EU-Vietnam Voluntary Partnership Agreement on forest law enforcement, governance and trade (resolution)


The European Parliament,

– having regard to the draft Council decision on the conclusion of the Voluntary Partnership Agreement between the European Union and the Socialist Republic of Viet Nam on forest law enforcement, governance and trade (10861/2018),

– having regard to the draft Voluntary Partnership Agreement of 9 October 2018 between the European Union and the Socialist Republic of Viet Nam on forest law enforcement, governance and trade (10877/2018),

– having regard to the request for consent submitted by the Council in accordance with the first subparagraphs of Articles 207(3) and 207(4), in conjunction with point (a)(v) of the second subparagraph of Article 218(6) and with Article 218(7) of the Treaty on the Functioning of the European Union (C8-0445/2018),

– having regard to the Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Socialist Republic of Vietnam, of the other part¹,

– having regard to the draft Free Trade Agreement between the European Union and the Socialist Republic of Vietnam,

– having regard to the draft Investment Protection Agreement between the European Union and its Member States, of the one part, and the Socialist Republic of Vietnam of the other part,


¹
Community1 (FLEG Regulation),

– having regard to the Commission’s proposal for a Forest Law Enforcement, Governance and Trade Action Plan (COM(2003)0251),

– having regard to the Council conclusions of 28 June 2016 on forest law enforcement, governance and trade (10721/2016),


– having regard to the reports of the Environmental Investigation Agency of 31 May 2018 entitled ‘Serial Offender: Vietnam’s continued imports of illegal Cambodian timber’3 and of 25 September 2018 entitled ‘Vietnam in Violation: Action required on fake CITES permits for rosewood trade’4,

– having regard to the 2015-2030 United Nations Sustainable Development Goals (SDGs),

– having regard to the Paris Agreement reached on 12 December 2015 at the 21st Conference of Parties to the United Nations Framework Convention on Climate Change (COP21),

– having regard to the 2011 Bonn Challenge, which is a global effort to bring 150 million hectares of the world’s deforested and degraded land into restoration by 2020, and 350 million hectares by 2030,

– having regard to the report of the United Nations Environment Programme (UNEP) of 2012 entitled ‘Green carbon, black trade: illegal logging, tax fraud and laundering in the world’s tropical forests’5,

– having regard to the UN conventions to tackle crime and corruption, including the Convention against Transnational Organised Crime and the Convention against Corruption,

– having regard to its legislative resolution of 12 March 20196 on the draft Council decision,

– having regard to Rule 99(2) of its Rules of Procedure,
– having regard to the report of the Committee on International Trade and the opinion of the Committee on Development (A8-0093/2019),

A. whereas Vietnam became the third country in Asia to enter into negotiations on a forest law enforcement, governance and trade (FLEGT) Voluntary Partnership Agreement (VPA) in 2010, after Indonesia and Malaysia; whereas negotiations were concluded in May 2017 and the agreement was signed on 19 October 2018;

B. whereas the objective of the VPA is to provide a legal framework aimed at ensuring that all timber and timber product imports from Vietnam into the EU covered by the VPA have been produced legally; whereas VPAs are generally intended to foster systemic changes in the forestry sector aimed at sustainable management of forests, eradicating illegal logging and supporting worldwide efforts to stop deforestation and forest degradation;

C. whereas Vietnam is a significant country in the context of the timber trade, home to the world’s fourth-largest, export-oriented wood processing sector and aiming to become the largest; whereas, as a processing hub, Vietnam is a major exporter of timber products to the EU but also to countries in the region, notably China and Japan;

D. whereas Vietnam is a major importer of timber and timber products, with its factories consuming some 34 million cubic meters of timber and timber products in 2017, of which 25 % was imported and 75 % was from domestic plantations, many owned and managed by smallholders; whereas imports grew in value by 68 % over the period 2011-2017; whereas in recent years, Vietnam has made considerable progress in reducing domestic deforestation and has increased its forested area from 37 % in 2005 to 41,65 % in 2018, including industrial plantations; whereas Vietnam has enforced a prohibition on the logging of domestic natural forests since 2016;

E. whereas the biggest source countries for logs and sawn timber in 2017 were Cameroon, the US and Cambodia, alongside Democratic Republic of Congo (DRC) as a notable supplier; whereas, since 2015, Cambodia has been Vietnam’s second-largest tropical timber supplier, in spite of a reported ban¹ on exports to Vietnam; whereas a 43 % increase in volume and 40 % increase in value of imports from African countries was reported between 2016 and 2017; whereas NGOs with relevant expertise have pointed out that timber exported from Cambodia and DRC should be considered as ‘high risk’, while raw timber is often imported from countries characterised by weak governance, high levels of corruption or conflict, with widespread risk of illegality in timber harvesting;

F. whereas Cambodia has the fifth-highest deforestation rate the world and whereas UN statistics show that Cambodia’s forest cover fell from 73 % in 1990 to 57 % in 2010;

G. whereas, based on Article 3 of Sub-decree No. 131 of 28 November 2006, Cambodia prohibits exports of round logs except from plantations, rough sawn timber except from plantations, and square and rectangular timber of a thickness and width greater than

¹ https://www.phnompenhpost.com/national/尽管禁令柬埔寨越南接近2016年总量
whereas all exports of natural forest timber products from Cambodia are in principle deemed to be in breach of Cambodian law; whereas, under the VPA, Vietnam is committed to only importing timber that has been legally harvested in accordance with the national legislation of the source country;

H. whereas under a VPA, a country commits to setting up a policy with a view to ensuring that only timber and timber products verified as legal will be exported to the EU; whereas Vietnam will have to adopt legislation putting in place the Timber Legality Assurance System (TLAS), and set up the necessary administrative structures and capacity in order to implement and enforce its VPA commitments; whereas this VPA will apply to timber and timber products intended for both domestic and export markets, save for the final step of FLEGT licensing, which is for the time being intended for exports to the EU only;

I. whereas Vietnam has committed to adopting legislation ensuring only legally produced timber is imported into its market, based on due diligence obligations for timber and timber product importers; whereas Vietnam has also committed to recognising the relevant laws of countries of harvest as part of the definition of legality under the VPA;

J. whereas promoting this VPA in the region would play an important role in fostering economic integration and achieving international sustainable development goals; whereas the conclusion of new VPAs – in particular with China, which borders Vietnam and is a major player in the processed wood industry – would make it possible to provide guarantees as to the legality and viability of the trade in timber and timber products in the region;

K. whereas only once Vietnam has proven full implementation of all VPA commitments and has set up the capacity to enforce the related national legislation will it be able to accede to the EU FLEGT licencing scheme; whereas timber imported under a FLEGT licence is presumed to be legal under the EU Timber Regulation; whereas the accession of Vietnam to the FLEGT licencing scheme is approved by a delegated act;

L. whereas the EU-Vietnam FTA will liberalise trade in timber and timber products at its entry into force and imports from Vietnam will be covered by the general due diligence

2 The VPA covers all major products exported to the EU, particularly the five compulsory timber products as defined in the 2005 FLEGT Regulation (logs, sawn timber, railway sleepers, plywood and veneer) and also includes a number of other timber products such as wood chip particles, parquet flooring, particle board and wooden furniture. The VPA covers exports to all third countries though, at least initially, the licencing scheme only applies to EU exports.
3 According to point (j) of Article 2 of the VPA, ‘legally produced timber’ (hereinafter also referred to as ‘legal timber’) means timber products harvested or imported and produced in accordance with the legislation of Vietnam set out in Annex II and other relevant provisions of this Agreement; and, in the case of imported timber, it means timber products harvested, produced and exported in accordance with the relevant legislation of the country of harvest and the procedures described in Annex V’.
4 The readiness of the TLAS system for FLEGT licensing will first be assessed jointly by the EU and Vietnam. Only if both parties agree that the system is robust enough will the licensing be able to start.
obligations of the EU Timber Regulation until the start of FLEGT licencing; 

1. Recalls that sustainable and inclusive forest management and governance is essential to achieve the objectives set in the 2030 Agenda for Sustainable Development and the Paris Agreement; 

2. Calls for the EU to ensure the coherence of the VPA with all its policies, including in the fields of development, the environment, agriculture and trade; 

3. Strongly supports the FLEGT process with Vietnam given the country’s role in the timber processing sector; welcomes the signature of the VPA, an agreement designed to progressively bring complete policy reform in the country aimed at cleaning illegally produced timber from the supply chains of Vietnamese operators; welcomes Vietnam’s commitment and the progress made so far and is aware that the full implementation of the VPA will be a long-term process entailing not only the adoption of a whole set of legislation (TLAS) but also ensuring that adequate administrative capacity and expertise for implementation and enforcement of the VPA is in place; recalls that FLEGT licencing can start only once Vietnam has demonstrated the readiness of its TLAS system; takes note of the challenges represented by the coordination between the national and provincial levels, which is necessary in order to adequately and consistently enforce the VPA throughout the country and calls on the Government of Vietnam to ensure such coordination; 

4. Recalls that the implementation of the VPA must complement EU commitments to environmental protection and ensure coherence with commitments to prevent mass deforestation; 

5. Calls on the Commission and the European External Action Service (EEAS) to allocate adequate human resources to the implementation of this VPA, including ensuring adequate resources to the EU Delegation in Hanoi, as well as financial resources to Vietnam in the framework of the present and future development cooperation instruments to be specifically earmarked for the implementation of the VPA; encourages the Commission and the EEAS to assist the Vietnamese authorities and civil society, including by making satellite images available to them; calls for the EU to direct its efforts towards the strengthening of Vietnam’s legal framework and institutional capacity by addressing the technical and economic challenges that impede the effective implementation and enforcement of existing national and international regulations; 

6. Acknowledges commitments made by Vietnam’s wood industry to eliminate illegal timber from supply chains and raise awareness of these matters; stresses, however, that a shift in mindset within the industry, as well as robust enforcement, is key; recalls that the presence of illegal timber in supply chains risks inflicting reputational damage on the Vietnamese processing industry; 

---

1 Article 13.8, paragraph 2(a): ‘[each Party shall] encourage the promotion of trade in forest products from sustainably managed forests and harvested in accordance with the domestic legislation in the country of harvest; this may include the conclusion of a Forest Law Enforcement Governance and Trade (FLEGT) Voluntary Partnership Agreement’. 

7. Is aware, however, that in the past Vietnam has been faced with a significant challenge in tackling illegal timber trade from Laos, and in recent years from Cambodia; considers that in such cases Vietnam and supplier countries are together responsible for fuelling this illegal trade, since Vietnamese authorities, notably at provincial level, have taken formal decisions that breach the legislation of the country of harvest, such as administering formal import quotas;

8. Welcomes Vietnam’s commitment to adopt legislation to ensure that only legally produced timber is imported into its market, based on mandatory due diligence for importers, as one of the major achievements of the VPA; recalls that due diligence obligations should not be reduced to a mere box-ticking exercise, but that they should include all necessary steps – such as gathering information, assessing risks and taking additional measures to mitigate any risks identified with a view to reducing the risk level to ‘negligible’ – to be enforced by the competent national authorities through sound and systematic checks on individual companies; highlights the challenge of enforcing due diligence obligations through customs authorities, which will require adequate training; recalls that the Vietnamese authorities should adopt a due diligence system corresponding to the one detailed in the EU Timber Regulation and stresses the need to provide for independent third party submissions in the national due diligence legislation; encourages the Vietnamese authorities to consider third party auditing and public reporting by companies as requirements of their due diligence system, as well as to provide adequate support to companies in complying with their obligations and to avoid placing disproportionate burdens on household suppliers of timber, while avoiding the creation of loopholes;

9. Calls on the Government of Vietnam to provide for adequate, dissuasive and proportionate penalties for infringement of legislation implementing TLAS, which would in the case of imports include a full prohibition of the placing on the Vietnamese market of illegal timber, alongside the seizure of such timber;

10. Welcomes the independent evaluation and complaints and feedback mechanism and calls on the Vietnamese authorities to ensure that these are responded to adequately, including through effective and dissuasive enforcement action when necessary; expects these mechanisms to operate in full transparency and to foster information sharing between civil society and enforcement authorities; welcomes the commitment by Vietnam to ensure independent monitoring of the VPA implementation by civil society organisations, forest associations, enterprises, trade unions, local communities and people living in forest areas; stresses the crucial importance of their involvement and access to relevant and up-to-date information in enabling them to fulfil their role in this process and to further contribute to the credibility of TLAS and its continuous strengthening; welcomes the commitment made by Vietnam to allow civil society access to the national database on forestry and encourages the government to submit TLAS implementing legislation to public consultation and take into account the feedback it receives;

11. Welcomes the involvement of civil society organisations during and following the VPA negotiations and urges the Government of Vietnam to ensure genuine and full inclusion during the whole implementation phase and beyond, covering the entire scope of the VPA, including import controls, due diligence obligations, the organisation classification system and risk-based verification of companies and FLEGT licences; stresses the importance of involving local communities both for socio-economic reasons
and in order to ensure proper implementation of the new Forestry Law and the VPA commitments;

12. Strongly condemns the illegal timber trade taking place across the Cambodian border and calls on the authorities of both countries to put an immediate and complete stop to the illegal flows, as an absolute necessity for a successful continuation of the VPA process; urges the Vietnamese authorities to investigate, remove from function and bring to justice those responsible for having authorised and managed the illegal trade from Cambodia and elsewhere; welcomes the recent decision taken by the Vietnamese authorities only to allow timber trade through the main international gates, as well as to strengthen enforcement capabilities against illegal trade; urges the Vietnamese authorities to immediately categorise timber from Cambodia as ‘high risk’ and to make sure Cambodian legislation on the harvest and export of timber is respected, in line with VPA commitments; calls on the two countries to foster and improve dialogue, cross-border cooperation, exchange of trade data and information on risks related to illegal timber trade and the respective legislation in force, and encourages them to involve the EU in facilitating this dialogue; encourages Vietnam and Cambodia to request support from Interpol and work together on effective and long-term measures to combat rampant illegal logging and the cross border smuggling of timber to Vietnam; calls on the Vietnamese authorities to apply the same measures to imports from other supplier countries where similar concerns exist or may arise, notably those in Africa, such as DRC;

13. Stresses the need to address the regional dimension of illegal logging and the transport, processing and trade of illegal timber throughout the supply chain; calls for this regional dimension to be included in the VPA evaluation process in the form of an assessment of the link between the existence of weaker enforcement mechanisms in other countries of the region and the increase of exports from such countries to the EU;

14. Stresses that poor governance and corruption in the forestry sector accelerate illegal logging and forest degradation and emphasises the fact that the success of the FLEGT initiative also depends on tackling fraud and corruption throughout the timber supply chain; urges the Government of Vietnam to work to stop widespread corruption and address other factors fuelling this trade, in particular in relation to customs and other authorities that will play a pivotal role in the implementation and enforcement of the VPA, as a concrete signal that Vietnam is fully committed to the VPA process; stresses the need to end impunity in the forest sector by ensuring that infractions are prosecuted;

15. Welcomes the recent adoption by the Vietnamese Government of an action plan for the implementation of the VPA and calls on the government to follow a concrete, time bound and measurable approach; welcomes the entry into force of the new Forestry Law on 1 January 2019, which includes a prohibition on imports of illegally produced timber into Vietnam and urges the Vietnamese authorities to enforce this prohibition and to swiftly adopt implementing measures if necessary, with a view to bridging the gap until TLAS becomes operational;

16. Welcomes the inclusion of provisions on sustainable management of forests in the EU-Vietnam FTA, which also make a connection with the VPA; calls on the Commission to pay particular attention to trade in timber and timber products during the implementation of the FTA and to monitor trade flows closely in order to make sure that additional trade liberalisation does not entail additional risks of illegal trade;
17. Asks the Commission to report to Parliament annually on progress made by Vietnam in implementing the VPA, including against the requirements of this resolution, as well as on the activities of the Joint Implementation Committee, with a view to enabling an informed decision once the delegated act authorising the acceptance of FLEGT licences is proposed; calls on the Commission to consider improving the regulation on FLEGT licencing at the next review exercise in order to enable it to respond quickly to cases of significant infringements of VPA commitments;

18. Calls on the Commission to foster dialogue and promote the EU Timber Regulation with the major importing countries in the region and major EU trading partners such as China and Japan, and to further prioritise the need in bilateral relations with those countries, including in trade relations, for concrete solutions to stop illegal timber trade, with a view to creating a global level playing field on which to address the issue; supports the Commission in launching VPA negotiations with Vietnam’s neighbouring countries as soon as the necessary conditions are fulfilled and underlines the importance of FLEGT VPAs in future development and cooperation instruments; invites the Commission to put in place instruments to facilitate best practice exchanges between Vietnam and other countries that have already concluded VPAs with the EU;

19. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States, of the Socialist Republic of Vietnam and of the Kingdom of Cambodia.