

## EU-Vietnam Free Trade Agreement enters into force as of 1 August 2020

---

### EY Tax News Update: Global Edition

EY's Tax News Update: Global Edition is a free, personalized email subscription service that allows you to receive EY Global Tax Alerts, newsletters, events, and thought leadership published across all areas of tax. Access more information about the tool and registration [here](#).

Also available is our [EY Global Tax Alert Library](#) on ey.com.

---

### Executive summary

The European Union (EU) and Vietnam signed a Free Trade Agreement (FTA)<sup>1</sup> and an Investment Protection Agreement on 30 June 2020. The FTA enters into force on 1 August 2020 and will liberalize the majority of the import duties imposed by the EU and Vietnam for goods originating from the other country. The EU will liberalize 71% of its imports from Vietnam at entry into force and 99% after seven years. Vietnam will liberalize 65% of its imports from the EU at entry into force and the remaining trade - with the exception of a few products - will be liberalized after 10 years.

This Alert summarizes the upcoming application of the FTA and more information about how to benefit from the tariff preference under the FTA.

### Detailed discussion

#### Key elements of the Free Trade Agreement

##### Trade in goods

The FTA is mostly aimed at duty free trade. It contains full dismantling of nearly all tariffs except for a few tariff lines that are subject to duty-free tariff rate quotas. On importation into Vietnam of products originating in the EU, sectors that will benefit from the immediate removal of tariffs are machinery

and appliances, pharmaceuticals, chemicals, textiles and fisheries (salmon, halibut, trout and rock lobster). Tariffs on car parts, motorcycles, frozen pork meat, food preparations, wines and spirits will be dismantled over 7 years; tariffs on cars, chicken and beer will be dismantled over 10 years. Vietnam will maintain existing World Trade Organization tariff rate quotas for refined sugar, salt and eggs, albeit with a reduction of the in-quota rate to zero over 10 years.

Further, the EU grants market access preferences to several Vietnamese industries. Import duties imposed in the EU on textile apparel will have dismantling periods ranging from five to seven years for the more sensitive items and three years and at entry into force for less sensitive goods. The EU offered mostly duty-free tariff rate quotas for Vietnamese rice exports. Other goods which received improved market access via duty-free tariff rate quotas include sweet corn, garlic, mushrooms, sugar and high-sugar-containing goods, manioc starch, surimi and canned tuna. Non-processed shrimps will be liberalized as of entry into force and pangasius will be liberalized in three years.

### Trade in services

The FTA will provide access to a wide range of services fields of business, computer, postal, social, higher education, environmental, distribution services, financial services, maritime transport services, air transport services and telecommunications.

The trade agreement will also present new opportunities for firms wanting to establish a commercial presence, by improving market access in services and many non-services sectors such as manufacturing. This means new opportunities to attract investment for instance for industrial production.

The FTA promotes a number of rules on e-commerce regarding the prohibition of customs duties on electronic transmissions, discussing issues related to the provisions of e-commerce services, liability exemptions for online intermediaries, treatment of spam and cooperation on e-commerce matters.

### Removal of regulatory barriers

Non-tariff barriers are addressed by the FTA as well, which facilitates the access of Vietnamese companies to the highly regulated EU market and the other way around. The EU and Vietnam will enhance customs cooperation to simplify, harmonize, standardize, and modernize trade procedures

so as to cut transaction costs for companies. These enhancements will affect technical regulations, standards, conformity assessments, transparency and market surveillance.

On top of the removal of customs duties and non-tariff barriers for trade in goods and services, it contains important provisions on intellectual property protection, investment liberalization, public procurement, competition and sustainable development.

## Preferential origin and origin documentation

### Obtaining preferential origin

The FTA provides, on a reciprocal and mutually advantageous basis, benefits for companies involved in supply chains between the EU and Vietnam. The following conditions must be met for goods exported from the EU to benefit from preferential treatment at the Vietnamese border or vice versa, goods must:

1. "Originate" in the EU or Vietnam
2. Be accompanied by appropriate origin documentation
3. Meet certain additional requirements as for example apply to the principle of non-alteration applies (see below)

Exporters using inward processing schemes for subsequent export to Vietnam or to the EU may benefit from suspension or reimbursement of duties applied to non-originating inputs used in the manufacture, if they have complied with the Product Specific Rules (e.g., duty drawback is allowed).

### Origin documentation under the FTA and GSP

Products originating in the EU shall, on importation into Vietnam, benefit from the tariff preference of the FTA upon submission of statements on origin made out by registered exporters (e.g., registration in the REX system) or by any exporter for consignments the total value of which does not exceed €6 000. Certificates of origin EUR.1 and origin declarations will not be issued or made out in the EU to benefit from the preferential tariff treatment in Vietnam.<sup>2</sup>

Under the FTA, Vietnamese exporters can apply for EUR.1 certificates for the first two years after the FTA enters into force on 1 August 2020. Thereafter, origin declarations can be made out under the "Approved Exporter" mechanism. Approved exporters can make use of self-certification, which is comparable to the REX system. Upon application of the

“Approved Exporter” system, Vietnam has to inform the EU. Vietnamese exporters are also allowed to continue using the Generalized Scheme Preferential (GSP) duties if these are more favorable up to two years following the upcoming entry into force of EVFTA (e.g., until 1 August 2022). To benefit from the GSP duties, exporters should comply with the preferential origin GSP rules and make out a statement on origin. Only a registered exporter (e.g., registration in the REX system) is allowed to make out a statement of origin. Form A certificates are no longer issued by the Vietnamese customs authorities as of 1 July 2020, except for exceptional cases (e.g., the exporter’s REX registration is pending approval) in case additional requirements should be fulfilled.

### Non-alteration

The principle of non-alteration applies to determine the origin of the goods, which means that the goods can transit through third countries, as long as they have not been altered, transformed or subject to operations other than preserving them in good condition or adding/affixing marks, labels, seals or any other documentation to ensure compliance with specific domestic requirements of the importing countries. Storage of goods or consignments may take place provided they remain under customs supervision in the country or countries of transit. The splitting of consignments may take place where carried out by the exporter or under his responsibility, provided they remain under customs supervision in the country or countries of splitting.

If there is any doubt, the importing party may request the declarant to provide evidence of compliance, which may be given by any means, including:

- ▶ Contractual transport documents such as bills of lading
- ▶ Factual or concrete evidence based on marking or numbering of packages
- ▶ Any evidence related to the goods themselves
- ▶ A certificate of non-manipulation provided by the customs authorities of the country or countries of transit or splitting, or any other documents demonstrating that the goods remained under customs supervision in the country or countries of transit or splitting

### ASEAN cumulation

The FTA provides for bilateral cumulation. Further, the FTA provides cumulation with South Korea in relation to fabrics used for producing garments after complying with certain administrative requirements. Vietnam will also benefit from cumulation with ASEAN countries with which the EU has an FTA in force for two fishery goods: squid and octopus. A review clause foresees the possibility of agreeing to extended cumulation for more goods and/or more countries with which both parties have an FTA in the future.

### Binding Tariff Information and Binding Origin Information

If materials and components used in the manufacturing process originate from multiple countries, it can be difficult for companies to determine the right origin. Companies who simply want legal certainty before goods arrive in the EU, may apply for an “advanced ruling” from the customs authorities, such as the Binding Origin Information (BOI) or Binding Tariff Information (BTI) decision, which, if granted, will provide certainty for three years.

#### Binding Origin Information

If it can be proven that the goods originate from Vietnam, a BOI decision provides certainty with respect to the origin of a product or a product category. BOI applications can be submitted electronically and where such system is not available, it can be submitted in paper form. The BOI application must include several elements, including:

- ▶ General information of the applicant
- ▶ Description of the goods (e.g., commercial name, seize, color, marks, etc.)
- ▶ Tariff classification
- ▶ Information enabling the determination of origin (e.g. materials and components used, including origin, tariff classification, value and weight)
- ▶ Operations or the processing undertaken
- ▶ Rule of origin to be applied
- ▶ Origin envisaged for the good
- ▶ Data to be treated as confidential
- ▶ Ex-works price

The existence of a BOI decision does not exempt the importer from the requirement to provide proof of origin upon the arrival of the goods in the EU.

### Binding Tariff Information

Companies can file for a BTI decision to obtain certainty regarding the applicable tariff for a good or a category of goods. BTI applications have to be filed electronically through the EU Customs Trader Portal (note that a few countries host a national portal). The BTI application must include several elements, including:

- ▶ General information of the applicant
- ▶ Type of transaction (e.g., import or export)
- ▶ Description of the goods (e.g., commercial name, seize, color, marks, etc.) including images or samples, if possible
- ▶ Data to be treated as confidential

Although it is generally the responsibility of the applicant to provide all information, a laboratory analysis may be used to determine the correct classification, due to the technical and complex nature of some goods.

### Actions for businesses

To benefit from the preferential duty treatment under the FTA, companies must align their origin management with the conditions stated in the FTA. Businesses should work with their local tax professionals to:

- ▶ Assess whether the goods exported from the EU to Vietnam or vice versa have obtained preferential origin
- ▶ Map and visualize the exported goods to Vietnam/imported from Vietnam by using customs analytics, to calculate all potential duty savings under the FTA
- ▶ Identify the different stakeholders for origin management in current supply chain set-up of companies, especially with regard to identifying the exporter required to print the origin statements
- ▶ Prepare the application as registered exporter
- ▶ Work to optimize their supply chain enabling them to make use of the FTA (or other free trade agreements) by identifying potential opportunities for simplifications and standardization and set-out a roadmap to implement these optimizations
- ▶ Prepare to apply for BTIs or BOIs

---

### Endnotes

1. Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam, OJ L 186/3, 12.6.2020, p. 3-1400.
2. Notice to exporters concerning the application of the REX system in the European Union for the purpose of its Free Trade Agreement with Vietnam, OJ C 196, 11.6.2020, p. 16-16.

For additional information with respect to this Alert, please contact the following:

**EY Global Trade**

- |   |  |
|---|--|
| ▶ Declan Gavin, <i>Global Trade Leader</i>              | <a href="mailto:declan.gavin@fr.ey.com">declan.gavin@fr.ey.com</a>     |
| ▶ Robert S. Smith, <i>Americas Global Trade Leader</i>  | <a href="mailto:robert.smith5@ey.com">robert.smith5@ey.com</a>         |
| ▶ Yoichi Ohira, <i>Asia-Pacific Global Trade Leader</i> | <a href="mailto:yoichi.ohira@jp.ey.com">yoichi.ohira@jp.ey.com</a>     |
| ▶ Franky De Pril, <i>EMEA Global Trade Leader</i>       | <a href="mailto:franky.de.pril@be.ey.com">franky.de.pril@be.ey.com</a> |
| ▶ Neil Byrne, <i>ETC Global Trade Leader</i>            | <a href="mailto:neil.byrne@ie.ey.com">neil.byrne@ie.ey.com</a>         |

**About EY**

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit [ey.com](http://ey.com).

Indirect Tax

© 2020 EYGM Limited.  
All Rights Reserved.

EYG no. 004867-20Gbl

1508-1600216 NY  
ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

**[ey.com](http://ey.com)**