

2
0
2
3



Insight
more

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BUSINESS INSIGHT

INSIDE THIS ISSUE

PG.1

The Progress of negotiating and signing the Agreement (EVFTA)

PG.3

Overview of EVFTA

PG.4

Summary of key issues

EU - Vietnam Free Trade Agreement (EVFTA) has officially come into effect from August 1st, 2020

EU - VIETNAM FREE TRADE AGREEMENT

- Before October 2012: The two Parties carried out technical activities (feasible study...) to prepare for the negotiation.
- June 2012: The two Parties announced the initiation of negotiation
- From October 2012 to August 2015: The two Parties conducted 14 official negotiation rounds and many midterm negotiation sessions.
- August 4, 2015: The two Parties announced to have reached an agreement in principle.
- December 1, 2015: The two Parties officially announced the conclusion of the EVFTA negotiation.
- February 1, 2016: The two Parties announced the official document of EVFTA.
- June 2017: The two Parties completed the legal review at technical level.

EU - VIETNAM

EU-VIETNAM FREE TRADE AGREEMENT

- June 26, 2018: The two Parties agreed to separate EVFTA into two Agreements, one is the Free Trade Agreement (EVFTA), and the other is the Investment Protection Agreement (EVIPA); officially concludes the legal review process for the EVFTA.
- August 2018: The two Parties officially announced the completion of the legal review of the EVIPA.
- October 17, 2018: The European Commission officially approved EVFTA and EVIPA.
- June 30, 2019: The two Parties officially signed EVFTA and EVIPA.
- February 12, 2020: The European Parliament officially approved EVFTA and EVIPA.
- June 8, 2020: The National Assembly of Vietnam officially ratified EVFTA and EVIPA.
- As for EVFTA, this Agreement has officially come into effect from 1st August 2020. For EVIPA, on the EU side, the Agreement will still have to be further ratified by the Parliament of all 27 EU member countries (after the UK completes Brexit) to take effect.

OVERVIEW

EVFTA is a new-generation FTA, with a wide range and high degree of commitments. The Agreement consists of 17 Chapters, 2 Protocols and some understandings. Key areas of commitment in EVFTA include:

- Trade in goods, including:
 - + general provisions (called written commitments); and
 - + specific tariff schedules (called market access commitments)
- Rules of origin, including:
 - + common rules of origin determination
 - + specific rules of origin for certain goods- Customs and trade facilitation
- The Sanitary and Phytosanitary Measures (SPS)
- The Technical Barriers to Trade (TBT)
- Trade Remedies (TR)
- Trade in services (text on general regulations and commitments to open markets)
 - + General provisions (called written commitments); and
 - + Specific tariff schedules on opening service market (called market access commitments)
- Investment
 - + General principles of investor treatment
 - + Dispute settlement mechanism between the State and foreign investors
- Competition
- State-owned enterprises
- Government Procurement
- Intellectual Property
- Legal - Institutional issues
- Collaboration and capacity development
- Trade and Sustainable Development (including environment, labor),

SUMMARY OF THE KEY ISSUES IN EVFTA

1. Trade in Goods

1.1. Commitment to open the EU commodity market

- EU commits to eliminate tariffs as soon as EVFTA comes into effect for Vietnamese goods contained in **85.6%** of tariff lines, equivalent to **70.3%** of Vietnamese export turnover to the EU;
- Within 7 years since EVFTA takes effect, the EU commits to eliminate **99.2%** of tariff lines, equivalent to **99.7%** of Vietnamese export turnover to the EU.

For the remaining **0.3%** of export turnover (including: some rice products, sweet corn, garlic, mushrooms, sugar and products containing high content of sugar, tapioca starch, canned tuna), the EU commits to open to Vietnam under the tariff rate quotas (TRQs) with the import tariff within the quota of **0%**.

Table 1 - Summary of EU open-door commitments for some important commodity groups of Vietnam

Commitment	The tariff commitment of EU to Vietnam
Group of Agricultural - Aquatic products	
Aquatic products (except for canned tuna and fish balls)	Immediately eliminate about 50% of tariff lines as soon as the Agreement comes into force.
	The remaining 50% of tariff lines will be eliminated according to a schedule of 3 to 7 years.
	Particularly for canned tuna and fish balls, the tariff quotas are 11,500 tons and 500 tons, respectively.

Rice	Applying the tariff rate quota mechanism, imports within the quotas enjoy a tariff rate of 0%. The total quota is 80,000 tons, specifically: Unmilled rice: the quota is 20,000 tons Milled rice: the quota is 30,000 tons Fragrant rice: the quota is 30,000 tons Import duties will be completely eliminated after 5 years for broken rice and 3-5 years for rice products.
Coffee	Import duties will be completely eliminated as soon as the Agreement comes into force
Sugar	The tariff rate quota is applied for 10,000 tons of white sugar and 10,000 tons of products containing more than 80% sugar
Natural honey	Import duties will be completely eliminated as soon as the Agreement comes into force
Fresh and processed fruit and vegetable products, fruit juices, fresh flowers	Import duties will be completely eliminated as soon as the Agreement comes into force
Other agricultural products	Some products are eligible for the EU's tariff quota commitments for Vietnam: Processed poultry eggs: 500 tons Garlic: 400 tons Sweet corn: 5,000 tons Tapioca: 30,000 tons Mushrooms: 350 tons Ethyl alcohol: 1,000 tons Other chemical products (manitol, sorbitol, dextrins, ...): 2,000 tons

Group of Industrial goods

Textile	Import duties of 42.5% of tariff lines will be eliminated as soon as the Agreement comes into force
	Import duties of the remainder will be eliminated according to a schedule of 3-7 years.
Footwear	Import duties of 37% of tariff lines will be eliminated as soon as the Agreement comes into force
	Import duties of the remainder will be eliminated according to a schedule of 3-7 years.
Wood and wood products	Import duties of about 83% of tariff lines will be eliminated as soon as the Agreement comes into force.
	Import duties of the remaining 17% (including particle boards, fiber boards and plywood ...) will be eliminated according to a schedule of 3-5 years.
Computers, electronic products and components	Import duties of 74% of tariff lines will be eliminated as soon as the Agreement comes into force.
	Import duties of the remaining products will be eliminated according to a schedule of 3-5 years.
Some other products	For some items, import tariff will be eliminated as soon as the Agreement comes into effect, such as plastic products, phones of all kinds and components, bags, wallets, suitcases, hats...

1.2. Commitment to opening the goods market of Vietnam

- Vietnam commits to eliminating tariffs as soon as EVFTA comes into effect for EU goods belonging to **48.5%** of tariff lines, equivalent to **64.5%** of EU export turnover to Vietnam;
- Within **7 years** since EVFTA takes effect, Vietnam commits to eliminate **91.8%** of tariff lines, equivalent to **97.1%** of EU export turnover to Vietnam;
- Within **10 years** since EVFTA comes into effect, Vietnam commits to eliminate about **98.3%** of tariff lines, accounting for **99.8%** of EU's export turnover to Vietnam.
- For about **1.7%** of the remaining EU tariff lines, Vietnam commits to set tariff quotas as WTO commitments, or apply a special elimination roadmap (such as cigarettes, gasoline, beer, components for cars and motorcycles).

Table 2 - Summary of Vietnam's market access commitments to some important EU commodity groups

Commitment	Vietnam's tariff commitments to the EU
Devices	61% of tariff lines will be eliminated import duties as soon as the Agreement comes into force
	The remaining import tariff will be reduced to 0% after a maximum 10-year schedule

Whole cars and components, spare parts for cars and motorcycles	Large displacement engine cars (over 2500 cm ³ for diesel cars, over 3000 cm ³ for gasoline cars) will have an import tariff of 0% after 9 years
	Other types of cars are eligible for a 10-year tariff reduction commitment
	Import duties will be eliminated for all types of auto parts after 7 years
	Motorbikes and motorcycles over 150 cm ³ will have 0% import tariff after 10 years and 7 years respectively
Alcoholic beverages	Import duties for wines and hard liquors will be eliminated after 7 years
	The schedule for elimination of import tariff on beer is 10 years
Raw meats	Import tariff on frozen pork will be 0% after 7 years;
	Import tariff on other types of pork will be 0% after 9 years
	Chicken meat will be exempt from import tariff after 10 years
Pharmaceuticals	About 71% of pharmaceutical products from the EU will have 0% of import tariff as soon as the Agreement comes into effect
	The remaining products will be exempt from import duties according to a schedule of 5-7 years.
Chemical substances and products the chemical substances	About 70% of these products will be exempt from import duties as soon as the Agreement comes into force
	The remaining products will have 0% of import tariff after a maximum schedule of 7 years

Textile, leather and footwear raw materials	About 80% of these products will be exempt from import duties as soon as the Agreement comes into force
	The remaining products will be exempt from import duties according to a schedule of 3-5 years.
Milk and dairy products	About 44% of these products will have their tariffs eliminated as soon as the Agreement comes into force or after 3 years
	The remaining products will be exempt from import duties after 5 years
Petroleum	Import duties will be eliminated after 10 years

Source: Ministry of Industry and Trade

1.3. Commitment on export tariff

Vietnam and the EU commit to not applying any kind of export tariffs or fees except for cases which are clearly reserved (according to the commitment results, only Vietnam has reservations on this issue, the EU does not make any reservations). According to this commitment, except for cases with reservations (of Vietnam), Vietnam and the EU will not apply any tariffs or fees for only exports but not for domestic goods, and no tariffs and fees will be imposed on exports higher than those for domestic goods.

The reservation of Vietnam on export duties is set out in Annex 2d Chapter 2 of EVFTA, applicable to goods exported from Vietnam to the EU with the following main contents:

- Vietnam maintains export tariff for 57 tariff lines, including products such as sand, shale, granite, some ores and concentrates, crude oil, coal, coke, gold ... Among these products, the current tariff lines with high export tariff will be brought back to 20% within 5 years (only manganese ore will be reduced to 10%); the remaining products maintain current export duties;
- For all other products, Vietnam commits to eliminate export tariff according to a maximum schedule of 15 years.

1.4. Commitment on non-tariff barriers

- *Technical barriers to trade (TBT)*
 - + The two Parties agree to strengthen the implementation of the rules of The Technical Barriers to Trade Agreement (TBT Agreement) of the WTO, in which Vietnam commits to enhancing the use of international standards in issuing TBT regulations.
 - + The Agreement has a separate Annex on non-tariff barriers to the automotive sector, in which Vietnam commits to recognize all technical conformity certification for EU cars according to the principles of the 1958 UNECE Agreement (United Nations standards system) five years after the EVFTA entered into force;
 - + Vietnam commits to accept the label “Made in EU” for non-agricultural products (except for pharmaceuticals) while still accepting specific labels of origin from a specific EU country.
- *Sanitary and Phytosanitary Measures (SPS)*

Vietnam and the EU reached agreement on a number of principles on SPS to facilitate trade in animal and plant products.

In particular, for goods imported and exported to Vietnam, the EU's management entity is the competent authority of each specific EU member country (where Vietnamese goods are exported or imported), not a joint level body of the EU. The European Commission is only responsible for the general coordination, examination/inspection of the control systems and related legal systems of the member countries to ensure the uniform application of technical standards and regulations in the whole EU market

- Other non-tariff measures

The Agreement also includes commitments towards reducing other tariff barriers (eg: commitments on export/import licensing, customs procedures ...) to facilitate import and export activities between the two Parties.

1.5. Appendix on pharmaceuticals

The Agreement has a separate Annex on pharmaceuticals (important EU export products, accounting for 9% of total imports from the EU and Vietnam) in which:

- The two Parties commit to a number of measures to facilitate pharmaceutical trade between the EU and Vietnam;
- Vietnam commits to allow foreign-invested enterprises to import pharmaceuticals but not participate in the wholesale or retail sale of pharmaceuticals, and it shall only resell Vietnam's pharmaceutical products to licensed distributors (wholesalers).
- Vietnam has commitments to allow EU contractors to participate in pharmaceutical bidding packages, with some separate reservations.

2. Trade in Service and Investment

Commitments of Vietnam and the EU in the EVFTA on service trading and investment towards creating an open and favorable investment environment for the operation of enterprises of the two Parties, in which:

- ***EU's commitment to Vietnam:*** Higher than EU's commitment in WTO and equivalent to the highest level of EU in recent EU FTAs
- ***Vietnam's commitment to the EU:*** Higher than Vietnam's commitments in the WTO and at least equal to the highest level of openness that Vietnam offers to other partners in Vietnam's current FTA negotiations (including CPTPP);

Box 1: A number of EVFTA commitments to open service trading and investments from Vietnam to the EU

Service:

Open-door commitments: In EVFTA, Vietnam commits to open more access to EU service suppliers than in WTO in the following areas:

- Business services
- Environmental services
- Postal and delivery services
- Bank
- Insurance
- Sea freight

Vietnam also commits to a series of binding rules related to financial, telecommunications, sea freight and postal services.

Investment:

Vietnam commits to opening to more investment from the EU in a number of manufacturing sectors such as:

- Food & Beverage
- Fertilizers and nitrogen compounds
- Tires
- Gloves and plastic products
- Pottery
- Building materials

For the machinery industry, Vietnam commits to remove restrictions on the assembly of marine engines, agricultural machinery, home appliances, and the bicycle manufacture.

Vietnam also makes several recycling commitments.

Source: European Commission

3. Government Procurement

- The EVFTA Agreement includes the principles of Government procurement (public tendering) that are equivalent to the provisions of The WTO Government Procurement Agreement (GPA).
- With a number of obligations such as online bidding, setting up a portal to post bidding information ...: Vietnam will comply with the schedule; The EU also commits to provide technical assistance for Vietnam to fulfill these obligations.
- Vietnam makes term reservation on the right to set aside a certain percentage of the value of bidding packages for domestic contractors, goods, services and employees.

Box 2: A number of EVFTA commitments to open Vietnam's public procurement market

Vietnam commits to allow EU contractors to participate in bidding packages of:

- Ministries, including procurement in the field of infrastructure such as roads and seaports
- Important state-owned enterprises, for example those in the electricity and railway sectors nationwide
- 34 public hospitals
- Hanoi and Ho Chi Minh City

Source: European Commission

4. Intellectual property

- Intellectual property in EVFTA includes commitments on copyrights, inventions, patents, commitments related to pharmaceuticals and geographical indications ... with a higher level of protection than WTO; However, these levels are basically consistent with the current law provisions of Vietnam.
- Regarding geographical indications, Vietnam commits to protect 169 geographical indications of the EU and the EU will protect 39 geographical indications of Vietnam. The geographical indications of Vietnam are all related to agricultural products and food. This is the condition for a number of prominent agricultural products of Vietnam to access and affirm their brands in the EU market.
- Regarding pharmaceuticals, Vietnam commits to increase the exclusive data protection for EU pharmaceutical products, and in case the competent authority delays the issuance of pharmaceutical product licenses, the patent protection period may be extended for no more than 2 years.

5. State-owned Enterprises and Subsidies

- Regarding state-owned enterprises (SOEs):

The two Parties agree on the principles for SOEs; These principles, together with those on subsidies, aim to ensure an environment of fair competition between SOEs and private enterprises when SOEs engage in commercial activities.

- For domestic subsidies: There will be transparency rules and consultation procedures.

6. Trade and Sustainable Development

EVFTA covers a fairly comprehensive chapter on trade and sustainable development, covering some important topics such as:

- Commitment to effectively enforce basic standards of the International Labor Organization (ILO), ILO Conventions (not only Core Conventions), Multilateral Environmental Agreements that each Party has signed/joined;

- Commitment to join/sign ILO fundamental conventions in which each Party has not participated;

- Commitment not to reduce requirements or compromise the effective enforcement of domestic labor and environmental laws for promoting trade and attracting investment;

- Promote Corporate Social Responsibility (CSR), with reference to international practices on this issue;

- A climate change related provision and commitments on conservation and sustainable management of biodiversity (including wildlife), forests (including illegal logging), and fishing.

- Mechanisms for enhancing civil society participation in the implementation of this Chapter, both from a domestic

perspective (consultation with domestic advisory groups) and bilateral (bilateral forums);

- Provisions enhance transparency and accountability.

7. Dispute Settlement Mechanism

- EVFTA establishes a mechanism to settle disputes that may arise between Vietnam and the EU in the interpretation and implementation of the commitments in the Agreement;
- + This mechanism is applied to most Chapters of the Agreement and evaluated in some aspects to be faster and more effective than the WTO dispute settlement mechanism;
- + This mechanism is designed as the final dispute settlement method, when the Parties cannot settle the dispute by other means;
- + This mechanism includes procedures and time limit for dispute settlement, under which the consultation shall be taken first by the two Parties, if the consultation fails, either Party may request the establishment of a Panel comprised of independent legal experts;
- EVFTA also envisages a more flexible mechanism: a mediation mechanism, to deal with problems related to measures which have negative impact on bilateral trade and investment.

OPPORTUNITIES AND CHALLENGES FROM EVFTA FOR ENTERPRISES

1. Opportunities

- **Regarding exports:** although the EU is currently one of the largest export markets of Vietnam, the market share of Vietnamese goods in this region is still very modest, due to the limited competitiveness of Vietnamese goods (especially price competitiveness). Therefore, if the tariffs are eliminated up to 99% under EVFTA, businesses will have more opportunities to increase their price competitiveness when importing into

this important market area.

Some industries expected to take the most advantages are the key export sectors of Vietnam which the EU currently maintains high tariffs such as textiles, footwear and agricultural products.

- ***Regarding imports:*** Vietnamese businesses will also benefit from good and stable quality imported goods and raw materials with more reasonable prices from the EU. In particular, businesses will have the opportunity to access sources of machinery, equipment, high technology and technicality from EU countries, thereby increase productivity and improve quality of their products.

At the same time, goods and services imported from the EU into Vietnam will create a competitive pressure for Vietnamese enterprises to strive to improve their competitiveness.

- ***Regarding Investment:*** A more open and favorable investment environment, a more attractive export potential will attract more FDI from the EU to Vietnam.

- ***Regarding the business environment:*** With the implementation of EVFTA commitments on institutional issues, behind-the-border legal policies, business environment and policies, Vietnamese law will have changes and improvements towards more transparency, convenience and consistency with international practices.

2. Challenges

With EVFTA, despite great opportunities, Vietnamese enterprises will also face many challenges due to:

- ***The difficulty in meeting requirements of the rules of origin:*** Generally, goods aiming at enjoying the preferential tariff treatment under the FTA shall have its materials met a

certain internal content ratio (materials originating in EU and/or Vietnam). This is a big challenge for Vietnamese enterprises because materials for export production are now mainly imported from China or ASEAN.

- ***TBT, SPS barriers and customer requirements:*** The EU is a demanding market. Customers have high demands on product quality. Compulsory requirements on food safety, labeling, environment ... of the EU are very strict and not easy to meet. Therefore, even if there are tariff benefits, Vietnamese goods shall also have great quality improvements in order to overcome these barriers.

- ***The risk of trade remedies:*** Normally when tariff barriers are no longer an effective protection tool, enterprises in the import market tend to use more anti-dumping, anti-subsidy or self-defense measures to protect domestic manufacturing industry. And the EU is also one of the “traditional” markets for using these tools.

- ***Competitive pressure from EU goods and services:*** Opening the Vietnamese market for goods and services from the EU means that Vietnamese businesses will have to experience more intense competition in the domestic market. In fact, this is a huge challenge because EU businesses have advantages over Vietnamese ones in terms of competitiveness, market experience as well as the ability to take advantage of FTAs. However, Vietnam’s market access commitments have a schedule, especially for sensitive product groups, therefore EVFTA is also an opportunity and reasonable pressure for Vietnamese businesses to adjust and change their business methods and improve competitiveness.

3. Vietnam's enforcement

- Circular 21/2022/TT-BKHDT dated September 30, 2022 on the preparation of bidding documents for non-consulting services under CPTPP, EVFTA, UKVFTA;
- Circular 20/2022/TT-BKHDT dated September 30, 2022 on preparation of bidding documents for consulting services under CPTPP, EVFTA, UKVFTA;
- Circular 12/2022/TT-BKHDT dated June 30, 2022 on the preparation of bidding documents for procurement of goods under CPTPP, EVFTA, UKVFTA;
- Circular 15/2022/TT-BKHDT dated June 30, 2022 on the preparation of bidding documents for construction and installation under CPTPP, EVFTA, UKVFTA;
- Collecting opinions of enterprises on the Draft Preferential Import and Export Tariffs for the implementation of EVFTA 2022-2027;
- Law No. 07/2022/QH15 dated June 16, 2022 amending and supplementing a number of articles of the Law on Intellectual Property;
- Decree No. 09/2022/ND-CP dated January 12, 2022 amending and supplementing the implementation guidance on procurement under CPTPP, EVFTA, UKVFTA;
- Decree No. 11/2022/ND-CP dated 16/01/2022 amending the guidance on certification of aromatic rice varieties for export to the European Union and the United Kingdom of Great Britain and Northern Ireland;
- Decision No. 1972/QD-BCT dated August 17, 2021 on the establishment of the Domestic Advisory Group (DAG) of Vietnam;
- Official Dispatch No. 2669/TCHQ-GSQL dated May 31, 2021 on certification of origin of goods in CPTPP and EVFTA;
- Circular No. 07/2021/TT-BTC dated January 25, 2021 stipulating

- the time of submission of proof of origin of imported goods in the EVFTA Agreement;
- Circular No. 30/2020/TT-BCT dated November 26, 2020 guiding the implementation of EVFTA on Trade Remedies;
 - EU Guidelines on Self-Certification of Origin Mechanism under EVFTA;
 - EU Guidelines on Rules of Origin under EVFTA;
 - Decree 111/2020/ND-CP dated September 18, 2020 on the Special Preferential Import and Export Tariffs for the implementation of the EVFTA Agreement for the period of 2020 - 2022;
 - Decree 102/2020/ND-CP dated September 1, 2020 regulating the Vietnamese legal timber assurance system;
 - Decree 103/2020/ND-CP dated September 4, 2020 on certification of aromatic rice strains exported to the European Union;
 - Official Dispatch No. 812/XNK-XXHH dated July 30, 2020 providing guidance on certificates of origin in EVFTA;
 - The implementation plan of the EVFTA Agreement of the Government, ministries, branches and localities;
 - Official Dispatch 5079/BKHDT-QLDT dated August 6, 2020 implementing commitments on bidding in EVFTA;
 - Dispatch No. 5079/TCHQ-GSQL dated July 31, 2020 implementing Article 4.11 of the EVFTA Agreement;
 - Decision No. 1949/QD-BCT dated 24/07/2020 correcting Circular No. 11/2020/TT-BCT stipulating the rules of origin of goods in the EVFTA;
 - Circular No. 11/2020/TT-BCT dated June 15, 2020 providing for the rules of origin of goods in the EVFTA;
 - Resolution 103/2020/QH14 dated June 8, 2020 ratifying the EU-Vietnam Investment Protection Agreement (EVIPA);
 - Resolution 102/2020/QH14 dated June 8, 2020 ratifying the EU-Vietnam Free Trade Agreement (EVFTA).



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