

CHAPTER 3

Attracting FDI: Experiences of East Asian Countries

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Chapter 3

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Abstract

Foreign direct investment (FDI) may be one of key elements for the development of Myanmar in the future, considering that advanced ASEAN countries like Malaysia, Thailand and China that have shown good economic performances have received a lot of FDI. This paper provides good lessons to the government and business community for attracting FDI based on the experiences of ASEAN countries and China.

This paper starts by looking at the positive and negative effects of FDI. While there often is a fear that the domestic market for a specific product can be dominated by foreign companies, the history of the advanced ASEAN countries, demonstrates that nationalistic or protective FDI policies before the middle of 1980s did not borne fruit. On the other hand, countries that deregulated policies have shown outstanding performances in attracting FDI. Assuming the positive effects of the FDI, lessons on key elements of FDI policy on corporate income tax incentives, negative lists and decentralization are also provided. Finally, policy recommendations are enumerated as conclusions.

1. Introduction

The government of the Republic of the Union of Myanmar has announced a series of political and economic reforms since Mr. Thein Sein became the first president in March 2011. More than a few companies which had hesitated to invest in Myanmar from the EU, the United States, Japan and ASEAN have now started to seek a way to invest in the country effectively with minimal risk. Many other companies, however, have not changed their “wait and see” attitude without making a decision to invest in Myanmar.

Nevertheless, for the Myanmar government, it is necessary to make adequate preparations for attracting foreign direct investment (FDI) irrespective of the realization of an investment boom in the country. The purpose of this paper is to give policy

implications as inputs to the government and business community of Myanmar in accordance with the experiences of other East Asian countries.

This paper is composed of seven sections. Section 2 discusses the positive and negative effects of FDI. Attracting FDI is considered to be one of the most important policies in starting to develop as a country based on democracy and a market economy. However, FDI can affect not only positively, but also negatively. For in attracting FDI, governments of developing countries can face the negative effects, which can become a trigger for making the direction of the government inward-looking. If government officials understand the negative effects in advance, the government can more easily resolve them, thereby making the process of attracting FDI smoother.

Section 3 reviews a historical movement from an era of tight regulation of FDI policies to deregulation of FDI policies in Malaysia, Thailand and Indonesia. Prior to 1986, these three countries adopted nationalistic FDI policy; from 1986 onward, these countries changed FDI policy to be more beneficial to FDI companies. This section shows the trends for the number and amount of approved FDI in USD terms and makes clear whether the trend is rising or stagnant before 1986 and after 1986.

Section 4 explains corporate income tax incentive policies, with case studies of Malaysia and Thailand. This section demonstrates the importance of government making clear the objectives of its incentive policies and the kinds of objectives the Malaysia and Thai governments utilized with respect to corporate income tax policy. After that, we evaluate the tax incentive policies Myanmar adopted in its 2012 foreign investment law. Then, we compare the corporate tax incentive policies of Myanmar and Cambodia, Laos and Vietnam, as investors often compare incentives in CLMV countries when they relocate production or service bases to more developing countries.

Section 5 discusses ASEAN governments' policies with respect to negative lists. The first sub-section enumerates sectors that governments tend to place on negative lists, highlighting examples from Cambodia, Indonesia, the Philippines, Thailand and Vietnam. The second sub-section examines the ways in which FDI is regulated. Finally, we review and evaluate articles on the negative lists contained in the 2012 Foreign Investment Law of Myanmar.

Section 6 discusses the advantages of decentralization on FDI policies by showing the cases of Indonesia and China and addresses the challenges for Myanmar.

Concluding remarks, Section 7, review each section and enumerates policy recommendations in accordance with the conclusion of each section.

2. Positive Effects and Negative Effects of FDI

Before going into the discussion, we confirm the definition of FDI and make clear major types of FDI received by ASEAN and China so far. FDI is defined as an investment in which the investor acquires a substantial controlling interest in a foreign country. FDI involves ownership and/or control of the company abroad (Markusen, et al, 1995: 394). From the companies' viewpoint, expected profits by doing FDI in Country A should be higher than exporting the products from the mother country to Country A. In the case of FDI received by ASEAN and China, FDI companies have enjoyed the advantage of lower labor cost compared with the home countries. Export-oriented FDI conducted by Japan and Asian NIEs (newly industrialized economies) into ASEAN is one of the major streams of such FDI; China is a major location in the world for domestic-market-oriented FDI. In addition, some FDI companies enjoy advantages in locating the factories close to the origins of raw materials, such as a cement factory in proximity to a limestone quarry. Finally, we would like to mention that Malaysia, Thailand and China, which have received a lot of FDI so far, now have become foreign direct investors into other developing countries, including Myanmar.

2.1. Positive Effects of FDI

Job creation is one of the positive effects of FDI. As far as lower wages being one of the biggest advantages for developing countries in attracting FDI, the sectors where many FDIs gather are the labor-intensive sectors. For example, the Washington Post on June 18, 2008, reported that “nearly 20,000 workers went on strike at a Nike factory run by a Taiwanese contractor in Vietnam.” Of course, the point which I would like to emphasize is not a strike behavior but the number of workers. A Japanese-affiliated wire harness firm, Yazaki Haiphong Vietnam, employs 5,272 employees. If several such companies gather in an industrial estate, FDIs can create several hundred thousand jobs. The effects of job creation are welcomed by the host countries; consequently, some ASEAN countries have given incentives to FDI companies which create much employment. For example, the Malaysian government announced the extension of tax holidays for companies which employ 500 persons and more from five years to ten years in 1987 (JETRO, 1988: 142).

Technology transfer can be expected in receiving FDI. For example, in the case of an investment of a foreign firm producing TVs, the company sets up the factory layout and assembly lines, machines and equipment and brings product designs, parts and

components, and production techniques. Then the company supervises and trains local workers to assemble the product through on-the-job training (Kagami, 1998: 3). Through such processes, technology is surely transferred to the host country and the quality of products can be expected to be upgraded.

However, it is not appropriate to assume that FDI companies or multi-national companies (MNCs) are positive about promoting technology transfer, although I have met several presidents of local affiliated companies who are enthusiastic in transferring technologies. First, it costs a lot to invent a new technology, and thus technology is not free. Second, FDI companies feel a threat of the “boomerang effect,” that the engineers of the host country could manufacture exact copies of the products with lower cost or even with improved quality. It is in the more developed countries, however, where this kind of phenomenon can occur and these cases are the advanced ones of transferring technologies from Japan to the Asian NIEs in the past or from the Asian NIEs to China.

As far as the transferred technologies being standardized technologies instead of newer ones, other reasons have to be considered by the developing host countries, while there have been claims from some host countries that FDI companies only transfer secondhand technologies. First, the education and the technological level of local engineers, producers of parts and components, and factory workers in the host country are not enough to receive a transfer of more advanced standardized technologies. Second, in a case that “job hopping” is common, the FDI companies do not have incentives for transferring higher technologies to the engineers and workers who might quit soon (so far, Kagami, 1998: 4-12). Under such conditions, it is more appropriate to consider that FDI companies just transfer the required minimum level of technology for the most efficient production in order to receive profits constantly.

In the past, however, FDI companies sometimes could not avoid transferring more advanced standardized technologies. At the beginning of the 2000s, many FDI companies in ASEAN countries were faced with lower-priced products made in China. In order to decrease the price of their products, the FDI companies could not import parts and components any more from the home country; they had to search for local suppliers which could produce products of similar quality or cultivate local producers (Ishida, 2002: 100). Such kinds of technologies and knowledge are expected to be transferred to local companies as a spill-over effect by way of the mobility of labor forces and technological collaborations between MNCs and local companies as long as the local labor force is highly educated (Todo, et al, 2009: 626-637). In such a situation, the host countries have to utilize the opportunities. For FDI companies also have choices to

relocate to other countries if other countries offer better investment climates. As a matter of fact, many ASEAN countries have given higher incentives to FDI companies which can transfer high technologies.

In addition to job creation and technology transfer, financial power can be expected. For example, the amount of investment by apparatus industries which require enormous automated equipment for providing a specific scale of production and service, such as refinery and electricity generators, often exceeds a billion US dollars. Although such apparatus industries are extreme cases, some big projects often need the financial power of foreign capital.

2.2. Negative Effects of FDI

Besides giving benefits to the host countries, FDI can also cause negative effects. If there is a local company manufacturing a specific product and the quality and price are the same as the product manufactured by foreign companies, the local people will prefer the one produced by the local company. In many cases, however, foreign companies produce such a product with more reasonable prices and/or better quality. Not mentioning the case of importing the foreign products, if such foreign companies invest in the host countries and produce the same kind of products locally, more than a few existing local companies cannot help but close down or be purchased by the FDI companies.

As a matter of fact, when FDI into China was accelerated it was reported nationalistically in China in the 1990s that “about 50% of the detergent market was occupied by foreign companies, about 70% of fifty domestic beer companies had been incorporated or acquired, the domestic market share of machine tools is only about 37% and a well-known domestic brand was also acquired by foreign companies and disappeared.” However, the situation that foreign companies progressed rapidly and domestic companies declined in the 1990s was mainly because of the delayed management rationalization of state-owned companies. Leaving the management of such inefficient companies can further encourage the inefficiency. Nevertheless, considering that the quasi-unemployment ratio including redundant workers to whom salary was not paid or was furloughed as of 1996 was estimated to be 20%, undertaking “a shock treatment” was not realistic in China in the 1990s (Li, 1998). In view of this, the governments of developing countries should consider prudently whether they should protect existing local industries or not. Even so, the protection for local companies should be temporary and the local companies should be accustomed to competition with

FDI companies. Or, promoting joint ventures between local companies and the FDI companies is another way.

As another negative effect of FDI, it should be considered that inflow of massive FDI can overheat the economy, as shown in the inflation that occurred in Vietnam over a couple of years. First, the FDI can deteriorate the current account deficit because the inflow of foreign capital brings about capital formation. More concretely, the FDI company imports capital goods such as machines (Fry, 1996: 462-465) as it is rare that local companies can provide such capital goods in developing countries. After starting the operation, the FDI company further imports intermediate goods such as parts and components, as in the case of advanced ASEAN countries like Malaysia, Thailand and Indonesia in the 1990s. Referring to the counties attacked by the Asian currency crisis in 1997, the policy to peg to the US dollar induced borrowing short-term overseas funds because large international interest spreads with developed countries, and then the current account deficits were further deteriorated although the local currencies should have been depreciated in accordance with the current account deficit (Baharumshar, et al 2003: 466-471). Therefore, prudent macro-economic control is required in expanding the FDI.

Massive inflow of FDI can also result in shortages of infrastructure by way of excessive demand over supply. An increase in income or economic growth indirectly caused by FDI and an increase in population in metropolitan areas induced by expanded employment have resulted in serious traffic jams in the metropolitan locations. Development of by-pass and outer-ring roads is needed in metropolitan areas such as Hanoi, Ho Chi Minh City, Phnom Penh and Yangon, but has not been completed (Ishida, 2011: 5-10). Telephone call attempts had failed easily because of shortages of telephone lines in Kuala Lumpur at the beginning of the 1990s, based on my own experience. Another phenomenon of excessive demand over supply can be seen when FDI increases massively. An example is that the price of a one-night stay at hotels in Yangon has appreciated by three times in 2012 compared with 2011. This shows that inflation can be one of the sub-products of massively increased FDI.

2.3. Lessons for Myanmar

As shown so far, receiving FDI can also result in negative effects. However, seeing the successful economic performance by utilizing FDI in advanced ASEAN countries and China, the positive effects should be much larger than the negative ones. As a matter of fact, regional production networks have been formed in East Asia, including Japan,

Asian NIEs, China and the countries of ASEAN. The benefits to participate in this production network are very large. Thus the sectors to be protected should be minimized and the protection period has to be specified while the Myanmar government should be prudent in the screening process. The interest groups in business sectors are likely to request an expansion of the sectors for protection in future discussions. Considering this, if the Myanmar government follows wholly to such opinions, Myanmar can lose good opportunities for attracting FDI.

Currently, Myanmar has a comparative advantage in lower labor cost. In this way, Myanmar has larger competitiveness in attracting FDI in export-oriented labor-intensive sectors. When receiving FDI, the Myanmar government should confirm the positive effects in creating employment and watch that workers in the country have become skillful in the standardized technologies. At the same time, human resource development such as higher education on technologies and vocational training, in addition to infrastructure like transportation and electricity, should also be strengthened. If the skill level of average workers continues to increase and the infrastructure availability follows the demand, then Myanmar can have the opportunity to receive FDI which needs higher technical skills. This is the best way to step up the technological ladder.

Finally, back to the discussion of openness for FDI, it is not an easy question to answer on how wide the Myanmar government should open the gate. It should be considered with the capacity of macro economy in Myanmar and the position of Myanmar compared with other ASEAN countries in various indicators of investment climates. At any rate, a moderate attractiveness, which does not cause massive FDI, is required for economic development in Myanmar.

3. FDI – From Regulation to Deregulation

3.1. Era of Tighter Regulation in Malaysia, Indonesia and Thailand

Reviewing the history of investment policies of advanced ASEAN countries before 1986, governments regulated FDI for the protection of domestic producers, even though it is well-recognized that protection for domestic companies encourages inefficiency now days.

Since the beginning of the 1970s, the Malaysian government has conducted policies that give more benefits to indigenous or “*Bumiputra*” citizens, which comprises the ethnicities of Malay and “*Orang Asli*.” The “New Economic Policy

(NEP),” the long-term socio-economic program, tried to reduce the socioeconomic disparity between indigenous and non-indigenous citizens. More concretely, the “Mid-term Review of the Second Malaysia Plan 1971-1975” promulgated in 1973 set a target for the composition of indigenous citizens as of 1990, as shown in Table 1.

=== Table 1 ===

According to the table, the group that gets the short end of the stick is the foreign-owned group. Since the second half of 1977, the rule on the FDI regulation stipulated that:

- 1) Domestic-market-oriented projects must be majority-owned by Malaysian capital
- 2) Majority foreign ownership is possible for export-oriented projects and 100% foreign ownership is possible, or it is determined there is appropriate reasons
- 3) Projects that extract or process primarily unrenewable national resources are required to have 70% or more than 70% of capital owned by Malaysians and 30% or more than 30% should be *Bumiputra*-owned capital

In Indonesia, triggered by an anti-Japanese riot, called as *Malari Riot*, when Japanese Prime Minister, Mr. Kakuei Tanaka, visited Indonesia, FDI companies were required to transfer sufficient shares to local partners until the local partners’ shares reached 51% or more within 10 years (Ishida, 1995). According to the guidelines for the FDI in 1985, it was stipulated that at least 20% of the company be owned by domestic investors at the time of establishment and the share had to be increased to 51% within ten years.

In Thailand, the announcement of the national executive council No. 281, called as “Alien Business Law” also regulated FDI by classifying industrial sectors into three groups. Group A, which comprised sectors like rice farming, accounting and legal services and salt-farming, and so on, prohibited foreign participation and existing foreign investors were forced to be localized until local majority. Group B, comprised sectors like farming, forestry, fishery, livestock, newspaper publishing, rice milling, wood curving, manufacturing of pharmaceuticals, and so on, were also closed to foreign participation, however existing FDI projects were able to continue to operate with foreign majority ownership. Group C, comprised service sectors not being included in Groups A and B, manufacturing sectors of embroidering and knitting

products, matches, animal foods, vegetable oil, glass containers, and so on, required the foreign business operator to obtain permission from the related department. It is said, however, that this law was not intended to prevent FDI that would upgrade manufacturing sectors. Instead, it was intended to regulate the participation of refugees from Indochina to more traditional industrial sectors (Enomoto, 2004: 124-133 and 155-158).

3.2. Era of Deregulation in Malaysia, Thailand and Indonesia

These countries, however, have changed over the years to deregulate the protective FDI policies in 1980s, especially after 1986. In July, 1985, the government of Malaysia relaxed the regulation on FDI for the manufacturing sector in accordance with the share of export out of production (Table 2). And in the case of foreign projects investing USD 5 million or more, even when an investment application was not approved by the government office, the foreign investor was able to request a review of the decisions by the Minister of Trade and Industry (JETRO, 1986: 283-284). However, the conditions for approval of 100% foreign ownership were not transparent.

=== Table 2 ===

In 1986, the government of Malaysia changed the direction, even though the policies were temporary. The government of Malaysia approved 100% foreign ownership in projects that exported 50% or more its production, sold 50% or more to an export processing zone or a bonded factory, employed a local work force of 350 or more. It was declared, however, that this deregulation policy would apply to FDI projects approved between October 1, 1986 and the end of 1990 (JETRO, 1990: 334-335). The period for which this preferential policy was applied was later extended until October 31, 1991 (JETRO, 1992: 433). At the beginning of 1990s, this policy regulated again and 100% of capital ownership was permitted if the project exported 80% or more of production.

In 1983, the government of Thailand approved foreign ownership of 100%, with the condition that the company must export all its production. Since 1986, foreign investors were able to own 100% of capital if 80% of production was exported. And, in the first two years, it was possible if 50% of the products are exported.

While the government of Indonesia also deregulated its FDI policies, it was more sluggish to act than the governments of Malaysia and Thailand. On May 6, 1986, the

government of Indonesia announced the new economic policy package. According to the package, the initial share of the domestic capital can be 5% and the share does not have to be reduced to 51%, but to 20% in five years in case that the investment follows to one of the following conditions (Ishida, 1994 and IDE, 1987: 423):

- 1) Higher risk investment
- 2) Higher amount of capital and high technologies required
- 3) Investment located in remote areas
- 4) All production is exported

With the policy package dated December 24, 1987, the deadline for foreign projects to increase the share of domestic capital was extended from ten years to 15 years. The initial share of domestic capital was reduced to 5%, and the deadline for foreign investments to increase the domestic share to 20% was extended ten years; however the it had to be increased to 51% within 15 years with a five-year extension possible (totally 20 years) if the foreign investment fulfilled one of the following conditions (Ishida, 1995 and IDE, 1988: 456):

- 1) Capital in excess of USD 10 million
- 2) Located in a remote area
- 3) At least 65% of production was exported

The responsibility for the foreign investment to increase domestic capital was deregulated in 1994. According to the policy announced on June 2, 1994, the government of Indonesia gave foreign investors two options. The foreign investor could own 100% of the capital at the establishment and had 15 years to increase the domestic share, but the share was not regulated, so it was said that only 1% was possible. Or the foreign investor could choose to own 95% of the capital, with 5% owned by a domestic investor, in which case the foreign investor did not have to increase the share of domestic capital further. With the implementation of this law, foreign investors were able to own 100% of the capital in Indonesia (Ishida, 1995 and IDE, 1995: 394-395).

The ownership stake of the foreign investor had been a policy variable with tax incentive policy. Currently, however, the FDI share of 100% has been approved in most of the countries in ASEAN, at least for investment projects in manufacturing

industries. Thus, the regulation on foreign ownership cannot be considered to have been effective as a policy variable.

3.3. Performance of FDI in Malaysia, Thailand and Indonesia

Figures 1, 2 and 3 show the number of foreign investment projects approved and the value of approved foreign investment projects (in USD terms) in the upper graph and the growth rates of the number and value of approved projects in the lower graph.

==== Figure 1 ====

In Malaysia (Figure 1), the value of approved foreign investment projects shows a stagnant trend before 1986 when drastic deregulation policies started, while the number of approved foreign investment projects fluctuated. On the other hand, the value of FDI began an upward trend starting in 1985, continuing until 1992, one year after Malaysia closed “the most preferential policy period.” Regarding the number of foreign investment project approvals, it was two years (1988) before approvals started to show a rising trend. The number peaked in 1991, after which time it fluctuated.

The rising trends during the second half of 1980s in Malaysia are said to have been caused by the deregulation policies as well as the appreciations of Japanese Yen and other currencies of Asian NIEs (JETRO, 1988: 143). For example, Japanese electric and electronics companies like Fujitsu, Japan Victor, Sony, Sharp, Toshiba, and several mother plants of the Matsushita (Panasonic) group located in Malaysia as a result of the policy deregulation (JETRO, 1987: 135 and JETRO, 1988: 142). At the beginning of 1990s, air conditioners and color TV sets had been exported from Malaysia to the world (Ishida, 1992). However, the rising trend of FDI became stagnant during the economic crisis from 1997 to 1999. The Malaysia Government subsequently engaged in renewed deregulation of FDI policies to help the country get out of the economic crisis¹ and this brought another investment boom, primarily comprising projects in the electronics and chemical industries from 2007 onwards (JETRO, 2008: 207).

==== Figure 2 ====

¹ The FDI policy had become selective, after the starting of New Development Policy in 1991. Details are shown in the case study of Malaysia in Section 3.

In Thailand (Figure 2), the data of FDI approval are limited before 1986, but the amount of FDI from 1978 to 1981 shows a stagnant trend. After 1986, FDI began to rise, this trend continued until 1988. The FDI boom was supported by Japanese and Taiwanese investment in export-oriented electric and electronics sectors (JETRO, 1989: 134-137). The trend of FDI decreased from 1991 to 1994, but increased again before the economic crisis. Under the economic crisis, the value of approved FDI was somewhat stagnant, but began to increase again from 2003 onward. On the other hand, the number of FDI project approvals continued to show relatively higher value, while the value of approved foreign investment projects did not increase very much, except in 2007. This means that relatively smaller suppliers of parts and components for pick-up trucks and ecologically-friendly cars (eco-cars), mostly from Japan, increased during this period (JETRO, 2007: 197 and JETRO, 2008: 199).

==== Figure 3 ====

In Indonesia (Figure 3), the effect of the drastic deregulation policy in 1994 was a temporary increase in both the number and the value of approved foreign investment projects in 1995 and 1996. On the other hand, the starting of the deregulation of policy in 1986 also yielded a rising trend, which can be seen from a graph of the growth rates. After the peak in the middle of 1990s, Indonesia also experienced an economic crisis and the value of FDI stagnated. It is only after 2007 that the trends again began to rise. These rising trends mean that companies producing parts and components for automotive industries have increased investments in recent years.

As far as we have seen, it is clear that the trends for the number and value of approved foreign investment projects in Malaysia, Thailand and Indonesia were stagnant before 1986, as the governments continued their nationalistic policy regulation of FDI. On the other hand, after 1986, when these countries started to adopt deregulation policies, the number and value of approved foreign investment projects started to show a rising trend, at least after two years. Thus, it suggests that protective FDI policies do not result in successful performances in attracting FDI and this is a good lesson for Myanmar. It should be noted, however, in order to prove the relationship, i.e. cause and effect, between the policies and the number and value of approved foreign investment projects, further and more scientific analyses are needed. On the other hand, as a result of its good economic performance, in large part related to receiving FDI, Thailand succeeded in the diversification of export products (Figure 4).

4. Corporate Income Tax Incentive Policy²

Before introducing concrete tax holiday policies, I would like to explain the fundamentals of tax incentive policies. As shown in Box 1, corporate income tax is imposed on a company's profit or income, a result that cost is reduced from revenue. For example, suppose that a company has revenue of USD 30 million and costs of USD 20 million; then the profit becomes USD 10 million. Given that the tax rate is 30%, then the tax payment is USD 3 million. The value of this payment assumes the company has not been granted tax incentives. If the company had received a tax exemption, it would not have to pay the tax, in this case USD 3 million, for a specific period. For the first or second year of operations, companies usually cannot easily generate a profit because the initial costs, such as building a factory, introducing machinery and other set-up costs, are burdens on the company. On the other hand, tax reduction means that the tax rate is reduced to a specific level. For example, if the tax rate is reduced by half to 15%, the tax payment in the above scenario decreases to USD 1.5 million. Tax deduction means that a specific cost can be deducted from the tax payment. For example, if the government gives incentives to a company that buys new machinery and all the cost can be deducted, then the cost (USD 1 million) for the machinery reduces from the tax payment (USD 3 million), thus the tax payment decreases to USD 2 million in the box case.

=== Box 1 ===

In implementing tax incentive policies, the important thing is to make clear the objectives. Reviewing the tax incentive policies in the East Asian countries, the objectives are enumerated as follows:

- 1) Export-orientation
- 2) Development in rural areas
- 4) Job creation
- 5) Human resource development

² This chapter does not mention import tariff incentive policies on inputs used in the manufacture of products for export and on capital goods at initial investment, even though such policies are also important.

- 3) Development of specific industries 6) Promotion for reinvestment

4.1. Case Study of Malaysia

Malaysia stresses export orientation as one of its objectives in conducting the tax incentive policies and also permits 100% foreign ownership. The population of Malaysia as of 1980 was 13.8 million people, and while it is currently 28.6 million (as of 2011); it meant that the domestic market is not sufficient to support economies of scale. In order to increase exports, the Malaysian government has made use of tax deduction policies since it started deregulation in 1986. For example, companies could deduct 10% of value-added of export products, 5% price of locally produced input for export products, as well as the full cost of advertising, marketing surveys, sample distribution and preparation for tender in foreign countries (JETRO, 1991: 393).

In addition to the export-orientation strategy, Malaysia also tried to promote job creation, and offered promotion for reinvestment, human resource development, upgrading the industrial structure and development in rural areas. For example, Malaysia granted “pioneer status” to investors who fulfill specific conditions. In October, 1986, Malaysia extended the tax exemption period for a company with pioneer status from five years to ten years (JETRO, 1987: 132). The conditions for getting the pioneer status are that the permanent employees are equal to 500 or more or that capital expenditures are equal to 25 million Ringgit or more (JETRO, 1988: 316). Regarding reinvestment, if a company had invested before January 1988 and wished to expand its operation, 25% of the cost for expansion could be deducted. If a company made its invested after January 1988 and subsequently expanded its operation, 40 % of the cost for expansion could be deducted (JETRO, 1991: 392-393).

To encourage companies to engage in human resource development, in 1989, Malaysia allowed companies that conduct vocational training for its workers or constructed a building for vocational training are able to deduct the expenditure for the training and building construction. (JETRO, 1991: 393-394).

To facilitate the upgrading of the industrial structure, in 1996, the government of Malaysia decided to grant ten years of pioneer status to factories of semi-conductor wafers. In 1997, the government decided to grant a five-year corporate income tax exemption to companies in the intermediate goods industry and to grant a ten-year exemption if the company exports the intermediate goods. In addition, the government of Malaysia gives incentives to foreign investment projects involved in environment protection and infrastructure development.

Finally, in terms of the rural development, the government of Malaysia decided to grant pioneer status to foreign investment projects locating on the eastern coast of the Malay Peninsula and Eastern Malaysia (Sabah and Sarawak).

In this way, the government of Malaysia pursued most of the objectives by offering tax incentives to companies that fulfilled the conditions introduced so far. The export orientation, however, is one of the largest ones.

I would like to add that Malaysia had become selective since 1991 when the parliament agreed to continue to support the indigenous citizens in the National Development Plan (NDP). For example, the period of pioneer status has been shortened to five years and the companies that could enjoy 100% foreign ownership had to export 80% of the products instead of 50%, (JETRO, 1992: 205).

4.2. Case Study of Thailand

In 1977, the Investment Promotion Act of Thailand provided tax incentives for a period from three years to eight years to investors in promoted sectors, placing importance on export promotion and rural development. Regarding the promotion for investment in rural areas, the companies invested in the promoted area could enjoy the following benefits (JETRO, 1982: 233).

- 1) 90% of business tax exempted for 5 years since the company started to get revenue
- 2) 50% of income tax exempted for 5 years since the end of tax exemption period
- 3) 200% of the costs for transportation, electricity and water can be deducted for a specific period designated by Board of Investment (BOI), Thailand
- 4) In addition to the deduction of ordinary depreciation, 25% of investment for constructing facilities can be deducted for a specific period designated by BOI

With the deregulation policy in 1986, FDI increased, especially in Bangkok and its suburban area. On the other hand, the gap in gross regional products (GRP) between Bangkok and its suburban area and the northeast region, where one third of the whole population lives, was 8.1% as of 1985. And, the gap with the northern and southern regions were 3.4 and 4.1 times, respectively.

=== Table 3 ===

=== Table 4 ===

=== Table 5 ===

Faced with the situation, the government of Thailand continued to give incentives to FDI companies who invest in rural areas by adopting an investment zone system as of September 1, 1987 (Table 3). On September 26, 1988, the government of Thailand changed the policy; combined the provinces of Zone 2 in the zone system of 1987 into Zone.1. And 10 provinces were selected for the new Zone 2 (Table 4, JETRO 1989: 315). In April, 1993, the tax exemption period for Zone 3 was extended from five years to eight years and import tax for machinery became exempted for 5 years in Zone 3 (JETRO, 1995: 203). The current invest zone system is shown in Table 5. Among the third zone, Rayong province was successful in receiving a lot of FDI and Rayong province was subsequently changed to be Zone 2. As inland provinces, Lamphun and Nakhon Ratchasima (Korat) have shown successful performances in receiving FDI projects. In particular, Lamphun, which is around 800 km away from Bangkok, received projects from companies involved with precision industry and other high-value-added industries and the products of these industries are suitable for air transportation. Most other provinces, however, have not shown such performances.

With these tax incentive policies, the number and value of FDI, including export-oriented FDI, has increased in the areas surrounding Bangkok which belong to Zones 2 and 3. Automotive manufacturers began to export and import parts and components with other ASEAN countries from the second half of 1980s (JETRO, 1988: 139). The Thai government then tried to develop Bangkok and its surrounding areas as a base for the automotive industries. In 1993, Thailand's Ministry of Industry, decided to liberalize investment in automotive assemblers and in 1994, restored the incentive policies for automotive assemblers which were lifted once 25 years before. The Thai government permitted automotive companies that joined the Brand to Brand Complementation scheme for the Automotive Industry (BBC) to draw back the import tax since August 31, 1994. Furthermore, in October 1993, the BOI decided to grant an eight-year tax exemption to companies that invested in four sectors of supporting industries (molding and die-casting, jig, forging and foundry), even if the factory is located in Zone 1. In June, 1993, such preferential sectors were expanded to include plastic parts and components, replacement batteries, plating and so on (JETRO, 1995: 201). It cannot be denied that such kinds of investment policies have contributed to the formation of the agglomeration of automotive industries with three or four layers of supporting industries in Bangkok and its surrounding areas.

4.3. Appropriate Tax Incentive Policies for Myanmar

A Foreign investment Law was passed by the Myanmar parliament on November 2, 2012. The law stipulates “exemption and reliefs” in Article 27, Chapter 12. It says that “if the goods produced by any enterprise are exported, relief from income-tax up to 50% on the profits accrued from the said export.” In this meaning, the tax relief system is prepared for export-oriented investors. If the government of Myanmar further promotes exports by foreign investors, the government can examine deducting the cost for advertising, marketing surveys, sample distribution and preparation for tenders in foreign countries, similar to what Malaysia has done.

Other than promoting exports, clear policy objectives cannot be found in the corporate income tax policies stipulated in Article 27. Article 8 on basic principles in Chapter 4, however, enumerates the policy objectives as follows:

- (a) Supporting the main objectives of the national economic development project, business which cannot be affordable by the Union and citizens and business of incomplete finance and technology;
- (b) Development of employment opportunities;
- (c) Promotion and expansion of exports;
- (d) Production of import substituted goods;
- (e) Production of products which require mass investment;
- (f) Acquisition of high technology and development of manufacturing business by high technology;
- (g) Supporting the business of production and services involving large capital;
- (h) Bringing out of business which would save energy consumption;
- (i) Regional development;
- (j) Exploration and extraction of new energy and the emergence of renewable energy sources such as bio-basic new energy
- (k) Development of modern industry
- (l) Protection and conservation of environment
- (m) Causing to support for enabling to exchange the information and technology
- (n) Not affecting the sovereign power and the national security
- (o) Development of knowledge and skill of citizens
- (p) Development of bank and banking in accord with the international standard;
- (q) Appearing the required modern services for the Union and citizens;
- (r) Causing to be sufficient the local use of the Union energy and resources in the short

and long term.

These sectors can be objectives for tax incentives. Among them e), f), g) and k) are related to manufacturing industries. The details on tax incentive policies for the manufacturing industries have to be based on the master plan for the manufacturing industries. In designing the master plan, the strategies to develop the automotive and its supporting industries in Thailand should be referred. Regarding i) regional development, the incentive policies have to be based on the regional development master plan. If the master plan becomes clear, people in Myanmar should consider such policies. In the consideration, the experiences of Thailand should be referred. Thus these incentives are on the mid-term challenges (5-10 years).

However, in the aspect of human resource development, f) and o) should be strengthened. In this meaning, some incentives for companies that conduct vocational training for their workers or constructed buildings for vocational training should be examined. Human resource development is one of challenges that should be undertaken as soon as possible. Regarding such challenges, infrastructure, e.g. roads, electricity and telecommunication, should be improved. As for h) Exploration for businesses which consume less energy, j) Exploration/production of new energy, and for the emergence of resources of renewable energy such as bio energy and m) Supporting for obtain and exchange of information and technology are enumerated, but cleared incentives should be considered.

In the second items of Article 18 on the rights of investors, it says that implementation of the expansion of the originally proposed investment business or increase of the originally proposed foreign capital requires obtaining the approval of the Commission. Especially, incentives for reinvestment or expansion should be also considered in accordance with the experiences of Malaysia.

Finally, we would like to evaluate the incentive periods. Article 27 stipulates the income-tax exemption periods as five consecutive years. In addition, it says that it can be extended if the project is beneficial for the state. In evaluating the “five years,” we should see the cases of the countries that compete with Myanmar. Among ASEAN countries, it is only in rare cases that Singapore, Brunei, Malaysia and Thailand can compete with Myanmar. Myanmar often is compared with Cambodia and Laos, while Vietnam sometimes competes with Myanmar.

In 2009, we conducted a survey on the evaluation by companies in Malaysia, Thailand and Indonesia (advanced ASEAN countries) on investment into CLMV

countries. The companies in advanced ASEAN countries enumerated lower wages as the primary advantage of Myanmar while they enumerated political problems and poor infrastructure as disadvantages. On the other hand, the disadvantages enumerated in Cambodia are poor infrastructure, lower education level and a political problem³, the disadvantages in Laos are poor infrastructure, distance to ports and lower education level and the primary disadvantage in Vietnam is poor infrastructure (Ishida 2010: 429-435). The number of companies that enumerated the political problem as a disadvantage for Myanmar should be smaller today than in 2009. On the other hand, the number of companies that enumerated lower education level as a disadvantage for Myanmar was less than for Cambodia and Laos while more than for Vietnam. As for the whole evaluation of its investment climate, Myanmar should be better than Cambodia and Laos, while Myanmar is less attractive than Vietnam.

Cambodia gives 6–9 years of tax exemption period. In addition, the tax payment starts when the company yields profit in three years. Laos gives 5-10 years of tax exemption periods for manufacturing sectors and 2–10 years of exemption periods for service sectors. Vietnam gives 2-4 years of tax exemption period. After the exemption period, Vietnam gives 4–9 years of half-reduction periods. In this meaning, “five years’ are reasonable; it is less than Cambodia and Laos but longer than Vietnam. However, considering that Vietnam provides tax reduction periods, it is appropriate to examine giving reduction periods.

5. Negative List

5.1. Sectors Usually Selected on Negative Lists

A negative list is a list of sectors that is either prohibited for foreign investment or for which it is open to investment under specific conditions. This section will explain what kinds of sectors are regulated first in accordance with case studies of Cambodia, Indonesia, the Philippines, Thailand and Vietnam.⁴ Then different ways to regulate FDI among countries are introduced.

Government Decree No. 108 in 2006 in Vietnam stipulates a) list of domains

³ At that time, the relation of Cambodia with Thailand was sensitive with the territorial issues on Preah Vihear temple.

⁴ Cases of Cambodia, Indonesia, the Philippines, Thailand and Vietnam are based on CDC (2012), websites of Investment Coordination Agency, Indonesia, Dayanan Business Consultancy, JETRO and eRegulations Ho Chi Minh City, respectively.

banned from investment and b) list of conditional investment domains applicable to foreign investors. The decrees categorized the type of sectors into 1) (detrimental to national defense, 2) national security, 3) “harmful to” historical and cultural relics, 4) “harmful to” morality and national fine customs, 5) “harmful to health, 6) destroy natural resources, 7) destroy environment, 8) hazardous waste.⁵

Thailand’s Foreign Business Act, revised in 1999, regulate 43 sectors, which are enumerated as 1) national security, 2) culture and tradition, 3) natural resources, 4) environment, 5) sectors where competitiveness against foreigners is not strong enough.⁶ Summarizing the types of the sectors enumerated here, I enumerate the following types as sectors which tend to be regulated:

- | | |
|--------------------------------|-------------------------------------|
| 1) Threat to national defense | 6) Harmful to culture and tradition |
| 2) Threat to national security | 7) Can deplete natural resources |
| 3) Harmful to public health | 8) Harmful to environment |
| 4) Media | 9) Need to protect domestic SME |
| 5) Can corrupt public moral | |

As examples of 1) Threat to national defense, the Thai government regulates producing, selling and repairing weapons on the list under which foreign businesses cannot start operation unless approved by the cabinet and permitted by Ministry of Commerce. In the Philippines, producing, repairing, storing and distributing military weapons such as guns and ammunition requires the permission of the Department of National Defense, and the foreign share is limited to 40% or less. Military arms and weapons are regulated in almost all the countries.

Regarding 2) National security, pistols, explosives and other firearms need the permission of the Philippine National Police in the Philippines. In Indonesia, vessel traffic information system and air traffic guiding system belong to the list of business sectors closed to foreign investment. In Vietnam, production and processing of illegal drugs are prohibited.

As for “harmful to public health,” foreign investments in medicines, vaccines, bio-medicines, cosmetics, chemicals and pesticides which have not been permitted to use in Vietnam are prohibited. Dangerous toys are also placed on the list. In Cambodia, investment activities in the production of poisonous chemicals, agriculture

⁵ Website of eRegulations Ho Chi Minh City (referred on October 24, 2012).

⁶ Website of Board of Investment, Thailand (referred on October 24, 2012).

pesticide/insecticide and other goods chemical substances, prohibited international regulations of the World Health Organization (WHO), that affect public health and environment is prohibited.

Media is regulated in many countries. For example, printing newspapers and broadcasting by way of TV and radio are prohibited in Thailand. In Vietnam, broadcasting and producing, printing and distributing cultural works belong to the list of conditional investment domains applicable to foreign investors. In Indonesia, public and private broadcasting agencies and press companies have to be owned by 100% Indonesian capital companies.

The sectors that are regulated because they “can corrupt public moral” and are “harmful to culture and tradition” are similar, but different, depending on the countries. In the Philippines, foreign investors share is regulated to no more than 40% in “sauna and steam bathhouses, massage clinics and other like activities regulated by law because of risks they impose to public health and morals,” and “other forms of gambling.” In Indonesia, which is the largest Islamic country in the world, “casino/gambling” is also closed to investment. In Cambodia, “restaurants, karaoke parlors, nightclubs, massage parlors or fitness clubs which are located outside of international standard level hotel” are classified as investment activities not eligible for incentives. On the other hand, in Thailand, manufacturing and founding of Buddha statues and begging bowls for monks and buying and selling of antiques are closed to foreign investors. Manufacturing of Thai traditional music instruments and plates and utensils that belong to Thai culture and arts are also closed to foreign investors unless approved by the cabinet and permitted by Ministry of Commerce. In Vietnam, projects on construction of works within premises of national historical or cultural relics, “projects adversely affecting the architecture and landscape of national historical culture relics” and “production of depraved cultural and superstitious products” are on the list of domains banned from investment.

As sectors that “can deplete natural resources” or are “harmful to environment,” the government of Indonesia prohibits foreign investors from investing in “capturing of fish species as stated in convention on international trade in endangered species of wild fauna and flora (CITES)” and “the use (removal) of coral/atoll from nature from construction material/lime/calcium and souvenir/jewelry, also live or dead coral (recent dead coral) from nature.” In Cambodia, “forestry exploitation business” is prohibited. In Thailand, agriculture and fruit plantation, livestock, forestry and wood processing, fishery inside of ocean area and economic waters in Thailand are prohibited for foreign

investors.

As mentioned in the first section, the host country tends to fear the domestic market for a specific product being dominated by products produced by foreign investment projects. Furthermore, if the participation by foreign investment projects results in unemployment, it is more serious. In China, the government asked foreign investors to invest in joint venture with state owned enterprises that had not been efficient.⁷ However, it is said that such inefficiencies were resolved by way of joint ventures with foreign investors and the level of employment was maintained in many cases. In case that a domestic company that competes with a foreign investment project is a large company, like a state-owned enterprise, the problem can be solved easily. If there are many numbers of small & medium enterprises, farmers, fishermen and merchants which can compete with the foreign investment project, it is not easy to solve. In many countries, these small and medium enterprises or cottage industries are protected by the negative list.

For example, the government of Thailand designated 21 sectors for which the foreign share is regulated as the competitiveness of domestic operators is not sufficient with foreigners. It includes rice milling, fish farming, forestation, manufacturing venire, chip boards and hard boards, construction, accounting and judicial services, and so on. The government of Cambodia contained such sectors in a list of “investment activities not eligible for incentives.” For instance, production of food products and beverages, production of products for textile industries, production of furniture and fixtures with investment capital less than USD 500,000 are included in the list.

5.2. The Ways to Regulate on Negative List

The ways in which FDI is regulated varies by country. According to Presidential Regulation No. 36, 2010, the government of Indonesia has shown two lists; 1) list of business sectors closed to investment and 2) list of business sectors open, with conditions to investment. In the second list, there are several types of conditions as follows:

- 1) To force the FDI company to form partnership with local companies
- 2) To regulate foreign capital ownership
- 3) To restrict the FDI company to locate into designated area

⁷ Based on an interview with a Japanese affiliated company which used to be asked to invest in joint venture with a state-owned enterprise in Shanghai dated on September 9, 2002.

- 4) To request to get special license from specific departments
- 5) To regulate the business scale (areas/quantities)

The ways of regulation are shown by each Indonesian Standard Industrial Classification (ISIC). So, it is transparent, but the number of sectors is too many, it suggests that the sectors are collected from the requests of all government departments. In this meaning, the list should be narrowed down. In addition, the original principles should be more emphasized instead of the listed sectors. For the listed sectors are selected in accordance with any principles, but we cannot deny the possibility that some businesses of the listed sectors do not have to be regulated seeing from another different view point.

In contrast, the negative list of Vietnam is composed of principles. In case of Vietnam, transparency can be damaged in the screening process. In order to implement the regulation fairly, a neutral committee which the investors can accuse of should be provided.

The government of the Philippines shows:

- 1) List A: Foreign ownership is limited by mandate of the constitution and specific laws
- 2) List B: Foreign ownership is limited for reasons of security, defense, risk to health and protection of small and medium-scale enterprises

In List A, the government prohibited foreigners to work as a specific profession such as an accountant, an architect, a nurse and a chemical engineer and so on. Regarding the sectors, the government regulates the share of foreign ownership.

The government of Cambodia shows the lists of:

- 1) Investment activities prohibited by the relevant law and sub-decrees
- 2) Investment activities not eligible for incentives
- 3) Investment activities with specific characteristics which shall be eligible for custom duties exemption, but not eligible for the profit tax exemption

In the second and third list, the government regulates the business scale (areas/quantities) by sectors in order to SME and cottage industries.

5.3. Policy Implications on Negative List for Myanmar

Article 4, Article 5 and Article 6 of Chapter 2 on Applicable Economic Business of the Foreign Investment Law of 2012 enumerates the business which can be principles for creating negative lists.

Article 4 enumerates sectors as restricted or prohibited as follows:

- (a) Business which can affect the traditional culture and customs of the national races within the Union;
- (b) Business which can affect the public health;
- (c) Business which can cause damage to the natural environment and ecosystem;
- (d) Business which can bring the hazardous or poisonous wastes into the Union;
- (e) The factories which produce or the business which use hazardous chemicals under international agreements;
- (f) Manufacturing business and services which can be carried out by the citizens by issuing rules;
- g) Businesses which can bring and technologies, medicines, or instruments which is testing in abroad or not obtaining the approval to use
- h) Business of farming agriculture, and short term or long term agriculture which can be carries out by citizens by issuing rules
- i) Business of breeding which can be carries out by issuing rules
- j) Business of the Myanmar Marine Fisheries which can be carries out by citizens by issuing rules
- k) Businesses of foreign investments to be carried out within 10 miles from borderline connecting the Union territory and other countries except the areas stipulated as economic zone with the permission of the Union Government

Compared with the nine categories shown in the first sub-section, a) belongs to 6) harmful to culture and tradition, b), c), d), e) and g) can be classified into 3) harmful to public health or 4) harmful to environment and f), h), i) and j) are classified into 9) need to protect domestic SME. Regarding k), the meaning is not clear to the author.

And Article 6 refers to foreign investments which may cause huge affect to security, economy, environment or socio-economy of the state and Myanmar citizens. This article relates to 1) threat to national defense, 2) threat to national security and 8) harmful to environment. Among the categories shown at the first sub-section, sectors 4) related to media, 5) which can corrupt public morals and 7) which can deplete

natural resources are not mentioned in the above-mentioned articles. These categories should be examined as a negative list. Regarding natural resources, Article 44 stipulates that feasibility study exploration, survey and commercial production are carried out with production sharing system between the investor and the government and that the profits are divided between the investor and the government. However, this article does not mention businesses that deplete natural resources. Fundamentally FDI should be welcome, but the businesses that deplete natural resources and affect environment or public health have to be regulated strictly. In 2012, Laos suspended any investment proposals in mining, land concessions for rubber and eucalyptus plantations until December 31, 2015. This decision suggests that the business operation of these sectors needs higher level of governances.

Regarding the ways to regulate, as shown the cases of the negative lists of Indonesia and Vietnam in contrast, the principles have to be emphasized as well as the transparency should be maintained.

6. Centralized or Decentralized

It is controversial whether FDI should be controlled by the central government or partly by provincial governments. Actually, the ways to control are different, depending on countries. In Vietnam, Laos and China, some of the authority is transferred to provincial governments based on the specific amount of money to be invested. On the other hand, all corporate income tax revenue is entered as the revenue of the central government in Thailand and Indonesia, while some parts are allocated to the provincial government in China.

The reason why it becomes a policy issue is because the investment climate in Indonesia was badly affected at the beginning of the 2000s by decentralization. More concretely, with the implementation of Law No. 22/1999 on regional administration and Law No. 25/1999 on fiscal balance between central government and the regions, in 2001 the district level governments were granted autonomy on the taxation of regional tax and retribution, thus they can impose the companies in the region.

==== Figure 5 ====

On the other hand, all corporate income tax revenue was absorbed by the central

government and the central government then allocates to the provincial and district level governments via general allocation funds, special allocation funds and revenue sharing (Matsui, 2003: 45). In other words, the district government could not directly get the benefits of corporate income tax. If they had been able to get some benefits of corporate income tax, they would have become more active in attracting FDI in order to increase corporate income tax revenue, and they would have taken care of such foreign investment projects. In reality, they could not have incentives to attract and to take care of foreign investors. But, they had become active in imposing the companies in the region to pay regional tax and retribution and FDI companies had become good targets for them to impose.

China is also relatively more decentralized than other countries. However, the investment climate has not been badly affected like the case of Indonesia. As shown in Figure 6, 40% of corporate income tax and 25% of value-added tax are allocated into provincial government revenue. Thus, compared with the case of Indonesia, provincial governments clearly have incentives to attract foreign investors. For the provincial government, revenue can increase if FDI increase and pay corporate income tax. And, in order to attract additional foreign investors, the provincial government has to take care of existing foreign investment projects so as to get a good reputation from existing investors in their province. In addition, as shown in Table 5, provincial governments can approve FDI projects that are investing less than USD 300 million if the project is in a promoted or approved sectors, and they can approve FDI projects that are less than USD 50 million even if the investment is in a restricted sector.

==== Figure 6 ====

It is reasonable if the provincial government officials recognize the importance of FDI and take part in the decision making regarding policies to attract FDI. However, we should not forget that one province in China can be larger than a country in ASEAN. The upper limit that provincial government can approve in Laos is less than USD 3 million or 5 million (Table 6).

==== Table 6 ====

In addition, if the central government transfers a part of its authority to provincial governments, the provincial government officials have to be highly disciplined and

need to also participate in designing the provincial master plan. In this meaning, the participation of provincial government officials is a challenge in the mid-term run (five–ten years). At first, some authority should be transferred from the central government to major regional governments like Yangon and Mandalay in five years and some other authority should be transferred to other regional governments in ten years.

It should be noted that there is a difference between the industrial sectors that have received between the two groups. The first group will receive investments of more diversified manufacturing industries such as electric, electronics and transport vehicles, while investment into the second group of regions is likely to include investment based on materials or resources.

Among the industries locating in rural regions, mining metals, natural rubber and hydro-power plant need higher governance. Mining metals has to be careful with industrial waste that can be harmful to health and the environment. With respect to natural rubber, we have heard about some trouble between investors and farmers on the allocation of profits in Northern Laos. Additionally, latex waste can also be harmful to the environment and health. Hydro-power projects can force local people to relocate to another place, the lives of them should be assured. Furthermore, hydro-power projects can affect the economic activities at the downstream. What this means is that the government officials in regional governments in rural areas need to be highly educated and disciplined.

7. Concluding Remarks

Some of the positive effects of FDI include job creation, technology transfer, its related spill-over effects and financial power. Regarding the positive effects of technology transfer, the government of Myanmar should not have excessive expectations. It is more appropriate to consider that foreign investors just transfer the required minimum level of technology and should ensure that those levels are not so small. Foreign investment projects, however, can be faced with the situation that they cannot avoid more advanced standardized technologies in the future.

In order not to lose such opportunities, the government of Myanmar should prepare for human resource development. More concretely, the government of Myanmar should promote FDI that undertakes vocational training by utilizing tax

incentives. At the same time, upgrading the basic education level of people and establishing and operating vocational schools are also important. As a matter of fact, the benefits from being able to participate in the production network in East Asia are so enormous for Myanmar.

As one of negative effects of FDI is the possibility that the domestic market is dominated by foreign companies and existing domestic companies are unable to compete and are forced to close down? Protecting the existing domestic companies, however, can encourage the inefficiency of the market; thus the protection of local companies should be temporary to allow the local companies to become accustomed to competition with foreign companies.

The government of Myanmar, however, has to be prudent when the closing down can result in large amounts of unemployment. This is especially true if a foreign company invests into farming, fishery and commerce, which are currently composed of many small-scale companies or households. The government can place the sector on the negative list.

Nevertheless, the number of sectors on the negative list should not be too many. It was illustrated in Section 3 that nationalistic FDI policies in Malaysia, Thailand and Indonesia did not result in successful performance. In contrast, deregulated FDI policies after 1986 have succeeded in attracting FDI and ASEAN countries have shown good economic performances, except under the economic crisis. Figure 4 shows one example of the successful cases, in which Thailand succeeded in diversifying export commodities.

Another potential negative effect of FDI is the “overheating of the economy,” and the government of Myanmar needs to be fully prepared to deal with its occurrence. The government of Myanmar should avoid a “massive FDI rush,” and should maintain a moderate level of openness. Thus, the government of Myanmar should be careful with anything mentioned in the first section, especially the current account deficit, inflation and shortages of infrastructure. Regarding the shortage of infrastructure, the problems have already been realized. The improvement of national roads and access roads to ports and harbors, expansion of electricity generation and improvement of telecommunication are urgent challenges.

In conducting corporate income tax policies, it is extremely important for the government of Myanmar to make clear the objectives. For example, Malaysia pursued increasing exports and human resource development, while Thailand made efforts to develop remote areas (away from Bangkok) and to nurture supporting industries for

automotive industries. The current situations of Bangkok with an industrial cluster of automotive industries can be said to be one of results of such corporate income tax policies of Thailand.

What this means is that the government of Myanmar should make use of corporate income tax incentives to accomplish its vision of the composition of industry. As urgent challenges, the government of Myanmar should make use of incentive policies for infrastructure development and human resource development. On the other hand, the corporate income tax exemption period of “five years,” seems appropriate, considering the incentive periods of countries that can compete with Myanmar in attracting FDI. Giving a tax reduction period after the exemption period is a challenge that should be examined; the government of Myanmar should consider the “temperature” of the FDI boom in Myanmar.

As for negative lists, the government of Myanmar should examine the negative lists of other countries. The Foreign Investment Law of 2012 enumerates some principles for creating the negative list. But among the sectors that tend to be selected as sectors on negative lists in other ASEAN countries, sectors 4) related to media, 5) which can corrupt public moral and 7) which can deplete natural resources, are not mentioned in the law and should be examined as sectors for inclusion on the negative list.

Regarding the ways to regulate FDI, the principles have to be emphasized, and at the same time, transparency should be maintained. If only principles are stipulated, they can be greatly dependent on the interpretation of government officials and can lead to corruption. If the negative list is a more-principle-based one, a neutral committee through which investors can appeal the decisions of government officials should be provided.

Regarding the controversy about whether a centralized regime or a decentralized regime is more appropriate in controlling FDI in Myanmar, the decentralized system is better if the incentives for attracting investment in individual states and districts can be higher. For the realization, a part of corporate income tax revenue should be allocated to regional governments (the same as the model of China). In addition, regional governments should be granted the authority to approve small-scale FDI projects. However, in order to ensure the smooth operation by the regional governments, the government officials of regional government should be highly educated and disciplined.

There should be a top priority of transferring , some authority from the central government to the major regional governments like Yangon and Mandalay within five years, to be followed by transferring some authority to other regional governments in rural areas within ten years. Investment in rural sectors, such as mining, hydro-power plants and natural rubbers, need a higher level of governance; therefore, government officials in these rural areas should be properly trained.

References

- Baharumshar, Z. A., Lau, E. and Fountas, S., 2003, On the Sustainability of Current Account Deficits Evidence from Four ASEAN Countries, *Journal of Asian Economics*, 14: 465-487.
- Banomyong, R. and Ishida, M., 2010, Introduction of the Research Project, In: Banomyong, R. and Ishida, M. (eds.), *A Study on Upgrading Industrial Structure of CLMV Countries, ERIA Research Project Report 2009, No. 7-3*, Jakarta: Economic Research Institute of ASEAN and East Asia (ERIA).
- Council for Development of Cambodia (CDC), 2012, *Cambodia Investment Guidebook 2012*, Phnom Penh: CDC.
- Enomoto, K., 2004, Restriction on Foreign Direct Investment: A Study of the Foreign Business Act of Thailand, *Shogaku Ronso*, 49(1): 123-158, Fukuoka, Fukuoka University.
- Fry, M. J., 1996, How Foreign Direct Investment in Pacific Asia Improves the Current Account, *Journal of Asian Economics*, 7(3): 459-486.
- Horii, K., 1990, Industrialization under *Bumiputra* Policy (in Japanese, Bumiputora Seisaku kano Kogyoka), Horii, K. (ed.), *Industrialization in Malaysia: Multi-ethnicities-country and the Developments of Industrialization* (in Japanese, *Mareisia no Kogyoka: Tashuzokukokka to Kogyoka no Tenkai*), Tokyo: Institute of Developing Economies.
- Institute of Developing Economies (IDE), various years, *Current Affairs in Asia* (in Japanese, *Ajia Doko Nenpo*), Tokyo: Institute of Developing Economies.
- Ishida, M., 1992, Current Situations and Prospects of Malaysian Economy: Change from a Country of producing Primary Commodities to a Manufacturing Country (in Japanese, *Maresia Keizai no Genjo to Tenbo: Ichijisanpin Sansyutsukoku kara Kogyo Rikkoku heno Hensen*), *Economic Outlook Prospects* (in Japanese, *Keiki Kansoku*), No. 798, Tokyo: Kokumin Keizai Research Institute.
- _____, 1995, Recurrence of Investment Boom by Japanese Companies into Indonesia Can be Possible? (in Japanese, *Nihon Kigyo no Toshi Bumu Sairai ha Arieruka?*), *Ajiken World Trend*, No. 5, Tokyo: Institute of Developing Economies.
- _____, 2002, Investment Climates and Prospects on Demand for Allocating Industries of Parts and Components (in Japanese, *Indonesia no Toshi Kankyo to Buhin*

- Sangyo Ricchi Juyo no Mitoshi), In: IDE-JETRO, Tokyo Metropolitan Government, Chiba Prefectural Government and Gifu Economic and Industrial Promotion Center (eds.), *Emerging China and Southeast Asian Nations and Local Industries in Japan* (In Japanese, *Chugoku Tonan Ajia no Taito to Nihon no Chiiki Sangyo: Nihon to Ajia no Seizo Genba kara*), Tokyo: Institute of Developing Economies.
- ____, 2010, Possibility of Relocation or Fragmentation from Advanced ASEAN Countries to CLMV Countries: Summary of Survey Results, In: Banomyong, R. and Ishida M. (eds.), *A Study on Upgrading Industrial Structure of CLMV Countries*, *ERIA Research Project Report 2009, No. 7-3*, Jakarta: Economic Research Institute of ASEAN and East Asia (ERIA).
- ____, 2011, Industrial Estates, Ports and Airports and Connectivity in the Mekong Region, In: Ishida, M. (ed.), *Intra-and Inter-City Connectivity in the Mekong Region*, BRC Research Report No. 6, Bangkok: Bangkok Research Center, IDE-JETRO.
- Japan External Trade Organization (JETRO), Various Years, *JETRO White Paper on Investment* (in Japanese, *Jetoro Toshi Hakusho*), Tokyo: JETRO.
- JETRO, Various Years, *JETRO White Paper on Trade and Investment* (in Japanese, *Jetoro Boueki Toshi Hakusho*), Tokyo: JETRO.
- Kagami, M., 1998, New Strategies for Asian Technological Development: Problems Facing Technology Transfer and Backward Linkage, In: Kagami, M., Humphery, J. and Piore, M. (eds.), *Learning, Liberalization and Economic Adjustment*, Tokyo: Institute of Developing Economies.
- Kondo, Y., 2006, Tax System Reform and Tax Challenges for Foreign Companies in China, (Material presented for a meeting at Ministry of Finance in Japan).
- Li, C., 1998, *Automobile and Electronics Industries and Foreign Capital: Zero-sum Game between Foreign and State-owned Companies?* (in Japanese, *Jidosha Denshi Sangyo to Gaishi: Gaishi Kigyō to Kokuyū Kigyō no Zero-samu Gemu*), In: Li, C. (ed.), *Chinese Economy and Foreign Capital* (in Japanese, *Chugoku Keizai to Gaishi*), Tokyo: Institute of Developing Economies.
- Markusen, J. R., Melvin, J.R., Karpfner, W. H. and Maskus, K. E., 1995, *International Trade: Theory and Evidence*, New York: McGraw-Hill, Inc.
- Matsui, K., 2003, Fiscal Decentralization and Regional Government Finance (in Japanese, *Zaisei Bunkenka to Chiho Zaisei*), In: Matsui, K. (ed.), *Decentralization in Indonesia: Dynamics and Reality between Center and*

Region over Decentralization (in Japanese, *Indonesia no Chiho Bunkenka: Bunkenka wo Meguru Chuo-Chiho no Dainamikusu to Riaritii*), Chiba: Institute of Developing Economies: 35-75.

Suzuki, M., 2009, *Investment Guide for Lao PDR* (in Japanese, *Raosu Toshi Gaido*), Tokyo: ASEAN Promotion Center on Trade, Investment and Tourism.

Todo, Y., Zhang, W. and Zhou, L., 2009, Knowledge Spillovers from FDI in China: the Role of Educated Labor in Multinational Enterprises, *Journal of Asian Economics*, (20): 626-639.

Torres, Q., 2009, *Doing Business in the Philippines 2009*.

Umezaki, S., 2005, Efforts Taken for Restoring Fiscal Soundness (in Japanese, *Zaisei Kenzenka ni Muketa Torikumi*), In: Ishida, M. (ed.), *Challenges toward Revitalization for Indonesia* (in Japanese, *Indonesia Saisei heno Chosen*), Chiba: Institute of Developing Economies: 104-124.

<Websites>

Board of Investment, Thailand: <http://www.boi.go.th/>

Dayanan Business Consultancy: <http://www.philippine.incorporation.com/>

eRegulations Ho Chi Minh City: <http://hochiminhcity.eregulations.org/>

Indonesia Investment Coordinating Board: <http://www2.bkpm.go.id/>

JETRO: <http://www.jetro.go.jp/>

Ministry of Finance, Japan: <http://www.mof.go.jp/>

New York Times: <http://www.nytimes.com/2008/06/18/>

Yazaki Corporation: <http://www.yhv.com.vn/JP/congty.asp>

Table 1: Situation in 1971 and the Target Regarding the Capital Composition

	1970	1990 (Target)
Indigenous Citizens-owned	1.9%	30.0%
Non-indigenous Citizens-owned	37.4%	40.1%
Foreign-owned	60.7%	29.8%

Source: Created by the author in accordance with Horii (1990: 5).

Table 2: FDI Deregulation for the Manufacturing Sector in Malaysia (July, 1985)

Export Ratio	Maximum Majority Owned by FDI
Export Ratio \geq 80%	80% (100% is also possible with appropriate reasons)
80% \geq Export Ratio \geq 51%	51% - 80%
50% \geq Export Ratio \geq 20%	51%
20% > Export Ratio	30%

Source: Created by author in accordance with JETRO (1986).

Table 3: Investment Zone System in Thailand in 1987

	Tax Exemption	Import tax for Machineries	Provinces
Zone 1	No exemption	No exemption	Bangkok, Samut Prakan
Zone 2	3 – 5 years	50% exemption	Nakhon Pathom, Nonthaburi, Pathum Thani, Samut Sakorn
Zone 3	4 – 8 years	100% exemption	Other 67 provinces except Laem Chabang and Map Ta Phut

Source: JETRO (1989: 312).

Table 4: Revised Investment Zone System in Thailand in 1989

	Conditions	Tax Exemption	Provinces
Zone 1	Without conditions ¹⁾	No	Bangkok, Samut Prakan, Nakhon
	With conditions	Max 3 years	Pathom, Nonthaburi, Pathum Thani, Samut Sakorn
Zone 2	Without conditions	3 years	Samut Songkhla, Rachaburi, Kanchanaburi, Suphanburi, Angtong,
	With conditions ²⁾	Max 5 years	Ayuthaya, Saraburi, Nakhon Nayok, Chacheongsao, Chonburi
Zone 3	4 – 8 years	4 – 8 years	Other 57 provinces except Laem Chabang and Map Ta Phut

Source: JETRO (1989: 312).

Note: 1) Export out of production is 80% or more than 80% or the factory is located in an industrial estate.

2) The factory is located in an industrial estate.

Table 5: Current Investment Zone System in Thailand as of 2012

	Conditions	Tax Exemption	Import Tax Incentives	Provinces
Zone 1	Outside of IE	No	50% reduction of machinery import tax Import tax of raw materials for export products is exempted for 1 year	Bangkok, Samut Prakan, Nakhon Pathom, Nonthaburi, Pathum Thani, Samut Sakorn
	Inside of IE	3 years exemption		
Zone 2	Outside of IE	3 years exemption	100% reduction of machinery import tax Import tax of raw materials for export products is exempted for 1 year	Samut Songkhla, Rachaburi, Kanchanaburi, Suphanburi, Angtong, Ayuthaya, Saraburi, Nakhon Nayok, Chonburi, Chacheongsao, Rayon, Phuket
	Inside of IE	5 years exemption		
Zone 3	4 – 8 years	8 years exemption + 5 years reduction (50%) 200% deduction from cost of transportation, electricity & water	100% reduction of machinery import tax Import tax of raw materials for export products is exempted for 1 year	Other 59 provinces

Source: Website of JETRO

Notes: 1) IE is an abbreviation of an industrial estate.

2) In case of project which is larger than Bt. 10 million (not including operation and land cost), tax exemption period can be reduced for one year if the company gets the approval of ISO9000 or its equivalent international standard in two years from the date of establishment.

Table 6: Authorities Allocated for Regional Governments for FDI Approval in China and Laos

<China>

	Amount of Capital	Organization that approves
Promoted/Approved Sector	X > USD 300 million	National Council or related organization
	X ≤ USD 300 million	Provincial Development Reform Committee
Restricted Sector	X ≥ USD 50 million	National Council or related organization
	X < USD 50 million	Provincial Development Reform Committee

Source: Website of JETRO.

<Laos>

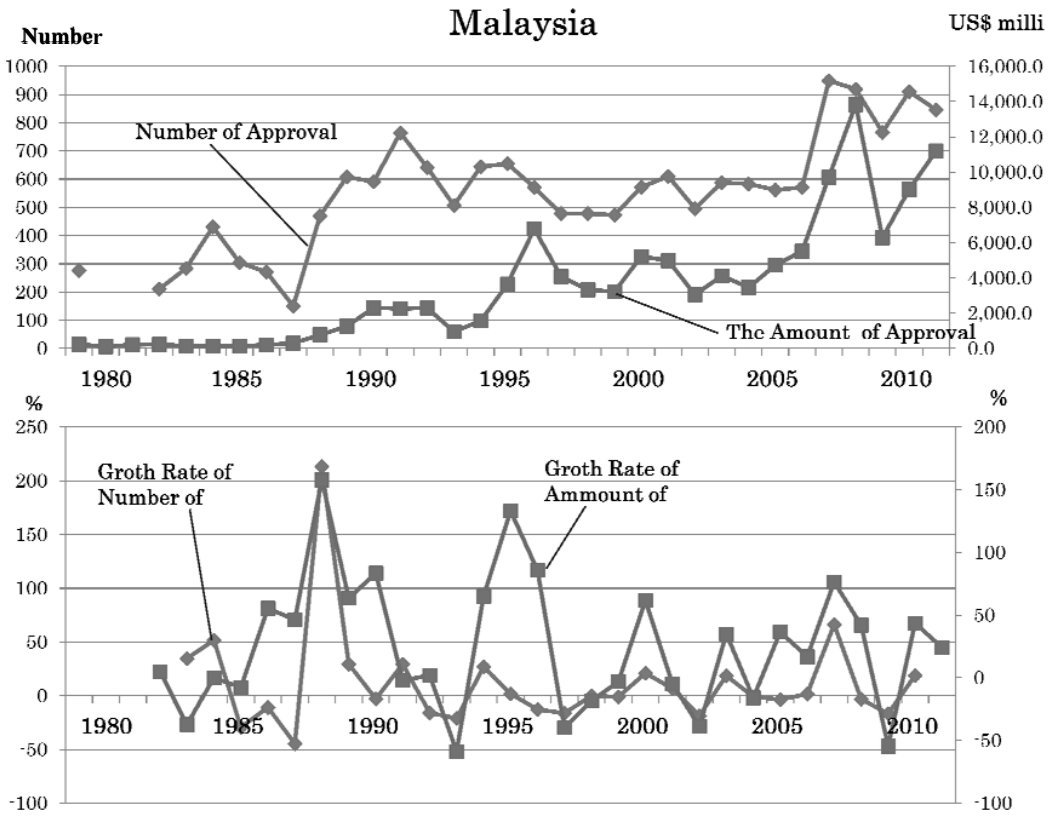
	Amount of Capital	Organization that approves
Allowed Sector for FDI	X < USD 3 million	Chairman of CPMI of 12 Provinces
	X < USD 5 million	Chairman of CPMI of 4 Provinces
All Sectors	USD 3 or 5 million ≤ X < USD 10 million	Deputy Chairman of CPMI of Central Level
	USD 10 million ≤ X < USD 20 million	Chairman of CPMI of Central Level
All Sectors	X ≤ USD 20 million	Ministerial Meeting and Prime Minister

Source: Suzuki (2009).

Notes: 1) CPMI is Committee for Promotion and Management of Investment, Lao PDR.

2) The 4 provinces are Vientiane Capital, Champasak Province, Luang Prabang Province and Savannakhet Province and 12 provinces are others.

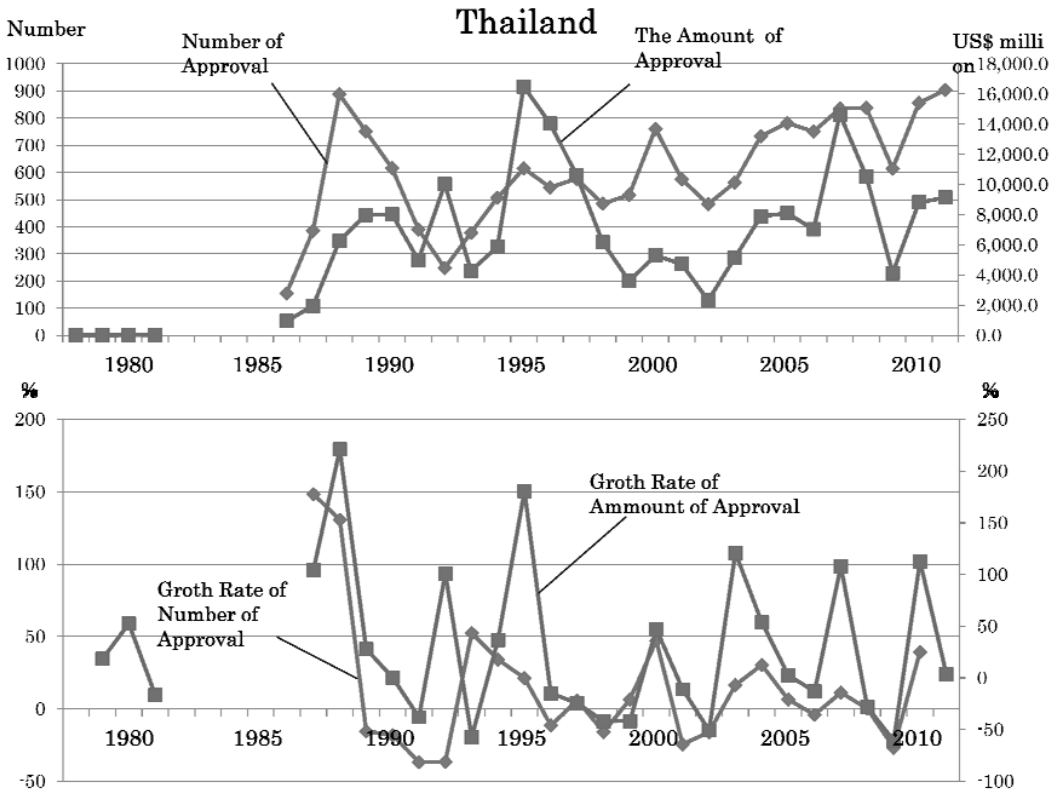
Figure 1: The Number and Value of Approved FDI in Malaysia



Source: Created by the author after compiling the data of JETRO (various years).

Note: The lower graph expresses growth rates of the number and the amount of FDI approval.

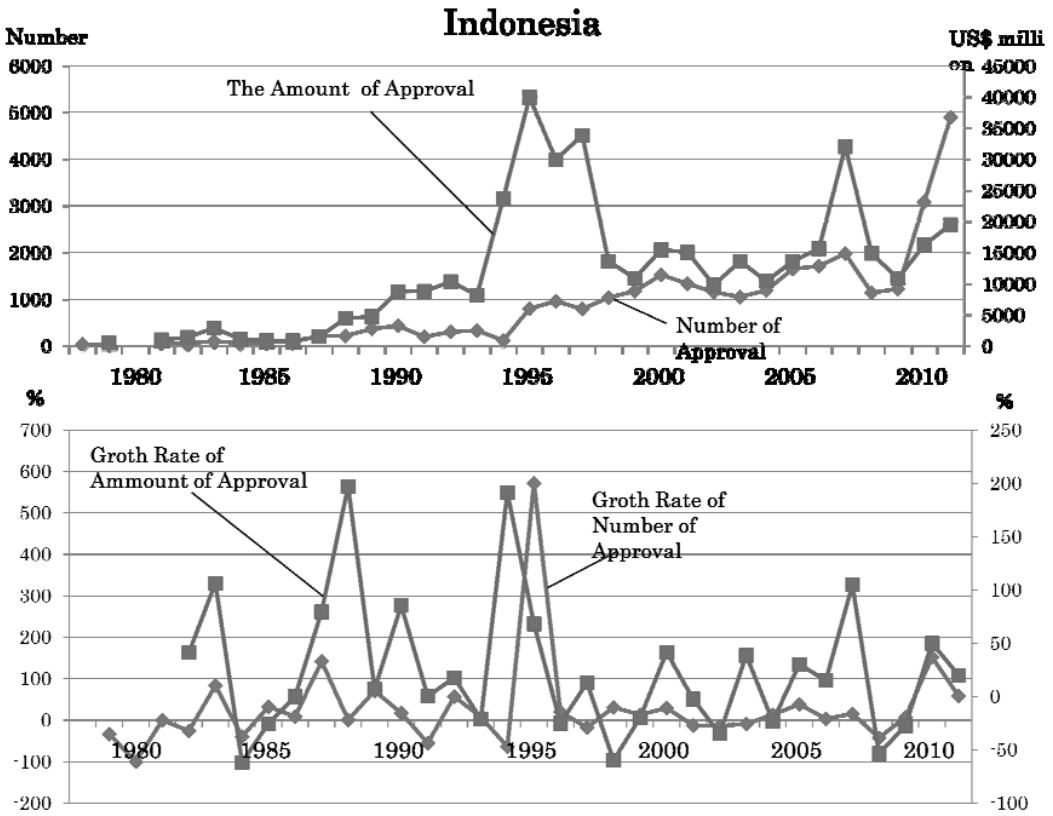
Figure 2: The Number and Value of Approved FDI in Thailand



Source: Created by the author after compiling the data of JETRO (various years).

Note: The lower graph expresses growth rates of the number and the amount of FDI approval.

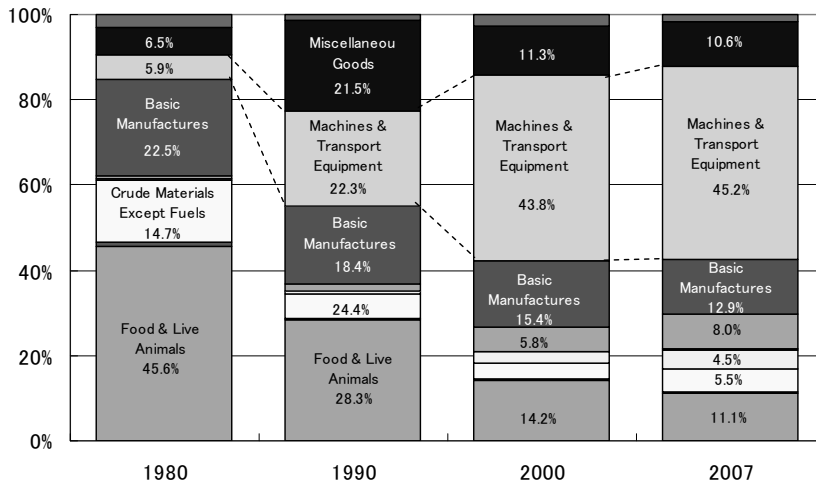
Figure 3: The Number and Value of Approved FDI in Indonesia



Source: Created by the author after compiling the data of JETRO (various years).

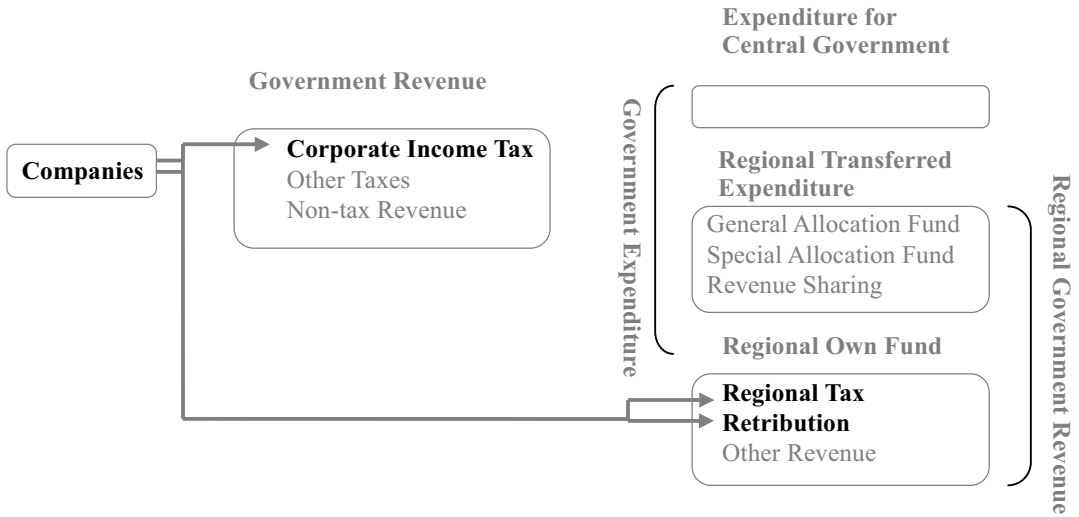
Note: The lower graph expresses growth rates of the number and the amount of FDI approval.

Figure 4: Historical Path of Export Commodities in Thailand (SITC)



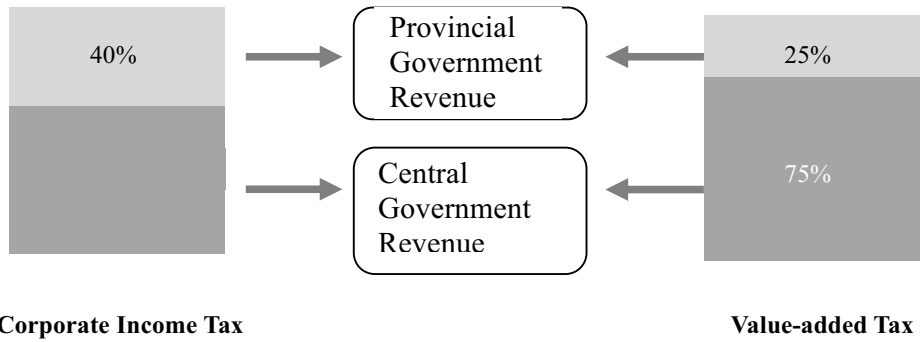
Sources: Banomyong and Ishida (2010:3).

Figure 5: Flow of Regional and Central Government Revenue and Expenditure in Indonesia



Source: Created by the author in accordance with Matsui (2003: 45) and Umezaki (2005: 110-111).

Figure 6: Allocation of Corporate Income Tax and Value-added Tax in China



Source: Created by the author based on Kondo (2006).

Box 1: Ways of Incentives for Corporate Income Tax

Basic Assumption	Ways of Incentives
<p>Profit (Income) = Revenue (Sales) – Cost USD10 million USD30 million USD20 million</p> <p>Assume that: Tax Rate = 30% Tax Payment = USD3 million</p>	<p>1) Tax Exemption do not have to pay USD3 million</p> <p>2) Tax Reduction ex) Tax is reduced by half (15%), then Tax payment decreases to USD1.5 million</p> <p>3) Tax Deduction ex) Cost of buying machinery = USD1 million Tax payment= USD3 million - USD1 million = USD2 million</p>

Source: Created by the author.