

EUROPEAN UNION - VIETNAM FREE TRADE AGREEMENT ENTERED INTO FORCE ON 1ST AUGUST 2020!

1st August 2020 is a date that will go down as a memorable day in the commercial relationship between the European Union (“EU”) and Vietnam.

It marks the entry into force of the Free Trade Agreement signed between European Union and Vietnam on 30 June 2019 (“EVFTA”), which followed more than ten years of negotiation.

From today, 65% of EU exports to Vietnam are duty-free, while 71% of European duties applied on Vietnamese exports to the EU have been eliminated.

The Ministry of Industry and Trade already issued a Circular 11/2020/TT-BCT setting out rules of origin of EU products for the application of the special preferential import duties rates as set by the EVFTA.

In the long term, it is planned that nearly 99% of customs duties will be progressively eliminated between Vietnam and the EU by the end of a ten-year period.

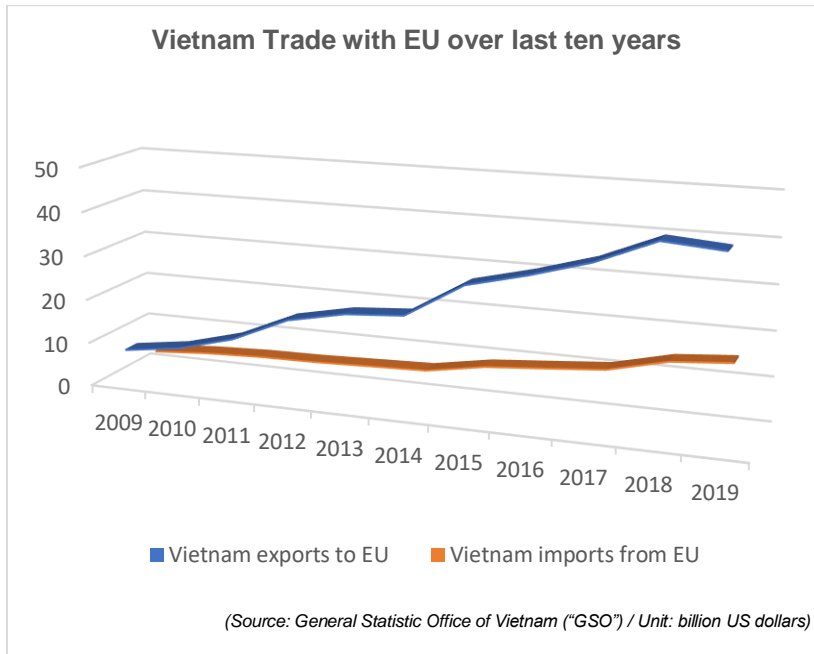
Without any doubt, the EVFTA will have a significant impact on European goods imports into the Vietnamese market and will also reinforce the competitiveness of EU companies and vice-versa.

Audier & Partners addresses the key points of the EVFTA, with a specific focus on Vietnamese customs duties.

BACKGROUND OF THE COMMERCIAL RELATIONSHIP

Even if the COVID-19 pandemic has slightly reversed the trend during the first semester 2020, bilateral trade and investment links between the EU and Vietnam have steadily increased for the last ten years.

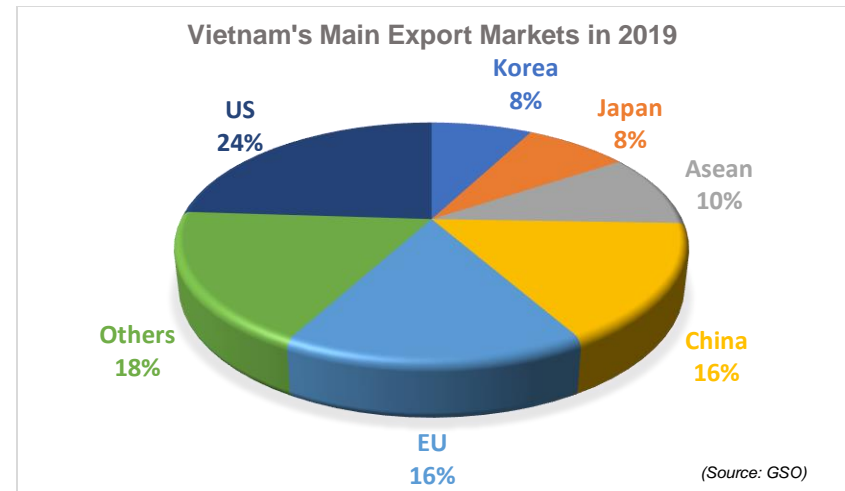
From 2009 to 2019, Vietnam's volume of exportation to the EU has increased more than 420%, while importations from Europe to Vietnam grossed to 295%.



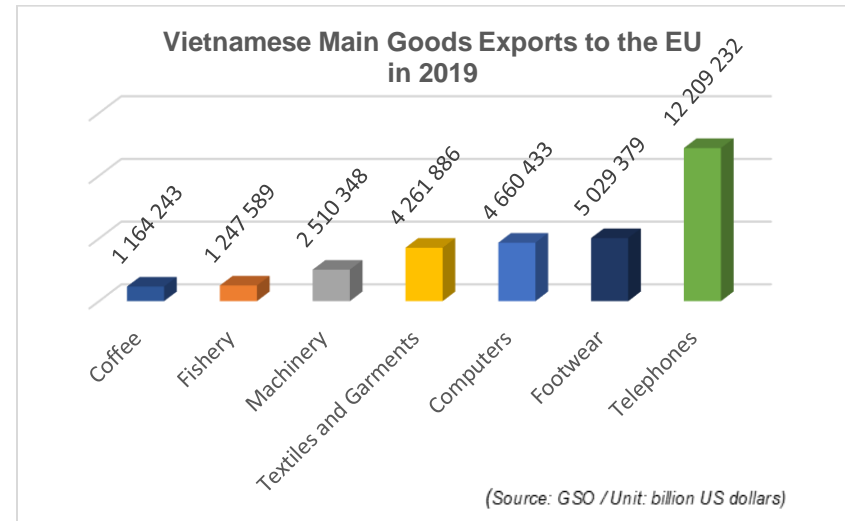
In 2019, Vietnam's exports of commodities to the EU represented USD 41.5 billion, while Vietnam's imports of commodities from the EU were estimated at around USD 15 billion.

Focus on Vietnamese exports to the EU

Representing USD 41.5 billion of exportations, the EU has been the second largest overseas market for Vietnamese products in 2019.

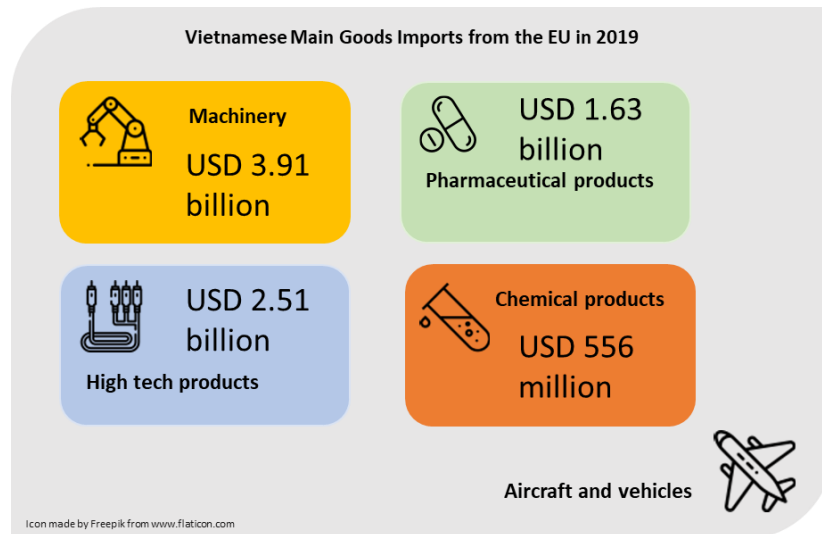


Vietnam's main exports in 2019 to EU were telephone sets (USD 12.20 billion), footwear (USD 5.02 billion), electronic products (4.66 billion USD), textiles and garments (USD 4.26 billion), machineries and accessories (USD 2.51 billion), fishery (USD 1.24 billion) and coffee (USD 1.16 billion).

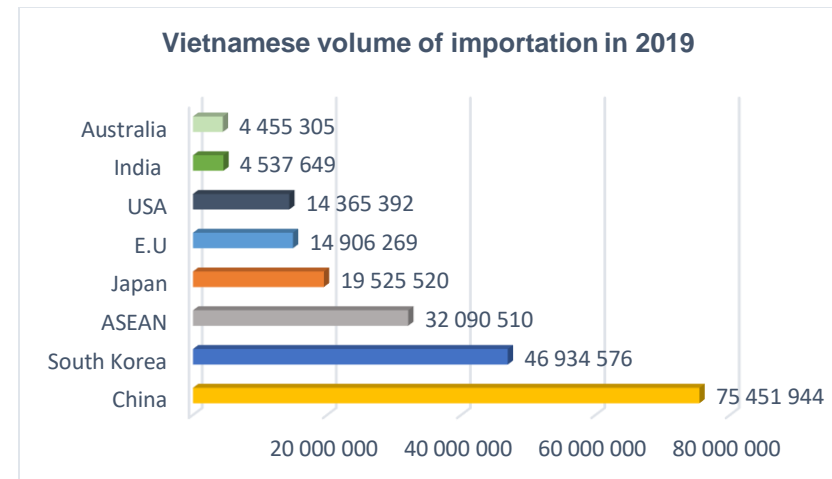


Focus on Vietnamese imports from the EU

On its side, the EU mainly exports to Vietnam machinery, high tech products (computers and electrical products), pharmaceutical products, chemical products and obviously aircraft and vehicles.



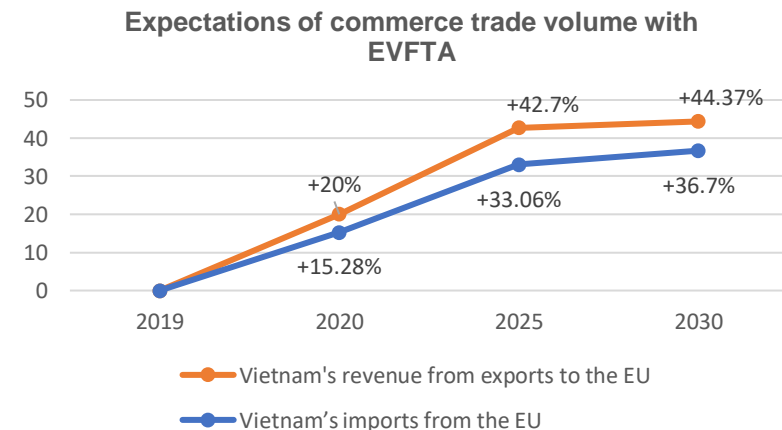
In 2019, as the second largest overseas market for Vietnamese products, the EU also constituted the fifth largest exporter of goods into the Vietnamese market, while countries such as Japan, South Korea or country groups like ASEAN have already executed Free Trade Agreements with Vietnam and consequently benefit from trading goods at preferential duty rates. China also indirectly benefits from favorable conditions through its FTA signed with ASEAN.



(Source: GSO / Unit: billion US dollars)

However, from 1st August 2020, significant customs barriers between Vietnam and the EU have fallen away with the entry into force of the EVFTA.

According to the Ministry of Planning and Investment (“MPI”), the EVFTA will result in an increase of Vietnam's revenue from exports to the EU, as described in the graph below.



MAIN CONTENT OF THE EVFTA

In short, the EVFTA plans to progressively liberalize trade in goods and improve market access over a transitional period of ten years starting from its entry into force.

The main modifications of the trade relationship between Vietnam and E.U consist are described below.

Reduction or limitation of customs export duties

Before the entry into force of the EVFTA, most of the goods imported into Vietnam were subject to customs duties, with different rates depending on the type of product imported (i.e. consumer goods, especially luxury goods such as cars, alcohol and cigarettes face higher import custom duties than raw materials, equipment, etc.).

It is planned that nearly 99% of customs duties will be progressively eliminated between Vietnam and the EU by the end of the ten-year period. From the entry into force of the EVFTA on 1st August 2020, 71% of European duties applied on Vietnamese exports to the EU have been immediately eliminated, while the remaining will gradually disappear over a maximum period of seven years.

Correspondingly, Vietnam has immediately cancelled 65% of its import duties on EU exports into Vietnam and others will gradually be removed over a maximum period of ten years.

The EVFTA also takes into account more sensitive sectors in the EU (such as rice, sweet corn, garlic, mushrooms, or sugar) in which Vietnamese products access to the EU market will be limited by tariff rate quotas and vice versa.

- **Method of calculation of the successive reductions on Customs duties**

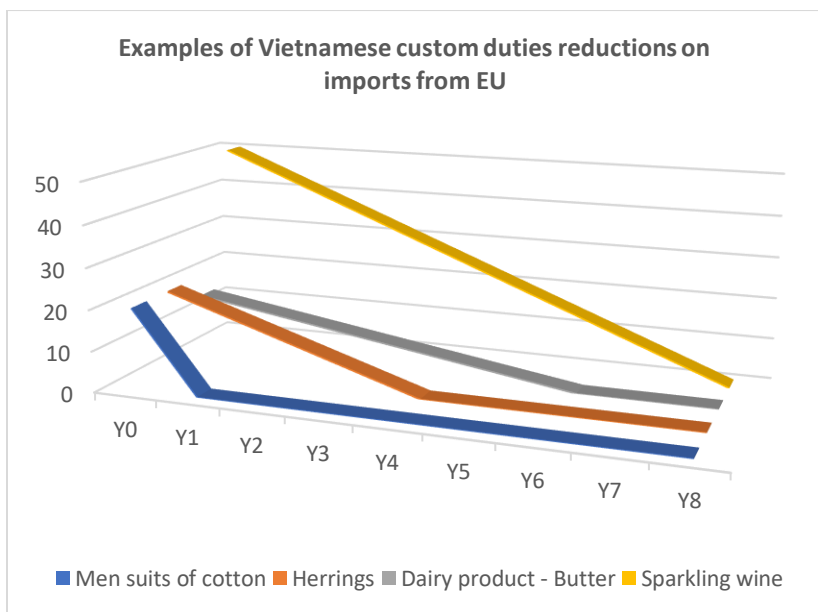
Pursuant to the EVFTA, classification of goods in the trade between Vietnam and the EU shall be in conformity with the very specific international Harmonized System Code (“**HS Code**”) of the World Customs Organization (“WCO”).

The range of reductions in customs duties on goods are classified in 7 major categories (A, B3, B5, B7, B9, B10, etc.) to which apply a number of successive reductions of customs duties, as follows:

Staging Category	Customs duties on goods
A	Eliminated entirely from the date of entry into force of the EVFTA.
B3	Progressively eliminated, with a removal in four equal annual stages beginning on the date of entry into force of the EVFTA.
B5	Progressively eliminated, with a removal in six equal annual stages beginning on the date of entry into force of the EVFTA.
B7	Progressively eliminated, with a removal in eight equal annual stages beginning on the date of entry into force of the EVFTA.
B9	Progressively eliminated, with a removal in ten equal annual stages beginning on the date of entry into force of the EVFTA.
B10	Progressively eliminated, with a removal in eleven equal annual stages beginning on the date of entry into force of the EVFTA.
R75	Preferential customs duties are indicated for each relevant year in a specific table.

The base rate of customs duty and a staging category (for determining the interim rate of customs duty at each stage of reduction for an item) are specified for that item in each Party's Schedule:

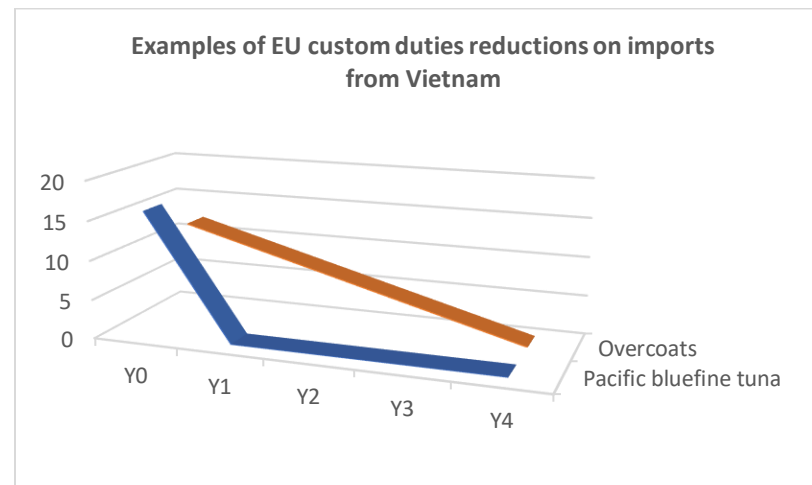
- Appendix 2-A-1 (Tariff Schedule of the EU)
- Appendix 2-A-2 (Tariff Schedule of Viet Nam)



HS Code	Description	Base rate (%)	Staging Category
6203 19 00	Cloth - Men's suits of cotton	20.0	A
0302 41 00	Fish - Herrings	20.0	B3
0405 10 00	Diary product - Butter	15.0	B5
2204 10.00	Alcohol - Sparkling Wine	50.0	B7

Rates of customs duties in the interim stages shall be rounded down at least to the nearest 10th of a percentage point. The first reduction has taken effect on the date of entry into force of the EVFTA (i.e. 1st August 2020).

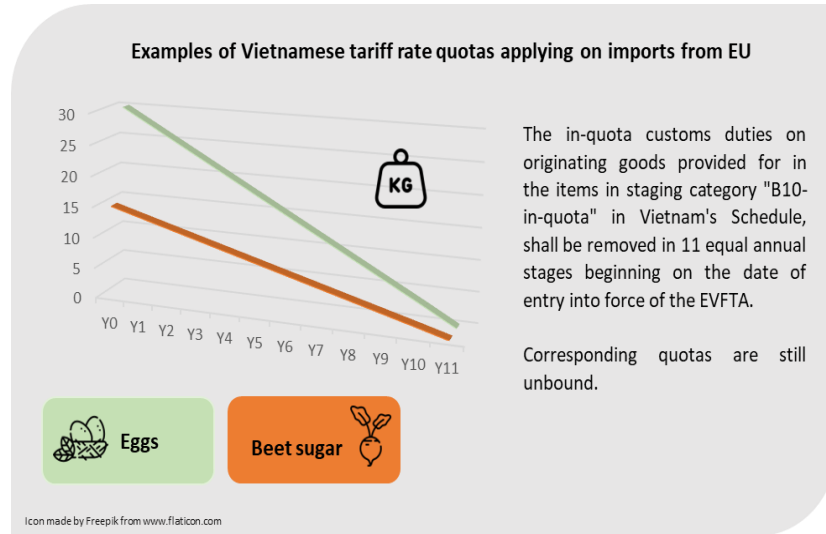
Any subsequent annual reduction shall take effect on 1st January of the relevant year following the year of entry into force (i.e. 1st January 2021).



HS Code	Description	Base rate (%)	Staging Category
0301 94 90	Pacific blue fine tuna	16.0	A
6102 20 10	Overcoat	12.0	B3

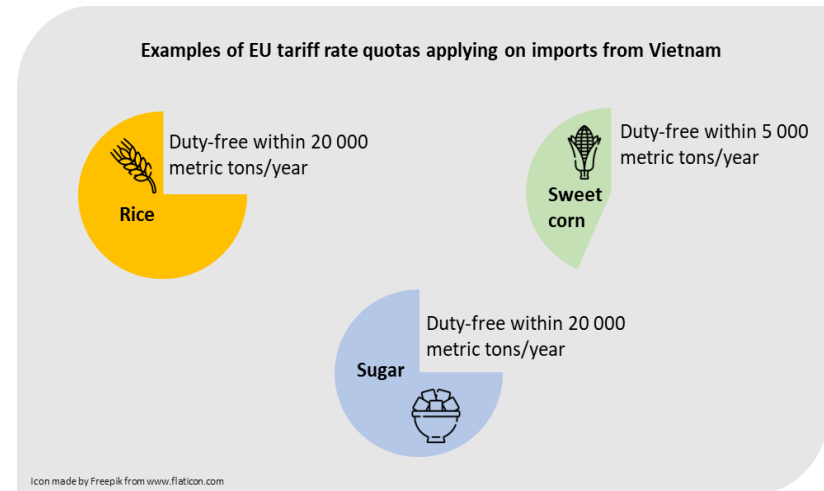
- **Tariff rate quotas (“TRQ”) for sensitive sectors in the EU and Vietnam**

In sectors identified as more sensitive, the access of one party’s products to the other party’s market is limited by tariff rate quotas.



HS Code	Description	Base rate (%)	Staging Category
0407.21.00	Eggs of fowls of the species Gallus domesticus	30,0	B10-in quota
1701.12.00	Beet sugar	15,0	B10-in quota

For the administration in Year 1 of each tariff rate quota established under the EVFTA, the parties have to calculate the volume of that tariff rate quota, by discounting the volume corresponding to the period running between the 1st of January and the date of entry into force of the EVFTA.



- **Reduction or elimination of exportation duties (Article 2.11)**

Both parties have committed in the EVFTA to avoid export duties that may apply to the export of products into the territory of the other party, except for the goods listed in Appendix 2-A-3 - Export Duties Schedule of Vietnam (which are merely raw materials, on which export duties will be reduced according to a specific schedule).

Reduction or elimination of Technical Barriers to Trade (“TBT”)

EVFTA is not just an agreement for the elimination of custom duties. It also includes many other provisions facilitating trade between Vietnam and the EU.

- **Treatment of remanufactured goods**

So far, the import of remanufactured goods into Vietnam has been restricted.

Pursuant to the EFTVA remanufactured goods shall benefit from the same treatments as those accorded to new, like goods, within a transitional period of no longer than three years from the date of entry into force of the EVFTA. It is specified that a party may require specific labelling of remanufactured goods in order to prevent deception of consumers.

- ***Lighter import and export licensing procedures***

The bilateral obligations in the EVFTA relative to import licensing make reference to the rules of the WTO Agreement provisions on Import Licensing Procedures.

The EVFTA also contains a number of substantive provisions that reduce the possibility of seeking recourse to these measures or that reduce any possible trade restricting effect:

- A party shall only adopt or maintain automatic import licensing procedures as a condition for importation into its territory in order to fulfil legitimate objectives after having conducted an appropriate impact assessment;
- A party shall grant import licenses for an appropriate length of time which shall not be shorter than set out in the domestic legislation providing for the import licensing requirements and which shall not preclude imports;
- Where a party has denied an import license application with respect to a good of the other party, it shall, upon request of the applicant and promptly after receiving the request, provide the applicant with a written explanation of the reasons for the denial. The applicant shall have the right of appeal or review in accordance with the domestic legislation or procedures of the importing party;

- The parties shall only adopt or maintain non-automatic import licensing procedures in order to implement a measure that is not inconsistent with this Agreement.

- ***Liberalization of Investment***

The parties of the EVFTA, affirming their respective commitments under the WTO Agreement and their commitment to create a better climate for the development of trade and investment between them, took commitments to make the necessary arrangements for the progressive liberalization of investment and trade in services and for cooperation on electronic commerce.

Vietnamese commitments on investment are listed under the enclosed Annex 8-B-1 of the EVFTA.

For instance, EVFTA provides that foreign pharmaceutical companies will be allowed to establish a company to import pharmaceutical products into Vietnam that have been authorized to be sold in Vietnam. Such entities will be able to directly sell pharmaceutical products they have imported to Vietnamese distributors or wholesalers. Those entities will be able to have their own warehouses.

Furthermore, in five years from the date of entry into force of the EVFTA, the requirement of the ENT will be abolished. For greater certainty, Vietnam retains the right to apply non-discriminatory zoning or planning measures.

- ***Administrative fees and formalities***

Pursuant to the EVFTA, consular transactions will no longer be needed and consular authentication will not be required after three years from the date of entry into force of the EVFTA.

- **Liberalization of public procurement**

EU companies will be able to bid for public procurement contracts.

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For further information, do not hesitate to read the article “*An Historic Day for EU-Vietnam relations*” drafted by the European Chamber of Commerce (“**EuroCham**”)¹.

Please note that the information provided in this article is for information purposes only and is not intended to constitute legal advice. Legal advice should be obtained from qualified legal counsel for all specific situations.



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¹ <https://eurochamvn.eventbank.com/en/organization/726/campaign/49471>