

The EU as an exporter of values

The case of the EU-Vietnam Free Trade Agreement



Preferential trade access to EU markets

Scheme	Market access	Eligibility	Conditionality	SE Asian countries
Everything but Arms (EBA)	No tariffs (except on arms)	Least developed country	Same as GSP	Cambodia, Laos, Myanmar
Generalised Scheme of Preferences (GSP)	Partial or full removal of tariffs on two-thirds of product categories	Low income or lower middle income country, as defined by World Bank (in 2017, per capita GNI up to \$4035)	No 'serious and systematic violation' of principles laid down in 15 core UN/ILO human rights/labour law conventions	Indonesia, Vietnam, Thailand
GSP+	Full removal of tariffs on two-thirds of product categories	'Vulnerable' low income or lower middle income country	Ratified and implemented 27 human rights/labour law/environmental conventions	Philippines
Bilateral free trade agreements				Vietnam, Singapore (agreed but not yet ratified)

Since the Lisbon Treaty (2007/2009):

The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action (Article 207(1), TFEU)

[The EU's external action] shall be guided by the principles which have inspired its own creation, ... and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law (Article 21(1), TEU)

Vietnam – an economic tiger

Since beginning of *doi moi* reforms (1986):

- one of SE Asia's fastest growing economies (6.2% in 2016)
- foreign direct investment is booming (\$16 billion in 2016)
- exports to the EU have quintupled over the past ten years



Environmental problems



New coal-fired power stations to meet growing demand for energy



Rapid deforestation



Vietnam is the world's largest market for rhino horn



2016: toxic waste from the Formosa steel plant killed millions of fish

Political/human rights problems

- Communist Party is the only legal party
- Independent trade unions are not allowed
- Almost no independent civil society organisations
- No independent media (2016 World Press Freedom Index: Vietnam is 175th out of 180 countries)
- Amnesty International: at least 84 prisoners of conscience: bloggers, land rights activists, religious minorities...

EU-Vietnam agreements

Partnership and Cooperation Agreement

- Signed in 2012, entry into force October 2016
- Commitment to international law, human rights, democracy, sustainable development
- Regular meetings on human rights
- Cooperation on implementing international human rights conventions
- Cooperation on energy efficiency, developing renewable energies

EU-Vietnam agreements

Free Trade Agreement

- Agreed in 2015, text currently being finalised, expected submission for ratification in autumn 2017
- European Commission: *'the most ambitious and comprehensive FTA that the EU has ever concluded with a developing country'*:
 - 99% of tariffs to be eliminated (in both directions)
 - Numerous sectors opened up for foreign investment
 - Enhanced protection for EU investors in Vietnam
 - Access to public procurement markets
 - etc. etc.

FTA: chapter on trade and sustainable development

Commitment to:

- implementing ILO principles on labour rights – freedom of association
- ‘continued and sustained efforts’ towards ratifying fundamental ILO conventions (at present: 5 out of 8)
- protecting biodiversity, sustainable forestry, combating illegal fishing

The PCA and FTA are linked:

Any 'material breach of the Partnership and Cooperation Agreement' can lead to (unspecified) 'appropriate measures'

FTA, Chapter 17, Article X.17(2)

Criticisms of the EU-Vietnam FTA

European Commission, sustainability impact assessment (2013):

- Vietnamese farmers adversely affected by lower prices
- Increased risk of overfishing
- Increased pollution from leather sector

Criticisms of the EU-Vietnam FTA

NGOs (Action Aid, International Federation for Human Rights):

- Growth of textiles sector: risk of Vietnamese workers being forced into low-paid and precarious jobs
- Farmers will lose out in competition with foreign investors for land
- Investor-State tribunal established by FTA could discourage Vietnamese government from taking decisions that serve legitimate (e.g. environmental) purposes but adversely affect business interests

Criticisms of the EU-Vietnam FTA

- Suspension clause is too vague
- No preliminary human rights assessment, contrary to recommendations of NGOs, European Parliament and European Ombudsman
- the Commission will carry out an *ex post* economic, social and environmental impact assessment after the FTA has been in force for several years

How effectively will the FTA help protect Vietnamese human rights?

some improvements may be only window dressing:

- Fewer arrests of dissidents during TPP negotiations (but: more plainclothes attacks)
- Gay marriage (2016) – but homophobia continues

How effectively will the FTA help protect Vietnamese human rights?

The EU's mixed track record:

- Withdrawal of preferential trade access to EU markets rarely used:
 - Myanmar, lost GSP 1997-2013 (forced labour)
 - Sri Lanka, lost GSP+ 2005-2010 (severe human rights abuses during civil war)
 - Belarus, lost GSP in 2007 (no independent trade unions)
- No evidence that political changes in Myanmar and Sri Lanka driven by loss of trade access
- Double standards: Bangladesh (EBA), Pakistan (GSP+)
- However, a useful deterrent