Event Report

The EU and Vietnam: Taking (Trade) Relations to the Next Level

EIAS Briefing Seminar

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The EU-Vietnam Free Trade Agreement is part of the evolution of Vietnam since it joined the WTO in 2007. The FTA is a milestone – the beginning of a most far reaching and ambitious chapter in Vietnam's relations with the EU. After only three years of negotiations, the conclusion of the EU-Vietnam FTA negotiations was announced in December last year.

The FTA is hugely significant due to its strong focus on trade and sustainable development, commitment to environment protection, labour rights, and respect for human rights. It has vast potential in supporting Vietnam's efforts and ambitions to further enhance economic growth and development, and become an industrialized country by 2020. While issues such as investment protection require more work, the agreement will reduce customs and administrative barriers in access to both markets and contribute to closer bilateral trade and investment cooperation. In addition, the EU-Vietnam FTA could be used as a potential model for future FTA negotiations with ASEAN member states and other Asian countries, and a template encouraging these to open their own countries and increase levels of investment. The FTA presents a unique opportunity for Vietnam and would enable it to have access to two of the largest consumer markets in the world – the EU, and the US through the TPP, and be a strong catalyst for Vietnam's economic development.

Introduction

The EU Free Trade Agreement (FTA) with Vietnam is one of the most ambitious and comprehensive agreements concluded with a developing country. After only three years of negotiations, the conclusion of the EU-Vietnam FTA negotiations was announced in December last year. The text of the agreement as negotiated has been made available to the public in February this year. The process to review the legal text will take a few further months before it is translated in Vietnamese and the 24 EU languages. It is hoped that early next year the Commission will send the proposal for ratification, and the agreement will enter into force in early 2018.

The event to discuss the EU-Vietnam FTA and its implications was co-organised by EIAS, the Embassy of Vietnam in Brussels and Mr Jan Zahradil, MEP, and took place at the EU Parliament, with the following observations being made.

The EU Rationale for entering negotiations with Vietnam

From a geopolitical and strategic point of view, Vietnam is located in an active and dynamic part of the world. It has achieved impressive socio-economic progress and is a vibrant economy with a growing middle class of over 90 million consumers, a young and dynamic work force, along with being one of the fastest growing countries in ASEAN with an average GDP growth rate of 6 percent compared with 4.8 percent in many developing countries in East Asia and the Pacific region. In addition, it is an important manufacturing hub and consumption destination, is on the path towards liberalizing its economy with a great reduction in state owned enterprises to becoming a more open economy that follows market conditions and rules, and is expected to be a upper-middle income country by 2035. Vietnam is the EU's second largest trading partner in ASEAN after Singapore with exchanges of EUR 13 billion. These factors provided a sufficient rationale for the EU to enter negotiations with Vietnam.

The substance of the FTA

The FTA is hugely significant due to its strong focus on trade and sustainable development, commitment to environment protection, labour rights, and respect for human rights. It has vast potential in supporting Vietnam's efforts and ambitions to further enhance economic growth and development, and become an industrialized country by 2020.

The substance of the agreement states that both parties will dismantle 99 percent of their tariffs – an enormous objective especially for developing countries. The EU will eliminate duties over a 7-year period, while Vietnam will do the same over 10 years. Vietnam will also remove export duties on over 90 percent of its products currently subject to export duties.

Farmers and small businesses also benefit from this agreement in terms of recognition and protection on the Vietnamese market. European companies will be able to bid for public contracts including infrastructure like roads and ports.

State Owned Enterprises (SOEs), which in the past represented an important part of Vietnam's economy, now represent some 30 percent of GDP, down from 60 percent. The EU is not against these per se but when they compete with private firms, it is important to have a level playing field between SOEs and private firms that compete for the same markets.

Services in various sectors have been committed in the FTA, namely machinery, packaging, building, cleaning, computer related services, environmental services, sanitation services, banking services allowing more banks to open up ATMs, asset management and security services, some air transport services, and maritime transfer services. There has been progress on insurance services, but new legislation is expected on this and may contradict the commitment on paper. Telecom services – the sector that is the infrastructure for committing to digital trade and crucial for all developing countries – is complex to read, and improvements must be made on that.

EU trade policy and in fact trade policy per se are not just about exports, but also concern people. The movement of people and the mobility of service providers are important aspects for trading services and manufacturing.

With respect to the retail sector, the Vietnamese market has enormous potential for European Member States to exploit in terms of investment, the establishment of stores, and operating shops within the country. Currently, Vietnam is not of much significance for EU Member States apart from a number of sporting goods companies that have stores there. Vietnam stands at No. 4 in terms of sourcing, with China retaining 50 percent of the market share, followed by Bangladesh and Turkey. The difficulties in running business is Vietnam for a foreigner include difficulties in attaining licenses for operating stores, restrictions on imports for goods, and divergent standards that are not consistent with international levels.

The retail sector expects the removal of tariffs, which would not realistically happen until at least 10 years, along with and reforms for better access to the market making it easier for retailers to open stores in Vietnam. The FTA should serve as a template for Vietnam to modernize its economy and introduce reforms beneficial to Vietnam.

Importantly, it was mentioned that the FTA is not going to be the solution to the problems in Vietnam. In addition to the problems of infrastructure, energy and electricity, the country is ailed with bureaucratic shortcomings when it comes to licensing, a taxation and administrative system that is complex and burdensome affecting not just European investors but also Vietnamese companies, and lack of investment protection for foreign investors if they are discriminated against. According to the World Bank, Vietnam does not rank high on investment protection and transparency. Naturally, these issues are normal from a developmental perspective, and the FTA has the potential to alleviate some of them and bring new prosperity to the Vietnamese people.

Sustainability is an important word when one talks about trade policy, and a strong sustainability chapter is paramount in the trade agreement, which should include programmes to improve sustainability impact for workers and the environment in the supply chain, not only to expand dialogue but show how foreign policies can be improved to make trade policy more inclusive. The ambitious sustainability chapter in the trade agreements is not made to impose legislations on countries. This would only make the positions of the EU more difficult if it puts more and more pressure on countries – something that is ill perceived as in the case of the EU-India FTA negotiations.

Human rights

With regard to the issue of human rights, companies have to, within their policies, fulfill a number of criteria including that of human rights. However, companies cannot replace the government, cannot impose conditions, and cannot enforce provisions that are not within the legal framework of the country. Companies are bound by international human rights law, but they cannot attack a state, or change the law of the country they're doing business in. Companies should be involved on standards of labor and human rights, and EU Member States can try to promote change by improving standards within their own companies when they invest abroad but there limits to what can be achieved.

The European Parliament has expressed its opinion on the FTA through the resolution adopted on 17th April 2014, the text of which provides clear indications as to the Parliament's position. It welcomes progress on the FTA negotiations but mentions that it expects the same to include the sustainability development chapter reflecting the EU and Vietnam's common commitment towards human rights. The Parliament also includes, in the resolution, the idea of conditionality with the possibility of suspension of the FTA in the case of severe human rights abuses. The Parliament has urged the Commission to carry out the human rights impact assessment plan, and has stressed the respect for human rights and democracy as an essential part of the agreement. In addition, it mentions very precisely the issue of the death penalty on which the EU has a principled position against. The two main priorities of the European Parliament are trade and human rights, and a balance between these two is of paramount importance.

Investment protection

Investment protection – an idea that investors in certain countries might not benefit from a transparent rule of law system – is often inadequate. For instance, in some countries there might be high interference from the state, or if a foreign investor company is subject to a discriminatory decision by a country, it may not have the conditions within the legislation in that country to uphold the rights. Investors want legal certainty and predictability and in the event of a problem, a surety that they will be protected. This is a guarantee not only for investors but also for states that attract FDI. The situation in the current debate has now changed as a result of countries viewing the system not so much as a guarantee for investors but a guarantee for the state to be protected against unlawful suit from companies.

One of the requests of European businesses is to have a set of rules in accordance with normal market conditions, more transparency and visibility on the rules that govern the country, and the conditions that a company wanting to invest in Vietnam needs to follow. It is in the interests of Vietnam if it wants to attract foreign investors to have a framework that allows them to feel more secure and comfortable there. This is a two way street – for European companies to feel more secure, and a way for governments to attract more investment. The FTA will trigger a new wave of high quality investment in both directions. The EU's approach to investment protection strikes a good balance in protecting the right governments.

International dynamics

Both Vietnam and the EU have a number of trading partners. Vietnam is part of the Trans Pacific Partnership (TPP), and has a host of other economic and political relationships not least with the US, China, and ASEAN. The EU has ambitions of signing a region-to-region FTA with ASEAN that will potentially interplay with this particular FTA. With so many international dynamics and variables in play, how does the EU-Vietnam FTA fit into the broader scheme of relationships? If the TPP does go into operation as foreseen, the new relationship between the EU-Vietnam FTA and the TPP remains a question.

It is important for the agreement to be integrated with the overall EU agenda. If the TPP comes into force, the US and Japan would gain more access to markets in the region creating a situation unfavorable to European companies. European companies should therefore have the same conditions and international standards to sell and invest in Vietnam as their competitors to ensure a level playing field. It is crucial to get concrete results from the agreement in terms of overall market access to goods and services, and to promote dialogue between regulators, which is key in today's environment where not tariffs but different regulations are the main issue. The aim is to try to conciliate approaches and not de-regulate but to make sure the same level of protection is achieved when we regulate. A good set of rules is vital but implementation is the key.

The role of the European Parliament

The European Parliament has a big interest in Vietnam, which resulted in two high level visits there in 2014 and 2015. The EU Parliament is a different actor from other European institutions, and its consent is necessary for agreements to come into force. The Parliament's opinions on human rights are quite firm and it has passed four main resolutions on human rights in Vietnam in 2007, 2008, 2009, and most recently in 2013, on which it has expressed deep concerns especially on restrictions of freedom of expression. Inter-parliamentary meetings take place almost every two years although this is not strictly defined, with the most recent one taking place last autumn, and the earlier one in 2013. The Vietnamese national assembly is a very interesting body that has gained more leverage than before in recent years. There is further room for increased relations between the European Parliament and the Vietnamese national assembly. The Parliament also sends delegations to investigate the potential affects of the trade agreements, the results of which are often published and can be found on the website of the delegations and the committee with interesting information and opinions on EU-Vietnam relations.

A Template for future FTA negotiations

After the conclusion of the Singapore deal, the FTA with Vietnam provides further evidence of the EU's commitment in South East Asia, and serves as an important building block towards the ultimate goal of stronger region-to-region relations. In a similar spirit, the EU has also launched FTA negotiations with the Philippines, the first round of which will take place in May. In addition, the EU has concluded the scoping paper with Indonesia recently – the pre-negotiation that fixes benchmarks for negotiations with the negotiating partner, which will pave the way for launching formal negotiations once all the internal procedures are completed. In the case of Malaysia, the negotiations have been paused for a couple of years while a stock taking exercise takes place at the chief negotiator level. The EU-Vietnam FTA could act as a benchmark and template for countries in the area, encouraging them to open their own countries and increase levels of investment. It could be used as a potential model for future FTA negotiations with ASEAN member states and other Asian countries.