

EU-Vietnam trade and investment agreements

OVERVIEW

The European Commission has described the free trade and investment protection agreements (FTA/IPA) signed with Vietnam as the most ambitious deals of their type ever concluded by the EU and a developing country. Not only will they eliminate over 99 % of customs duties on goods, they will also open up Vietnamese markets to European service providers and investors.

According to European Commission figures, the agreements will boost trade in both directions, with EU exports set to rise by nearly 30 %. Vietnam is the second south-east Asian country after Singapore to sign trade and investment agreements with the EU, bringing the long-term goal of a region-to-region EU-ASEAN trade deal a step closer.

In view of the human rights situation in Vietnam, opinions are divided on whether the agreements should be ratified. Critics argue that the EU should not approve the agreements until the situation improves. On the other hand, defenders point out that the FTA/IPA include commitments to stronger human rights (such as allowing independent trade unions); they also insist that the EU can best help to bring about improvements by engaging with Vietnam .

Following the same approach as for Singapore, the single text originally agreed in 2015 with Vietnam has been split into two parts, an FTA covering exclusive EU competences and an IPA that includes competences that are shared with EU Member States. The European Parliament is set to vote in February 2020; if it gives its consent, the two agreements will then have to be ratified by Vietnam and (for the IPA) the EU Member States before entering into force.



Free trade agreement between the European Union and the Socialist Republic of Viet Nam; Investment Protection Agreement between the European Union and its Member States, of the one part, and the Socialist Republic of Viet Nam, of the other part

Committee responsible: International Trade (INTA)
Rapporteur: Jan Zahradil (ECR, Czechia)
 FTA: 2018/0356(NLE)
 IPA: 2018/0358(NLE)

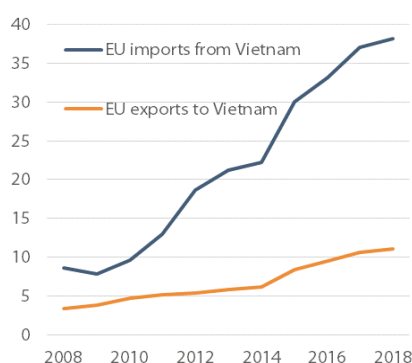
Introduction

Dynamic growth in EU-Vietnam economic relations

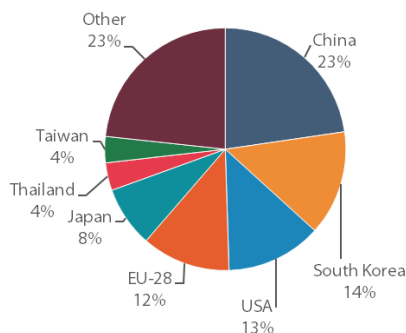
Trade in goods. The balance of trade is heavily in Vietnam's favour, with the EU importing over three times as much from Vietnam as it exports to it. EU-Vietnam imports and exports have grown at double-digit rates, quadrupling over the past 10 years to reach a total value of **€49.3 billion** in 2018. The EU is Vietnam's fourth-largest trading partner in the world, while Vietnam is the EU's 16th largest partner (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.

Figure 1 – EU-Vietnam trade – facts and figures

EU-Vietnam trade in goods (€ billion)



Vietnam main trading partners (% total trade in goods, 2018)



€38.2 billion
EU imports from Vietnam

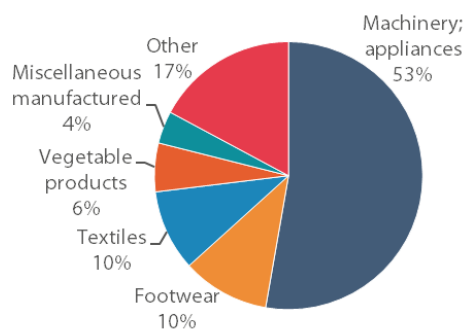
€11.1 billion
EU exports to Vietnam

€49.3 billion
total EU-Vietnam trade

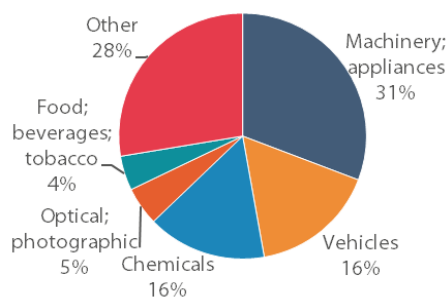
1.3%
as share of total EU external trade

16th
Vietnam's rank as an EU trading partner

Main EU imports from Vietnam (2018)



Main EU exports to Vietnam (2018)



Average rates of import duties (from world, trade-weighted average MFN tariff applied, 2017)

Vietnam: **5.2 %**; European Union: **3.0 %**

Data sources: [European Commission, DG Trade](#) (2018), [World Trade Organization](#) (2017).

Trade in services totalled **€4.1 billion** in 2017, with the balance (€470 million) in the EU's favour.

EU investment in Vietnam is also significant: in 2017, EU countries invested **US\$129 million** in Vietnam, bringing accumulated investment in the country up to **US\$6.1 billion**. The Netherlands and the UK were the 11th and 15th largest sources of **foreign direct investment** respectively.

Both sides benefit from trade and investment ties

The agreements aim 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 10 years), bringing the country closer to its [target](#) of becoming an advanced industrialised economy.

Flourishing economic relations tarnished by poor human rights

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 176th out of 180 countries in the 2019 Reporters Without Borders [Press Freedom Index](#)). In 2018, Vietnamese courts continued to hand down lengthy jail sentences to journalists, bloggers and activists who challenge the Communist Party's grip on power. Independent trade unions are not allowed and labour rights (such as the [right to strike](#)) are restricted. A new Labour Code is expected to address some of these issues. However, in other respects, an already poor situation has deteriorated recently: for example, a repressive new [Cybersecurity Law](#) has targeted internet freedom since January 2019, and the number of political prisoners is rising (in 2019, over 100, according to [Amnesty International](#)).

Links to broader EU/Vietnam policies

Both the EU and Vietnam see economic agreements as a means of tapping into the potential of trade and investment to boost growth. For the EU, the Vietnam FTA and IPA are part of an [ambitious agenda](#) of negotiations with partners from all over the world. In south-east Asia, the European Commission's [ultimate goal](#) is a region-to-region agreement with all 10 ASEAN (Association of Southeast Asian Nations) countries; following the still pending FTA and IPA with [Singapore](#), a deal with Vietnam (after Singapore, 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 2018 represented a massive [200 % of its gross domestic product \(GDP\)](#)), Vietnam is equally eager to conclude free trade deals. It already has no fewer than [12 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 for Hanoi, now that the United States (which accounts for [20 %](#) of Vietnam's goods exports, compared with the EU's 18 %) has pulled out of the Trans-Pacific Partnership (TPP), which Vietnam had [hoped](#) to benefit from.

Figure 2 – Map of Vietnam



Source: EPRS.

Existing situation

As a member of the World Trade Organization (WTO) 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 9.5 % in 2018, 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](#) (GSP). Under these arrangements, the country is [exempt from duty on around half](#) 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\$3 996); even if rapid economic growth continues, this will not happen till around 2030, given that the country's current per capita GNI is just over [60 %](#) of the threshold.

For investment, Vietnam has 21 [bilateral agreements](#) with 22 EU Member States.

In 2012, Vietnam 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/IPA: if Vietnam fails to meet its obligations under the PCA (for example, respecting human rights and democracy, Article 1 PCA), 'appropriate measures' including partial or full suspension of the FTA and/or IPA can be taken (Articles 17.18(2) FTA, 4.16(2) IPA, 57 PCA).

European Parliament: state of play

The European Parliament's [resolution](#) of 17 December 2015 welcomed the conclusion of the PCA and FTA. At the same time, it and further resolutions on Vietnam ([June 2016](#), [December 2017](#), [November 2018](#)) point out serious human rights concerns.

With the Parliament set to vote on the FTA/IPA in February 2020, the International Trade (INTA) Committee is drafting its recommendations (with input from the DROI/AFET, DEVE and PECH (Human Rights/Foreign Affairs, Development, Fisheries) committees. Rapporteur Jan Zahradil's draft resolutions on the [FTA/IPA](#) recommend that the Parliament consent to them in view of the expected economic benefits and Vietnam's commitment to improved human rights. DROI/AFET's draft [opinions](#) argue that the agreements will help to improve the human rights situation, and therefore also recommend consent, as do those of [DEVE](#) and [PECH](#).

At the INTA [meeting](#) on 6 November 2019, MEPs who had visited Hanoi the previous week emphasised the country's progress in recent years, the Vietnamese authorities' strong interest in cooperating with the EU, broad support for the agreements from Vietnamese business and civil society, and the need for the EU to consolidate its influence in this strategically important southeast Asian country. Most speakers at the meeting were supportive of the agreements. However, several other MEPs felt that the Parliament's recommendations should emphasise human rights. There were also some calls for the INTA Committee to be given more time to monitor Vietnam's follow-up to its commitments.

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 reached on broad lines of FTA with Vietnam.
- **2 December 2015:** negotiations on FTA concluded.
- **August 2018:** to speed up the ratification process (see below), the EU and Vietnam agree to split the agreement into an FTA and a separate Investment Protection Agreement.
- **30 June 2019:** the agreements are signed by EU and Vietnamese representatives in Hanoi.
- **February 2020:** the European Parliament is expected to vote on giving consent to the agreements.

The changes the agreements would bring

Main features of the FTA/IPA

According to the European Commission, the agreements with Vietnam are the most ambitious ever concluded with a developing country. Their [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, with 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 that 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 both 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.

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).

Intellectual property, state-owned enterprises, geographical indications. To address 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).

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. With the exception of some protected sectors, EU investors in Vietnam and Vietnamese investors in the EU will have the same treatment as their domestic counterparts. The Investment Protection Agreement establishes an Investment Tribunal and Appeal Tribunal to resolve disputes between EU investors and Vietnamese authorities (and vice-versa).

Expected impact

In 2009, the European Commission published a [trade sustainability impact assessment](#) on a potential EU-ASEAN trade agreement. According to this, Vietnam would be by far the biggest beneficiary, with a predicted surge of 35 % in exports, 15 % in GDP and 13 % in salaries. A 2018 European Commission [report](#) forecasts more modest, but still substantial benefits for Vietnam: a €6 billion increase in 'economic welfare' (equivalent to 2.5 % of current GDP) and €15 billion in additional exports (+18 %) of goods and services by 2035, relative to a situation in which there is no agreement.

According to the latter document, the biggest increases for Vietnam will come in exports of leather products (+€7.5 billion, +62 % by 2035) and wearing apparel/textiles (+€6 billion, +84 %); on the other hand, Vietnamese exports of electronic goods are expected to drop by €196 million (- 0.8 %). This bears out the European Commission's earlier [forecast](#) in 2013 of a massive surge in Vietnamese textile and footwear exports, at the expense of more sophisticated manufacturing sectors.

The fact that Vietnam accounts for a much smaller share of the EU's trade than vice-versa, explains in part the smaller benefits forecast for the EU: €1.9 billion in additional economic welfare (0.01 % of GDP) and 8.3 billion in additional exports (+29 %). The main EU products to benefit will be motor vehicles (+€1.5 billion, 444 %); communications and business services will also be big winners (+€632 million or +74 % and +€535 million or +10 % respectively).

In view of the serious human rights concerns about Vietnam, in 2014 the [European Parliament](#) and the [European Ombudsman](#) recommended that the Commission carry out a separate human rights impact assessment. The Commission did not follow that recommendation, although it did discuss some of the human rights and environmental benefits expected from a trade agreement with Vietnam in a 2016 [document](#). The Commission also plans to carry out an *ex post* economic, social and environmental impact assessment of the FTA and IPA. The starting date of the assessment has not yet been decided, but based on past experience, it will probably be around five years after entry into force of the agreements, once there are enough data to measure the effects.

Stakeholders' views

European businesses are generally [positive](#) about the new trade and investment opportunities that the agreements will bring. For them, the FTA and IPA will help to level the playing field between EU companies and their competitors from countries such as Japan, China, Korea and Australia that already have FTAs with Hanoi.

Some Vietnamese civil society activists [welcome](#) the 'domestic advisory groups' envisaged by the FTA, through which their government will consult with social and environmental stakeholders on implementation of the [chapter](#) on trade and sustainable development. They also feel that the agreements, and increased EU engagement in general, will help to improve the situation.

However, **international NGOs** are more critical. In 2015, drawing on the Commission's own 2013 forecast, Action Aid [argued](#) that liberalised trade with the EU would result in a shift from more sophisticated manufacturing sectors (such as electronics) to low value-added textiles and footwear, putting downward pressure on Vietnamese wages. Action Aid was also concerned that higher foreign investment would increase the risk of farmers becoming victims of land grabs.

In November 2019, 18 European and Vietnamese NGOs [called](#) for the Parliament to postpone its consent for the FTA/IPA; according to them, regardless of the FTA/IPA's potential economic benefits for Vietnam, the EU will lose most of its leverage to secure meaningful improvements to the human rights situation once the agreements enter into force. NGOs acknowledge that the FTA and IPA include the possibility of suspension in the event of serious human rights abuses. However, they point out that the EU has never invoked [human rights clauses](#) in bilateral free trade agreements.

In response to NGO human rights concerns, **European Commission** officials present at European Parliament hearings have argued that trade strengthens social and economic rights by lifting millions out of poverty. They point out that, in line with its FTA commitments, in 2019 Vietnam ratified the ILO Convention on the [Right to Organise and Collective Bargaining](#); two further ILO [conventions](#) are to follow in 2020 and 2023. Together with the country's new [Labour Code](#), currently being debated by the Vietnamese National Assembly, this theoretically opens the door to independent trade unions – potentially a momentous change in a country that at present does not tolerate unions or any other kind of organisation that is not controlled by the Communist Party (however, NGOs present at the above-mentioned September 2019 European Parliament meeting were sceptical that independent workers' organisations would actually be allowed to operate).

The Commission also points out that the FTA and IPA should be seen in the context of broader EU efforts to engage with Vietnam and promote human rights, for example: annual EU-Vietnam [human rights meetings](#), established by the 2012 partnership and cooperation agreement, which have brought positive developments in areas such as human trafficking; and EU development [projects](#) in support of Vietnamese civil society.

There is some controversy over the Investment Tribunal envisaged by the IPA to rule on disputes between EU investors and the Vietnamese government. In the past, investor state dispute mechanisms in bilateral agreements (such as the 21 treaties which the IPA will supersede) have often been criticised for giving investors undue influence. According to such criticisms, the risk of expensive legal disputes could [deter](#) governments from decisions that, albeit having a legitimate purpose (for example, environmental protection), adversely affect investors' business interests. To allay such concerns, the European Commission points out that the IPA 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 established by the IPA in narrowly defined cases – for example, when EU investors are targeted by clearly abusive treatment that disadvantages them relative to Vietnamese operators, or their assets are expropriated without adequate compensation. Such protection should improve the business environment and help Vietnam to attract the foreign investment investment it needs.

Signature and ratification process

The FTA and IPA were initially negotiated as a single text, to be ratified by the EU and Vietnam alone without involving the Member States. However, on 16 May 2017 the European Court of Justice issued an opinion on the FTA with Singapore: according to this, non-direct ('portfolio') investment and investor-state dispute settlement mechanisms are shared competences, on which the EU shares decision-making powers with Member States. The opinion meant that the EU-Singapore FTA (and by analogy, similar agreements such as the EU-Vietnam FTA) could not be concluded by the EU alone, given that it includes provisions relating to shared competences, but must also be ratified by all the Member States.

To speed up the ratification process, the EU and Vietnam decided in August 2018 to follow the approach already adopted for the EU-Singapore FTA, and split the original text into two parts, an FTA that includes only exclusive EU competences and can therefore be concluded quickly by the EU alone, and a separate IPA. Both texts were signed in June 2019 and await the European Parliament's consent, according to the following schedule:

11 November 2019: deadline for INTA committee amendments to draft recommendations for consent

2 December 2019: INTA committee debate on amendments

21 January 2020: INTA committee vote on the recommendations

February 2020: vote on the recommendations and consent at the Parliament's plenary session

Assuming the Parliament gives its consent in February, the FTA will come into force one month after Vietnam and the EU have notified each other that legal procedures have been completed. The IPA will still have to be ratified by all Member States; judging by the precedent of the EU-Vietnam Partnership and Cooperation Agreement, for which Member State ratification took over three years, this could be quite a lengthy process.

EP SUPPORTING ANALYSIS

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eprs@ep.europa.eu (contact)

www.eprs.ep.parl.union.eu (intranet)

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

To view earlier editions of this briefing, please see: [PE 628.248](#), 4 October 2018.