EU spirits. However, spirits producers face a combination of very high tariffs (54 to 60% ad valorem depending on the category), tax discrimination with local white liquor and complex and cumbersome regulatory requirements. **The resumption of FTA negotiations with Thailand would offer a good opportunity to address many of these challenges & to start a dialogue on regulatory changes in the alcoholic beverages sector.**
4. **The Philippines** are already EU spirits' 10<sup>th</sup> export market, with exports of a value of €135 million in 2021. Addressing the import tariff of 5 to 15% which applies to our products would help boost the performance of EU spirits in the Philippines. **We urge the Commission to accelerate efforts to strengthen economic ties and cooperation with the Philippines, including through the resumption of FTA negotiations.**

## 2. Intensify regulatory cooperation to address & prevent regulatory barriers

### Role of bi-lateral & multilateral regulatory cooperation

Regulatory cooperation is key to address existing trade barriers and to prevent barriers from arising. Whenever FTAs with individual ASEAN countries are negotiated, we urge the European Commission to include wines and spirits annexes to strengthen regulatory cooperation & support the removal of regulatory barriers, following the examples set in EU-MERCOSUR and EU-New Zealand FTAs, as well as in CPTPP.

In cases where no FTAs have been negotiated, strengthening bilateral regulatory cooperation is equally if not more important. This is needed because we witness increased regulatory divergence between several ASEAN countries and internal standards, impairing growth prospects for EU operators.

### Malaysia

Malaysia's Food Regulations 1985 on Alcoholic Beverages defining categories of alcoholic beverages are outdated and not in line with European and other international standards. It has resulted in severe blockages of few international spirits categories that are otherwise perfectly safe for consumption, compliant with their national standards and exported worldwide. **We urge the Commission to engage with Malaysia in all possible fora to improve regulatory coherence for alcoholic beverages, particularly for categories such as liqueurs, ready-to-drink alcoholic beverages (RTDs) and sloe gin.**

<sup>4</sup> Comprehensive and Progressive Agreement for Trans-Pacific Partnership

<sup>5</sup> Which, at the exchange rate of 17 November, corresponded to €12.3 / litre now, to €7.7 / litre from 1 January 2023.

## Singapore

Singapore is widely seen as a standard-setter in the South-East Asian region. **Reinforcing regulatory cooperation with Singapore, using the fora set up under the EU-Singapore FTA, would not only help at bi-lateral level, but could have a positive impact on wider regulatory developments in the region.**

### ***Standards of identity***

In June 2021, Singapore issued a proposal to eliminate standards of identity for food products, including distilled spirits (Food Regulations Standards 201 to 210). Singapore argued that the removal of standards of identity would allow for product innovation. **spiritsEUROPE is concerned that eliminating the standards of identity for distilled spirits may lead, at best, to consumer misinformation and confusion, reputational risks for categories and unfair competition, and, at worst, could drive illicit trade in unsafe spirits. We therefore call on the European Commission and EU Delegation to intensify their dialogue with SFA and continue making the case against the deletion of standards of identity.**

### ***Food Labelling & lot codes***

As part of the revision of its labelling requirements for prepacked food, SFA has indicated a willingness to make an identification number or mark (like a lot number, batch number or serial number) that identifies the producing factory and production lot of the food mandatory. Lot codes play an essential role in companies' traceability strategies and support food safety. **The introduction of such a requirement in Singapore would set a positive precedent for the wider region. It will also be important to ensure that the identification number is based on the brand manufacturer's original lot code, that these new requirements are compatible with existing industry practices & future-proof and that penalties for tampering with lot codes will be set at a level high enough to be dissuasive.**

## Thailand

### ***Labelling***

In Thailand, labels cannot feature terms indicating the quality of products, such as "premium" and "finest". While the alleged purpose of these rules is to prevent labels from highlighting benefits of consumption of alcohol, in practice this translates into an inability for spirits producers to communicate accurately and truthfully on the nature and quality of their products. In addition, these rules may prompt producers to market their products in Thailand under different names than in other markets – which would be costly for all producers, and not commercially viable for SMEs.

### ***Certificates of analysis & samples provision***

One of the big issues faced by EU spirits exporters to Thailand relates to the obligation to provide certificates of analysis against analytical parameters and to provide samples, without automatic recognition that products complying with EU standards are essentially safe for human consumption. The Thai Excise Department's (TED) revised notification published in late 2020 provided for the acceptance of an export certificate from a competent government authority in lieu of lab testing results, though subject to a number of strict limiting conditions. In August 2021, the Thai Excise Department (TED) officially approved the US TTB Certificate of Sanitation for US distilled spirits exports to Thailand, with specific attestations. US alcohol beverage exports, once accompanied with these certificates issued by TTB, will require no additional testing or certificate of analysis. The import permit obtained with these certificates will be valid for three years.

**We urge the EU to start a regulatory dialogue with Thailand to address these issues, building on the recent Thailand-US regulatory agreement. The regulatory dialogue with Thailand would also be an opportunity to discuss more favourable conditions for alcoholic beverages, including tackling the drivers of illicit trade – such as e-commerce restrictions.**

## Indonesia

In our sector, differences in product definitions or standards can create technical barriers to trade for EU beverages that are produced in accordance with EU standards. Our priority is therefore to ensure that Indonesian product definitions and standards are compatible with those of the EU, (i.e. based on raw materials and methods of production). To this end, **we would support a dialogue between the EU and Indonesia in the context of the FTA negotiations, and in particular in a joint wine and spirits working group on product definitions and standards for alcoholic beverages. Due attention should be paid to conditions which favour illicit products over legitimate ones.**

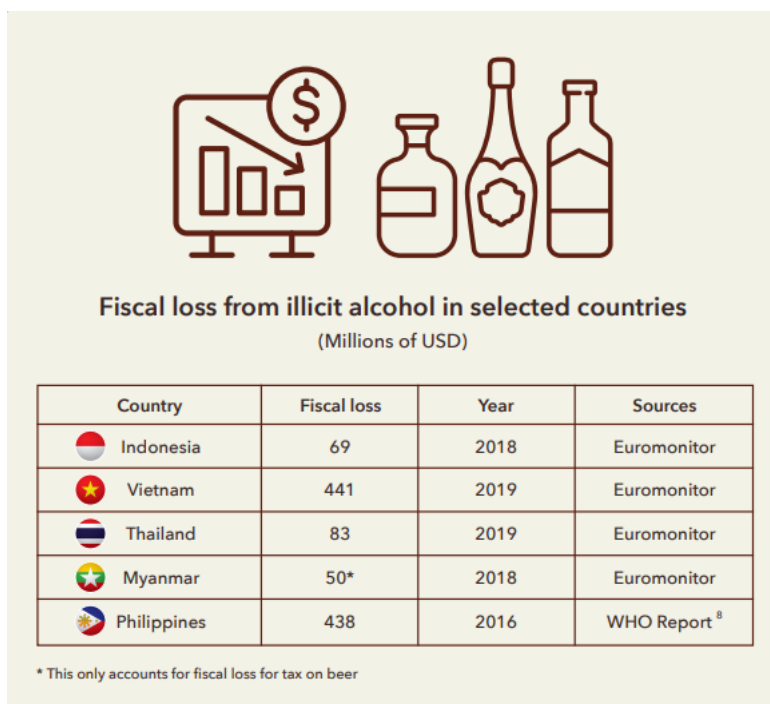
### 3. Initiate a dialogue with ASEAN countries to fight illicit trade

#### Illicit trade in alcohol in ASEAN: a growing problem

The ASEAN Community Vision 2025 was introduced in 2015 to promote the integration of economies and peoples in the region, establishing a rules-based, people-oriented, and people-centred Community. ASEAN Member States have also pledged to achieve the United Nation's Sustainable Development Goals (UNSDGs) by 2030, which aim to increase the liveability, prosperity, and socio-economic development of the region.

As the region recovers from the COVID-19 pandemic, ASEAN needs to address challenges that could undermine its efforts to build a stronger and more resilient region. Amongst them, illicit trade seriously hampers the realisation of the SDGs, including by having a destabilising impact on the security of individual countries, impairing equitable economic development and growth, including of legitimate business, and putting public health at risk<sup>6</sup>.

The topic has been extensively covered by the recently published report 'Towards an ASEAN Community: Tackling Illicit Alcohol in Southeast Asia' produced by TRACIT, in collaboration with APISWA, EU-ABC and AACs.

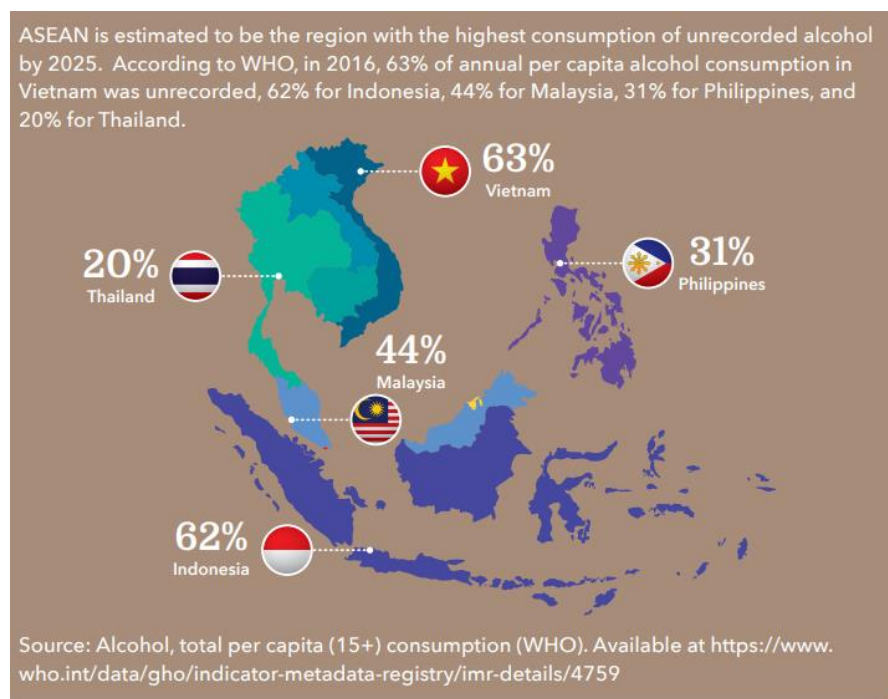


<sup>6</sup> See TRACIT report on mapping the impact of illicit trade on the SDGs: [https://www.tracit.org/publications\\_illicit-trade-and-the-unsdgs.html](https://www.tracit.org/publications_illicit-trade-and-the-unsdgs.html)



Illicit alcohol exists in all ASEAN countries. Whilst market characteristics can differ across countries, generally, counterfeit, smuggling, illicit artisanal and tax leakage are the prevailing forms of illicit alcohol in the region<sup>7</sup>. Different factors play a role in the emergence and growth of these different forms of illicit alcohol, but overall, there are four main drivers behind the problem of illicit alcohol<sup>8</sup>:

1. Policy environment leading to price differential between legal and illicit products – such as taxation levels not appropriate to the local context
2. Restrictions and excessive regulatory burden on legal products
3. Lack of public awareness
4. Inadequate penalties and enforcement – including controls at the borders & in markets.



### How EU-ASEAN cooperation could help in the fight against illicit trade

We urge the European Commission to engage with ASEAN countries on this topic, by:

#### 1. **Turning illicit trade into a new area of cooperation with ASEAN**

The fight against illicit trade should be recognised as a priority for the ASEAN-EU Dialogue on Sustainable Development and for co-funding through regional development cooperation programmes. The conclusion of a joint agreement or MoU on illicit trade would also ensure prioritisation of this issue at ASEAN level.

<sup>7</sup> For an overview of these categories, see WSA report on Countering illicit alcohol trade worldwide: <https://www.worldspiritsalliance.com/wp-content/uploads/2022/06/WSA-Illicite-trade-Web.pdf>

<sup>8</sup> See WSA report on Countering illicit alcohol trade worldwide for more information on these root causes

<sup>9</sup> Source for all the graphics in this section: APISWA/AACS/EU-ABC/TRACIT report on Tackling illicit alcohol in Southeast Asia

## **2. Making the most of existing partnership and cooperation agreements with ASEAN countries to tackle illicit trade**

- The Partnership & Cooperation Agreement (PCA) with Malaysia that is expected to come into force shortly will offer a platform to strengthen cooperation on trade and investment issues, including technical barriers to trade, sanitary and phytosanitary issues, intellectual property rights, and customs. In addition, it will provide a platform for cooperation in specific areas of justice and security, including the fight against illicit drugs. We urge the EU and Malaysia to broaden the scope of the security and justice chapter of the PCA to cover cooperation in the fight against illicit trade from a broader perspective.
- Similarly, the topic of illicit trade should be brought into the scope of other PCAs, including those with Thailand, Indonesia and other ASEAN countries.

## **3. Inserting provisions on food fraud & illicit trade in sustainable food system chapters in EU FTAs**

Such provisions should be focused on dialogue and the exchange of best practices and encourage individual countries to develop a strategy to tackle the problem of illicit trade in food & beverages.

## **4. Providing capacity-building support & exchange best practices with ASEAN partners to support the move towards formalisation of artisanal production in ASEAN countries**

Illicit artisanal production is a serious problem in many ASEAN countries, often representing the bulk of illicit products in volume. These products can be unsafe, generating severe health consequences and their consumption can sometimes be fatal for consumers. Alongside robust enforcement and penalties, artisanal producers should also be encouraged and supported in their move towards formalised production. The EU can share valuable expertise and best practices with ASEAN countries, be it in terms of development of inclusive yet robust spirits standards, or by sharing best practices on the establishment and protection of GIs.

## **5. Enhancing B2G cooperation, knowledge-sharing and best practice exchange at enforcers/Customs level**

- The EU should facilitate and encourage cooperation between the public and the private sectors, focusing on the detection of counterfeited spirits. The private sector has a unique role to play given its deep knowledge of the market and of its products. It should be closely involved in these activities in order to share intelligence and information about the latest tactics used by illicit traders with enforcement authorities.
- The EU also has an important role to play through the exchange of best practices and capacity-building – mirroring activities supported through similar programmes in other regions (such as AfrIPI).

## **6. Promoting and encouraging IP reforms to reinforce the protection of legitimate trademarks & GIs against fakes and counterfeited products**

Weak or insufficient enforcement and penalties, as well as limited or insufficient IPR protection also acts as a driver and incentive for illicit traders. The EU should continue making the case for reinforced protection of legitimate trademarks and GIs against fake and counterfeited products with ASEAN countries and make the most of existing bi-lateral IP dialogues and WGs to tackle issues highlighted by stakeholders.

## **7. Promoting the protection of lot codes' integrity**

- In the beverage alcohol industry, traceability information is recorded via batch (sometimes termed as 'lot') codes, usually printed on bottles or on front/back labels at the point of production. These lot codes allow operators to trace a product from production till consumption. CODEX General standard for the labelling of prepackaged food [CODEX STAN 1-1985 \(Rev. 1-1991\)](#) sets out a general obligation to provide a reference to the manufacturing or packaging lot of pre-packaged foodstuffs. Lot codes are mandatory in the EU<sup>10</sup>, and protected in some other countries.
- However, in many countries in Asia, tampering with original manufacturers' lot or batch code numbers is not prohibited. As a result, alcoholic beverages are increasingly decoded (i.e., with batch codes purposefully removed). This prevents the importer from tracing the product's origin in the supply chain in the event of a food safety issue that would require a product recall

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<sup>10</sup> Directive 2011/91/EU on indications or marks identifying the lot to which a foodstuff belongs

action. The removal of batch codes is also a tactic used by smugglers and counterfeiters – who refill empty, genuine bottles with counterfeited and potentially dangerous beverages.

- EU FTA wine & spirits annexes with strong provisions to secure the protection of lot codes<sup>11</sup> have a very helpful role to play in encouraging third countries to protect the integrity of lot codes.

8. **Reinforcing the fight against illicit products in e-commerce channels, in partnership with ASEAN**

While e-commerce platforms and channels have allowed legitimate companies to reach consumers in a more convenient way, they are also used by illicit traders to operate under the radar of enforcement officers. A well-regulated e-commerce sector can support legitimate traders, whilst preventing the growth of an online black market which can be driven by a lack of regulation or ban on e-commerce. The EU should cooperate with ASEAN in monitoring & addressing the risks captured in its counterfeit and piracy watch list and should encourage ASEAN as a block to engage in similar activities.

9. **Reducing incentives for illicit traders by addressing high tariffs on spirits and tackling tax discrimination wherever it exists.**

Several ASEAN countries impose very high tariffs on alcoholic beverages, and spirits in particular, as described above. In addition, Thailand<sup>12</sup> and Indonesia<sup>13</sup> have in place WTO-inconsistent excise structures that favour domestic like and directly competitive and substitutable products, at the expense of imported products. This disproportionate tax burden on legitimate imported spirits creates incentives for illicit traders – particularly for smuggled products, tax evasion and counterfeits.

10. **Supporting importers when tax reforms are ongoing to encourage ASEAN countries to avoid providing an incentive for illicit traders.**

While fully acknowledging the right of each country to set its taxation policies, it is also a common practice in many countries to have public consultations allowing legitimate business to explain how certain changes could impact their operations:

- A good tax environment should be revenue-adequate to finance the proper functions of government, without resorting to inflationary finance.
- Taxation must be fair – and must be seen to be fair. Taxpayers in similar circumstances should pay roughly the same amount of tax. Taxation should not create distortions, through a failure to tax all activities fairly and equally. Indirect taxes on consumption should apply equally to all consumption.
- Tax rates should not act as incentives for illicit traders. This principle is best demonstrated by the Laffer Curve, which shows the relationship between tax rates and the amount of tax revenue collected. The Laffer Curve establishes that there is a maximum tax rate, after which the price of a product gets so high that the return of government revenue diminishes. In other words, when the taxes are too high, demand for the products decreases and the total government revenue also decreases.
- Tax systems should be simple. A complex tax system wastes scarce resources on compliance and administration.
- In a global economy, countries should ensure that their tax systems do not impede international economic relations and remain consistent with their international trade obligations.

11. **Raising awareness about the negative consequences of & root causes behind illicit trade**

The EU can use its “soft power” and diplomatic channels to raise awareness about the dangers of illicit trade and common factors that might offer incentives for illicit actors. As highlighted by

<sup>11</sup> A positive example is Article X.3 point 4 in the wine & spirits annex in the forthcoming EU-Mexico FTA: *The use of identification lot codes shall be permitted and, when present, preserved from deletion.*

<sup>12</sup>Thailand current excise rates

Product	Ad Valorem	(baht/liter of pure alcohol)
Local white liquor	2%	155
All other distilled spirits	20%	255

<sup>13</sup> See tax rates above



OECD<sup>14</sup>, responsibility for addressing alcohol policy is typically shared by a number of ministries, all of whom should be involved in policymaking on licit and illicit trade, including customs, tax authorities, health and regulatory bodies, and authorities dealing with counterfeiting issues and other forms of illicit trade. **The organisation of roundtables and seminars** with and in individual countries focused on this problem and involving all relevant authorities and the private sector would support ongoing awareness raising efforts promoted by bodies such as TRACIT.

**Case study: Vietnam**

Vietnam & the Philippines are examples of where tax reform is ongoing, and where dialogue & engagement facilitated by the EU would be helpful. In the case of Vietnam, tax losses caused by unrecorded home-made liquor is estimated at about US\$751.582 million, while tax losses caused by alcohol smuggling is estimated at about US\$ 1.722 billion<sup>15</sup>. In 2016, 2017 and 2018, Vietnam reformed its excise tax (SCT) system to introduce 3 consecutive increases year on year on the Ad Valorem (AV) tax rate, currently set at 65% for spirits. Vietnam also changed the tax base on imported products from CIF to the importers' selling price. This kept fuelling the rise of illicit trade, while hurting legitimate traders. As part of the forthcoming reform of the SCT, Vietnam is contemplating a further increase to 75%, which will incentivize customers to switch to other informal, untaxed, and low-cost products with more hidden food safety risks, thus leading to a failure to achieve the Government's objectives on health protection and state budget. It would also disproportionately impact more premium products, which represent a large share of EU alcoholic beverages exports to Vietnam. Vietnam should instead be encouraged to tackle the issue of illicit alcohol and implement long-term solutions addressing its root causes, which would have the advantage of generating more revenue for the Vietnamese state, without increasing the tax burden on legitimate trade, thus reinforcing the benefits of the EU-Vietnam FTA.

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<sup>14</sup> Source : OECD report on illicit trade in high-risk sectors - <https://www.oecd.org/gov/illicit-trade-in-high-risk-sectors-1334c634-en.htm>

<sup>15</sup> Source: Ha Noi, Overview of the tax system for alcohol beverage industry and policy recommendations, 2020