YANGON UNIVERSITY OF ECONOMICS
MASTER OF PUBLIC ADMINISTRATION PROGRAMME

COMPARATIVE STUDIES OF FOREIGN DIRECT INVESTMENT (FDI) POLICIES BETWEEN VIETNAM AND MYANMAR

KHIN OHMAR AUNG
EMPA - 21 (14th Batch)

AUGUST, 2018

YANGON UNIVERSITY OF ECONOMICS
MASTER OF PUBLIC ADMINISTRATION PROGRAMME

COMPARATIVE STUDIES OF FOREIGN DIRECT INVESTMENT (FDI) POLICIES BETWEEN VIETNAM AND MYANMAR

A thesis submitted as a partial fulfillment towards the requirements for the degree of Master of Public Administration (MPA)

Supervised by

Dr. Cho Cho Thein
Professor and Head
Department of Economics
Yangon University of Economics

Submitted by

Khin Ohnmar Aung
EMPA – 21 (14th Batch)
(2015-2017)

August, 2018

YANGON UNIVERSITY OF ECONOMICS
MASTER OF PUBLIC ADMINISTRATION PROGRAMME

This is to certify that this thesis entitled "**COMPARATIVE STUDIES OF FOREIGN DIRECT INVESTMENT (FDI) POLICIES BETWEEN VIETNAM AND MYANMAR"** submitted as a partial fulfillment of the requirements for the Degree of Master of Public Administration has been accepted by the Board of Examiners.

BOARD OF EXAMNERS

1. Dr. Tin Win
   Rector
   Yangon University of Economics (Chief Examiner)

2. Dr. Ni Lar Myint Htoo
   Pro-Rector (Acting)
   Yangon University of Economics (Examiner)

3. Dr. Phyu Phyu Ei
   Programme Director and Head of Department
   Department of Applied Economics
   Yangon University of Economics (Examiner)

4. Daw Khin Chaw Myint
   Associate Professor (Retired)
   Department of Applied Economics
   Yangon University of Economics (Examiner)

5. U Thein Naing
   Associate Professor
   Department of Applied Economics
   Yangon University of Economics (Examiner)

AUGUST, 2018

ABSTRACT

Foreign Direct Investment (FDI) has been recognized as an important driver for economic growth and development. Myanmar also highly appreciates FDI as a key solution for the economic growth. Thus, it is important to analyze the changes in FDI policies of Vietnam and Myanmar, and of their FDI policies. Both countries have favorable investment environments, offering abundant cheap labour, natural resources and investment friendly policies. This paper intends to analyze how both countries strive to attract FDI, and which variables determine the inflow of FDI into Myanmar and Vietnam during the period 1989 to 2017 by using the descriptive method. According to our analysis for Myanmar, the economic growth, changes of FDI Laws, changes of FDI polices and taxation system relating to FDI. For Vietnam' FDI policies have a positive effect in attracting FDI.A rapid development during the last two decades is the continuous growth of FDI in the global economic landscape. This unprecedented growth of global FDI in 1990 around the world makes FDI an important component of development strategy in both developed and developing nations and required policies are designed in order to stimulate inward flows. The possible reason could be unstable investment, trade and banking policies and uncertain governance.Vietnam has experience a sufficient long process of FDI promotion, with notable success and failures.

ACKNOWLEDGEMENTS

I would like to express the deepest appreciation to our Professor Dr. Tin Win (Rector), Professor Dr. Khin Naing Oo (Former Rector), Professor Dr. Tun Aung (Pro-Rector), Professor Dr. Ni Lar Myint Htoo (Pro-Rector (Acting)) of Yangon University of Economics for granting permission to attend courses under the Master of Public Administration Programme for giving me the chance to write this thesis. I am also greatly indebted to Professor Dr. Kyaw Min Htun, Pro-Rector (Retired) of Yangon University of Economics for this greatest supports and encouragement for my study.

Great recognition is extended to Professor Dr. Phyu Phyu Ei, Professor and Head of the Department and Programme Director of Master of Public Administration, Department of Appl ied Economics, Yangon University of Economics for her valuable insights and encouragements throughout the years of the study.

I want to express my sincere and deepest gratitude to my supervisor, Dr. Cho Cho Thein, Professor, Head of Department of Economics who deeply helped and sympathetic attitude at every point doing my research in time supported me at every bit and without whom it was impossible to accomplish the end task.

Last, but not least, I would like to say ‘thanks’ to all of my friends from MPA programme and librarians from Myanmar-Japan center’s library and main library of the Yangon University of Economics for their helpful supports.

TABLE OF CONTENTS

		Pages
ABSTRACT		I
ACKNOWLEDGEMENTS		ii
TABLE OF CONTENTS		iii
LIST OF TABLES		v
LIST OF FIGURES		vi
LIST OF ABBREVIATIONS		vii
CHAPTER I	**INTRODUCTION**	1
	1.1 Rationale of the Study	1
	1.2 Objectives of the Study	2
	1.3 Method of Study	2
	1.4 Scope and Limitations of the Study	2
	1.5 Organization of the Study	3
CHAPTER II	**LITERATURE REVIEW**	**4**
	2.1 Nature and Concept of Foreign Direct Investment	4
	2.2 Contribution of Foreign Direct Investment on Macro-economy	7
	2.3 Impact of Foreign Direct Investment on Host and Home Countries	11
	2.4 Global Trends of Foreign Direct Investment Flows	13
	2.5 Review on Previous Studies	18
CHAPTER III	**OVERVIEW OF VIETNAM'S FDI POLICIES**	**22**
	3.1 Brief overview of Vietnam Economy	22
	3.2 State Management on Foreign Investment	25
	3.3 Advantages and Disadvantages of Foreign Direct Investment	26
	3.4 Patterns of Foreign Direct Investment (FDI) Flows	27
	3.5 Changes of Foreign Direct Investment Policies in Different Waves	29

CHAPTER IV	**OVERVIEW ON MYANMAR'S FDI POLICIES**	35
	4.1 Brief Overview of Myanmar Economy	35
	4.2 Changes of Foreign Direct Investment (FDI) Laws in Myanmar	38
	4.3 Changes of Foreign Direct Investment (FDI) Polices in Myanmar	44
	4.4 Taxation System Relating to Foreign Direct Investment (FDI) in Myanmar	50
CHAPTER V	**COMPARATIVE ANALYSIS ON FDI POLICIES**	53
	5.1 Contribution of Foreign Direct Investment (FDI) to Economic Growth	53
	5.2 Comparative Analysis on Foreign Direct Investment (FDI) Policies of Myanmar and Vietnam	55
	5.3 Two Decades of Development Lessons for Myanmar by Vietnam Review	57
	5.4 Reflection of Bilateral Investment Agreements between Vietnam and Myanmar	59
CHAPTER VI	**CONCLUSION**	63
	6.1 Findings	63
	6.2 Recommendations	66
REFERENCES		
APPENDICES		

LIST OF TABLES

Table No.	Title	Page
3.1	Approved FDI Projects by Main investor Countries (2008-2014)	28
3.2	Foreign Direct Investment Projects Licensed by Region (1988 to 2006)	29
4.1	Contribution of Sectorial Share in GDP (Percent)	36
4.2	Comparison of Sectorial Share in GDP of Neighboring Countries	37
4.3	Comparison of Free Zones and Promotion Zones	40
4.4	Comparisons on Structure of Myanmar FDI Laws by Different Phases	43
4.5	Investment Situations in Myanmar	46
4.6	FDI Investments Top Ten Countries and Major Sector of FDI (By Country) in 2018	47
4.7	FDI Projects in Region and State in 2017	49
4.8	Commercial Tax Rates	51
5.1	Comparison of Polices and Incentives	55

LISTS OF FIGURES

Figure No.	Title	Page
2.1	FDI Flows, Global and by Group of Economies 2005-2017	13
2.2	FDI Inflows among Developed Economy by Region, 2016-2017	15
2.3	FDI Flows, top Host economies, 2016 and 2017	16
2.4	FDI Outflows of Developed, Developing and Transition Economies, 2016 and 2017	17
3.1	Direct Investment Approved Amounts, Projects	30
3.2	Real GDP Growth Rates of Asian Countries	31

LIST OF ABBREVIATIONS

ADB	Asian Development Bank
ASEAN	Association of South East Asian Nations
BCC	Business Cooperation Contract
BOT	Build-Operate-Transfer
BT	Build-Transfer
CIS	Commonwealth of Independent States
CIT	Corporate Income Tax
COI	Certificate of Incorporation
CSO	Civil Society Organization
EVFTA	EU-Vietnam Free-Trade Agreement
FCT	Foreign Contractor Tax
FDI	Foreign Direct Investment
FTAs	Free-Trade Agreements
GDP	Gross Domestic Product
HDI	Human Development Index
IED	Import and Export Duties
JBIC	Japan Bank for International Cooperation
M&As	Merger and Acquisitions
MIC	Myanmar Investment Commission
MNCs	Multinational Corporations
MNEs	Multinational Enterprises
MOC	Ministry of Commerce
NIC	Newly Industrialized Countries
OECD	Organization for Economic Cooperation and Development
PERC	Political and Economic Risk Consultancy
PIT	Personal Income Tax
R&D	Research and Development
SEZ	Special Economic Zone
SOEs	State-Owned Enterprises
SST	Special Sales Tax
TPP	Trans-Pacific Partnership

UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Program
VAT	Value Added Tax
WIR	World Investment Report
WTO	World Trade Organization

CHAPTER I
INTRODUCTION

1.1 Rationale for the Study

Foreign Direct Investment (FDI) has been recognized as an important driver for economic growth and development. A rapid development during the last two decades is the continuous growth of FDI in the global economic landscape. This unprecedented growth of global FDI in 1990 around the world makes FDI an important component of development strategy in both developed and developing nations and required policies are designed in order to stimulate inward flows (Dunning, 2002). The home countries want to take the advantage of the vast markets opened by industrial growth. The hosts countries want to acquire technological, managerial skills accelerate domestic Savings, foreign ex-change and overall economic growth.

FDI is an investment that a parent company makes in a foreign country. Foreign direct investment also helps in improving the health of the people by spending on preventive medicine and potable water and in general, all expenditures directed towards increasing the well-being of the citizens. Studies also have proved that Foreign direct investment have enhanced the technology and economic growth of the country (Shujie, Kailei, Liu, 2001).

FDI in flows into Myanmar since 1988 have been regarded as a very impressive phenomenon of the economic transition from a centrally-planned economy to a market-oriented economy. Most of the FDI that has come into Myanmar in the last decade has created little direct employment and few linkages with existing

industries, limiting their positive benefits. FDI is still rightly viewed as an important part of Myanmar's development.

Vietnam carried out its economic reforms, Doi Moi (renovation), in the mid-1980s. Since then, the country's economy has integrated well into the world economy and the increased openness is mainly a result of the policies that were introduced to liberalize trade, by removing trade barriers and promoting Foreign Direct Investment (FDI). Vietnam's economic development is highly dependent on policy decisions, investments in infrastructure and the creation of new firms and growth of small and medium firms into larger ones. It is especially important to focus on small and medium-sized enterprises (SMEs), since these represent approximately 95 % of all companies in the country. Vietnam is suffering from a shortage of skilled labor and an inconsistent legal system and there is a need for increased competitiveness and investments in infrastructure. Many of the world's largest multinational corporations (MNCs) are increasingly focusing on Vietnam as the next emerging economy in the Asia Pacific region (Charlotta Undén, 2007).

Myanmar has a broad and comprehensive policy reform agenda but it is neither alone nor unique. The experience of other countries, like Vietnam, can give guidance both good and bad. Currently, Vietnam is Myanmar's ninth largest trading partner. Bilateral trade between Myanmar and Vietnam hit $830 million 2017-18, representing a 50 percent increase from the previous years, according to the Ministry of Commerce (MOC).

1.2 Objectives of the Study

This thesis aims to analyze the changes of Foreign Direct Investment (FDI) policies of Vietnam and Myanmar and to make a comparative study of their Foreign Direct Investment (FDI) policies.

1.3 Method of Study

The study is used by descriptive method based on secondary data for Vietnam that were mainly taken from Investing in Vietnam (annual report), Ministry of Planning and Investment of Vietnam, FDI and Corporate Income Tax Reform (2010), many researchers and relevant websites. The data for Myanmar were also taken from Directorate of Investment and Company Administration, Central Statistical

Organization under the Ministry of Planning and Finance, Investment Guide 2014, Investment Guide 2018 and Statistical year book 2017.

1.4 Scope and Limitation of the study

The study mainly focuses on the trends and policy reforms of Vietnam FDI since 1986 onwards and makes a brief the overviews of Vietnam Macro-economy. It can cover the FDI policies. And Myanmar's FDI policies reforms focus on since 1989 onwards.

1.5 Organization of the Study

The study is organized into six chapters. Chapter I is introduction of this study which composed of five sub-headings: rationale of the study, objectives of the study, method of study, scope and limitation of the study and organization of the study. Chapter II describes literature review: nature and concept of Foreign Direct Investment (FDI), contributions of FDI, impact of FDI, global trends of FDI flows and Review on Previous Studies. Chapter III presents about the Brief Overviews of Vietnam Economy, State Management on Foreign Investment, Advantages and Disadvantages of FDI, Patterns of FDI Flows and Changes of FDI Polices in Vietnam. Chapter IV is analyzed on Brief Overview of Myanmar Economy, Changes of FDI Law in Myanmar, Changes of FDI Policies in Myanmar and Taxation System Relating to FDI in Myanmar. Comparative Analysis on FDI policy is presented in Chapter V. Findings, discussion and conclusions are described in Chapter VI.

CHAPTER II
LITERATURE REVIEW

2.1 Nature and Concept of Foreign Direct Investment (FDI)

Foreign direct investment (FDI) is an investment made by a company or individual in one country in business interests in another country, in the form of either establishing business operations or acquiring business assets in the other country, such as ownership or controlling interest in a foreign company. Foreign direct investments are distinguished from portfolio investments in which an investor merely purchases equities of foreign-based companies. The key feature of foreign direct investment is that it is an investment made that establishes either effective control of, or at least substantial influence over, the decision making of a foreign business.

FDI's objectives is to obtain a lasting interest by a resident entity ("direct investment") in one economy other than that of the investor ("direct enterprise"). The lasting interest implies the existence of a long-term relationship between the direct investor and the enterprise and a significant degree of influence on the management of the enterprise. Direct investment involves both the initial transaction between the two entities and all subsequent capital transaction between them and among affiliated enterprise; both incorporated and unincorporated (OECD, 1996).

According to the definition of OECD, FDI is that foreign investment owns at least 10% of company shares and foreign investor has long-term plans connected with company. It can be traditionally considered as an international capital movement that crosses borders when the anticipated return is higher overseas than at home.

In the report of WTO (1996), it reveals that "Foreign Direct Investment (FDI) occurs when an investor based in one country (the home country) acquires an asset in another country (the host country) with the intent to manage that asset. The management dimension is what distinguishes FDI from portfolio investment in foreign stocks, bonds and other financial instruments."

Second, FDI comprises three components:

(i) New equity from the parent company in the home country to the subsidiary in the host country;

(ii) Reinvested profits of the subsidiary; and

(iii) Long and short term net loans from the parent to the subsidiary.

In principle, an individual could invest overseas to own and operate an enterprise. But total of such investments is relatively small; indeed, ninety five per cent of FDI consists of transactions involving multinationals and their affiliates/ subsidiaries.

Reuber (1973) provided an adequate classification scheme that justifies FDI from the perspective of a MNC's relationship with host nation and its regional economic development potential. According to him there are three classification of FDI, export-oriented, market-development-induced and government-initiated. A Multinational firm that invests with an export-oriented play is typically attempting to secure new source of inputs. Often this inputs in the form of raw material or components parts, but can as well be finished products. Those are mostly found in LDCs, where cost-savings can be realized through relatively less expensive labour and/ or abundant resources. Interestingly, in this scenario, the MNCs are often not inclined to service the host country's market at all. Generally, such foreign investors are mainly interested in extracting the product in question from the host country and selling (exporting) it through established market channels.

Thus, in export-oriented FDI, the firm's over – riding motivation for making the investment decision is to protect or improve its competitive position through more cost effective vertical integration. Therefore, it is also called vertical FDI or efficiency and technology seeking FDI.

In contrast, the distinguished feature of the market development –type of FDI (market seeking FDI) is to unambiguously cater to the host market (or to horizontally integrate its operations called horizontal FDI). As a result, host- specific considerations (such as the size to the local market, subsidies, and so forth) become vital issues of the MNCs. Essentially; FDI take place to develop the foreign market often through the implementation of a new technology. Because of this and the fact that profit is not usually realized in the short term of this long process of market development, this type of FDI is often cited as the healthiest from FDI because of the MNCs inclination for a more long-term relationship with the host country.

The third classification of FDI identified by Reuber is government- initiated investment where the MNCs are enticed into the host nation via some type of government subsidy. Clearly, this is a regional development strategy closely akin to the growth-pole analogy and is meant to increase employment opportunities, add to domestic output, and stimulates the economy through linkage to other sector and activates. In this case, multinationals involved in extraction or use of natural resources especially oil, gas minerals, forests and waterfall are the most important attraction for international investment in a number of developing countries.

In additions, it can be classified as Greenfield, and merger or acquisitions. A Greenfield investment involves the establishment of a new production unit, where an acquisition is the purchase of an already existing foreign company (in acquisition case, it needed to purchase at least 10 per cent of the shares in the target firm; otherwise it will be classified as a portfolio investment).

FDI can be generally classified into: Vertical FDI and Horizontal FDI. Vertical FDI involves a geographical decentralization of the firm's production chain, where foreign affiliates in low-wage countries typically produce labour-intensive intermediates that are shipped back to high wage countries, often to the parent company itself. Vertical FDI involves a Vertical FDI is sometimes referred to as "efficiency seeking" FDI, since the main motive for the investment is to improve the cost effectiveness of the firm's production. In the textile and clothing industry, for example, global supply chains are common. The capital-intensive stages (textiles) are located in relatively capital rich countries, human capital-intensive stages (design and upmarket apparel) are located in human capital rich countries, and labour-intensive stages (apparel) are located in labour abundant countries. Another industry where the production process can easily be separated into stages that differ in factor intensity is

the electronics industry, which has played a major role in the industrialization of Malaysia.

A particular category of efficiency seeking FDI is sometimes refer to as "technology seeking" FDI. The attraction of the location in this case is not necessarily the low cost of labour, but its unique competence. FDI from industrialized countries to the Bangalore district in India, often labelled the Silicon Valley of Asia, is presumably motivated Boothby cost efficiency and access to an advanced IT milieu. Indeed, India has the second largest stock of IT specialists in the world, only surpassed by the US.

Horizontal FDI: Horizontal multinational companies produce the same product in multiple plants, and service local markets through affiliate production rather than through exports from the home country of the MNE. Most of the global FDI is horizontal. For instance, as little as 13percent of the overseas production of U.S.-owned foreign affiliates is shipped back to the United States and that only 2 per cent of the output produced by foreign affiliates located in the US is shipped to their parents. Horizontal FDI is sometimes referred to as "market seeking" FDI. The advantage of being close to the customers may be due to factors such as reduced transportation costs, smaller cultural barriers or avoidance of tariffs. Some countries have used trade policy deliberately in order to attract foreign investment: By erecting high tariff barriers they have made it more profitable for foreign firms to set up local subsidiaries than to serve the market by export from other countries.

For certain kinds of non-tradable services, such as real estate, hotels, retail trade, and part of the telecommunication, banking and financial sectors, there is no trade-off between trade and local production at all; market entry simply requires FDI or other contractual arrangements for local production. The importance of FDI in services has increased over time, accounting for more than 50 per cent of total world FDI stocks in 1999, and an even higher share of FDI flows.

Multinationals involved in extraction or use of natural resources are yet another case of FDI where there is no alternative to the local presence of the firm. Endowments of oil, gas, minerals, forests and waterfalls may be the most important attraction for international investment in a number of poor countries.

2.2 Contribution of Foreign Direct Investment (FDI) on Macro-economy

There is a large amount of literature analysing two linkages between economic growth and FDI. Whether FDI is an important determinant of economic growth, especially in the host developing countries, is still debated among the economists. The role of FDI in promoting economic growth has been viewed different economic growth theories. While there is as yet no theoretical relationship between FDI and growth, there is a growing view in recent years that FDI is positively correlated with growth. Theoretically, it has been revealed as an important source of improvements in technology, efficiency, and productivity thereby stimulating growth. In this regard, FDI's contribution to growth comes through its role as a conduit for transferring advanced technology from the industrialized to the developing counters. Findlay (1978) postulated that FDI increases the rate of technical progress in the host country through a contagion effect from the more advanced technology and management practices used by foreign firms.

According to the neoclassical theory, FDI inflows into developing countries are viewed as a way to meet the requirements of capital as well as to transfer new technologies during their transitional economies. Foreign private investment as well as foreign aid seen as a way of filing gaps between the domestically available supplies of saving, foreign exchange, government revenue, and human capital skills and the desired level of these resources necessary to achieve growth and development targets.

On the other hand, it may affect the economy other way round.

(i) It may widen the saving - investment gaps as a result from failing to reinvest much of their profits, generating domestic incomes for the groups with lowers saving propensities, deterring the growth of indigenous firms.

(ii) It may contribute to public revenue less than the expected amount because of the practice of transferring, excessive investment allowances, disguised public subsidies, tariff protection provided by the host country government.

(iii) It may possibly discourage the growth of indigenous entrepreneurship as a result of MNCs dominance on the local market.

(iv) It may probably worsen the current and capital account on the long run. Thus is because the substantial importation of intermediate product and capital goods may deteriorate the current account as well as repatriation of profit interest, royalties, management fees, and other funds may get worse capital account.

FDI has been seen as a major tool to promote growth through learning by doing and knowledge as multinational corporation (MNCs) bring modern technologies into host countries in order to allow them to compete successfully with other MNCs and local enterprises. This forces local firms to look for, as well as to imitate, new and more effective technologies. The role of FDI in promoting human capital in host developing countries is better understood in the endogenous growth theory.

According to the endogenous growth theory, FDI contributes significantly to human capital such as managerial skills and research development (R&D). MNCs can have a positive impact on human capital in host countries through the training courses they provide to their subsidiaries' local workers. Research and development activities financed by MNCs also contribute to human capital in host counties and thus enable their economies to growth in the long term.

Thus the relationship between FDI and economic growth is twofold: FDI stimulates economic growth, but also reacts to economic growth and progress of transformation. Growth is generated by FDI through imported means of investment, new technologies and capabilities transferred by foreign multinationals and international networking. On the other hand, foreign investors react positively to the consolidation of market-economy rules technical know-how, management resource and marketing know-how and the resumption of economic growth.

FDI provides inflow of foreign exchange resource and removes the constraints on balance of payment. It can be seen that a large number of developing countries suffer from balance of payments deficits for their demand for foreign exchange which is normally far in excess of their ability to earn. FDI inflows by providing foreign exchange resources remove the constraint of developing countries seeking higher growth rates. Thus it is obvious that FDI is important for sustained growth**.** Sustained economic growth logical spill-over may be transmitted to the local economy. In a market characterized by little competition, spill-overs are likely to be small, since the need to innovate and upgrade technology in order to survive in the market, and therefore the incentive to-do so, is also small. Again, the Philippines may serve as an example. Requires technological change, where new firms with new ideas can enter and where old firms with old ideas may disappear. Easy entry and exit of firms is therefore important in the development process. Foreign entry may be particularly important in promoting competition, since foreign owners are less likely to be part of

informal networks that may serve to limit domestic competition. In other words, foreign entry may create more "turbulence “in the market than would entry by local firm. Many of the fast-growing economies of East Asia have shielded local producers from national and international competition. It is likely that the inefficiencies that were allowed to develop in these protected markets are one reason for the depth of the financial crisis in Asia starting in 1997.

On the other hand, Profit shifting may be a problem, particularly when local markets are shield from international trade. Foreign firms entering a market and competing with local firms in markets for output and/or inputs may cause local firms to exit the market. This problem is particularly serious when local markets are protected from international trade, and hence large profits may be captured by entering the market. The Philippines, and Malaysia before the early 1970s, may serve as examples of this.

Local suppliers may be able to provide intermediates to foreign affiliates, and over time, these supplies may become more and more skill intensive. Extensive linkages with local firms represent one way in which techno-Geographical proximity to rich and rapidly developing countries are obviously an advantage to less developed countries in terms of attracting FDI. When Japanese companies invested abroad in order to reduce labour costs, they naturally chose locations in the region in order to minimize transaction costs associated with the decentralization of production chains. Later, other economic areas such as Hong Kong and Singapore have been added to the list of important sources of FDI in the region. This is an example of the "flying goose" model, with Japan being the lead goose.

South Africa is the economic superpower in Southern Africa, and South African firms invest in neighbouring countries, such as Mozambique. Mozambique offers investors business friendly economic policy, including the provision of high quality infrastructure in the Maputo corridor. These policies combined with a rich endowment of various natural resources, have attracted an impressive amount of FDI in recent years. However, the South African economy clearly lacks the dynamism and strength of, say, the Japanese economy in the 1960s, 70s, and 80s. This obviously places poor countries in Southern Africa at a disadvantage relative to poor countries in East Asia. While FDI is not needed to generate growth, one could argue that sustained growth requires flexible markets, with easy entry and exit of firms, and that foreign entry may play an important role in this respect.

Most Asian countries have been very protective of local markets. Even countries like Malaysia, that have encouraged and received FDI on a large scale, have discouraged foreign competition on the local market. Rigid markets and close ties between governments and favoured enterprises probably contributed to the financial and economic crisis in Asia. Opening up for foreign ownership and competition on local markets is one-step that may improve economic efficiency and reduce the danger for similar crises in the future. Indeed, this has been the response of South Korea in the aftermath of the crisis.

2.3 Impact of Foreign Direct Investment (FDI) on Host and Home Countries

FDI is very important for the development of a country, especially for developing economies. The experience of newly industrialized countries (NICs) shows that FDI has played an important role in their economic development. In the age of globalization with cross border flow of capital among nations, FDI becomes a key solution to reducing development gaps among nations. The rapid growth of multinational corporations (MNCs) has become the major driver for the process of FDI because they are looking everywhere in the globe as investment centre.

There may be more or less advantages and disadvantage in Foreign Direct Investment to both home countries and host countries. Potential benefits to host economies by encouraging FDI are;

(i) Foreign Firms bring superior technology; the extend of benefit to host countries depend on whether the technology spills over to domestic and other foreign-invested firms

(ii) Foreign investment increases competition in the host economy; the entry of a new firm in a non-tradable sector increase industry output and reduces the domestic price, leading to a net improvement in welfare.

(iii) Foreign investment typically results in increased domestic investment; in an analysis of panel data for 58 developing countries, Bosworth and Collins (1999) found that about half of each dollar of capital inflows take the form of FDI, there is a near one-for-one relationship between the FDI and domestic investment.

(iv) Foreign investment gives advantages in terms of export market access arising from economies of scale in foreign firms 'marketing or from their ability to gain market access abroad. Foreign firms can even act as a catalyst for unrelated domestic exporters. In an empirical analysis, the probability that a domestic plant will export was found to be positively correlated with proximity to multinational firms.

(v) Foreign investment can aid in bridging a host country's foreign exchange gap. Two gaps may exist in the economy: insufficient levels of saving to support capital accumulation to achieve a given growth target, and insufficient foreign exchange to purchase imports. Often investment requires imported inputs. If domestic saving are not sufficient, or face barriers in being converted to foreign exchange to acquire imports, they may not be able to guarantee

growth. Capital inflows help ensure that foreign exchange will be available to purchase imports for investment. (Kyaw Min Han, M Dev S-9, 2007)

The benefits of home countries are lower prices for consumer, create demand for export, cost advantages, new markets, exposure to other counties, international relations, creates new employment, new technology, and increases income. The cost of these home countries are national sovereignty and national defence and affect employment. Foreign enterprises by employing the nationals of developing countries provide employment. In the absence of this investment, these employment opportunities would not have been available to many developing countries.

Further, these employment opportunities are expected to be in relatively higher skill areas. FDI not only creates direct employment opportunities but also through backward and forward linkages, it is able generate indirect employment opportunities as well. It also promotes higher wages and relatively higher skilled jobs would receive higher wages due to the higher demand in local labour market.

On the other hand, the benefits of host countries can be calculated that are increase output, increase wages, increase employment, increase exports, increase tax revenues, realization of scale economies, provision of technical & managerial skills & of new technology, and weakening of power of domestic monopoly. The cost of the host countries are adverse impact on the host country's commodity terms of trade, decreased domestic saving, decreased domestic investment, stability in the balance of payment & the exchange rate, loss of control over domestic policy, establishment of local monopoly, inadequate attention to the development of local education and skills, and national sovereign and autonomy.

Entry of foreign enterprises in domestic market creates a competitive environment compelling national enterprises to compete with the foreign enterprises operating in the domestic market. This leads to higher efficiency and better products and services. The Consumer may have a wider choice. Growth in foreign direct investment (FDI) is perhaps the clearest sign of globalization in the past decade. The average annual growth rate of FDI has been 23 per cent since 1986, which is twice as much as that of trade. Most international investments take place within the OECD area. However, during the 1990s, and until the Asian financial crisis in 1997, the share of FDI hosted by countries in the developing world increased. Measured as a share of host country GDP, FDI flows to developing countries are typically greater than those to the developed world. Some people view the presence of multinational enterprises

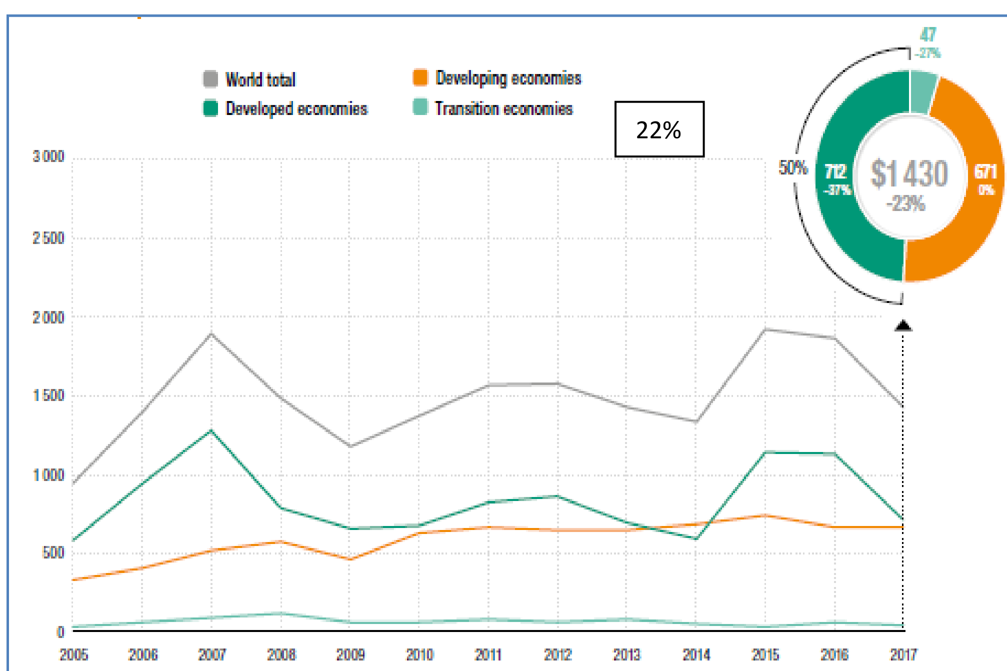
(MNEs) in poor countries as a threat to economic development. Others see FDI as a potential source of economic growth.

2.4 Global Trends of Foreign Direct Investment (FDI) Flows

Global foreign direct investment (FDI) flows fell by 23 per cent in 2017, to $1.43 trillion from a revised $1.87 trillion in 2016. The decline is in stark contrast to other macroeconomic variables, such as GDP and trade, which saw substantial improvement in 2017. A decrease in the value of net cross-border mergers and acquisitions (M&As) to$694 billion, from $887 billion in 2016, contributed to the decline. The value of announced green field investment – an indicator of future trends – also fell by 14 per cent, to $720 billion.FDI flows fell sharply in developed economies and economies in transition while those to developing economies remained stable. As a result, developing economies accounted for a growing share of global FDI inflows in 2017, absorbing 47 per cent of the total, compared with 36 per cent in 2016.

Each discounting the volatile financial flows, large one-off transactions and corporate restructurings that inflated FDI numbers in 2015 and 2016, the 2017 decline was still sizeable and part of a longer-term negative cycle.

Figure (2.1) FDI Flows, Global and by Group of Economies, 2005-2017 (Billions of dollars and per cent)

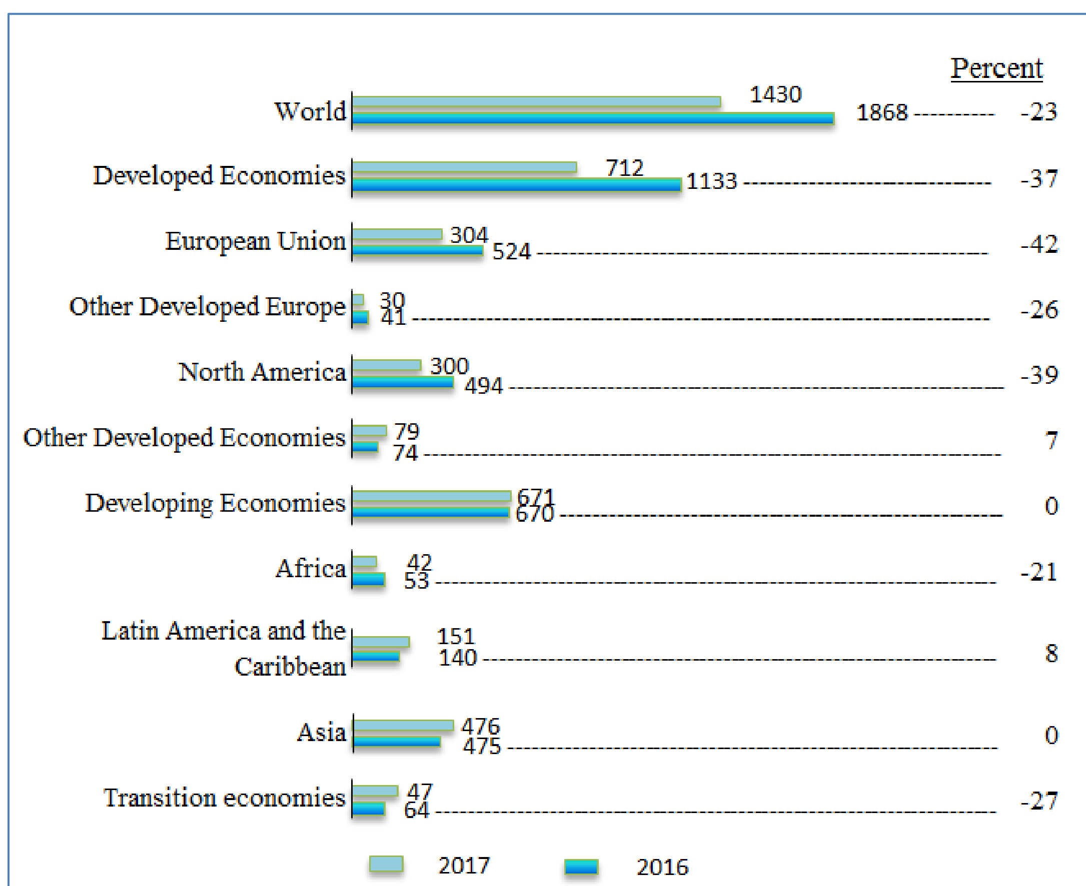


Source: UNCTAD, FDI/MNE database, 2018

Figure (2.1) illustrated Global foreign direct investment (FDI) flows fell by 23 per cent to $1.43 trillion. This is in stark contrast to the accelerated growth in GDP and trade. The fall was caused in part by a 22 per cent decrease in the value of cross-border mergers and acquisitions (M&As). But even discounting the large one-off deals and corporate restructurings that inflated FDI numbers in 2016, the 2017 decline remained significant. The value of announced Greenfield investment is an indicator of future trends, also decreased by 14 percent.FDI flows to developing economies remained stable at $671 billion, seeing no recovery following the 10 per cent drop in 2016.Inward FDI flows to developed economies fell sharply, by 37 per cent, to $712 billion. Cross-border registered a 29 per cent decrease, with fewer of the megadeals and corporate restructurings that shaped global investment patterns in 2016. The strong decrease in inflows was in large part the effect of a return to prior levels in the United Kingdom and the United States, after spikes in 2016. FDI flows to transition economies declined by 27 per cent, to $47 billion, the second lowest level since 2005. The decline reflects geopolitical uncertainties and sluggish investment in natural resources.

FDI flows to developed economies fell by one third to $712 billion (figure 2.2). The fall can be explained in part by a decline from relatively high inflows in the preceding year. Inflows to developed economies in 2015–2016 exceeded $1 trillion, mainly due to a surge in cross-border M&As and corporate configurations (i.e. changes in legal or ownership structures of multinational enterprises (MNEs), including tax inversions) (WIR16, WIR17). A significant reduction in the value of such transactions resulted in a decline of 40 per cent in flows in the United States (from $466 billion in 2015 and $457 billion in 2016to $275 billion in 2017). Similarly, the absence of the large megadeals that caused the anomalous peak in 2016 in FDI inflows in the United Kingdom caused a sharp fall of FDI in the country, to only $15 billion. In developed economies, while equity investment flows and intercompany loans recorded a fall, reinvested earnings rose by 26 per cent, accounting for half of FDI inflows. Reinvested earnings were buoyed by United States MNEs, in anticipation of a tax relief on repatriation of funds. FDI flows increased in other developed economies (7 per cent).

Figure (2.2) FDI Inflows among Developed Economy by Region, 2016-2017 (Billions of Dollars and per cent)



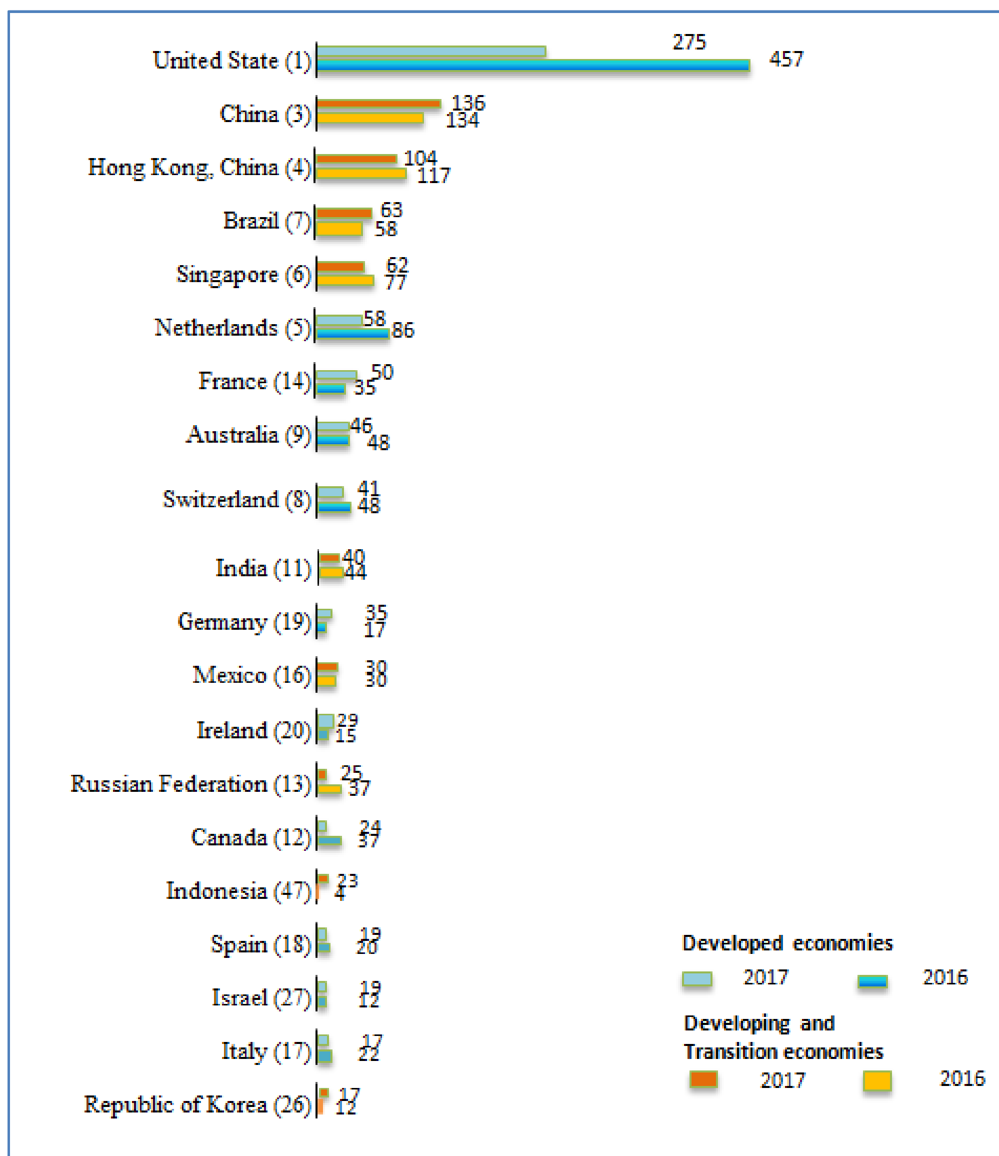
Source: UNCTAD Report, 2018

FDI inflows to developing economies remained close to their 2016 level, at $ 671 billion. FDI flows to developing Asia were stable at $476 billion. The modest increase in Latin America and the Caribbean (+8 per cent to $151 billion) compensated for the decline in Africa (–21 per cent to $42 billion). The slump in FDI flows to Africa was due largely to weak oil prices and lingering effects from the commodity bust, as flows contracted in commodity-exporting economies such as Egypt, Mozambique, the Congo, Nigeria and Angola. Foreign investment to South Africa also contracted, by 41 per cent. FDI inflows to diversified exporters, led by Ethiopia and Morocco, were relatively more resilient. Developing Asia regained its position as the largest FDI recipient region. Against the backdrop of a decline in worldwide FDI, its share in global inflows rose from 25 per cent in2016 to 33 per cent in 2017. The largest three recipients were China, Hong Kong (China) and Singapore. With reported inflows reaching an all-time high, China continued to be the largest FDI recipient among developing countries and the second largest in the world, behind

the United States. The flows of FDI from 2016-2017 of top 20 host economies show in Figure (2.3).

Figure (2.3) FDI Flows, Top Host Economies, 2016 and 2017 (Billions of Dollars)

(x) = 2016 ranking



Source: UNCTAD Report, 2018

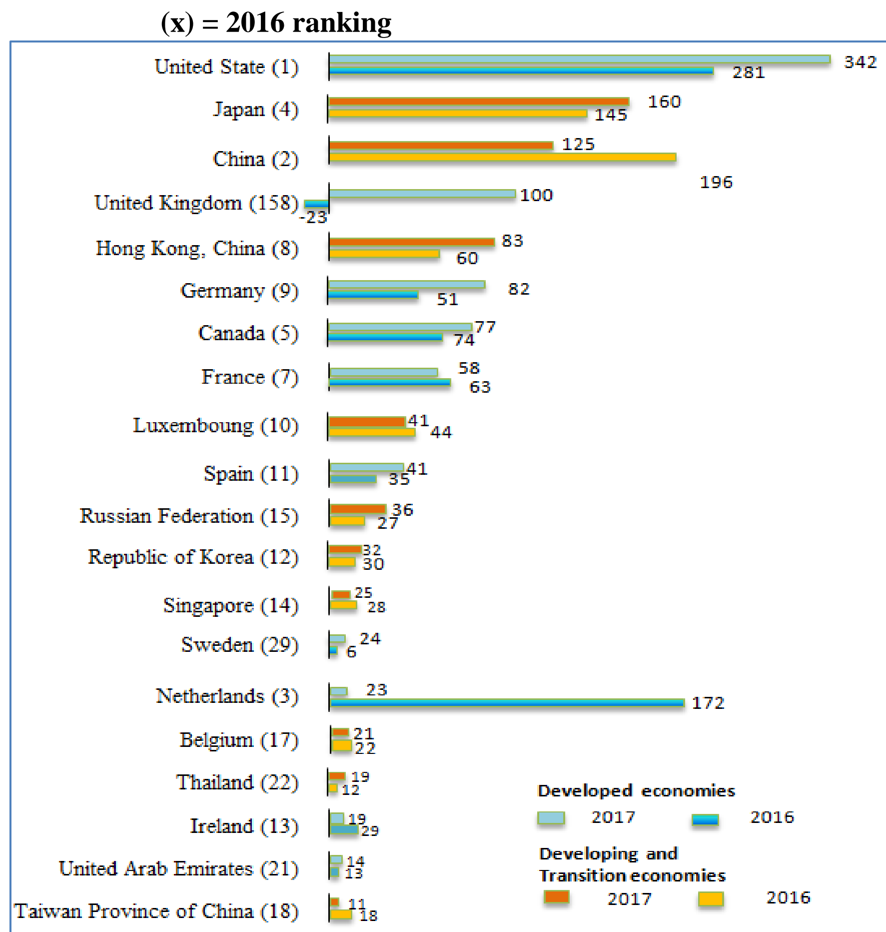
FDI flows to transition economies in South-East Europe and the Commonwealth of Independent States (CIS) declined by 27 percent in 2017, to $47billion, following the global trend. This constituted the second lowest level since 2005. Most of the decline was due to sluggish FDI flows to four major CIS economies: the Russian Federation, Kazakhstan, Azerbaijan and Ukraine.

As a result of these regional variations, the share of developed economies in world FDI flows as a whole decreased to 50 per cent of the total. Half of the top 10 host economies continue to be developing economies The United States remained the largest recipient of FDI, attracting $275 billion in inflows, followed by China, with record inflows of $136 billion despite an apparent slowdown in the first half of 2017.

Regarding to the outflows of FDI across the world, Multinational Enterprises (MNEs) from developed economies reduced their overseas investment activity only marginally. The flow of outward investment from developed economies declined by 3 per cent to $1 trillion in2017. Their share of global outward FDI flows was unchanged at 71 per cent. Flows from developing economies fell 6 per cent to $381 billion, while those from transition economies rose 59 per cent to $40 billion after being dragged down by the recession in 2014-2016. The outflows of FDI in Developed, Developing and transition economies show in Figure (2.4).

Figure (2.4) FDI Outflows of Developed, Developing and Transition Economies, 2016 and 2017(Billions of Dollars)

(x) = 2016 ranking



Source: UNCTAD Report, 2018

2.5 Reviews on Previous Studies

In the context of FDI, many scholars and researchers conducted on this fields related with FDI in various approaches. Moe Chit Kaung (2009) conducted research on Foreign Direct Investment in Vietnam. He found that inflow of FDI into Vietnam was contributed more than 10% of total investment. Its Contribution in GDP also increased to more than twice during the decade of 1996-2006. The share of FDI in industrial output has contributed nearly 50%. Thus Vietnam has easily entered into the international market. FDI has also contributed to the state revenue, receiving USD 1400 million in 2006. Moreover, FDI has created employment opportunities, and has generated many technicians and managers. Therefore FDI has largely benefited to national economy.

Vietnam has transformed from centralized economy to market oriented economy. WTO accession and Bilateral Trade Agreement put Vietnam in a frame to be manageable FDI. Vietnam has liberalized many FDI policies in which upgrading infrastructure are place on the top priorities. Moreover, Vietnamese government has attracted to FDI by various incentives. Therefore other developing countries can take successful ways to develop FDI flow in a short period.

Kyaw Min Han (2006) analysed on the impact of FDI and technology transfer on economic development based on India's experiences. His study revealed that today's liberalized economy and global structure of FDI along with technology transfer in India have been an outcome of the adjustment and alignment process of the Indian Government to the dynamics of the various domestic and international pressures and global competition since the 1900s. The rapid change and development in FDI and Technology Policies in India in the post 1991 are only the manifestation of the change processes of the past and the enhancement of the changes adopted in the past.

Khin Cho Cho (2007) studied on the Foreign Direct Investment and Economic Growth of Myanmar. This paper is to analyse the critical role of Foreign Direct Investment (FDI) and how to contribute the economic growth in Myanmar by comparing with ASEAN and dialogue partner countries, especially Japan and Korea from 1989 to 2004 and draw some lessons from other countries' experiences. In addition the paper discusses the possible ways to attract the FDI Flows, removing trade barriers and liberalizing existing laws, rules and regulations for FDI firms. Myanmar still has comparative advantages in natural resources and cheap labour force

contribute and essential role in attraction FDI among ASEAN countries. For more FDI flows to Myanmar, constructive and effective policy measures are urgently needed.

Khin Moe Myint (2012) studied on Foreign Direct Investment (FDI) in Myanmar (200-2001 to 2010-2011) based on the implementation of Myanmar Economy during the period from 2001 to 2010. The result shows that the level of FDI is still low in order to promote economic growth for Myanmar. Some other factors as Natural resources and Employment can promote FDI, thus the Myanmar government has to play the key role of employment promotion to attract investment from abroad. This is because the higher development of the region, especially member nations through FDI. In recent literatures, much attention has been drawn attention to the impact of FDI on economic growth in developing countries. FDI in Myanmar has less discouraged the economic growth of Myanmar over the study period.

An active search for information about FDI was obtained from internet search through Google search, World Investment Report and ASEAN Investment Report of UNCTAD, OECD Investment Policy Reviews and Investing in Vietnam, 2016.

Global flows of foreign direct investment fell by 23 per cent in 2017. Cross-border investment in developed and transition economies dropped sharply, while growth was near zero in developing economies. With only a very modest recovery predicted for 2018, this negative trend is a long-term concern for policymakers worldwide, especially for developing countries, where international investment is indispensable for sustainable industrial development.

This troubling global investment picture underscores the importance of a conducive global investment environment, characterized by open, transparent and non-discriminatory investment policies. The theme chapter of the report shows that over 100 countries have adopted industrial development strategies in recent years. New types of industrial policies have emerged, responding to the opportunities and challenges associated with a new industrial revolution.

The report presents options for investment policy tools in this new environment. I commend this year's World Investment Report as a timely contribution to an important debate in the international investment and development community.

We are at the dawn of a fourth industrial revolution, propelled by frontier technologies and robotisation advances that make production better, cheaper and

faster than ever before. This new industrial revolution offers enormous opportunities for economic growth and sustainable development with potential benefits on a scale that is difficult to imagine. New technologies promise possibilities of industrial upgrading and leapfrogging. Cheaper transportation and communication, coupled with more efficient logistics, can also help developing countries better link to global value chains. Some of the most advanced emerging economies are already on the verge of becoming global technological leaders in a number of industries. Yet, the new economic age and the accelerating pace of technological innovation could also result in serious economic disruption and more inequality.

Existing investment patterns, for instance, might go through profound and far reaching changes, in terms of both flows and content. Last year's World Investment Report highlighted the emerging structural impact of the digital economy on foreign direct investment.

In this context, developing countries, and least developed countries in particular, face considerable challenges. They range from structural constraints, such as the lack of adequate infrastructure and scarce access to finance, to strategic issues. Off shoring and relocation towards destinations offering cheaper domestic labour become less relevant in a world of increasingly automated manufacturing. At the same time, improving living conditions requires creating jobs, which in turn still relies heavily on manufacturing. Developing countries with small markets face additional pressure on their investment policies as companies increasingly look for investment locations offering the best conditions to deliver new and high-quality products rapidly, close to the customer and through flexible production processes.

Challenges are particularly pronounced in Africa. Despite a period of strong economic growth, the level of economic transformation has been low. The share of manufacturing in the GDP of African countries is small, and it has further declined or stagnated over the past decade. However, manufacturing has the potential of creating a large number of jobs in the formal sector and therefore raising living conditions.
Confronted with an altering global economic landscape and deep structural reconfiguration, governments around the globe have invigorated their industrial policies in recent years. There is a growing consensus that structural transformation does not occur by itself, but rather requires a proactive policy that facilitates a transition towards new sectors and activities with higher productivity and more value added, while fostering sustainable and inclusive development.

As they pursue multifaceted objectives, new industrial policies have become more complex and intertwined, wielding multiple instruments, from trade to education. Central to these industrial policies is foreign investment. Investment builds and upgrades industries. It connects to international markets. It also drives essential innovation and competitiveness. All in all, the current debate is less about whether governments should intervene, but rather how.

Industrial policies and accompanying investment policies need to revolve around a clearly articulated vision but, at the same time, they have to contain practical and detailed recommendations, a clear timeline for action and a division of responsibilities among the public and private sectors.

Against this background, the World Investment Report 2018 aims to provide a better understanding of the interaction between new industrial policies and investment policies. It provides an overview of industrial policy models – based on an inventory of industrial policies adopted by more than 100 countries over the last decade – and the role of investment policies within each model. The Report illustrates how investment policy instruments are used differently across various models and suggests ways to improve the impact of industrial policy through more effective and efficient investment policies. Finally, the Report offers recommendations to update existing investment policy instruments, including investment incentives, special economic zones, investment facilitation and foreign investment screening mechanisms.

Building from this Report, UNCTAD will host a discussion of the interface between industrial and investment policies at its 6th World Investment Forum, which will take place in Geneva on 22–26 October 2018.Together, let us work towards finding solutions to ensure that economic change does not create new hardships, but benefits that are widely shared and lead to a better life for all.

CHAPTER III
OVERVIEW OF VIETNAM'S FDI POLICIES

3.1 Brief Overview of Vietnam Economy

Vietnam is located on the Eastern coast of the South-east Asian Indochinese Peninsula, and is bordered by China in the North, Laos and Cambodia in the West, and the East Sea in the East. The total area of Vietnam is 331,221 km^2, and the coast line is along 3,260 km. Its climate is tropical in south, and monsoonal in North with hot, rainy season (mid-May to mid-September), and warm, dry season (mid-October to mid-March) (Moe Chit Khaing, 2009).

Total population of Vietnam reached 91.1 million in 2015, 92.7 million in 2016 presenting a steady increase of over 1% per year on average in the period 2011-2016 and is estimated to increase to 98 million by 2020. Vietnam enjoys what is known as the "golden population structure", which means for every two people or more working, there is only one dependent person. This demographic bonus provides Vietnam with a unique socio-economic development opportunity to take advantage of the young labor force and push its economic growth. In 2015, approximately 64% of the population resides in rural areas, while most of the remainder resides in Hanoi, Ho Chi Minh City, Hai Phong, Da Nang and Can Tho.

Vietnam is a multi-nationality country with 54 ethnic groups, of which 86% are Viet (Kinh) and the remaining 14% are ethnic minorities, for instance the Tay, Thai, Hoa (Chinese), Khmer, Hmong and others(2016, Investing in Vietnam).Ninety percent of Vietnamese settled in the Red River Delta thousands of years ago. Chinese ethnic, the largest minority group, has settled in Vietnam since the last 300 years, and live in the cities and provincial towns. Buddhism is the principal region. There are also Taoist, Roman Catholic, indigenous beliefs, Muslim, Protestant, Cao Dai, and Hoa Hao. As language, Vietnamese is an official language. Other languages are Chinese, English, French, Khmer, and other tribal languages (Mon-Khmer and Malayo-Polynesian).

The Education in Vietnam is a state-run system of public and private education run by the Ministry of Education and Training. It is divided into five levels: preschool, primary school, secondary school, high school and higher education. The main Education goal in Vietnam is improving "people's general knowledge, training quality human resources, and nutrition and fostering talent". Estimate national budget used in Vietnam for education was 6.3%. The Gross Domestic Product (GDP) per capital in Vietnam was last recorded at 1834.65 $ in 2017.The GDP per capital in Vietnam is equivalent to 15% of the World's average.

Vietnam's economy was only agrarian and subsistence until French colonization (1858-1954). However, French colonizers developed the country, with the specialization of the South for agricultural production and the north for manufacturing. As a result, coal from the North and rice from the South were exported, importing manufactured goods from French.

In 1954, the North and South were divided politically. The different economic ideologies were adopted communist in the north and capitalist in the South. Second Indochina War (1954-1975) seriously destructed the economy of Vietnam with the 1.5 million military and civilian deaths and 1 million refugees, including professionals, technicians, and skilled workers. Unifying the North and South in 1975, Vietnam had adopted a planned economy between 1976 and 1986. In 1977, Vietnam joined United Nations. In 1986, Vietnam launched Doi Moi policy with 3 main pillars:

(i) Transition from centralized to market-oriented economy

(ii) Transforming from single-sector (state owned) to multi-sector economy, encouraging participation of private sector.

(iii) Transforming from closed to open economy, developing trade and investment relations with other countries.

Vietnam joined ASEAN in 1995. During the 1997Asian Financial Crisis, there was a recession in Vietnam. GDP growth fell to 6% in 1998 and 5% in 1999. However, Vietnam's recession was not serious than other Asian countries. From 2000, its economy has recovered and its economic growth sustained. Vietnam is considered as one of the fastest and relatively stable-growing economies in Asia over the past years. The country was seen to have weathered the global financial crisis well with encouraging macro-economic indicators observed in 2009 and 2010.

It is obvious that the effort of the Vietnamese Government in boosting international economic integration through the participation into many free trade

agreements/communities such as the World Trade Organization (WTO), the Eurasian Economic Union, the European Union, the ASEAN Economic Community (AEC) and the Trans-Pacific Partnership (TPP) in the late 2010s. This led to a significantly increasing FDI year on year. With a stable political environment, low labor and operating cost, as well as promising economic prospects, Vietnam presents a dynamic market and an attractive destination for both foreign and private investors to participate in the economy. Vietnam officially became the WTO's 150th member on 11 January 2007. WTO accession has created both opportunities and challenges for Vietnam to become an attractive investment destination.

In addition, Vietnam's participation in the ASEAN Economic Community (AEC), as well as the Trans-Pacific Partnerships Agreement (TPP) and the conclusion of several free-trade agreements (FTAs) such as EU-Vietnam FTA (EVFTA) and Vietnam – Korea FTA has shown the nation's efforts to further integrate into the world economy. After Brexit, Vietnam could be heavily affected its economy including immediate or short-term and long-term impact among Asian emerging countries. Regarding short-term impact, Vietnam and the UK are affected as the EVFTA is not being applicable between two countries. Thus, the sufficient impact on Vietnam's economy due to minimal trade volume in short-term.In terms of long-term impact, the EU demand for imported products from ASEAN would limit by Pound and Euro currency decreased in value after Brexit. This will be affecting the Vietnam economy where the EU has become one of the largest trading partners of Vietnam. Vietnam's real GDP achieved an average growth rate of 7.3% in period of 2005-2009 before it declined to 5.3% in 2009 due to the global financial crisis which started in 2008. The recovery has been witnessed since 2012, with GDP growth gradually increasing and reaching 6% in 2014. Despite the global trade recession and China's economic growth slowing down, which impacted most parts of Southeast Asia, Vietnam proved to be resilient to the turbulences and still scored a growth rate of 6.7% in 2015. (Cleine .W., 2016).

Vietnam's economic growth prospects are forecasted to remain positive in the forth coming years. According to EIU report 2018, growth rate is forecast to accelerate at a rate of 6.8% - 6.9% during the period of 2016-2017. The country's economic growth will be underpinned by rising consumption, increased foreign direct investment, robust export performance, deeper integration into global economy and improvements in regulation system. According to the forecast by Price water house

Coopers in February 2017, Vietnam may be the fastest-growing of the world's economies, with a potential annual GDP growth rate of about 5.1%, which would make its economy the 20th –largest in the world by 2050.

3.2 State Management on Foreign Investment

State Management of foreign investment includes:

- Developing strategies, master plan, plans and polices on foreign investment
- Promulgating law and regulations on foreign investment activities
- Provide guide to ministries and local authorities with respect to the performance of activities relating to foreign investment.
- Issuing and revoking investment licenses
- Determining the cooperation between State bodies in relation to managing foreign investment activities
- Inspecting, monitoring and supervising foreign investment activities.

The government shall uniformly carry out State management of foreign investment in Vietnam by issuing investment license to people's committees of provinces or cities under central authority based on master plan, socio-economic development, nature and scale of investment projects. Vietnam Government also provides issuance of investment license for industrial zones and export processing zones.

The Ministry of Planning and Investment shall be the body in charge of State management of foreign investment and shall assist the Government in managing foreign investment activities in Vietnam. The Ministry of Planning and Investment has following powers:

- Preside over the preparation and submission to the Government of strategies and plans to attract foreign investment
- Prepare and co-ordinate lists of investment projects
- Receive investment applications and evaluate the investment projects
- Act as a co-coordinating body to deal with problems arising during the formation
- Evaluate social and economic effects on foreign activities

Inspect and supervise the implementation of foreign activities in accordance with the Vietnam laws.

3.3 Advantages and Disadvantages of Foreign Direct Investment

(a) Advantages of FDI

Foreign companies which are market oriented, sets-up business ventures in order to serve the local market. Their goal is always directed towards serving the unexploited market. The market sizes, growth opportunities, purchasing power, degree of development in the host country are always the key factors for deciding the FDI destinations.

The bottom line is that the country which possesses larger market, greater opportunities for growth, has the highest chance of economic development-and will definitely attract more and more FDI.

The degree of availability of different sources including the land, labor and natural resources is always the key to attract more and more investors. One of the major advantages of company's get while they invest in China is its availability of all kinds of resources. The most significant one is the human resources.

It is always the fact that availability of physical infrastructure greatly influences the decision of investment particularly in a foreign land. It is a great advantage for a company to go for investment in a place and country which is very reach in infrastructural development. The more highways, railways and interior transport waterways are adjusted according to the size of host province, the more FDI inflows.

In the process of attracting more FDI adopted a more transparent and suitable business environment and regulatory framework. That provides the investor a great deal of advantages and makes them feel secure to put their money (Bose .T.K., 2012).

(b) Disadvantages of FDI

In spite of having huge advantage and also considered to be the one of the most perfect destination for foreign investors, it still has some areas of disadvantages for investors which are required to be addressed and certainly needed to be improved. These possesses a very low per capita income of people. The production capability is increasing but having a low per capita income makes periodical saturation in the country and makes life difficult for companies. Disadvantages in terms of technology gaps and lack of labor qualification in some areas will also need to improve. Another major disadvantage is unequal investments in different sectors. Most noticeably FDI considered as a huge market but a major portion of that is a lower and middle class

person who still suffers from budget shortage. The infrastructure of the country also needs to be improved a lot and already it is under huge strain. There are also problems exists in the power demand shortfall, port traffic capacity mismatch, poor road conditions deal with an inefficient and sometimes still slow-moving bureaucracy. The huge market in India is an advantage but it is also very diverse in nature (Bose .T.K., 2012).

3.4 Pattern of Foreign Direct Investment (FDI) Flows

Japanese companies began investing in Vietnam with the first wave of FDI, and rank third in terms of approved foreign investment projects. A Japan Bank for International Cooperation (JBIC), survey reported that since 2006, Japanese companies seeking potential investment markets over next one to three years have ranked Vietnam the third most promising investment locale, behind China and India. According to the survey, Vietnam's strong points are:

(i) Its stable government and society
(ii) The size of the market and growth potential
(iii) It's cheap and abundant labor force. The country's favorable balance appears to be appreciated.

Japanese investors typically enter Vietnam's market by investing in export-processing industries, but some have entered Vietnam targeting domestic sales, securing majority shares of the market. Japanese producers of two-wheeled vehicles (70% of market share a total of locally produced vehicles and imported vehicles) and instant noodles (65% of market share) are two main cases. These investors penetrated the Vietnamese market during the first wave of foreign investment in the early 1990's and their success was the result of steady commitment.

Table (3.1) Approved FDI Projects by Main Investors Countries (2008-1014)

Countries	Amount (%)	Amount (%)
	2008	2014
South Korea	2.0	14.93
Japan	7.6	14.77
Singapore	4.5	13.03
Taiwan	8.9	11.27
British Virgin Islands	4.1	7.12
Hong Kong	0.4	6.17
US	1.5	4.35
Malaysia	15.0	4.28
China	-	3.16
Thailand	4.0	2.67

Source: Economic Review, 2015

FDI Projects and Amount by main investment of each country show in Table (3.1). Among these countries, Japan is the highest investment amount and projects country in 2008.Regarding the sources of FDI, most of the FDI inflows into Vietnam are originated from Asian countries. In 2014, the top 10 countries of origin of inward FDI in Vietnam for the period 1988-2014.Among these countries, Korea accounted for the largest share of FDI inflows. Its cumulatively registered capital amounted to US$ 37.7 billion, followed by Japan with US$ 37.3 billion and Singapore with US$ 32.9 billion. The geographic proximity between Vietnam and these Asian countries may be one of the reasons for the large proportion of FDI inflows coming from Asia. In addition, multinational corporations (MNCs) of Asian countries, typically tend to consider developing countries as their export production bases. They usually relocate their production capacities into developing countries for reducing production costs. With a population of nearly 91million people, Vietnam is naturally endowed with a large labor resource and has a comparative advantage in labor-intensive product, making it appealing to MNCs searching for locations with low production costs.

All sixty for cities and towns in Vietnam have received FDI. But, the distribution of FDI across provinces is uneven. In the South East region, Ho Chi Minh City and its neighboring towns occupy the largest share of FDI. South East region accounted for 62% of total project and 54% of total registered capital. This region attains the largest shares of FDI because of its rich natural resources and faster

institutional reforms (on line system) of the local government. In the North area, Hanoi and neighboring provinces also account for the most FDI share. The share of other regions takes only a small proportion of total FDI.The capital flows into urban areas especially Ho Chi Min City and Hanoi are two main economic hubs over the country and others province also provide in FDI respectively. Moreover, the local governments have also attracted to receive the FDI inflow competitively. The distribution of FDI by region and province in Vietnam shows in Table (3.2).

Table (3.2) Foreign Direct Investment Projects Licensed Region (1988 to 2006)

Regions	Number of Projects	Registered Capital (Million USD)
Red river delta	1781	20241.0
North East	358	2445.2
North West	27	115.4
North Central Coast	125	1472.6
South Central Coast	349	5275.8
Central Highlands	113	1041.3
South East	5126	42337.2
River Delta	334	2315.3
Petroleum & Gas	53	3004.4
Total	**8266**	**78241.2**

Source: Ministry of Planning and Investment (Vietnam)

3.5 Changes of Foreign Direct Investment (FDI) Policy in Different Waves

Vietnam has been the focus of attention as a target of FDI in recent years and a second surge of investment it's occurring. FDI into Vietnam is now directed not only at export processing industries, but also has shifted fundamentally into sectors oriented towards domestic demand. Vietnam government lifted its ban on foreign investment in the retail distribution sector, and this has stimulated interest in Vietnam as a consumer market. There were three different waves of changes of FDI policy in Vietnam included the following;

(i) First Wave of FDI since Doi Moi (1986-1994)

(ii) Second Wave of FDI (1995-2009)

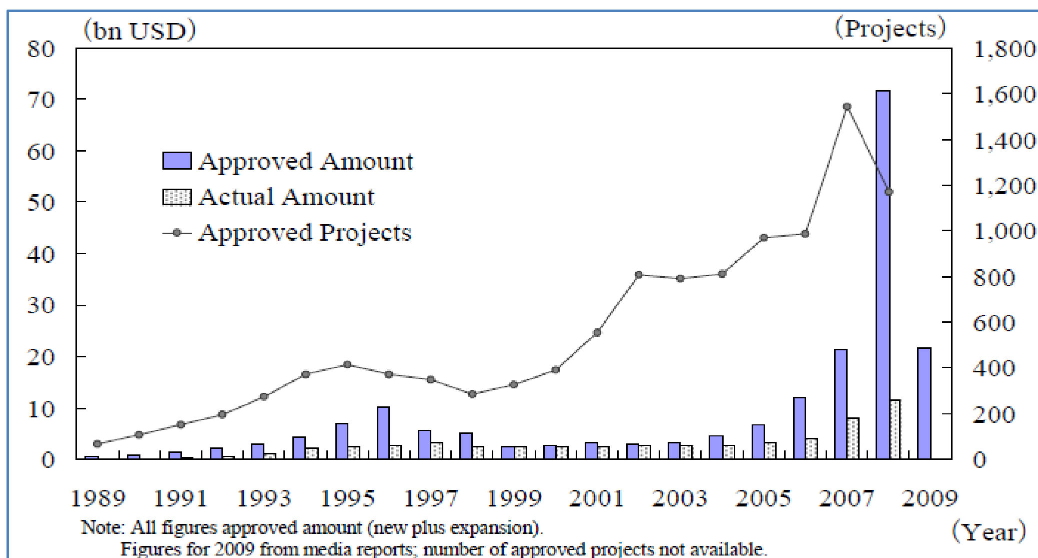
(iii) Third Wave of FDI from 2010 onwards

(i) First Wave of FDI since Doi Moi (1986-1994)

Significantly FDI into Vietnam dates back to the mid-1990's.Until the early 1980's, the Vietnamese economy was centrally planned, through some parts were liberalized under the New Economic Policy (NEP). However inflation took hold and a period of chaos followed as official made decisions inconsistent with policy, including strengthening control of the planned economy. These economies led to the adoption of a rigorous economic reform program adopted at the 1986 Communist Party Congress called Doi Moi. Under the Doi Moi, a broad array of reforms –liberalized production, distribution, and price, reform of state-owned enterprises, and private sector promotion- was launched in 1988 and laws on investment was also promulgated at the same year. A structure for receiving FDI was introduced and the reform measures gradually bore fruit, and FDI increased from the early 1990's as the economy got on a stable trajectory. This was Vietnam first wave of foreign investment.

FDI into Vietnam plummeted when the Asian financial crisis occurred, but the amount of approved FDI once again started to rise in 2004. Large-scale foreign investment projects increased in 2008, hitting a record high. In 2009, foreign investment plummeted approximately 70% from the previous year: the plunge was due to external environment events, as countries and regions the world over were hit by the downturn, and it appears unlikely that FDI into Vietnam had once again undergone a tidal change. Direct Investment Approved Amounts, Projects in Vietnam show in figure (3.1). (Economic Review 2010, Shifting FDI Trends in Vietnam)

Figure (3.1) Direct Investment Approved Amounts, Projects

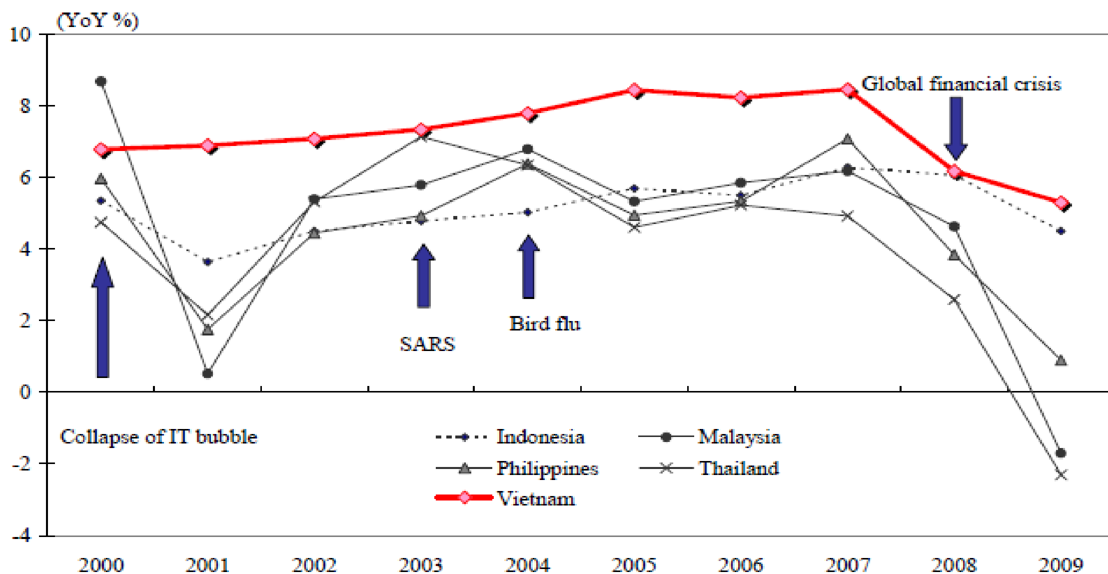


Source: Economic Review, 2010

(ii) Second Wave of FDI (1995-2009)

FDI into Vietnam surged again starting in 2004, as a second wave of investment began, triggered by the country's continued high growth potential. Vietnam's real GDP growth rate had been pulled by firm domestic demand and exports since the Asian currency crisis, averaging 7% growth see in figure 3.2. Even in 2009, as countries around the world fell into recession following the global financial crisis, Vietnam posted 5.3% growth, surpassing Indonesia's 4.5% pace. Though exports weakened because of declining demand around the world, government subsidized bank loan interest rate up to 4% and also actively encouraged foreign investment, resulting in firm inflows of FDI. Enterprise Law and Common Investment Law were enacted in 2006 based on domestic laws to become a standard of international Laws. Vietnam becomes a member of WTO in 2007. The real GDP growths of Vietnam from 2000-2009 is shown in Figure (3.2).

Figure (3.2) Real GDP Growth Rates of Asian Countries



Source: Economic Review, 2010

(iii) Third Wave of FDI from 2010 Onwards

The presence of foreign corporations is growing every year in Vietnam**.** Promoting FDI also propels a country's growth from a 'soft' perspective as well by encouraging the acquisition of advanced technologies from abroad and raising education levels. FDI also contribute to stable financing of the current account balance and Vietnam depends on imports of machinery parts as well as gasoline and petroleum products. FDI is clearly critical for Vietnam's economy.

In 2005, Vietnam passed the Unified Investment law and Unified Enterprise law. The Unified Investment law is to bring more favorable conditions to investors. The following factors are involved in this law:

(i) Bringing equal treatment to foreign and domestic investors (according to the rule of non-discrimination under WTO)

(ii) Decentralizing the power to lower government agencies and provinces (more than before)

(iii) Broadening the freedom in making investment

(iv) Going in line with international commitments

(v) Improving the capacity of state management on investment.

Unified Enterprise Law is to create a better business environment by bringing equal treatment for firms regardless of ownership (state, private, foreign), simplifying, and unifying the registration and licensing producer. Moreover, this law allows firm owners freely in setting up business. In 2014, the National Assembly of Vietnam adopted two new laws of great importance to investors: the new Law on Investment and the Law on Enterprises which will take effect from 1 July 2015.

Law on Foreign Investment specified into (4) types of forms for foreign investors:

(i) A Business Cooperation Contract (BCC) includes two or more parties (a foreign investor and a Vietnamese partner) which cooperate such as in the form of profit sharing, product sharing. Parties have to implement a project and produce their goods and services within a period of contract. BCC do not involve the creation of legal entity and they are more flexible than joint ventures and 100% foreign- owned enterprise.

(ii) A joint venture is an enterprise established on the basic of a contract signed by one or more Vietnamese parties and one or more foreign parties. It has to be carried out in the form of Limited Liability Company and is a legal entity consistent with law of Vietnam.

(iii) A 100 percent foreign owned enterprise is an enterprise owned by a foreign investor. It is a legal entity under Vietnamese law.

(iv) Other forms of FDI include build-operate-transfer (BOT) and build-transfer (BT).

Foreign investors are more prefered100 percent foreign-owned enterprises to join ventures.

Changes of Corporate Income Tax Relating to FDI: The Vietnamese taxation system has undergone many major transformations that include major changes in Corporate Income Tax, Value Added Tax, Foreign Contractor Tax and Personal Income Tax. The changes generally occur frequently, however, the enforcement mechanism as well as the ruling process is often limited in capacity.

The main categories of tax imposed in Vietnam are as follow:

- Corporate Income Tax(CIT)
- Value Added Tax(VAT)
- Personal Income Tax(PIT)
- Foreign Contractor Tax(FCT)
- Special Sales Tax(SST)
- Import and Export Duties(IED)

Besides, other taxes may apply to certain businesses:

- Natural Resource Tax
- Property Tax and
- Environmental Protection Tax

All taxes are national taxes and administrated locally. There are no local, municipal or provincial taxes in Vietnam. During the period, the first phase of the full-fledged tax reform was implemented. Various tax laws were enforced such as Law on import-export taxes in 1988, Law on turnover tax, Law on special consumption tax and Law on profit tax in 1990 and so on.

One of the objectives of the tax reform was to mitigate discriminatory treatments between economic sectors. State-owned enterprises (SOEs) were imposed on such revenue regulations as regulations on profit sharing, price differences, and so on. Non-State enterprises were levied Registration tax, Enterprise tax, Excise tax, Enterprise profit tax, etc. Moreover, centrally controlled tax administration system was established, which covered all economic sectors. Owing to these reforms, transparency of tax system was increased. A series of reform contributed to Vietnamese high economic growth in the 1990s. Although SOEs had occupied large share of value-add, foreign direct invested enterprises and private enterprises have grown rapidly. Tax revenue in 1995 increased as five times as that in 1991. However, there still remained discriminatory treatments after the first phase of tax reform.

These discriminatory features of tax system raised distortions among economic sectors and industries. To remedy these problems and to enhance conformity with international norm, the second phase of tax reform was implemented in the late-1990s. The most important task of the second phase reform was to reform Turnover tax and Profit tax. Turnover tax was replaced by Value Added Tax and Profit tax was also replaced by Corporate Income Tax. Although the second phase of reform improved greatly Vietnamese tax system, there remained some flaws.

The government reformed VAT and CIT again in 2004. Vietnamese government is planning now to carry out the third phase of full-fledged tax reform towards 2010. CIT in Vietnam was reformed in third phase. The share of CIT revenue in total tax revenue is around 25% in recent years, which is largest revenue next to VAT. Vietnam has to reduce its dependence on import/export duties as a revenue source in the process to join in the WTO. CIT should not become impediment to stimulating both domestic and foreign investments. CIT as well as VAT will be more and more important as a revenue raising device.

CHAPTER IV
OVERVIEW ON MYANMAR'S FDI POLICIES

4.1 Brief Overview of Myanmar Economy

Myanmar is the largest country in mainland Southeast Asia. It has a total land 676577 square kilometre (261228 sq. miles). It is twice the size of Vietnam and more than a quarter larger than Thailand. There are three forest covered mountain ranges running from north to south. These mountain Chains divide the Country in to three major river systems. Fertile cultivable lands exist mainly along the valleys between the mountain chains and the delta region. Myanmar has a monsoon climate with three main seasons. The hottest period is between February and May. The rainy season is generally from May to October, giving way to dry, cooler weather from October to February.

Myanmar divided into 7 States, 7 Regions and 1 Union Territory. The population of Myanmar from recent censes is indicated at 51.48 million according to the census of 2014. Nearly 52 million of which 90% profess Theravada Buddhism, 4% Christianity, 4% Islam, 1% Hinduism, and the remaining 1% consists of Mahayana Buddhism, Vajrayana Buddhism and Animism. Male and Female are 48.2% and 51.8% in the total population. Literacy rate is 89.5 % and labour forces are 67% (15-64 years old). It is the 25th most popular country in the world in 2014. For every 100 persons in Myanmar, 70% live in rural areas and 30% live in urban areas. Buddhism is the principal region. There are also Christian, Muslim, Hein du and Nath. As language, Burmese is official language and other languages are Chinese, English, India and ethnic languages.

There are more than 135 different ethnic groups in Myanmar, each with its own history, culture and language. Myanmar is an extremely ethnically diverse nation with 135 distinct ethnic groups officially recognized by the Burmese government. These are grouped into eight "major national ethnic races": Bamar, Chin, Kachin, Kayin, Kayah, Mon, Rakhine, Shan.

The Education in Myanmar is a state-run system of public and private education run by the Ministry of Education. There are primary, lower secondary and upper secondary. The government has currently spent 1.9 percent of Gross Domestic Product (GDP) in education through the National Education Strategic Plan 2016-21. According to the 2014 census, the average adult literacy rate (15 years and above) was 89.52 percent (males: 92.6 percent, females: 86.9 percent) in 2014-15, with the baseline target being 93 percent by 2021.

The Gross Domestic Product per capita in Myanmar was last recorded at 5591.60 US dollars in 2017, when adjusted by purchasing power parity (PPP). The GDP per Capita, in Myanmar, when adjusted by Purchasing Power Parity is equivalent to 31 percent of the world's average. GDP per capita PPP in Myanmar averaged 2443.09 USD from 1990 until 2017, reaching an all-time high of 5591.60 USD in 2017 and a record low of 728 USD in 1991.

Myanmar’s economic structure has not yet improved significantly comparing with neighbouring countries and economy was still plugged with unstable investment, trade and banking policies and uncertain governance. The contribution to GDP by agriculture accounted for 45-50% while manufacturing sector accounted for 15-20%, trade and services sector accounted for 35-40% respectively. The comparison of sectorial changes in economy of 1995-1996 to 2010-2011 is shown in table 4.1. Industry sector composition has change to 24.3% in 2010-2011 from 15.6% in 1995-1996 and it was affected by the economic sanction in 2003 and decrease to 15.3% in 2005-2006.

Table (4.1) Contribution of Sectorial Share in GDP (Percent)

Sectors	1995-1996	2000-2001	2005-2006	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017
Agriculture	45	42.8	50	36.8	32.5	30.6	29.5	27.8	26.8	25.5
Industry	15.6	17.7	15.3	26.5	31.3	32.4	32.4	34.5	34.5	35
Services	39.4	39.5	34.7	36.7	36.2	37	38.1	37.7	38.7	39.5
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: ADB, 2011 and Ministry of Planning and Finance

According to table (4.1), Myanmar GDP change from depend on Agriculture to Services sector was very small percent then still depend on Agriculture sector.

Between the years 1995-1996, Agriculture sector is the highest contribution sector of country GDP according to table (4.1). Although the Agriculture sector was slowly decreasing starting from year 2010-2015, it was not significantly changed from Agriculture to other sector. The contribution of Industrial sector in GDP increased annually but the services sector contribution was stable in every year.

Myanmar's economy has continuously grown at approximately 7% since 2012. According to the ADB report 2017, the country achieved a GDP growth rate of 5.9% in 2016 and is set to achieve 7.7% in 2017 and 8% in 2018 (ADB, 2017). Myanmar is committed to provide a secure, accessible and conductive environment for both foreign and Myanmar citizen investors. The legal framework for company registration and investment has been increasingly improved. Most of the newly independent third world countries achieve their rapid growth and alter the economic structure through industrialization by using consistent and reinforced economic policy. Industrialization can only enhance the economic development and employment of a country. Also neighbouring ASEAN countries have changed their economic structure by emphasizing on industry sector. The comparison of neighbouring countries of GDP structure is shown in Table (4.2).

Table (4.2) Comparison of Sectorial Share in GDP of Neighbouring Countries

(Percent)

Country	Agriculture				Industry				Services			
	1990	2000	2009	2017	1990	2000	2009	2017	1990	2000	2009	2017
Myanmar	49.0	42.8	39.9	25.5	12.8	17.7	22.6	35.0	38.2	39.5	37.5	39.5
Cambodia	53.6	38.1	28.4	24.4	11.2	21.7	22.5	31.6	33.2	40.2	42.1	44.0
Lao	61.2	51.7	34.5	27.3	14.5	22.7	23.3	28.5	24.3	25.6	42.2	44.2
Vietnam	42.7	23.4	17.6	18.1	26.3	35.7	41.6	36.4	31.0	41.0	40.8	45.5
Thailand	12.2	9.9	8.8	8.9	40.9	44.5	48.0	35.9	46.9	45.7	43.2	55.2

Source: ADB, 2018

Most of the independent third world countries achieves their economy through industrialization by using stable and reinforced economic policy. Industrialization can only enhanced the economic development and employment of a country. According to

Table (4.2), Cambodia, Laos, Vietnam and Thailand changed their GDP significantly from Agriculture sector to Services sector and but Myanmar has still remained in Agriculture sector. In 2017, Myanmar also changed their GDP from agriculture sector to services sector.

4.2 Changes of Foreign Direct Investment (FDI) Laws in Myanmar

Regarding FDI of Vietnam, in 1986, upon the FDI position of Vietnam, an important attitude has been taken by the changes in government policy. Depending upon the thrust and direction of the policies at different time period, one can identify four distinct phases in the evolution of the policies. The phases are:

(i) First Phase – (1988-2012)

(ii) Second Phase – (2012-2016)

(iii) Third Phase – (2016 onwards).

4.2.1 First Phase of FDI Law from 1988-2012

Myanmar government enacted Foreign Investment Law (FIL) in 1988. There are three phase of FDI law in Myanmar. The law permits foreign investment and give an opportunity to foreign companies to enjoy up to 100 percent ownership and investment from a domestic private sector. Myanmar Citizen Investment Law (MCIL) was enacted in 1994. Along with these opportunities, joint ventures can be undertaken with either a private company or a state-owned enterprise. As a result, inflow of FDI surged until the middle of 1996 but dropped sharply after 1997 partly due to the Asian economic crisis and due to sanctions imposed on Myanmar by Western countries.

The Revised FDI law includes a separate chapter addressing a previous uncertain area of land rights for foreigners and foreign companies. In prior years, foreigners and foreign companies could not lawfully hold land rights in fee simple or enter into leasehold for more than one year. The Revised FDI law allows foreigners and foreign companies to obtain leasehold of real property for thirty years, with two extensions of fifteen years each, depending upon the size of the investment. Foreign companies will be obligated to increase their local work force on the basis of an increase percentage of over time. Within five years, 25% of the employees of foreign companies must be Myanmar citizens. These percentages increase to 50% after 10 years and 75% after 15 years.

4.2.2 Second Phase of FDI Law from 2012-2016

Myanmar open the door and welcomes foreign companies to invest in Myanmar. A pro-foreign investment law bill is to replace the dated foreign investment law in Myanmar and re-enacted in 2012 by president U Thein Sein (A new government of Democratic Governance). The present FIL allows investors income-tax exemption for five years from the time a business is set up. Private firm that operate state-owned business under the BOT system and manufacturers of beverages and cigarettes will benefit the most from the law. The Myanmar Special Economic Zone Law was enacted in 2014, and its implementing Rules were published in 2015. The law has paved the way for Special Economic Zones (*SEZ) in Myanmar*. According to these SEZ law, that investors could enjoy the following incentive as shown in table (4.3).

There are currently three SEZs in development: Kyauk Phyu in Rakhine State, Dawei in the Thanintharyi Region and the Thilawa in Yangon Region. In order to carry out the management, administration and supervision works in the relevant Special Economic Zone, the Central Body, Central Working Body and Management Committee was formed under the SEZ Law. Free zone is mainly focused on export-oriented markets and includes manufacturing, transportation, and wholesale areas that are entitled to custom duty and other taxes exemption relating to the goods in the SEZs and the goods imported to this Zone. Promotion Zones are mainly based on the domestic market and the market in SEZs.

From the point of view of economic activities of foreign companies, FDI will be concentrated on the following destinations: Yangon, Mandalay, Bago, and Special Economic Zone (SEZ) such as Thilawa, Dawei and Kyaukphyu and towns along the Greater Mekong Sub region (GMS) East-West Economic Corridor. Yangon and Mandalay, which are first and second cities in terms of population and accumulation of companies, continue to attract new investment.

It is highly likely that economic activity in Yangon will spread out to Bago and Thilawa SEZ. The other attractive area is the border area which could be connected to Thailand by road. As the condition of the GSM East-West Economic Corridor is improved and labour cost in Thailand rises, labour-intensive industry would be further relocated to the Myanmar side.

Table (4.3) **Comparison of Free Zones and Promotion Zones**

FREE ZONES	PROMOTION ZONES
- Income tax exemption for the first seven years	- Income tax exemption for the first five years
- After seven years, 50% relief of current legal income tax rates for five years	- After five years, 50% relief of current legal income tax rates for the second five years
- After 12 years, 50% relief of current legal income tax for profit that is reinvested within one year as a reserve fund for the next five years	- After 10 years, 50% relief of current legal income tax for profit that is reinvested within one year as a reserve fund for the next five years.
- Exemption from commercial tax or valued-added tax	- For the first five years, exemptions from customs duties and other relevant taxation on production machinery and replacement parts; and construction materials for building the business's own facilities, such as factories, warehouses and offices.
- Exemptions from customs duties and other relevant taxation on imports of raw materials for production machinery instrument and necessary spare parts for production; Construction material for building such as factories, warehouses and own offices and motor vehicles	- For the resources listed above, 50% relief of the custom duties and other taxation the next five years.
-	- The customs and other taxation shall be paid for the importation of raw materials and other goods for production.
- The exemptions of customs duties and other relevant taxation on the import of trading goods, consignment goods, motor vehicles and other materials which are essential for a business's free-tax wholesale trading, export trading and services of provision and transportation.	- For the resources listed above for, the option to apply for a refund of customs duties and other taxation paid on importing them, if the goods they help produce are exported abroad or into a Free Zone.
- The option to apply for exemption on import tax or value-added tax for goods imported from a local or Promotion Zone to a Free Zone for the investor of Free Zone.	- Exemption of commercial tax and value added tax during the relevant relief period provided in the Special Economic Zone Law.
-	- In all other cases, businesses shall regularly pay the customs and other taxes upon importing raw materials and other goods for production.

Source: Myanmar Investment Commission, 2017

4.2.3 Third Phase of FDI law from 2016 onwards

Myanmar took reform measures to create more attractive investor-friendly-environment. The new Myanmar Investment Law was promulgated by Pyidaungsu Hluttaw on 18th October, 2016 and enacted Myanmar Investment Rules on 30th March 2017 to come into force the new Myanmar Investment Law before 1st April, 2017. The present law (MIL) makes it easier for Myanmar citizen and foreign investors through stronger delegation to the Regions and States in approving investment activities. The law also introduces categories of investment approval procedures. One is a Myanmar Investment Commission (MIC) permit and the other is an investment endorsement from MIC and Region & State Investment Committees. Under the old laws, only those businesses had to apply for a MIC permit which intended to benefit from MIC incentives. The new MIL is different in the sense that it provides certain categories of investment where a MIC permit is mandatory. If an investment does not fall under those categories, but the investor still wishes to benefit from an incentive, the investor needs to apply for an endorsement from MIC or the State/Region Investment Committee.

In terms of incentives, the MIL allows promoted investment sectors to enjoy corporate income tax holidays and it depends on the location of their businesses for the period from three to seven years. The promoted sectors are stipulated by the government in accordance with the law. The MIL also clarifies areas of restricted activity. Some businesses will be totally reserved for the state with no foreign or local investors will be allowed to invest. Some businesses will be prohibited for foreign investors and some sectors are needed to set up joint ventures with local partners. Investors, either foreigners or local businesses, will need to seek approval from a relevant ministry in some circumstances. Without the ministry’s approval those businesses will not be permitted.

The MIL provides a clear demarcation between the ministries and the MIC. As long as the businesses are under the jurisdiction of the MIC, the new law makes it possible that MIC will not have to consult with the ministries. MIC will decide for itself on a business’s establishment. Likewise, MIC also delegates its authority to the State and Regional government so that they can endorse businesses in their respective Regions and States. The MIL also includes an investor protection mechanism. In case the investor thinks that wrong decisions have been made against on their MIC permitted investment by other governmental authorizes, the investor can get the assistance of the Investor Assistance Committee.

The new law has some unique characteristics. They are:

(i) Encouraging responsible business,

(ii) Supporting investors to do business simply through transparent, simplified and quick procedures,

(iii) Focusing on supervision of the Myanmar Investment Commission (MIC) rather than entry process,

(iv) Not requiring an MIC permit for every investment project,

(v) Allowing the long term leasing of land and buildings,

(vi) Providing a guarantee not to expropriate investment directly or indirectly,

(vii) Setting up more comprehensive provisions for transfer of funds,

(viii) Offering income tax exemptions according to the zones and promoted areas,

(ix) Reducing the development gap between the States and Regions by power delegation,

(x) Protecting investments by preparing the law in accordance with the Regional and International agreements, and

(xi) Setting up a Grievance mechanism.

Changes on Structure of Myanmar foreign investment laws by different Phases from 1988-2016 are shown in Table (4.4).

Table (4.4) Comparisons on Structure of Myanmar FDI Laws by Different Phases

Ch No.	Foreign direct Investment Law in 1988	Ch No.	Foreign direct Investment Law 2012	Ch No.	Myanmar Investment Law in 2016
1	Title and Definition	1	Title and Definition	1	Title and Definition
3	Basic Principles	3 4	Objective Basic Principles	2	Objective
5	Formation of the Commission	3	Formation of the Commission	4	Formation of the Commission
6	Duties and Powers of the Commission	7	Duties and Powers of the Commission	6	Duties and Powers of the Commission
8	Insurance	10	Insurance	17	Insurance
9	Appointment of Personal	11	Applicant Staff and Workers	13	Employment of Staff and Workers
10	Exemptions and Reliefs	12	Exemptions and Reliefs	18	Exemptions and Reliefs
11	Guarantees	13	Guarantees	14	Investment Guarantee
4	Form of Organization	5	Form of Investment	10	Stipulation of the Types of Investment Activities
14	Right to Transfer Foreign Currency	16	Right to Transfer Foreign Currency	10	Transfer of Funds
15	General Provisions	20	Miscellaneous	23	Miscellaneous
12	Foreign Capital	15	Foreign Capital		
14	Matters Relating to Foreign Currency	17	Matters Relating to Foreign Currency		

7	Contracts				
2	Applicable Economic Activities	2	Applicable Business		
	-	8	Duties and Rights of the Investor	16	Responsibilities of Investors
	-	19	Settlement of Dispute	19	Settlement of Dispute
	-	9	Application for Permit	8 9	Submission of Proposal Submission of Endorsement Application
	-	14	Right to Use Land	12	Right to Use Land
	-	18	Administrative Penalties	20	Administrative Penalties
	-		-	3	Scope of the Law
	-		-	5	Resignation, Dismissal from the Commission and Appointment for Vacancy
	-		-	11	Treatment of Investors
	-		-	7	Convening of Meeting

Source: Myanmar Investment Commission, 2017

4.2.4 Prohibited and Restricted Business Activities under MIL and MIR

The MIC issued a new notification 14/2017 containing four categories of business activities which may only be undertaken by:

1) The Union
2) A Myanmar citizen or entity
3) By a foreign company only in a joint-venture with Myanmar citizen or entity; or
4) By a foreign company only upon approval by the relevant ministry.
5) Businesses which are prohibited and restricted for foreign investors are:
6) Manufacturing and related services of arms and ammunition for national defense;
7) Managing and conserving natural forests;
8) Small and medium scale production of minerals;
9) Administration of the electrical power system;
10) Inspection of electrical work;
11) Pilot-age services;
12) Pet care service; and
13) Publishing and distributing periodicals in ethnic languages including Burmese.

According to MIL 2017, Business license is divided into two types: permit and endorsement. MIC has permitted the investment capital amount up USD 5 million (MMK 6 billion) for State and Regional Investment Committees and over USD 5Million investment capitals have done by MIC alone.

4.3 Changes of Foreign Direct Investment Policies in Myanmar

One of the first laws on investment promulgated by State Law and Order Restoration Council (SLORC) is the Union of Myanmar Foreign Investment Law in November 1988, to induce foreign investment and to boost investment particularly together with high technology and to mobilize its natural resources in private and to help in entrepreneurial activities**.** State-owned Enterprise Law was enacted in 1989 and Myanmar Citizen Investment Law and Technology Development Law in 1994. Foreign Investment Law was amended in 2012 based on 1988 and Myanmar Citizen Investment Law also enacted in 2013 based on 1994. Foreign Investment Law and Myanmar Citizen Investment law were merged again on October 2016.

4.3.1 Changes of FDI Polices between 1988-2009

During the period of 1998-2009, FDI flow was still sluggish because of the external factors of economic sanction and internal factors of investment unfriendly policy and cannot set up the one-stop system for foreign direct investment. In 2010-2011, under developed economics transform their economic structure from Agriculture to a more modern, more urbanized, industrial manufacturing and service economy. FDI is coming from 454 enterprises of 31 countries and contributed in almost sectors of Myanmar economy. The largest investments were in the natural resources sectors such as oil, gas, mining and fisheries. Major investors are from Thailand, Singapore, Malaysia and United Kingdom.

Myanmar FDI policy is a component of the overall restructuring and development policy of the Government.

The main components policies (DICA Investment Guide, 2014 are:

- Adoption of market oriented system for the allocation of resources.
- Encouragement of private investment and entrepreneurial activity.
- Opening of the economy for foreign trade and investment.

The objectives of the Union Myanmar Foreign Investment Law are;

- Promoting and expansion of exports.
- Exploitation of natural resources, which require heavy investment
- Acquisition of high technology
- Supporting and assisting production and services involving large capital.
- Opening up of more employment opportunities.
- Development of works which would save energy consumption
- Regional development.

4.3.2 Changes of FDI Polices from 2016 Onwards

According to the country's Directorate of Investment and company administration, the amount of FDI approved between April and December 2016 stood at about 3.5 billion, down 28% from the same period a year before. One of the main reasons for the decline is confusion associated with the transfer of power. The Myanmar investment commission (MIC), which has the authority to approve foreign investment application, disbanded in March last year to coincide with the change of government. No new commission was created in the first three months of the new

government. The commission is now working properly but it has been unable to make up for the slow start. Having concluded that democratisation had made sufficient progress, Washington in October 2016 lifted economic sanctions against Myanmar tan had been in place for almost two decades but no US Company had made a direct investment in the country since December 31, 2016. One positive sign is a revision of the corporate law expected in the coming months, which is likely to allow foreign business to hold stakes in existing domestic companies. If the revision leads to active corporate mergers and acquisitions, it could serve as opportunities to renovate the economy.

The approved amount of direct investment of China and Japan are 13% in 2016 and 23% in 2015 respectively. Investment from Thailand and Singapore is relatively solid, but their amount in the first nine months of fiscal 2016 is 45% and 62% respectively. The yearly approved amount of foreign investment by sectors sees in appendix A.

Table (4.5) Investment Situations in Myanmar (Percent)

Sectors	1988-89 to 010-11	2011-12 to 2018
Real Estate	3	7
Hotel & Tour	3	4
Transportation &Tel Communication	1	12
Industrial Estate	1	0
Agriculture	0	1
Livestock & Fisheries	1	1
Manufacturing	5	13
Construction	0	0
Oil & Gas	38	29
Mining	8	3
Power	40	27
Other Services	0	3
Total	**100**	**100**

Source: Myanmar Investment Commission, 2018

According to table (4.5), the year 2010-2011, Livestock & Fisheries and Agriculture is the least investment of sectors in Myanmar and the highest foreign investment are Oil & Gas and Power in twelve sectors. The year 2012-2017,

Transportation & Tele-Communication, Manufacturing and Services sectors' FDI have more increased than previous year of 2011. But Oil & Gas and Power sectors are decreased than before because of the changes of economic according to FDI policy. Therefore, Job creation has been improved by the investment of Manufacturing and Services sectors. However, Main type of sectors in Myanmar is agriculture sector but the year of 2010 to 2017; this sector hadn't been developed because of lack of infrastructure and a less developed in green technology.

The economy from 49 countries, the first leading investing in Myanmar is China, second for Singapore; the third one is Thailand, Hong Kong, UK, Republic of Korea, Vietnam, Malaysia, The Netherlands and Japan respectively. The Vietnam rank is seventh. The approved amount of FDI top ten countries is showed in Table (4.6). The investment position, number of enterprises and investment amount by countries respectively are shown in Appendix B.

Table (4.6) FDI investments Top Ten Countries and Major Sector of FDI (By Country) in 2018

No.	Country	Amount (1988 - June 2018)	%	Major Sector of FDI
1	China	20017.866	26.2	-Production of electric power -Pipe line for oil & gas -Manufacturing of Garment
2	Singapore	19065.525	24.9	- Production of Oil shale - Production of Beer
3	Thailand	11080.234	14.5	- Inland oil transportation pipe line - Production of oil and gas
4	Hong Kong	7835.513	10.3	- Production of copper - Inland oil transportation pipe line - Production spare things for motorboat
5	UK	4351.517	5.7	- Services of building for offshore gas pipelines
6	R.O.K	3817.381	5.0	- Production for shoes - Discovery of oil & gas - Garment - Production of motorboat

No.	Country	Amount (1988 - June 2018)	%	Major Sector of FDI
7	Vietnam	2106.513	2.8	- Telecommunications network
8	Malaysia	1954.605	2.6	- Cultivating palm and processing of palm oil
9	The Netherlands	1528.489	2.0	- Lives stock and agriculture
10	Japan	1161.226	1.5	- Garment industries - Automobile - Telecommunications - SEZ Zone Developer
11	Other	3496.904	4.5	- Many business activities
TOTAL		**76415.773**	**100.0**	

Source: Myanmar Investment Commission, 2018

According to Table (4.6), China is the best one investment in production of electric power and pipe line for oil and gas. Singapore just invested in production of oil shale and beer. Thailand is invested in inland oil transportation and production of oil & gas. Accordingly, Hong Kong is invested in copper production; Inland oil transportation and production spare things for motorboat.UK area lso the biggest investment in services of building for offshore gas pipelines. Japan is the most investment in manufacturing of shoes and garment and it is also the only developer of Thilawa SEZ.

FDI Developments in Region and State of Myanmar is showed in table (4.7). According to table (4.7), Yangon and Mandalay Regions are the most FDI developed regions. Bago, Magway, Sagaing are moderated and the others are less developed areas. Rakhine and Chin states is the least FDI developed areas of Myanmar.

Table (4.7) FDI Projects in Region and State in 2017

(Percent)

State/Region	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2011-2017
Yangon	0.71	58.72	66.84	47.02	40.74	82.20	47.86
Thanintharyi	0.00	14.49	0.80	7.50	34.93	0.01	12.40
Rakhine	0.39	0.00	0.00	20.20	12.43	0.00	8.41
Mandalay	0.55	4.54	2.00	8.32	4.99	12.46	6.08
Mon	0.00	0.00	9.12	4.06	3.55	0.01	3.10
Shan	0.00	14.01	0.80	0.21	1.62	0.02	1.21
Bago	0.56	4.08	15.26	5.74	0.71	2.17	4.07
Ayeyawaddy	1.57	1.37	0.28	2.07	0.44	0.52	1.02
Kayin	0.00	0.00	0.00	0.00	0.39	0.00	0.11
Nay Pyi Taw	0.00	0.00	0.00	0.11	0.08	0.00	0.05
Magway	2.65	2.78	0.00	2.92	0.06	0.27	1.25
Sagaing	0.00	0.00	4.90	1.80	0.05	2.35	1.46
Kachin	93.53	0.00	0.00	0.00	0.00	0.00	12.97
Kayah	0.00	0.00	0.00	0.03	0.00	0.00	0.01
Chin	0.04	0.00	0.00	0.00	0.00	0.00	0.01
Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00

Source: Myanmar Investment Commission, 2018

The national economic policy aiming to foster sustainable development which is inclusive and people-centered has already been set. It also intends to lay down an economic framework which can support the long-term conservation and the fair allocation of natural resources among the States and Regions leading to the national reconciliation. For the purpose of the country's development by allowing investment in sectors which need to be developed and balanced growth of regions and states. Myanmar Investment Commission shall scrutinize and grant income tax exemption only for investment promoted sectors according to the following specified zones;

(i) Least developed Region as Zone (1) shall be granted 7 years including the commencement of the business

(ii) Moderately developed Region as Zone (2) shall be granted 5 years including the commencement of the business

(iii) Adequately developed Region as Zone (3) shall be granted 3 years including the commencement of the business.

4.4 Taxation System Relating to Foreign Direct Investment (FDI) in Myanmar

The Organization of Economic Cooperation and Development (OECD) define foreign direct investment incentive as "measures designed to influence the size, location or industry of a foreign direct investment project by affecting its relative cost or by altering the risks attached to it through inducements that are not available to comparable domestic investors". Before an enterprise can avail of investment incentives, prior registration with appropriate regulatory agencies must be secured. Moreover, the investors are subject to regulatory, control and oversight powers of relevant authorities.

Resident companies are taxed on a worldwide basis, and as such, income from sources outside of Myanmar is taxable. A resident company is a company defined and formed under the Myanmar Companies Act (CA) 1913 or any other existing law of Myanmar. Other differences between companies registered under the CA and the Myanmar Investment Law (MIL) relate to their eligibility for tax incentives and longer land use terms.

Non-resident companies are taxed only on income derived from sources within Myanmar. A non-resident company is a company that is not formed under the CA or any other existing law of Myanmar. Generally, foreign branches are deemed to be non-resident companies. Income received from any capital assets within Myanmar and from any source of income within Myanmar is deemed to be income received within Myanmar. The income is generally subject to tax under the normal rules for residents.

Myanmar taxation system has undergone many major transformations that include major changes in corporate Income Tax, Commercial Tax, Commercial Tax on Exports and Personal Income Tax for foreigners. The changes generally occur frequently, however, the enforcement mechanism as well as the ruling process is often limited in capacity.

(i) Corporate Income Tax (Profit Tax)

A member of a company that was incorporated in Myanmar and established under Foreign Investment Law is treated as residents and their income taxed at a rate of 25%. A registered branch of a foreign entity that is not entitled to the incentives under the Foreign Investment Law is subject to an income tax rate of 35%.

(ii) Commercial Tax

Commercial tax is payable on goods that are imported or produced in Myanmar, as well as trading, sales and services. Rates vary from 3% to 100% and are listed in the table 4.8 according to commodities. Other services and products are subject to 5% tax. A number of domestically produced products, (which are primarily agricultural) are exempt from commercial tax. All exports are exempt from commercial tax, with the exception of special goods.

Table (4.8) Commercial Tax Rates

No	Commodities Rate (%)	Commodities Rate (%)
	Specialist Goods	
1	Cigarettes	100
2	Tobacco, Virginia drugs, cigars, flute tobacco, muskiest,	50
3	Hard wood and sawn timber	30
4	Jade and other precious gemstones	25
5	Light Van, Saloon, Sedan, Light Wagon, Estate Wagon,	25
6	Gasoline, diesel, aero plane fuel	10
7	Natural gas	8
8	Other goods	5
9	Goods produced at industrial zones	3
10	Services (total sales)	5
	Export Goods	
11	Crude oil	5
12	Natural gas	8
13	Teak, hardwood and sawn timber	50
14	Jade and precious gemstones	30
15	Jewelry made from jade and precious gems stones	10

Source: Myanmar Investment Guide, 2014

(iii) Personal Income Tax for foreigners

A non-resident's salary is taxed at a flat rate of 35%. Other income is taxed at a minimum rate of 35% or at resident rates, which vary from 3% to 50%. A foreigner staying in Myanmar for 183 days or more is considered a resident. Both resident

foreigners and resident citizens are subject to income tax, with the rate determined by a progressive scale that starts at 1% and rises to a maximum rate of 20%.

The following tax reliefs are in place:

- Basic relief (20% of the total salary income), but limited to MMK 10,000,000
- Spouse relief (MMK 500,000) if a spouse has no assessable income
- Child relief (MMK 300,000 per child) if the child is unmarried and enrolled in education
- Premium paid for life insurance by the employee and his or her spouse.
- All contributions to social security funds.

In 2017, the Myanmar Investment Rules were implemented together the MIL and MIR replaced the Foreign investment laws of 2012, and the Myanmar Citizen Law of 2013. The MIL and MIR have continued the trend of incentivizing foreign investment in Myanmar. No foreign company can carry on business in Myanmar unless it has first obtained a Certificate of Incorporation (COI).

CHAPTER V
COMPARATIVE ANALYSIS ON FDI POLICIES

The integration of capital is crucial role for country's economic growth. FDI is a major determinant of economic growth. Although there has theoretically positive relationship between FDI and economic growth, both of analytical and empirical approach may lead to important policy implications. There are many reasons that the economic growth depends on increase in FDI from beneficial externalities. FDI may allow a country to bring a technologies and knowledge that are not readily available to domestic investors. In this way, increase productivity growth through the economy. In order to determine the factors that analyses the inflow of foreign direct investment in Myanmar and Vietnam.

5.1 Contribution of FDI to Economic Growth

5.1.1 Vietnam

Since the 2000s, the Vietnamese economy has been experiencing dynamic economic growth, driven by international trade and foreign investment. The country experienced a growth rate of 6.3% in 2017 and is expected to maintain a similar progression in 2018 and 2019. Exports constitute a significant contribution to Vietnam's GDP and certain sectors, such as industrial production, textile, electronics and seafood production have been growing rapidly. Vietnam has been going through an economic renovation since 1986. In 1992, the Amended Constitution recognized the role of private sector in the economy, and in 2001 the U.S.-Vietnam Trade Bilateral Agreement (US-BTA) was signed. Since then, the government has been launching reforms in all key sectors of the economy and privatizing public companies. Currently, Vietnam is speeding up its privatization drive as it copes a budget deficit and growing public debt, as it focuses on investing more money to developing the nation's infrastructure.

Through FDI, Vietnam now produces high-value technology assets. Vietnamese foreign trade continues to benefit from the relocation of Chinese

factories. Inflation reached 4% in 2018, a relatively low rate for the country. Controlled inflation and improved access to credit sustained the consumption of Vietnamese households. However, the banking system is fragile, which hampers business investment. The tourism sector has been growing rapidly, showing an increase of 29.7% in foreign visitors during the first two months of 2018 over the same period in 2017. Industrial production decreased, reaching 6.4% in 2017, compared to 7.5% in the previous year. In order to ensure sustained growth, the Government has launched several major projects since 2011: infrastructure development, training the young people and modernizing institutions. To reach these objectives, still on the agenda in 2018, the country will have to continue to reform public companies, while the gap between large private enterprises benefiting from FDI and unprofitable state enterprises has been growing wider. Nevertheless, foreign exchange reserves remain insufficient. Vietnam's future prospects remain positive.

5.1.2 Myanmar

Regarding the FDI flows into Myanmar, Myanmar is a natural resource abundant country and natural gas exploitation of foreign firms have sharply increased and they can contribute to Myanmar’s economic growth. FDI firm’s export became the most important part in Myanmar in recent year. Moreover export of FDI firms has already changed trade pattern from traditional primary export to industrial export. Gas and garment export of FDI firms substituted for primary export such as teak, beans and pulses and rice. FDI export has increased rapidly after 2010-11 and gas export became the largest export item. The relative share of gas and garment exports in total exports during 2000-05 is 38.43% - 44.52% respectively.FDI inflows are declined since 1997 due to partly affected by the Asian financial crisis and continuous decline up to 2008. Before economic sanctions**,** 80% of total garment export to United State is from Myanmar because the garment manufacturing sector became one of the most attractive enterprises for FDI mainly due to abundant cheap young female labor and manageable technologies before 2003. The number of 150 FDI firms, especially in garment industry, closed due to economic sanctions and 70,000 to 80,000 workers caused unemployment. It is recorded that the most tangible serious impact of sanctions among others intangible impacts.

In 2012, the Myanmar Kyat was floated and a Foreign Investment Law enacted to facilitate growth and attract foreign investment. The Special Economic

Zones Law of 2014 provides further incentives for foreign investors looking to enter Myanmar's market, while tax reforms have substantially reduced profit taxes. As a result of this process of economic liberalization, Myanmar's GDP growth surged to 7.5% in 2013 (ADB) and 8% in 2015. Myanmar now stands poised to achieve the highest GDP growth rate throughout Southeast Asia. Myanmar is a member of the ASEAN Economic Community (AEC) and AEC aims to strengthen regional cooperation and increase regional trade. AEC will provide Myanmar with the opportunity to establish itself as a vital trade hub and production base between ASEAN, China and India.

5.2 Comparative Analysis on FDI Policies of Myanmar and Vietnam

Table (5.1) Comparison of Polices and Incentives

	Myanmar	Vietnam
Policies	- Myanmar's FDI started in 1988.	-Vietnam's FDI (Doi Moi) started in 1986.
	- Myanmar's FIL enacted in 1988.	-Vietnam's FIL was promulgated in 1987.
	- Transformed into a market oriented economy in 1989.	-Transition from centralized to market-oriented economy 1986. -Transforming from single-sector (state owned) to multi-sector economy, encouraging participation of private sector. -Transforming from closed to open economy, developing trade and investment relations with other countries.
	- Unstable government and society - The size of market and growth potential - It's cheap and abundant labor force.	- Its stable government and society - The size of the market and growth potential - It's cheap and abundant labor force. - The country's favorable balance appears to be appreciated.
	- The biggest investor in Myanmar is China.	- The biggest investor is Japan.
	- Myanmar passed FIL,	- Vietnam passed the Unified

	MCIL and SOE law	Investment law and Unified Enterprise law.
	Myanmar	**Vietnam**
Eligible industries/Sectors	-Any type of economic activities except restricted or prohibited under MIL. -Investments in SEZs.	-New investment project on regular sectors encouraged locations and size of projects.Location1: areas with extremely difficult socio-economic conditions. Location2: areas with difficult socio-economic conditions.
Income Tax holiday	-Under the MIL (for a period of 7, 5, 3 years depend on zones. -For SEZs, 7 years for Free Zone and 5 years for promotion Zone.	-Newly-established Foreign Investment Companies; IHT for first year for location 1. -IHT for 2 years for location 2.
Preferential/Reduction of Corporate Income Tax(CIT)	-For Investment in SEZs, CIT exemption on divided distributed to each shareholders based on profits accrued locally.	- In location 1: 10% for 15 years 10% for up to 30 years 10% for whole operational period depend on the projects. -In location 2: 20% for 10 years
Regular CIT	-25%	-20%
Deduction for Research and Development	-Exclusion from taxable	-None
Accelerated Depreciation	-Depreciation for fixed assets	-Doubling of depreciation rates for accelerating technological renovation of machinery of equipment and machines.

Raw materials	-No duty exemption except cutting, machining, packaging (CMP) and machines.	-Duty Exemption.
Carry forwards of losses	-3 years according to MIL -5 years according to SEZs Law.	-5 years
Reinvestment exemption	-Investment for SEZs, MIL	-None

Source: NTRC Tax Research Journal, 2017

5.3 Two Decades of Development Lessons for Myanmar by Vietnam Review

There are striking parallels between the economy of Vietnam in the 1990s and that of Myanmar today. There are also many differences, but the similarities suggest that there may be lessons for Myanmar to learn as it opens its economy to the world, particularly given that Vietnam has averaged 7-8% annual GDP growth for the past two decades.

The "starting point" of both countries has similarities. In 1992, Vietnam implemented its first systematic measurement of living standards and reported a poverty rate of nearly one-in-two Vietnamese. A similar survey in Myanmar in 2005 reported one-in-three in poverty. Vietnam twenty years ago was less developed and poorer than Myanmar today, yet both "start" as poor countries with great potential – notably a young, large and literate population – with that potential not being fully realized for both external (embargo) and internal reasons (protectionist policies, weak legal system and property rights, etc.)

Even policy changes show similarities. In 1989 Vietnam unified its official and black market exchange rates, just as Myanmar did a few months ago. The American-led trade and investment embargo against Vietnam dragged on until 1993 (one year after a new Constitution in Vietnam), but hopefully, given the present pace of positive changes, we might see the embargo against Myanmar lifted this year.

In Vietnam, a series of important policy reforms were taken well before the embargo was lifted. These included:

i) Return of land to individual farm households on permanent use-right basis (1988).
ii) Stabilization of the macro-economy, notably inflation (1989)
iii) Removing barriers stopping households from conducting businesses (1990 Law on Private Enterprises)
iv) Trade and foreign investment liberalization (the 1987 Law on FDI had no real impact until the exchange rate unification)

The above four reform areas are the foundation for success in the Vietnamese post-embargo period. All were built upon over later years, such as the 1993 amended Land Law that made agricultural land-use rights transferable and useable as collateral, and the 2000 Enterprise Law. These four reforms are opening up to world trade and investment for a country to get rich. Another “lesson” from Vietnam is that “reform” is a continuous process of issuing, reviewing and amending (and removing) policies – and one that requires much effort and Government capacity. In the 1980s, the Vietnamese Government structure was top-heavy and cumbersome. Many small matters could only be decided at the highest levels. That was fine when not much was changing (e.g. few foreign investors), but during the 1990s it was clearly a bottleneck to progress and since them a process of decentralization and administrative reform has tried to keep pace with the demands of a modern and competitive market economy. The Government of Myanmar will face the same challenge – the faster it can decentralize authority across the board, the faster it can benefit its own people.

Vietnam has made mistakes as well: there are negative lessons to learn. Establishing state-owned product-specific monopoly corporations was a very different approach to Japan and South Korea, where private Corporations were encouraged to compete against each other for export markets. Vietnam has also not handed over macro-economic policy management to technical experts (e.g. a truly independent central bank), so great confusion persists about appropriate policy instruments and targets. Further, Vietnam has been slow to liberalize and make competitive its financial sector. These negatives are outweighed by the positives that enabled Vietnam to achieve middle-income country status in 2011 with a reported poverty rate of 12% (2009).

Apart from a fast-developing foreign investment framework, and to further bolster investor confidence in the domestic market, Myanmar has also entered into bilateral investment agreements with Japan, South Korea, the Philippines, China,

Laos, Vietnam, Thailand, Israel and India. As a member of ASEAN, Myanmar is also a party to various multilateral agreements that aim to develop and enhance cross-border trade and investment among ASEAN-member states. This includes the ASEAN Comprehensive Investment Agreement and the agreement on the ASEAN Economic Community.

Myanmar has a broad and comprehensive policy reform agenda ahead of it, but it is neither alone nor unique. The experience of other countries, like Vietnam, can give guidance both good and bad. Myanmar law also recognizes various dispute resolution mechanisms, including domestic and international arbitration, to resolve investment-related disputes. Foreign investors an added measure of security in protecting their investments. The country's government also recently enacted the 2017 Arbitration Law that is intended to provide a framework capable of supporting the recognition and enforcement of foreign arbitral awards by Myanmar courts. Currently, Vietnam is Myanmar's ninth largest trading partner. Bilateral trade between Myanmar and Vietnam hit $830 million 2017-18, representing a 50 percent increase from the previous year, according to the Ministry of Commerce (MOC).

Myanmar has much work to match the policy reforms of Vietnam over the past two decades. Vietnam did not wait for the embargo to be lifted before making bold policy reforms and nor should Myanmar."Reform", moreover, is not just a matter of issuing (and removing) Laws and regulations, but also of building the institutions that make such paper meaningful: a Central Bank; Auditor General; Government Inspectorate; Commercial and Arbitration Courts; Judiciary; Professional Associations; Research Institutes and Universities; and many more.

5.4 Reflection of Bilateral Investment Agreements between Vietnam and Myanmar

Apart from a fast-developing foreign investment framework, and to further bolster investor confidence in the domestic market, Myanmar has also entered into bilateral investment agreements with Japan, South Korea, the Philippines, China, Laos, Vietnam, Thailand, Israel and India. As a member of ASEAN, Myanmar is also a party to various multilateral agreements that aim to develop and enhance cross-border trade and investment among ASEAN-member states. This includes the ASEAN Comprehensive Investment Agreement and the agreement on the ASEAN Economic Community.

Myanmar law also recognizes various dispute resolution mechanisms, including domestic and international arbitration, to resolve investment-related disputes. Myanmar has, in fact, recently acceded to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, which would allow Myanmar's courts to recognize arbitral awards made in jurisdictions party to the same convention. The ratification of the New York convention is expected to give foreign investors an added measure of security in protecting their investments. The country's government also recently enacted the 2016 Arbitration Law that is intended to provide a framework capable of supporting the recognition and enforcement of foreign arbitral awards by Myanmar courts.

The pact was made during State Counselor Daw Aung San Suu Kyi's two-day visit to the country on April 19-20, according to a statement from the Ministry of Foreign Affairs. Currently, Vietnam is Myanmar's ninth largest trading partner. Bilateral trade between Myanmar and Vietnam hit $830 million 2017-18, representing a 50 percent increase from the previous year, according to the Ministry of Commerce (MOC).

However, Myanmar currently runs a trade deficit with Vietnam, with imports reaching $400 million in value in 2016-17 compared to exports, which totaled just $88 million in value during the same year. For the ten months of 2017-18, Myanmar imports from Vietnam had surged to $490 million, with exports trailing at just $100 million in value. Myanmar mainly imports capital equipment such as machinery and semi-finished goods from Vietnam, while its main exports are in agriculture.

(i) Raising exports

Myanmar should aim to export more to Vietnam to narrow the trade deficit. It is need to make preparations to export more. The State must encourage and support small and medium enterprises that can export high quality agriculture products. The government should also grant as much capital as needed to support exports in the agriculture sector. In fact, the MOC has already signed a memorandum of understanding with the Vietnam Ministry of Agriculture and Irrigation to raise exports of Myanmar agricultural produce to Vietnam. Under the MOU, Vietnam is now buying Myanmar beans and pulses, rubber and corn. Vietnam also buys livestock-related products such as animal feed from Myanmar.

However, as Vietnam is already the third largest global producer of rubber, “there is no way Myanmar can export more of the product to it,” said U Khine Myint, Secretary of Myanmar Rubber Planters and Producers Association. As such, Myanmar must focus on raising the quality of its other products for export purposes. For now though, traders are skeptical of achieving the $1 billion bilateral trade target within the next two years. “We have mainly agricultural products as exports. Vietnam’s major exports are also in agriculture. It won’t be easy for us to export more agriculture products to Vietnam. Meanwhile, imports will only rise,” said U Soe Tun, a local businessman. Vietnam is gradually changing to an industrialized country and they have become capable to produce cycles and industrial raw materials and thus more import from Vietnam is likely, one businessman U Soe Tun said.

(ii) Rising FDI

Vietnam is among the seven largest investors in Myanmar, with total registered investments amounting to $2.1 billion in 2017. It is currently also the second biggest ASEAN investor in Myanmar.

Last month, Vietnamese company Euro window, which makes doors and facades for buildings like office towers and apartments, announced plans to invest up to $120 million to build two factories in Myanmar.

The Vietnamese have also invested in MyTel, Myanmar’s fourth telecommunications operator. Viettel, which is owned by Vietnam’s Defense Ministry, now holds a 49 pc stake in the joint venture, in which Star High Public Co and Myanmar National Telecom Holding Public hold 28 pc and 23pc, respectively. Viettel said last year it would invest $1.5 billion for 7,200 base stations to build a 4G network in Myanmar.

Myanmar–Vietnam relations refer to the historical and current relationship between Myanmar and Vietnam. Both are members of the ASEAN and have engaged in relationship between two countries. Myanmar has an embassy in Hanoi and a consulate general in Ho Chí Minh City while Vietnam maintains their embassy in Yangon.

After the Vietnamese economic reform at 1986, Vietnam has practically given up socialist and communist philosophy, while Burma (later becomes Myanmar) had

suffered significant economic setback after the failed 8888 Uprising. The State Peace and Development Council ruling Burma had maintained cordial tie with Vietnam and several Burmese military figures, notably Khin Nyunt, had paid visits to Vietnam in order to learn from Vietnam's economic reforms successes.

Since 2011, the political reforms in Myanmar had changed political climate of Myanmar, and Vietnam became an active player. While China, India and Thailand remain as traditional investors to Myanmar, several Vietnamese companies like Viettel and Hoang Anh Gia Lai Group have increased activities in Myanmar. Viettel has become one of 5 largest telephone investors in Myanmar [2] while Hoang Anh Gia Lai has become a prominent investor in Myanmar. Two countries have been engaging in further and deeper cooperation.

Recently there are also increasing military cooperation between two states. The Vietnamese Government, through the military-owned Viettel, has provided arms and equipments, as well as sending military officials to train Burmese soldiers of the Tatmadaw to engage against ethnic rebels amidst the Myanmar civil conflict.

China may have expressed their deep concerns of Vietnam's political and economic tie with Myanmar; the former has a long historical hostility with China and even fought a war of 1979.

CHAPTER VI
CONCLUSION

6.1 Findings

The Vietnam's laws on investment were promulgated in 1987. Myanmar's Foreign Investment Law was enacted in 1988. Both countries starting points are the same such as Low labour cost, abundant resources, market potential, and etc.,.

Vietnam's FDI was introduced and the reform measures gradually, and FDI increased from the early 1990's as the economy got on a stable trajectory. This was Vietnam first wave of foreign investment. Myanmar government enacted Foreign Investment Law (FIL) in 1988. Myanmar Citizen Investment Law (MCIL) was enacted in 1994. Inflow of FDI surged until the middle of 1996 but dropped sharply. At that time, there has been very weak in political stability. Asian Financial Crisis in 1997 and World recession in 2008 were encountered by Vietnam and Myanmar as the same situation.

Vietnam has been enacted firstly in 1987 it has been amended for time 1991, 1992, 1996, 2000, 2006 and 2014, responding to the perceived needs of investors. Four phases about a series of tax reform has been done since 1990, 1991, 2004 and 2014 in Vietnam. Myanmar has been enacted in 1988, and it was amended only two times in 2012 and 2016.

Vietnam becomes a member of WTO in 2007. Vietnam GDP growth rate rapidly increase in 2008 and 2009. Myanmar's was participation in the WTO. Myanmar has been a WTO member since 1 January 1995 and a member of GATT since 1948. Although Myanmar also has been a WTO member, Myanmar cannot perform WTO's rules and regulations effectively due to a developing country as Myanmar.

Vietnam's strong points are:

(i) Its stable government and society
(ii) The size of the market and growth potential

(iii) It's cheap and abundant labor force. The country's favorable balance appears to be appreciated.

Myanmar's starting points are:

(i) During ruling the Military government and the politic in Myanmar was instability in the Myanmar government and society

(ii) The size of the market and growth potential

(iii) It's cheap and abundant labor force. There are no reforms strategies both economies, politic and social. The country's favorable balance was very low. Budget deficit was faced in the Foreign exchange payment statement system due to the budget was not sufficient in 1988.

In the first wave of Vietnam, the major investors are Korea, Taiwan, Japan and Singapore. Their technology and investment were high tech and quality investment.

In the first phase of Myanmar, the major investors are China, Thailand, and India such as neighbouring countries. (Their investment led to the labour intensive and some project was extractive industry. Most of their investment performed on Garments, oil and gas mostly based on manpower.

According to the data of Vietnam in 2008, the total amount of investment was 7824.102 million. In 2008, the total amount of investment was 205.72 million and the total amount of investment in Myanmar was 6649.812 million between 2016 and 2017.

In 2005, Vietnam passed the Unified Investment law and Unified Enterprise law. The Unified Investment law is to bring more favorable conditions to investors. The following factors are involved in this law:

(i) Bringing equal treatment to foreign and domestic investors (according to the rule of non-discrimination under WTO)

Decentralizing the power to lower government agencies and provinces (more than before)

(vi) Broadening the freedom in making investment

(vii) Going in line with international commitments

(viii) Improving the capacity of state management on investment.

Unified Enterprise Law is to create a better business environment by bringing equal treatment for firms regardless of ownership (state, private, foreign), simplifying,

and unifying the registration and licensing producer. Moreover, this law allows firm owners freely in setting up business.

Foreign Investment Law and Myanmar Citizen Investment law were merged again on October 2016.The new law is to bring more favorable conditions to investors. The new Law has some unique characteristics. They are:

(i) Encouraging responsible business,

(ii) Supporting investors to do businesses simply through transparent, simplified and quick procedures,

(iii) Focusing on supervision of the Myanmar Investment Commission (MIC) rather than entry process,

(iv) Not requiring an MIC permit for every investment project,

(v) Allowing the long term leasing of land and buildings,

(vi) Providing a guarantee not to expropriate investments directly or indirectly,

(vii) Setting up more comprehensive provisions for transfer of funds,

(viii) Offering income tax exemptions according to the zones and promoted areas,

(ix) Reducing the development gap between the States and Regions by power delegation,

(x) Protecting investments by preparing the law in accordance with the Regional and International agreements, and

(xi) Setting up a Grievance mechanism.

In 2016, Myanmar Investment law is to bring more favorable conditions to investors. The following factors are involved in this law:

(i) Bringing equal treatment to foreign and domestic investors

(ii) Decentralizing the power to State and Regional concerned to promote and attract investment

(iii) Complying with international commitments

(iv) Improving the capacity of state management on investment.

New Myanmar Investment Law is to create a better business environment by bringing equal treatment for investors, simplifying, and unifying the registration.

(v) Economic reforms strategies are more favorable than usual

(vi) Directorate of Investment and Company Administration under the Ministry of Planning and Finance is carrying out the secretariat office of The Myanmar

Investment Commission (MIC). MIC shall assist the Myanmar government in managing foreign investment activities in Myanmar.

6.2 Recommendations

Vietnam's experience with FDI in the past decades could have important implications for Myanmar in developing its FDI policy.

First, Myanmar needs to have suitable politico-ideological environment that is open towards FDI promotion. Dismay constitutes a good source of much needed capital for economic development in Myanmar's early stages. However, of greater importance, are the technology transfers and other positive spillover impacts embodied in such capital flows. As such, Myanmar should pay close attention to gaining such attendant benefits, rather than concentrate on the volume of foreign capital inflows alone.

Second, FDI policy must fit in with Myanmar's broad framework for economic reforms. The benefits from FDI would be more if it is based on Myanmar's comparative advantage in industrial and trade structures. Improvements would also be necessary to make the business climate more favorable to the operations of foreign enterprises. In addition, the desired FDI inflows may not materialize effectively in the absence of supporting fundamentals for business operations, specifically labor skills, and soft and hard infrastructures. Prompt efforts by the Government to provide technical training forts labor force and to develop the requisite infrastructure system, particularly in those areas related to potential industries for FDI, should therefore be consistent with the FDI policy itself.

Third, Myanmar needs an approach to FDI that incorporates substances of both gradualism and selectivity. Since FDI policy must be an integral part of an overall reform process, it should come through incremental adjustments to ensure relevance and effectiveness, whilst permitting other supporting policies to emerge. Besides, attracting FDI inflows into a large range of sectors/areas without caring about their contribution to Myanmar's development targets may leave the country with adverse consequences, including inefficiency of resources and low absorption of FDI. A possible approach for Myanmar is to start by attracting foreign investment in those sectors/areas with static comparative advantages and those with sufficiently close acquisition and supply linkages. This should then be followed by relevant incentives to induce foreign investors in building up dynamic comparative advantages

for the country. Along with this process, consultation with potential investors and other stakeholders should be of immense importance.

Finally, FDI attraction is only viable if the policy and economic environment for private business operations embodies the essential elements of stability, transparency, and predictability. Foreign investors with an established presence in Myanmar would prefer a stable environment to make sound production and business decisions.

With this lesson in mind, further concretization of political and economic reforms, with explicit acknowledgement of foreign business entities' aspirations, should be profound by enhancing stability and predictability for business operations in Myanmar.

REFERENCES

1. Adam McCary. (2012). Environmental Health and Safety Student Employee. Retrieved from: https://www.linkedin.com/in/adam_mccary_82a473119. ADB. (2013). Annual Report.
2. Cleine .W., (2016)., Investing in Vietnam. KPMG Association Retrieved from: https://home.kpmg.com/content/dam/kpmg/vn/pdf/publication /2016/vn-2016-september-investing_in_vietnam.pdf
3. Dunning. J. H. (2002). *Determinants of foreign direct investment: Globalization induced changes and the role of FDI policies. World Investment Prospects, Economist Intelligence.*
4. *Economy of Vietnam*. (2010).Wikipedia. Retrieved from: https://en.m.wikipedia. org> wiki>Eco.
5. *Education in Vietnam*.(2012).*Wikipedia.* Retrieved from: https://en.wikipedia. org/wiki/Education_in_Vietnam.
6. Foreign Direct Investment.(2012). Investopedia. Retrieved from: https://www. investopedia. com>terms>fdi.
7. Khin Cho Cho. (2007). The Foreign Direct Investment and Economic Development (A Case Study of Myanmar). *Master of Development Studies Programme*. University of Economics, Yangon.
8. Khin Moe Myint. (2012). Foreign Direct Investment in Myanmar. *Master of Development Studies Programme*. University of Economics. Yangon.
9. Kyaw Min Han. (2007). The Impact of FDI and Technology Transfer on Economic Development (lessons from India's Experiences). Master of Development Studies Programme. University of Economics. Yangon.
10. Moe Chit Kaung. (2009). A Study on Foreign Direct Investment in Vietnam. Master of Public Administration Programme. University of Economics, Yangon.
11. NTRC.(2017). Comparative Investment Incentives in ASEAN Member Countries. Tax Research Journal. Retrieved from: https:// www.eg.com/_Publication? vwLUAssets? incentives in the ASEAN region 2014? $FILE? EY_asean_incentives _publication-2014.pdf.
12. OECD (1996). Retrieved from: https://www.oecd.org/sti/sci_tech/1913021.pdf. Retrieved from: citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.509.9118.

13. Retrieved from: https://www.adb.org/documents/adb_ annual_report_2013). Bose. T. K., (2012). "*Advantages and Disadvantages of FDI in China and India"*, Vol. 5, No. 5; May 2012, International Business Research. Retrieved from: https://pdfs.semanticscholar.org/7d77/90b17545b2747ce7cc_8ac_57_16091475c575c.pdf
14. Reuber. (1973). Global Forum on International Investment. OECD. Retrieved from: www.oecd.org/industry/inv/investmentstatisticsandanalysis/ 2422334.pdf.
15. Robinson., Allens Arthur. (2000). Law on foreign Investment in Vietnam. Socialist Republic of Vietnam. Retrieved from: www.vietnamlaws.com> freelaws.
16. Shujie .Y, Kailei .W, Liu .A, (2001)., Foreign Direct Investment and Regional Inequality in China, University of Nottingham Working Paper No. 2007/32 Retrieved from: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1023897
17. Undén. C., (2007)., "Multinational Corporations and Spillovers in Vietnam., Adding Corporate Social Responsibility ", Master Dissertation, Institution of Economics, Supervisor Yves Bourdet. Ekonimi Hogskonam University. Retrieved from: https://www.scribd.com/document/71223179/Fdi-Csr-Vietnam
18. UNTCAD. (2018). Global flows of foreign direct investment fell by 23 percent in 2017. World Investment Report. Available at unctad. Org/en/pages/ Publication Webflyer.aspx?)
19. Wikipedia. (2018). Myanmar GDP per capital 1960-2018. Retrieved from: https:// tradingeconomics.com/vietnam/gdp-per-capita.
20. WTO. (1996). Foreign Direct Investment (FDI).
21. Yuji Yui. (2010). FDI and Corporate Income Tax Reform. University of Seijo.

APPENDICES

APPENDIX A

Approved Amounted of Foreign Investment by sectors

US $ Million

Sector	1988-89 to 2010-11	2011-12 to 2015-16	2016-2017 to 2017-18
Agriculture	173.101	76.765	134.485
Livestock & Fisheries	324.358	136.727	124.339
Mining	2794.463	103.143	1.31
Manufacturing	1729.875	4826.953	2948.691
Power	14529.742	5154.902	1315.657
Oil and Gas	13815.375	8594.993	0
Construction	37.767	0	0
Transport & Communication	313.272	4801.166	3982.788
Hotel and Tourism	1064.811	1381.554	580.413
Real Estate	1056.453	1949.998	2009.597
Industrial Estate	193.113	10	34.037
Other Services	23.686	626.583	1236.581
Total	**36056.016**	**27662.784**	**12367.898**

APPENDIX B

Foreign Investment of Permitted Enterprises (March, 2017)

Sr. No.	Particulars	Permitted Enterprises		%
		No.	Approved Amount (US$ million)	
1	China	178	18572.12	26.16
2	Singapore	239	16957.35	23.88
3	Thailand	206	10923.376	15.38
4	Hong Kong	146	7599.945	10.70
5	U.K	86	4211.738	5.93
6	Republic of Korea	139	3561.131	5.02
7	Viet Nam	15	2092.532	2.95
8	Malaysia	58	1946.268	2.74
9	The Netherlands	18	1398.743	1.97
10	India	23	732.649	1.03
11	Japan	93	693.863	0.98
12	France	7	542.68	0.76
13	Indonesia	14	264.30	0.37
14	U.S.A	17	248.216	0.35
15	Canada	19	202.234	0.28
16	Philippines	3	147.173	0.21
17	Australia	18	145.799	.013
18	Russia Federation	2	94.00	0.14
19	Brunei Darussalam	21	97.937	0.14
20	Republic of Liberia	4	79.201	011
21	Austria	2	72.500	0.10
22	Panama	2	55.101	0.08
23	Samoa	4	52.724	0.07
24	United Arab Emirates	3	47.197	0.07

Sr. No.	Particulars	Permitted Enterprises		%
		No.	Approved Amount (US$ million)	
25	Luxembourg	3	45.75	0.06
26	Mauritius	3	39.584	0.06
27	Switzerland	4	30.087	0.04
28	Taiwan	11	25.000	0.04
29	Germany	3	22.253	0.03
30	Denmark	1	13.370	0.02
31	Lebanon	1	12.980	0.02
32	Norway	1	11.800	0.02
33	Republic of the Marshall Island	2	12.009	0.02
34	New Zealand	1	6.950	0.01
35	Ireland	1	6.950	0.01
36	Bangladesh	4	6.39	0.01
37	Cyprus	1	5.250	0.01
38	Qatar	1	4.500	0.01
39	Macau	3	8.040	0.01
40	Seychelles	2	4.300	0.01
41	Israel	1	2.400	0.00
42	Sri Lanka	2	2.250	0.00
43	Sweden	1	2.050	0.00
44	Cambodia	2	1.675	0.00
45	South Africa	1	1.309	0.00
16	Cook Islands	1	1.150	0.00
47	Laos	1	0.883	0.00
48	Berlize	1	0.810	0.00
49	Afghanistan	1	0.653	0.00

Sr. No.	Particulars	Permitted Enterprises		%
		No.	Approved Amount (US$ million)	
	Total	1270	71007.172	100.00

Source: Myanmar Investment Commission, 2017.