

# EU-Vietnam free trade agreement

## OVERVIEW

The free trade agreement (FTA) with Vietnam has been described as the most ambitious deal of its type ever concluded between the EU and a developing country. Not only will it eliminate over 99 % of customs duties on goods, it will also open up Vietnamese services markets to EU companies and strengthen protection of EU investments in the country.

According to European Commission figures, the FTA could boost Vietnam's booming economy by as much as 15 % of GDP, with Vietnamese exports to Europe growing by over one third. For the EU, the agreement is an important stepping stone to a wider EU-south-east Asia trade deal.

Despite the obvious economic benefits of the FTA for Vietnam, some of its more vulnerable manufacturing sectors may suffer from competition with the EU. NGOs have also criticised the EU for pursuing closer ties with a politically repressive regime known for its human rights abuses, although the deal includes some safeguards against negative outcomes.

Although the content of the FTA was already agreed in 2015, ratification has been delayed by a 2017 opinion of the European Court of Justice. The Court argued that some aspects of the EU-Singapore FTA, which is similar to the Vietnam FTA, are 'mixed competences', meaning that the FTA as it stands will have to be ratified not only by the EU but also by the 28 Member States. The Commission and Council are now considering whether to modify the agreement so that parts of it can be ratified more speedily by the EU alone.



## Free trade agreement between the European Union and Vietnam

*Committee responsible:* International Trade (INTA)  
*Rapporteur:* Jan Zahradil (ECR, Czech Republic)

**Introduction**

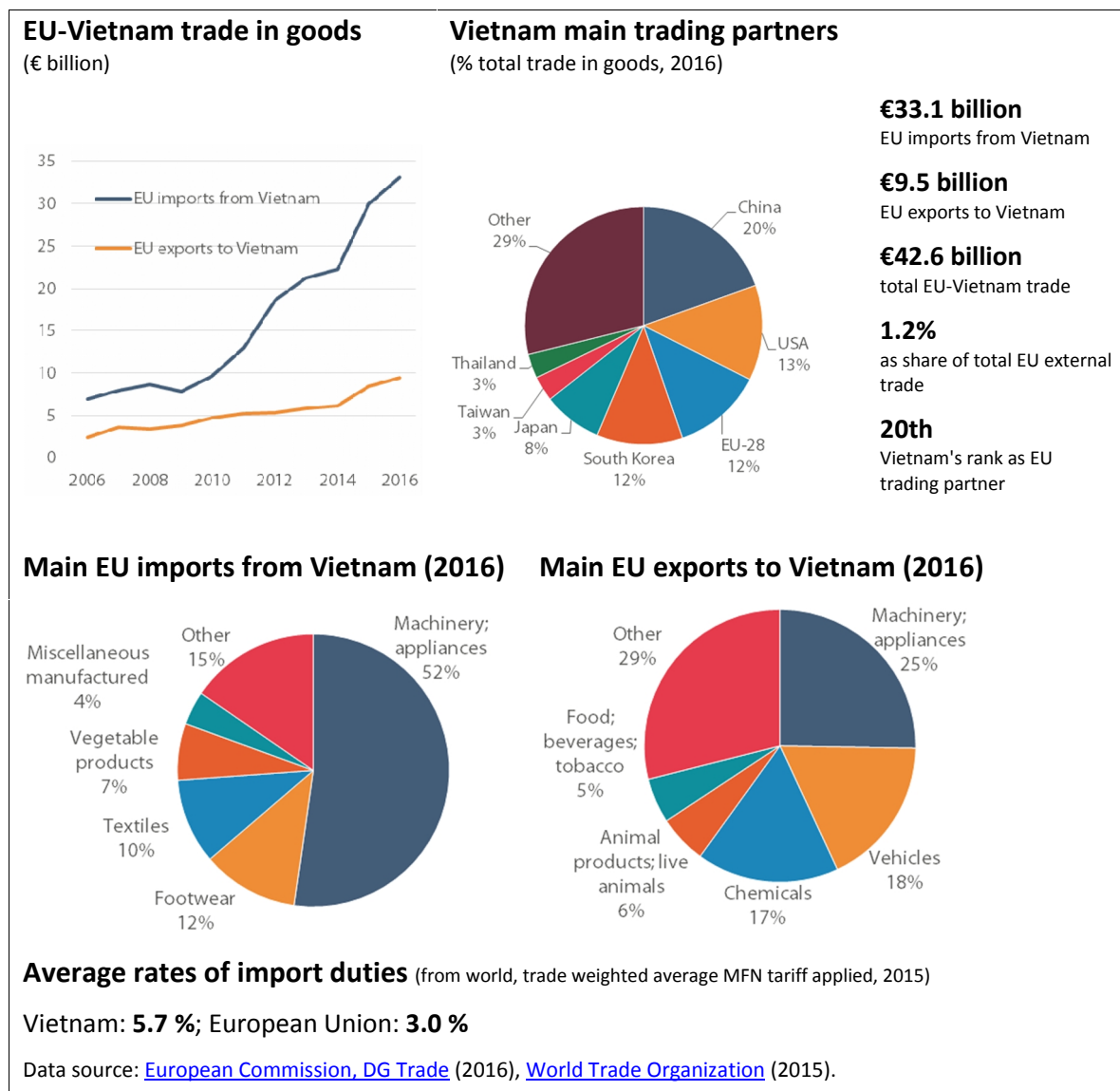
**Dynamic growth in EU-Vietnam economic relations**

The balance of trade in goods is heavily in Vietnam's favour, with the EU importing over three times as much from Vietnam as it exports to it. EU-Vietnam imports and exports in goods have grown at double-digit rates, quadrupling over the past ten years to reach a total value of **€42.6 billion** in 2016. The EU is Vietnam's third largest trading partner, while Vietnam is the EU's 20th largest partner in the world (**second largest in south-east Asia** after Singapore). Vietnam exports electronic equipment (such as mobile phones and computers) to the EU, together with shoes, garments and vegetable products; the EU exports machinery, cars and chemicals (including pharmaceutical products) to Vietnam.

Trade in services totalled **€3.6 billion** in 2016, with a slight balance (€198 million) in the EU's favour.

The EU is not only a key trading partner for Vietnam, but also its largest non-Asian investor: in 2016, the EU invested **US\$1.5 billion** in Vietnam, bringing its accumulated investment in the country up to US\$9.3 billion.

**Figure 1 – EU-Vietnam trade – facts and figures**



### Both sides benefit from trade and investment ties

The agreement aims to stimulate trade and remove many of the remaining barriers to investment. For EU companies, Vietnam is a highly attractive place to do business, not just as a competitive production base with low labour costs and access to the dynamic south-east Asian region, but also as a rapidly growing market for EU exports. Vietnam will also benefit, as trade and investment fuel continued economic growth (which has averaged [6%](#) over the past ten years), bringing the country closer to its [target](#) of becoming an advanced industrialised economy.



### Flourishing economic relations tarnished by human rights and sustainability concerns

Despite the obvious economic benefits of a free trade agreement with Vietnam, many stakeholders have expressed reservations due to human rights and other concerns. Political change in Vietnam has not kept pace with economic development. The country remains a one-party state where [no dissent is tolerated](#). It has some of the least free media in the world (ranked 175th out of 180 countries in the 2017 Reporters Without Borders [Press Freedom Index](#)); journalists, bloggers and activists who challenge the Communist Party's grip on power face harsh jail sentences. Independent trade unions are not allowed and there are few laws to protect labour rights.

Economic development has put the environment under pressure. For example, in April 2016 toxic [discharge](#) from a steel plant caused possibly irreversible damage to sea life; illegal trade in rare animals [continues](#), despite a recent crackdown.

### How the free trade agreement fits with broader EU/Vietnam policies

Both the EU and Vietnam see free trade agreements as a means of tapping into the potential of trade to boost economic growth. For the EU, the Vietnam FTA is part of an [ambitious agenda](#) of trade talks with partners from all over the world, including Singapore (talks concluded but FTA not yet ratified), the Philippines and Indonesia. For the European Commission, the [ultimate goal](#) in south-east Asia is a region-to-region FTA with all ten ASEAN (Association of Southeast Asian Nations) countries; a deal with Vietnam (the EU's second largest trading partner in the region) would be an important step in this direction.

Heavily dependent on external trade (which in 2016 represented a massive [171% of its GDP](#)), Vietnam is equally eager to conclude free trade deals. It has already signed no fewer than [11 preferential trade agreements](#), including six as a member of ASEAN, as well as bilateral FTAs with Japan, Korea, Chile and the Eurasian Economic Union. Such deals

also help Vietnam reduce its dependence on China, an issue of particular urgency in the context of the [territorial dispute](#) between the two countries in the South China Sea. An FTA with the EU is all the more important, now that the United States (which accounts for [20 %](#) of Vietnam's exports, compared to the EU's 18 %) has pulled out of the Trans-Pacific Partnership, which Vietnam had [hoped](#) to benefit from.

### Existing situation

As a member of the World Trade Organization since 2007, Vietnam has committed itself among other things to lowering customs duties, removing some of the inequalities between foreign and domestic investors, opening up its services markets (much more so than its south-east Asian neighbours) and implementing the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). It has made [considerable progress](#) towards meeting these commitments (for example, (non-weighted) average rates of customs duties fell from 18.5 % in 2007 to 9.6 % in 2016, although concerns remain, for example in the field of intellectual property protection).

For trade in goods, Vietnam already enjoys preferential access to European markets under the EU's [Generalised Scheme of Preferences](#). Under these arrangements, the country is [exempt from duty on over half \(53 %\)](#) of its exports to the EU, and pays an average weighted duty on the remainder of just 4.2 % (however, as this is non-reciprocal, EU exports to Vietnam do not benefit from reduced customs duties). In the absence of a free trade agreement with the EU, Vietnam will lose this preferential access three years after its per capita gross national income (GNI) exceeds the World Bank [threshold for upper-middle-income countries](#) (currently US\$3 956); even if rapid economic growth continues, this will not happen till around 2028, given that the country's current per capita GNI is just over half of the threshold.

In 2012, Vietnam also signed a [Partnership and Cooperation Agreement](#) (PCA) with the EU, which came into force in October 2016. It envisages closer cooperation on a wide range of areas including energy, migration and human rights. There is a link between the PCA and FTA: if Vietnam fails to meet its obligations under the PCA (for example, respecting human rights and democracy, Article 1 PCA), the FTA can be suspended (Articles X.17(2) FTA, 57 PCA).

### Parliament's position

The text of the free trade agreement, agreed in 2015, follows many of the Parliament's recommendations in its April 2014 [resolution](#), for example: fair competition between European and Vietnamese companies; protection for intellectual property and foreign investments; a binding sustainable development chapter; a clause that allows the EU to suspend the FTA if there are severe human rights abuses in Vietnam.

The [resolution](#) of 17 December 2015 welcomes the conclusion of the PCA and FTA, but criticises continuing serious human rights abuses in Vietnam and hopes that the two agreements will help to improve the situation. Human rights concerns are prominent in two further resolutions, of [June 2016](#) and [December 2017](#).

### Preparation of the agreement

**European Commission impact assessments.** In 2009, shortly before talks on an FTA between the EU and ASEAN as a whole broke off, the Commission produced a [trade sustainability impact assessment](#) on a region-to-region agreement. According to this, Vietnam would be by far the biggest beneficiary of all ASEAN countries, with a predicted

surge of 35 % in exports, 15 % in GDP and 13 % in salaries (likewise, Vietnam's [predicted](#) benefits from the Trans-Pacific Partnership far exceed those of the USA and the ten other Asia-Pacific TPP signatories – GDP +11 %, exports +28 %). For its part, the EU was expected only to gain 0.2 % GDP and 1 % additional exports from an EU-ASEAN FTA.

Based on the 2009 impact assessment, a 2013 Commission [document](#) analyses the likely effects of a bilateral FTA in greater detail (only on Vietnam; the impact on the EU is not discussed). According to this, the Vietnamese textiles, footwear and leather sectors would be the main winners. Despite the overall gains for Vietnam, some sectors could lose out: cereals and grains, motor vehicles, electronics, machinery and insurance. By boosting economic activity, the FTA could indirectly aggravate environmental problems, resulting in more emissions, increased deforestation and more widespread overfishing. The Commission therefore recommends gradual phasing in of lower customs duties to allow for structural adjustments in the Vietnamese economy, together with an ambitious sustainability chapter. Both recommendations have been followed in the FTA.

The European Commission is currently working on a detailed analysis of the FTA's expected economic impact both on Vietnam and the EU, expected later in 2018.

Finally, in line with its usual practice, the Commission [plans to carry out](#) an *ex post* economic, social and environmental impact assessment of the FTA. The starting date is yet to be decided, but based on past experience, it will probably be around five years after entry into force of the FTA, once there are enough data to measure the effects.

**Human rights impact assessment.** NGOs have [criticised](#) the impact assessments for not looking at human rights issues. Both the [European Parliament](#) and the [European Ombudsman](#) took up these concerns and recommended the Commission carry out a separate human rights impact assessment before implementation of the FTA. In response to the above criticisms, the Commission has produced a [document](#) discussing the FTA's human rights and sustainability implications. It will also look at the human rights impact in the above-mentioned *ex post* assessment.

### Negotiation process and outcome

- **2007:** the EU launches talks on a region-to-region free trade agreement with ASEAN.
- **2009:** due to lack of progress, the EU decides to suspend talks with ASEAN and negotiate with individual south-east Asian countries instead.
- **June 2012-August 2015:** after 14 negotiation rounds, agreement on broad lines of FTA.
- **2 December 2015:** negotiations on FTA concluded.
- **16 May 2017:** the European Court of Justice [argued](#) with regard to the EU-Singapore FTA that most of the areas in the FTA fell either under exclusive or implied external competencies of the EU; however, non-direct ('portfolio') investment and investor-state dispute settlement mechanisms are competences shared by the EU and Member States. Agreements which include only exclusive/implied external EU competences can be ratified on the EU side by the Council after Parliament consent, without further ratification by the EU Member States; however, those which also include shared competences (such as the Singapore and Vietnam FTAs as they now stand) are mixed agreements, and must also be ratified by the Member States. Therefore, the EU and Vietnam are now considering whether to leave the Vietnam FTA as it is, or whether to split it to speed up ratification.

## The changes the agreement would bring

According to the European Commission, the Vietnam FTA is the most ambitious free trade deal ever concluded with a developing country. Its [main features](#) are:

**Almost complete elimination of customs duties.** The FTA will eliminate over 99 % of customs duties in both directions:

- EU exports to Vietnam: 65 % of duties to disappear as soon as the FTA enters into force, and the remainder to be phased out gradually over a period of up to 10 years (for example, to protect the Vietnamese motor sector from European competition, duties on cars will remain for the full 10 years);
- Vietnamese exports to the EU: 71 % of duties to disappear on entry into force, the remainder to be phased out over a period of up to seven years.

To qualify for exemption from customs duties, goods must originate in Vietnam or the EU. The FTA includes detailed rules defining the origin of goods which include components from other countries. For example, Vietnamese garments are eligible if the fabric from which they are made is woven in Vietnam, the EU or Korea (which has FTAs with both Vietnam and the EU) — even if the yarn used to weave the fabric comes from another country altogether. This is quite a generous provision as many FTAs only exempt garments from duty if the fabric and yarn originate from a given country.

**Reduction of non-tariff barriers.** As well as customs duties (tariffs), there are many non-tariff barriers to trade with Vietnam, for example differing technical standards and complex customs procedures. The FTA will reduce some of these obstacles: Vietnam will align more closely with international standards on motor vehicles ([UNECE Vehicle Regulations](#) which the EU already applies) and pharmaceuticals. As a result, EU manufacturers will be able to export cars and other motor vehicles without them having to undergo Vietnamese testing and certification procedures. In addition, Vietnam will simplify and standardise customs procedures.

**Access to Vietnamese public procurement.** The FTA will allow EU companies to bid for Vietnamese government contracts, and vice-versa. This includes contracts with European and Vietnamese national and regional authorities.

**Improved access to Vietnamese service markets.** The FTA will make it easier for EU companies to provide services in Vietnam, for example in the postal, banking, insurance, maritime transport and environmental sectors.

**Investment access and protection.** The FTA will open up various Vietnamese manufacturing sectors to EU investment, for example food and beverages, tyres, ceramics and construction materials. EU investors in Vietnam and Vietnamese investors in the EU will have the same treatment as their domestic counterparts. The FTA establishes an investor-state tribunal to resolve disputes between EU investors and Vietnamese authorities (and vice-versa).

**Promoting sustainable development.** In response to labour rights and environmental concerns about Vietnam, the FTA includes commitments to implement International Labour Organization core standards (for instance, on freedom to join independent trade unions and on banning child labour) and UN conventions (for instance, on combatting climate change and protecting biodiversity). To prevent a race to the bottom for foreign investment, Vietnam commits to maintaining environmental and social standards.

**Intellectual property, state-owned enterprises, geographical indications.** To meet EU concerns in these areas, the FTA includes provisions guaranteeing: protection of EU exports from counterfeit goods; fair competition between foreign companies and

subsidised Vietnamese state-owned enterprises; protection of 169 EU geographical indications (for example Scotch whisky and Grana Padano cheese).

### Stakeholders' views

*This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the agreement. Additional information can be found in related publications listed under 'EP supporting analysis' and 'other sources'.*

Both the [European Commission](#) and the [European Parliament](#) have held public meetings to discuss the EU-Vietnam FTA. Most participants in these events welcomed the FTA, but there were also criticisms.

**Business representatives**, such as [BusinessEurope](#), are enthusiastic about the FTA's potential to boost trade and investment opportunities. They warn that, unless the FTA is ratified quickly, European businesses will be at a disadvantage in Vietnam compared to competitors from other countries – for example, from the United States. Business representatives also note that the FTA will not end all the problems faced by EU companies operating in Vietnam, such as the country's [non-transparent and inconsistent](#) implementation of legislation.

**NGOs** are highly critical of the FTA. Basing its arguments on the Commission's [prediction](#) that the FTA will favour Vietnamese textiles at the expense of manufacturing, Action Aid is [worried](#) that the FTA will make it difficult for Vietnam to protect domestic industries from foreign competition, and thus reverse efforts to diversify into higher-added-value manufacturing (for instance, motor vehicles). As a result, many Vietnamese workers would be forced into low-skilled, low-paid, precarious employment in garment factories. Action Aid also fears that vulnerable social groups, such as farmers, will lose out in competition with foreign investors for resources such as land and water.

Finally, Action Aid criticises the investor-state tribunal to be set up to rule on disputes between EU investors and the Vietnamese government. It claims that this tribunal would enable foreign investors in Vietnam to bypass Vietnamese courts and challenge government actions that, albeit having a legitimate purpose (for example, environmental protection), adversely affect their business interests. The risk of expensive legal disputes could deter the government from taking such actions.

However, the European Commission defends the tribunal, arguing that the FTA reaffirms the [right of governments](#) to 'achieve legitimate policy objectives, such as the protection of public health, safety, environment or public morals'; companies may only use the tribunal in narrowly defined cases – for example, when EU investors are targeted by clearly abusive treatment which disadvantages them relative to Vietnamese operators, or their assets are expropriated without adequate compensation. According to the Commission, such protection mechanisms will benefit Vietnam by making it easier to attract foreign investment.

The [International Federation for Human Rights](#) feels that the provision to suspend the FTA in the event of severe human rights abuses is useful, but does not sufficiently define the conditions for such suspension. It is also disappointed that no human rights impact assessment will be carried out before the FTA comes into force.

In response to such criticisms, the [Commission argues](#) that the EU's overall policy towards Vietnam, including the free trade and partnership and cooperation agreements, is supportive of human rights. For example, in the PCA there is the above-mentioned legal provision allowing the EU to suspend the FTA in the event of serious abuses; the PCA also provides for a human rights dialogue with [regular EU-Vietnam meetings](#) – this dialogue

already began in 2012, even before the agreement was ratified. Moreover, Vietnamese civil society groups will be consulted on the implementation of the FTA. The EU is also supporting such groups financially, helping them to promote human rights and sustainable development in general, and to monitor the FTA once implemented.

### Signature and ratification process

In the light of the European Court of Justice's May 2017 opinion on the EU-Singapore FTA, the EU is looking at [different options](#) for trade and investment agreements (including the FTA with Vietnam). These could include:

- keeping the FTA as it is, and ratifying it as a mixed agreement, by the Council of the EU and the European Parliament, as well as the 28 Member States. This would mean a longer ratification process, with the risk of further delays;
- transferring the parts of the FTA on portfolio investment and an investor-state dispute settlement mechanism to a separate agreement, for ratification by the EU and all the Member States. This would enable the rest of the FTA to be ratified by the EU only.

Once a decision has been taken, several months will still be needed to translate the resulting text or texts into EU official languages and Vietnamese, meaning that the ratification process will not be able to start until autumn 2018 at the earliest.

### European Parliament supporting analysis

Armanovica M., [EU-Vietnam economic and trade relations](#), Policy Department, Directorate-General for External Policies, European Parliament, September 2012.

Vandewalle L., Mendonca S., [Vietnam: despite human rights concerns, a promising partner for the EU in Asia](#), Policy Department, Directorate-General for External Policies, European Parliament, October 2015.

### Other sources

[Trade Sustainability Impact Assessment on EU-ASEAN FTA, Annex on Vietnam](#), European Commission, 2013.

[Human Rights and Sustainable Development in EU-Vietnam Relations with specific regard to the EU-Vietnam FTA](#), European Commission, 2016.

[Guide to the EU-Vietnam Free Trade Agreement](#), European Commission, 2016.

### Disclaimer and Copyright

This document is prepared for, and addressed to, the Members and staff of the European Parliament as background material to assist them in their parliamentary work. The content of the document is the sole responsibility of its author(s) and any opinions expressed herein should not be taken to represent an official position of the Parliament. Reproduction and translation for non-commercial purposes are authorised provided the source is acknowledged and the European Parliament is given prior notice and sent a copy.

© European Union, 2018.

[eprs@ep.europa.eu](mailto:eprs@ep.europa.eu)

<http://www.eprs.ep.parl.union.eu> (intranet)

<http://www.europarl.europa.eu/thinktank> (internet)

<http://epthinktank.eu> (blog)



*Second edition. The 'International Agreements in Progress' briefings are updated at key stages throughout the process, from initial discussions through to ratification.*