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ONE-YEAR IMPLEMENTION OF EUROPEAN UNION-VIETNAM FREE TRADE AGREEMENT (EVFTA)

IMPACTS ON THE VIETNAMESE ECONOMY AND POLICY FORMATION

Ha Noi, 2021

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Translated from the Vietnamese: Đào Thị Thúy

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ABOUT VEPR

VIET NAM INSTITUTE FOR ECONOMIC AND POLICY RESEARCH (VEPR) was established on July 7, 2008 as a research center under the University of Economics and Business of Viet Nam National University, Ha Noi (VNU). VEPR has legal status and headquarters is located in the University of Economics and Business (UEB), Xuan Thuy, Cau Giay, Ha Noi.

VEPR considers its primary mission as carrying out economic and policy research to assist in improving the decision-making quality of policy-making institutions, enterprises, and interest groups by providing insights into the social, political, and economic factors that drive the economic affairs of Viet Nam and the region. The main activities of VEPR include (i) providing quantitative and qualitative analysis of changing economic conditions in Viet Nam and assessments of their impacts on various interest groups throughout the country; (ii) organizing policy dialogues among policy-makers, entrepreneurs, and other stakeholders to improve solutions to emerging issues; and (iii) conducting advanced training courses in economics, finance and policy analysis regularly and upon request.

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Due to time limitation, our report is a preliminary assessement of the project, laying out early findings, issues, limitations and future policy directions. We look forward to your continued support in conducting future research.

Hanoi, November 25, 2021
On behalf of the Research Team
NGUYỄN ĐỨC THÀNH, PhD.

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ABBREVIATIONS

ASEAN	Association of Southeast Asian Nations
IT	Information Technology
C/O	Certificate of Origin
COVID-19	Pandemic of Coronavirus disease 2019
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership
EU	European Union
EVFTA	European Union-Vietnam Free Trade Agreement
FTA	Free Trade Agreement
GDP	Gross Domestic Product
IPA	Investment Protection Agreement
SPS	Sanitary and Phytosanitary Measures
IP	Intellectual Property
TBT	Technical Barriers to Trade
WTO	World Trade Organization

EXECUTIVE SUMMARY

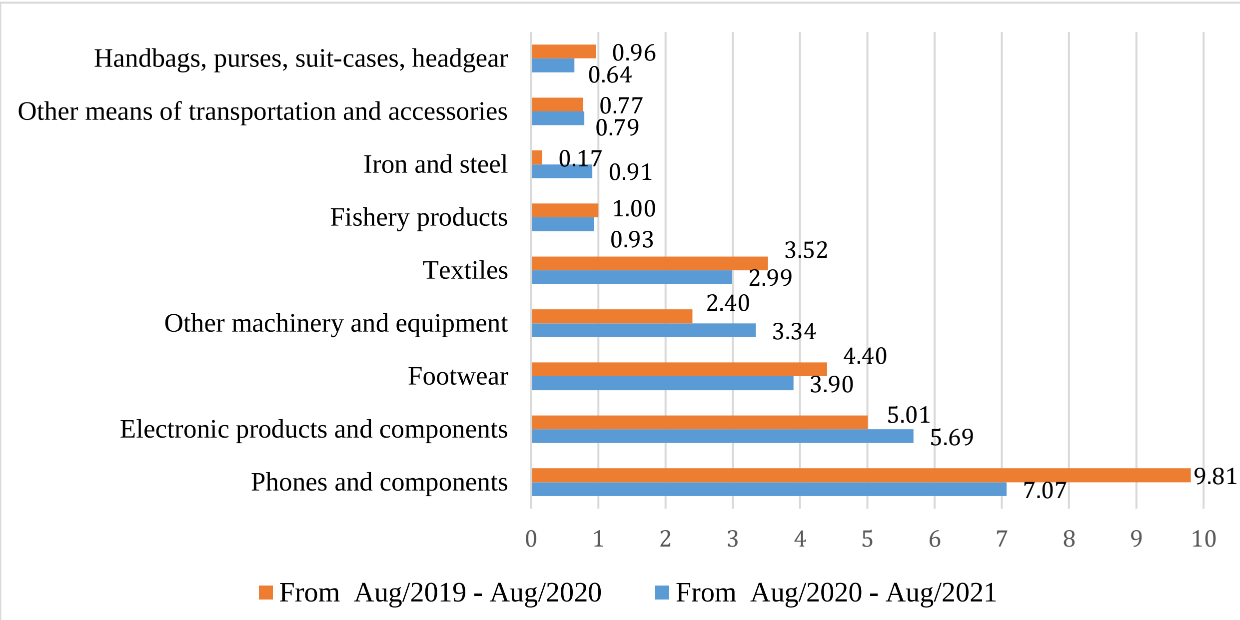
The European Union-Vietnam Free Trade Agreement (EVFTA) was signed in the spirit of comprehensive cooperation and balanced interests of Vietnam and the European Union (EU). It is a new-generation FTA expected to bring strategic benefits for Vietnam through the potential development of trade and investment with one of its largest and most important partners.

EVFTA facilitates export diversification in the center of Europe

As soon as EVFTA took effect on August 1, 2020, the Vietnamese Government, together with relevant ministries and sectors, issued a series of guiding documents and plans to implement EVFTA. One year after the Agreement entered into force, 19 ministries, sectors and 57 cities and provinces nationwide issued EVFTA implementation plans. Although the Vietnamese legal system has undergone important changes before the Agreement was signed to be compatible with the requirements of EVFTA, by now, there are still some shortcomings related to specialized laws and law enforcement issues. Of which, the most notable are issues related to intellectual property (IP) and environmental standards because there remain many differences in the interpretations of regulations by each party. In addition, regarding labor rights, the EU insists that Vietnam will be in violation if it does not meet provisions guaranteeing workers the right to freedom of association (under Convention No. 87) and substantive recognition of the right to collective bargaining (under Convention No. 98). Looking at what Vietnam has done before and one year after the EVFTA took effect, Vietnam appears to be pursuing the strategy, “easy wins first, difficult tasks later”. Therefore, it is foreseeable that the speed of legislative changes (reform) will slow down in spite of the EVFTA requirements.

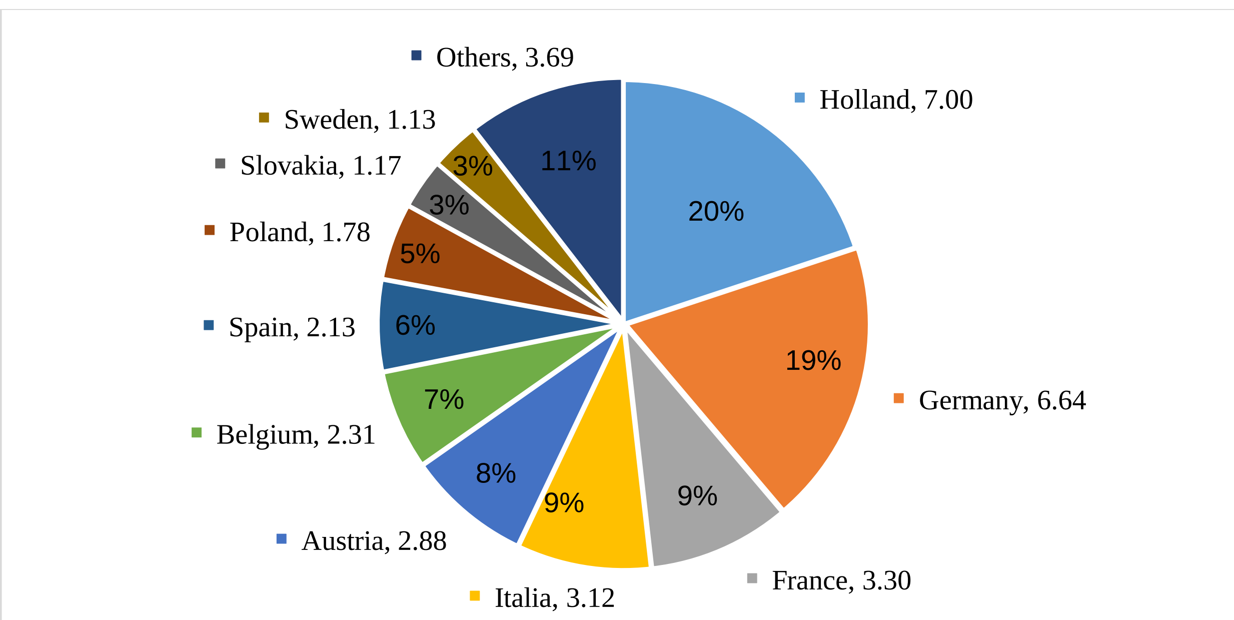
The impact assessment of EVFTA implementation after one year on Vietnam’s economy trade performance is facing great obstacles because of the COVID-19 pandemic and its consequences. Overall, in the first year of the Agreement, Vietnam’s total exports to the EU increased only 6.2% over the same period last year, reaching 39.75 billion USD. In particular, export value of Vietnam’s traditional key export products (since before EVFTA) including telephones and components, garments and textiles decreased, demonstrating severe consequences of the COVID-19 pandemic (Figure S1). However, the increase in total export turnover showed the effects of exports diversification as a result of the Agreement. Some industries exempted from almost all import duties in the EU market, like iron and steel products, plastic and rubber products, enjoyed strong growth. Particularly for iron and steel, in addition to tariff reductions, prices of raw iron and finished steel nearly doubled in the past year, resulting in a skyrocketing turnover, contributing to offset the decline in the overall turnover due to COVID-19 pandemic.

Figure S1. Export turnover of Vietnam's key export products to the EU in 12 months implementing EVFTA (08/2020-08/2021, billion USD)



Source: Authors' calculations based on data from General Department of Vietnam Customs

Figure S2. Share of Vietnam's exports to EU countries in 2020 (billion USD, %)



Source: Authors' calculations based on data from General Department of Vietnam Customs

The shift of the import market

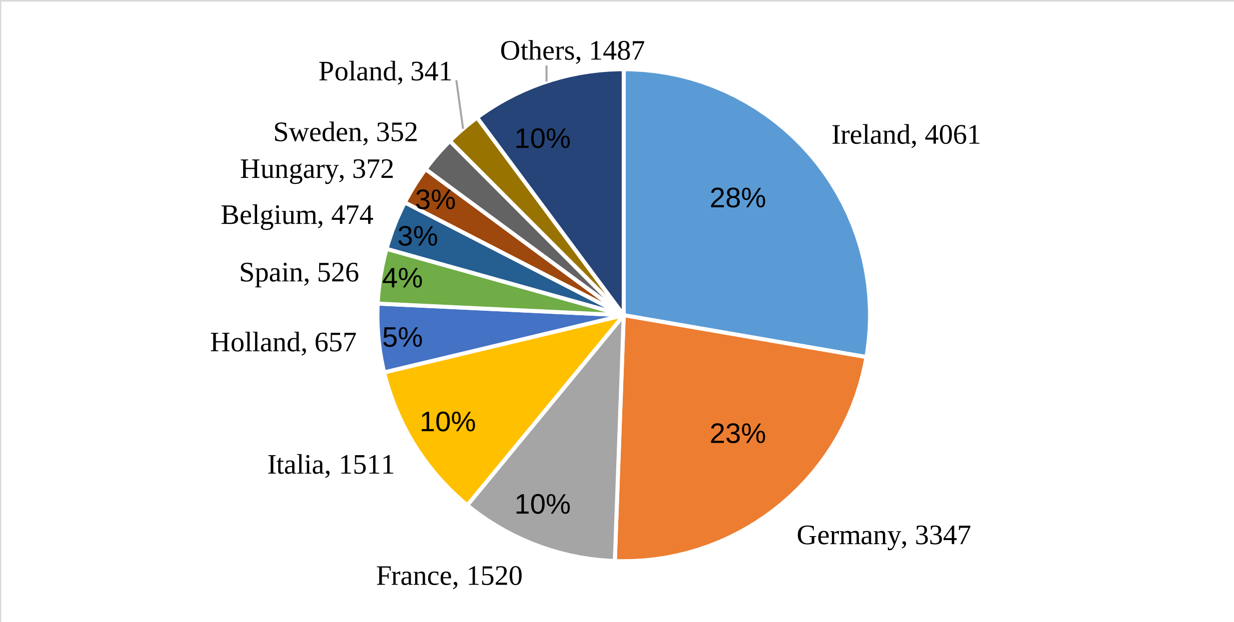
It is phenomenal that one year after the EVFTA was signed, Vietnam's total imports from the EU reached 16.51 billion USD, up more than 24% compared to a year before EVFTA took effect. The breakthrough growth was seen in the imports of computers, electronic products and components. Other products experienced no sudden changes, except for the increase in pharmaceuticals and decrease in machinery and equipment imports (in line with the pandemic context).

In general, imports growing faster than exports signals the shift in trade patterns between Vietnam and the EU towards reducing trade surplus. Decreasing trade surpluses does not mean Vietnam is facing disadvantages in its trade relations with the EU. With an increase of imports from the EU, assuming that domestic demand does not change too much in a short time, it is an evidence showing imports shifting away from other markets. This implies that in the past, businesses and consumers who had to import from the markets with cheaper prices (and therefore lower quality) have switched to importing goods from the EU with higher quality at competitive prices thanks to tariff reduction. As such, domestic consumers could benefit from this. The EU is overwhelmingly strong producer of pharmaceuticals, machinery, equipment and particularly technology, which are essential for Vietnam's development.

Due to the impact of COVID-19, in a short term, it is not possible to confirm whether the trade surplus reduction is the actual trend, and it takes more time to comment on this phenomenon and its indirect effects.

Another notable point is that on the contrary to many people's belief that Germany or France would be the largest exporters to Vietnam, Ireland is a leading consumer of Vietnamese imports among EU partners both before and after EVFTA's launch (Figure S3). Among 4.46 billion USD in import goods from Ireland (from 01/8/2020 to 01/8/2021), computers, electronic products and components accounted for 95.7% (equivalent to 4.27 billion USD). Why is that? Our answer is because Ireland serves as a "special economic zone" in Europe, a "business haven" with only 12.5% corporate tax rate. As a result, Ireland is home to over 1.000 multinational corporations in pharmaceuticals, chemicals, computer hardware and software. Some of these companies have branch operations and factories in Vietnam.

Figure S3. Share of Vietnamese imports from EU countries in 2020 (million USD, %)



Source: Authors' calculations based on data from General Department of Vietnam Customs

This implies that intra-industry trade through value chains among transnational corporations plays a crucial role. This is one of the three strategic directions for EU's trade policy in the period 2021-2030 referred to as Open Strategic Autonomy. With the signing of EVFTA, trade in goods between Vietnam and Europe in general and Ireland in particular is expected to become more diversified and convenient than before, but it is also important to understand that trade patterns are shaped by global value chains controlled by transnational corporations. This has important implications for understanding the advantages and risks of trade relations in the EVFTA (as well as global trade in general).

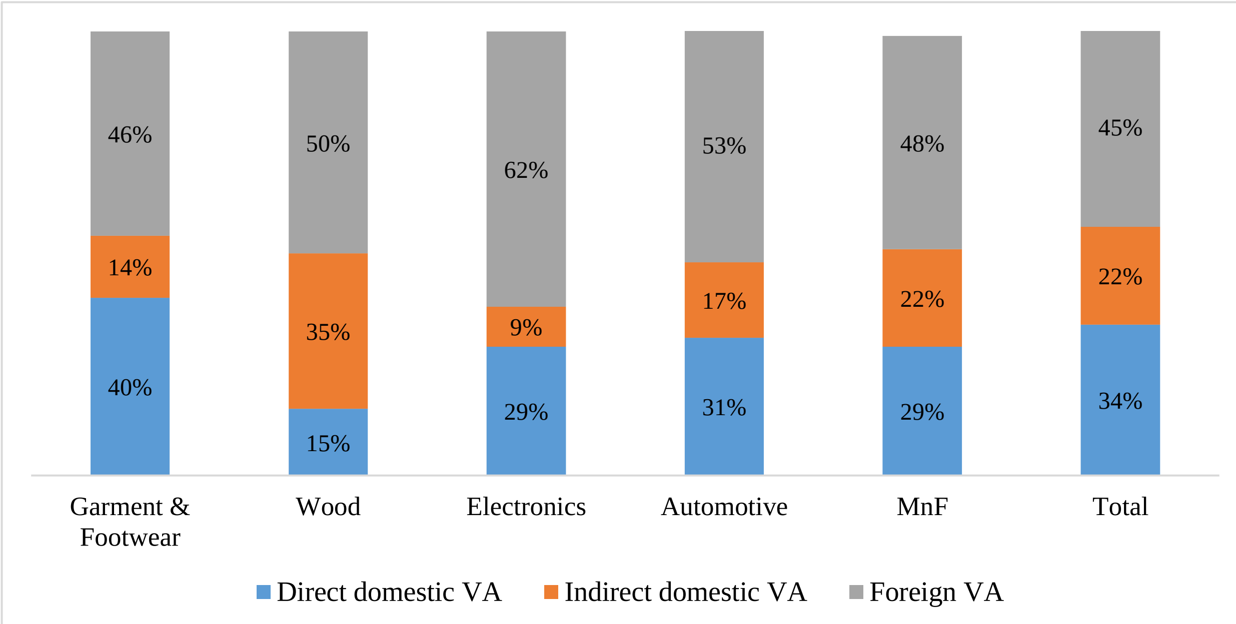
Regarding foreign direct investment (FDI), accumulated to the end of September 2021, EU countries have invested in total 2,249 projects in Vietnam (accounting for 6.59% of the total FDI projects) with a total cumulative registered capital of 22.27 billion USD (accounting for 5.52%). One year after the EVFTA, the COVID-19 pandemic halted movement between the two regions, damaging investments. In the first year of EVFTA, the total number of new EU projects in Vietnam was 151, down 21.35% compared to last year. Newly registered capital reached 423 USD million, down 12.7% over last year. For contributed capital for share purchases, there were 316 capital contributions worth 428 million USD, down to 45.8% in the number of capital contributions and 31.5% in the value of capital contribution. Total registered FDI capital from EU countries reached more than 1 billion USD in the period from August 2020 to August 2021, down more than 38.2% from last year.

COVID-19 entails huge negative impacts, but that does not obscure the internal problems of the economy

During the first year implementing EVFTA, Vietnam, EU and the rest of world suffered greatly from COVID-19 pandemic. Therefore, overall trade outcomes brought about by the Agreement may be obscured by trade consequences of the pandemic. To separate these two effects, the research team developed a simulation model to estimate the impacts of EVFTA alone in the first year of implementation. Modelling results showed that under the assumption that the COVID-19 epidemic does not exist, and other conditions remain unchanged, including the absence of the EVFTA, Vietnam’s export value last year could have reached 45.46 billion USD (compared to the actual figure of 39.7 billion USD). When applying tariff exemption and reduction policies under EVFTA, the export value of goods could reach 51.04 billion USD, an increase of 12.27% compared to the case where the EVFTA has not been signed and there is no COVID-19. Meanwhile, the actual figure after the first year of EVFTA implementation, export turnover was only 39.7 billion USD, showing severe consequences of the COVID-19 pandemic. In other words, without COVID-19, we would have witnessed an explosion of Vietnam's exports to the EU in the first year of implementing EVFTA. Hopefully, this great potential will be fully tapped after COVID-19 pandemic is eliminated.

However, it is necessary to acknowledge the fact that besides the great advantages promised by EVFTA, Vietnam has, at the same time, been facing numerous internal and external challenges. The first thing to worry about is that Vietnam's trade costs are relatively higher than those of ASEAN countries. Non-tariff measures and administrative procedures remain complicated and obstructive to foreign investors and international trade. In addition, Vietnam’s key export products to the EU, including agricultural and aquatic products are facing multiple risks as the Vietnamese exporters often violate SPS (Sanitary and Phytosanitary Measures) regulations of partner countries.

Figure S4. Foreign value added vs. Domestic value added (2019, %)



Source: World Bank, 2019

The advantage of tariff reduction is only significant when exported goods from Vietnam have high added value (rules of origin). Currently, Vietnam is dependent mainly on raw materials from countries outside the EU. Figure S4 shows that Vietnam's key manufacturing industries use more foreign value added (VA) than domestic VA. In particular, this gap is larger for IT-intensive manufacturing industries such as electronics (62% of foreign VA compared to 29% domestic VA) and the automobile industry (53% of foreign VA compared to 31% domestic VA). With the strict rules of origin in EVFTA, Vietnamese businesses will face numerous difficulties in optimizing tariff exemption benefits.

Not to mention the ongoing issues facing intellectual property, environmental protection, state-owned enterprises, public procurement, labor association and collective bargaining, etc. are all structural issues related to Vietnam's economic and institutional model. Without adequately addressing these issues, the trade potential of the EVFTA could be significantly limited.

Along with the changing international and regional context, Vietnam must continue its reform process to take advantages

As mentioned above, an important feature of Vietnam-EU trade relations is that the transaction flow takes place in global value chains controlled by multinational corporations. However, it is not easy for Vietnamese businesses to participate in this value chain. EVFTA opens up opportunities for domestic enterprises to access European modern and advanced technologies. If trade patterns change in the direction of reducing the trade surplus with Europe, increasing imports of state-of-the-art machinery and equipment will not only help domestically produced goods achieve quality and meet higher standards, but also increase the ability and opportunity to participate more deeply in the global value chain of domestic enterprises. Therefore, domestic enterprises must renew themselves, enhance skills and capactity to acquire new technologies, and improve products in both design and quality to boost competitiveness and avoid losing their home advantage.

Over the longer term, the combined impacts of COVID-19 and trade tensions between western countries and China could spur a faster and stronger restructuring of global value chains. If global value chains tend to be less dependent on a small number of global production hubs like China, in theory, Vietnam would benefit if it partially participates in the process of filling the gaps in the supply chain. However, global supply chains can also be streamlined with fewer participating countries. In the context of increasing unilateralism and bilateralism, leading corporations may seek to bring all or part of their supplies back home, to allied countries, or to co-operation groups. This phenomenon could possibly reshape global economic competition. The structure of global value chains may change towards more forward integration and less backward integration than before. Vietnam can only maximize benefits and minimize risks from this process if it can reposition itself more strongly and visibly in the post-COVID-19 period. This requires Vietnam to take stronger and more proactive policy measures to improve production and export capacity towards prioritizing value-added and high technology.

Vietnam is leading in two-way trade with the EU and can be considered as a gateway for the EU to access Southeast Asia and possibly China. However, this advantage is not infinite. The EU is currently negotiating FTAs with other regional countries, namely Thailand, Malaysia, the Philippines and Indonesia (after the deadlock in negotiations for a comprehensive EU-ASEAN). All are competing directly with Vietnam over merchandise exports to the EU. Therefore, Vietnam must optimize the first-mover advantage and opportunity to maintain and promote its existing advantages in trade relation with the EU. In order to achieve long-term and sustainable benefits from EVFTA, instead of focusing on immediate benefits from export, import or service growth, Vietnam must understand the downsize of the “low hanging fruit” strategy, as analyzed above. In other words, if Vietnam stops at fundamental reforms and avoid or delay more extreme - and more sophisticated - reforms, its current advantages as one of the first ASEAN members (only after

Singapore) to have signed an FTA with the EU, will fade quickly. This is something that the legislative apparatus and policy makers must take into account in order to build on the achievements recorded under EVFTA.

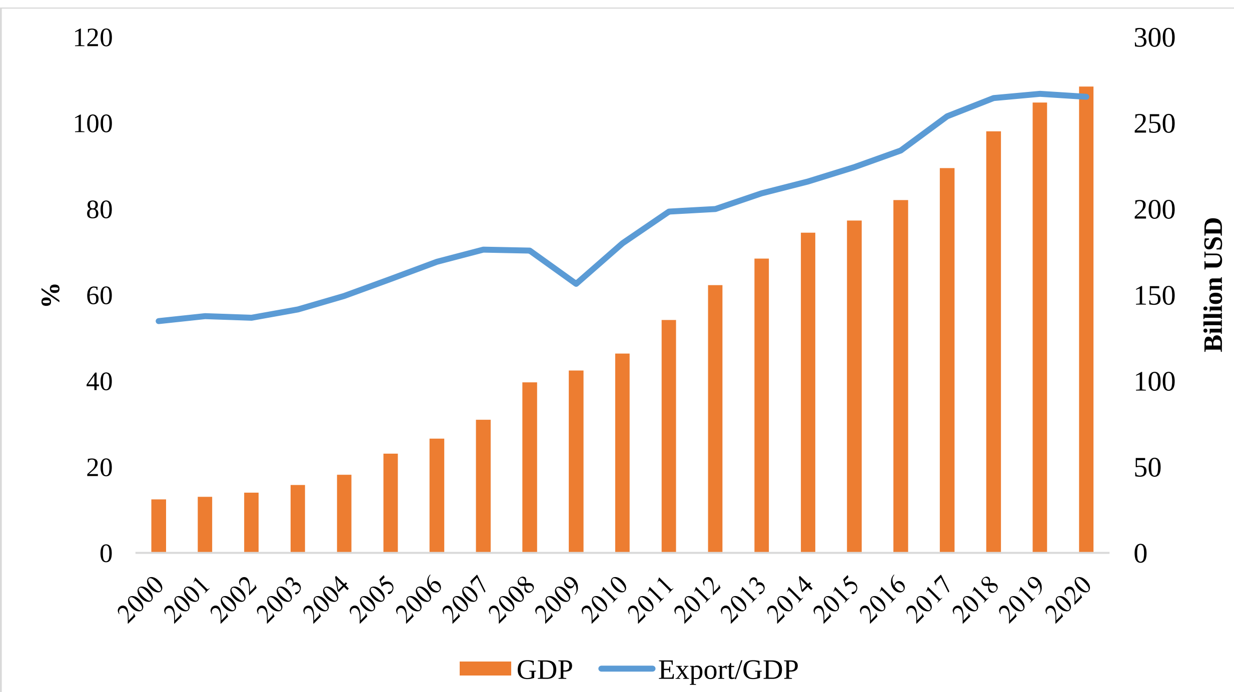
CHAPTER I. INTRODUCTION

1.1. Background

During the process of globalization, trade liberalization plays an important role in the socio-economic development of a country. Thanks to trade liberalization trends in the 1950s, countries such as Japan, the Republic of Korea, Taiwan, Hong Kong and Singapore have experienced dramatic economic growth to become developed ones at the beginning of the 21st century. The remarkable achievement has been known as "Asian Miracle" (Campos and Root, 2001).

Since integrating into the world economy in 1995, Vietnam has transformed from a closed economy into one of the most open in the world. Like other Asian countries, Vietnam's growth engine derives from exporting goods to high-income countries. With its momentum from trade liberalization following its ascendency to WTO membership in 2017, Vietnam's economy has grown rapidly and emerged as a lower middle-income country.

Figure 1: Vietnam's GDP and Export to GDP ratio (2000-2020, billion USD, %)



Source: Authors' calculations based on World Bank data, 2021

The EU-Vietnam Free Trade Agreement (EVFTA) is a recent FTA bringing significant immediate benefits to the Vietnamese economy through higher growth, greater trade, and faster poverty reduction. According to World Bank projections (2019), full implementation of EVFTA could increase Vietnam's GDP by 2.4 percent, boost exports by 12 percent, and lift an additional

0.1 million to 0.8 million people out of poverty by 2030. It will also potentially help close the gender wage gap by 0.15 percentage points, particularly for households in the bottom 40 percent of income distribution.

Within the above context, VEPR collaborated with the Konrad-Adenauer-Stiftung in Vietnam to produce an evaluation report on the One-year Implementation of EVFTA: Impacts on the Vietnamese Economy and Policy Formation, and offer legal and administrative policy recommendations to help Vietnam optimize trade benefits from the Agreement.

1.2. Research Objectives

This research focuses on the following objectives:

1. Summarizes key points in the EVFTA
2. Assesses EVFTA's impacts on Vietnam's economy following its coming into force in August 1, 2020
3. Identifies behavioral changes of Government employees, policy makers, and entrepreneurs in the new business environment
4. Assesses impacts of COVID-19 pandemic on Vietnam's export value to the EU
5. Offers recommendations and proposals to improve national policies, regulations and laws necessary to meet the requirements of the Agreement

1.3. Research Questions

We answer two key research questions:

a. Are there any inconsistencies between Vietnamese Laws and the provisions of EVFTA?
b. How did the trade and investment activities between Vietnam and the EU occur in the first year of EVFTA implementation?
c. What are the impacts of COVID-19 Pandemic on Vietnam's trade activities with partners under the EVFTA framework compared to "no-COVID 19 scenario"?

1.4. Scope of Study

Research focuses on Vietnamese law, such as the Labor Code, Law on Entry, Exit, Transit and Residence of Foreigners in Vietnam, Law on Environmental Protection, Law on Customs...; and the terms committed under EVFTA, as well as Vietnam's trade and investment activities with the EU.

Research is limited to legal normative documents adjusted to EVFTA in the process of negotiation, signing and implementation, as well as trade and investment activities between Vietnam and the EU after one year of the Agreement's entry into force (from August 1, 2020 to August 1, 2021).

1.5. Methodology

- Desk Research: collect secondary materials on legal normative documents and papers relating to Vietnam's trade policies and guidelines for EVFTA.
- Quantitative Research: make a comparison between Vietnamese domestic laws and the provisions of EVFTA's Chapters, followed by an analysis of limitations in Vietnamese laws that need to amend and supplement to meet EVFTA requirements.
- Qualitative Research: develop simulation and projection models to assess impacts of EVFTA and COVID-19 pandemic on Vietnam's economy in 2020.

CHAPTER II. OVERVIEW OF EVFTA

2.1. Background on the EVFTA

EVFTA is the largest new-generation free trade agreement in Vietnam's history in terms of direct benefits for the country. Its impact on GDP growth is almost three times larger than that of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). The EU is one of Vietnam's most important and stable trading partners. Vietnam's export turnover to the EU has steadily grown at an average annual rate of 16 percent, and Vietnam has gained a trade surplus with the EU over the past two decades. Implementing EVFTA will help improve bilateral trade with the EU, sustain positive trade performance, and help strengthen Vietnam's key global value chains. More importantly, fundamental changes in the economic structure and institutions as a result of EVFTA and CPTPP implementation will support deepening domestic reforms and make Vietnam a more competitive and innovative economy.

The EVFTA and Investment Protection Agreement (IPA) were negotiated in the context of the growing bilateral relationship between Vietnam and the EU, especially in the fields of economy and trade. The EU is currently one of Vietnam's leading trading partners with two-way turnover in 2019 reaching 56.45 billion USD, with exports to the EU earning 41.5 billion USD, and imports from the EU earning 14.9 billion USD. EVFTA is a comprehensive and high-quality agreement ensuring a balance of benefits for both Vietnam and the EU, while taking into account differences in development levels between the two parties.

EVFTA is expected to be a huge boost for Vietnam's exports, diversifying export markets and products, especially agricultural and aquatic products, as well as Vietnamese products having competitive advantages. Commitments to fair, equal, safe and adequate protection of each other's investments and investors in the IPA will also contribute positively to building a transparent legal and investment environment, enabling Vietnam to attract even more investors from the EU and other countries.

After nearly 10 years of negotiation with the EU, EVFTA officially came into force in August 10, 2020, having these key development milestones:

Table 1: Key milestones in the development of the EVFTA

Time	Events
October 2010	Vietnam's Prime Minister and the EU President agreed to launch EVFTA negotiations.
June 2012	Vietnam's Minister of Industry and Trade and the EU Trade Commissioner announced the launch of EVFTA negotiations.
December 2015	End of negotiations and start of legal review to prepare for the agreement signing.
June 2017	Completion of legal review at the technical level.
September 2017	The EU officially asked Vietnam to separate the commitments of investment protection and the dispute settlement mechanism (investor-state dispute solutions) between the state and investors from the EVFTA into another agreement due to newly-emerged issues relating to the authority to ratify free trade agreements of the EU or individual EU member countries.
June 2018	Vietnam and the EU officially agreed to separate the EVFTA into two agreements: the European Union-Vietnam Free Trade Agreement (EVFTA) and the Investment Protection Agreement (EVIPA), complete the legal review of the EVFTA, and reached a consensus on the IPA commitments.
August 2018	Legal review of the EVIPA completed.
October 17, 2018	The European Commission officially adopted the EVFTA and EVIPA
June 25, 2019	Council of Europe approved for signature
June 30, 2019	Vietnam and the EU officially signed the EVFTA and EVIPA
January 21, 2020	The International Trade Commission of the European Parliament voted in favor of ratifying the EVFTA
March 30, 2020	The European Parliament ratified the EVFTA and the EVIPA
June 8, 2020	Vietnam's National Assembly ratified the EVFTA
August 1, 2020	The EVFTA came into force.

Source: Collected by authors from the Ministry of Industry and Trade of Vietnam

2.2. EVFTA Commitments

The Agreement contains 17 chapters, 2 protocols and several attached memoranda of understanding, with main contents covering: Trade in Goods (including General Provisions and Market Access Commitments), Rules of Origin, Customs and Trade Facilitation, Sanitary and Phytosanitary Measures (SPS), Technical Barriers to Trade (TBT), Trade in Services (including General Provisions and Market Access Commitments), Investment, Trade Remedies, Competition, State-owned Enterprises, Government Procurement, Intellectual Property, Trade and Sustainable Development, Co-operation and Capacity Building, Legal - Institutional issues. A chapter-by-chapter summary is shown in Table 2 below:

Table 2: Chapter-by-chapter summary of the 17 chapters of the EVFTA

Chapter	Contents
Chapter 1: Objectives and General Definitions	Introduces the objectives and general definitions used in the subsequent chapters of the EVFTA.
Chapter 2: National Treatment and Access for Goods	Provides market access commitments of Vietnam to the EU's goods and vice versa.
Chapter 3: Trade Remedies	Includes detailed provisions on antidumping safeguards and subsidies measures based on WTO regulations, with additional commitments between Vietnam and the EU.
Chapter 4: Customs and Facilitation of Trade	Provides commitments and measures for the management of import, export, and transit of goods between Vietnam and the EU.
Chapter 5: Technical Barriers to Trade	Covers mandatory technical regulations and voluntary standards that define specific characteristics that a product should have.
Chapter 6: Sanitary and Phytosanitary Measures	Reaffirms all principles of the WTO Sanitary and Phytosanitary (SPS) Agreement and makes references to a number of standards developed by international bodies, which include the Codex Alimentarius (Codex) in food safety, the World Organization for Animal

	Health (OIE) in animal health, and the International Plant Protection Convention (IPPC) in plant health.
Chapter 7: Non-tariff Barriers to Trade and Investment in Renewable Energy Generation	Covers the issue of non-tariff barriers to trade and investment in renewable energy generation.
Chapter 8: Liberalization of Trade, Trade in Services and Electronic Commerce	Covers the regulations and charters on investment freedom in the fields of trade in services and electronic commerce.
Chapter 9: Government Procurement	Provides the regulations and rules in government bidding.
Chapter 10: Competition Policy	Adjusts issues of competition policy based on the respect of the WTO regulations
Chapter 11: State-owned Enterprises, Enterprises Granted Special Rights or Privileges, or Designated Monopolies	Contains rules regarding state-owned enterprises (SoEs), designated monopolies, and enterprises granted special rights or privileges in order to ensure that special rights or privileges granted to SoEs do not affect the objective of trade liberalization which the Agreement aims at.
Chapter 12: Intellectual Property	Covers the regulations on intellectual property and protection standards for each specific intellectual property owners.
Chapter 13: Trade and Sustainable Development	Enumerates specific provisions in the area of trade and sustainable development, with the twofold aim of (1) promoting mutual supportiveness among trade and investment, labor, and environmental policies; and (2) ensuring that increased trade and investment do not come at the expense of workers and environmental protection. In particular, this chapter includes obligations on the part of both the EU and Vietnam regarding a core set of labor and environmental issues.

Chapter 14: Transparency	Addresses the issue of drafting and implementing laws and measures concerning subjects under the scope of the EVFTA.
Chapter 15: Dispute Settlement	Covers the improved regulations and principles in trade dispute settlement between the two parties based on the respect of the existing WTO dispute settlement.
Chapter 16: Co-operation and Capacity Building	Refers to the objectives and scope of cooperation and capacity building for the effective implementation of the EVFTA.
Chapter 17: Institutional, General, and Final Provisions	Refers to the establishment of Committees to monitor, resolve and cooperate between the two parties.

Source: Collected by authors from the EVFTA text

Consistent with WTO regulations, EVFTA was signed in the spirit of cooperation, balancing the interests of Vietnam and the EU. In general, EVFTA was one of the new-generation FTAs that Vietnam has entered into, promising many benefits to the country. Specifically, for trade in goods, as soon as the Agreement came into effect in August 1, 2020, the EU would eliminate import duties on 85.6% of tariff lines, equivalent to 70.3% of Vietnam's exports to the EU. After 7 years, the EU would eliminate import duties on 99.2% of tariff lines, equivalent to 99.7% of Vietnam's exports to the EU. For the remaining 0.3% of exports, the EU commits to giving Vietnam a tariff quota with an import duty of 0%.

For EU exports, Vietnam would eliminate tariffs at 48.5% of tariff lines (accounting for 64.5% of total import value). After 7 years, 91.8% of tariff lines, equivalent to 97.1% of EU exports would be exempt from import taxes. After 10 years, tariffs would be eliminated on about 98.3% of the tariff lines (accounting for 99.8% of total import value). For the remaining 1.7% of EU tariff lines, Vietnam could apply a roadmap to eliminate import duties for more than 10 years or apply tariff quotas in accordance with WTO commitments.

Vietnamese and EU commitments over trade in services and investment aimed to create an open and facilitating investment environment for businesses of both parties. In service sectors, Vietnam's commitment exceeded WTO's while the EU commitments were equivalent to the highest levels of commitment of the FTAs that the EU had signed. Vietnam committed to facilitating

EU investments in service sectors including professional services, finance, telecommunications, transportation, and distributions. The two parties also committed to issues on the national treatment of investments, and dispute resolution mechanisms between investors and the state.

Box 1: Key features of commitments in some service industries

- Banking Services: Within 5 years from entry into force of the EVFTA, Vietnam commits to favorably allowing EU credit organizations to invest up to 49% in two Vietnamese joint stock commercial banks. However, this commitment is not applicable to the 4 joint stock commercial banks where government holds controlling stake, namely BIDV, Vietinbank, Vietcombank and Agribank. - Insurance Services: Vietnam commits to allowing cross-border retrocession of reinsurance and voluntary health insurance services in accordance with the domestic laws. Vietnam only allows EU investors to open branches to provide re-insurance after a transition period. - Telecommunication Services: Vietnam commits to the same level as in the CTPTT Agreement. For the value-added telecommunication services without network infrastructure, Vietnam allows EU investors to establish their wholly-owned companies after a transition period. - Distribution Services: Vietnam agrees to abolish the economic needs test requirement in 5 years from the date of entry in force of this Agreement. However, Vietnam reserves the right to conduct distribution system planning on a non-discriminatory basis. Vietnam also agrees to non-discriminatory treatment for the production, import and distribution of alcoholic beverage, allowing EU enterprises to reserve their operating conditions under current licenses and they only need one license to carry out import, distribution, wholesale and retail activities.

Source: Authors' compilation

Regarding Government Procurement, Vietnam and the EU agreed on the contents equivalent to that in the WTO Government Procurement Agreement (GPA). With some obligations such as a bidding online, setting up an electronic portal to publish bidding information, etc., Vietnam created roadmaps for implementation. The EU also committed to providing technical assistance to help Vietnam fulfill these obligations.

Vietnam committed to open its doors on public procurement contracts for ministries, central agencies, and several units under the Ministry of Defense (for regular procurement of goods and services not for security-defense purposes), Hanoi, Ho Chi Minh city, Electricity of Vietnam, Vietnam Railways Corporation, 34 public hospitals directly under the control of Ministry of Health, Hanoi National University, Ho Chi Minh City National University and a number of central institutes. Regarding the degree of market opening, Vietnam created a 15-year roadmap to gradually open up procurement activities.

Concerning pharmaceuticals, Vietnam would allow EU businesses to participate in public procurement bidding hosted by the Ministry of Health and public hospitals directly under the control of Ministry of Health with certain required conditions and routes.

Intellectual Property commitments included copyrights, trademarks, patent rights related to medicines and geographical indications, etc. The following are key features of the IP commitments:

- Geographical indications: As of the time the Agreement comes into effect, Viet Nam would provide protection for more than 169 EU geographical indications (GIs) (of 28 member states). EU would protect 39 GIs of Vietnam. Viet Nam's GIs mostly cover agricultural products and foodstuffs, enabling some of Vietnam's agricultural products to build and strengthen their brands in the EU market.

- Trademarks: Each party committed to providing a facilitating and transparent registration procedure, including a publicly available electronic database of published trademarks and registered trademarks, and at the same time allows non-use cancellation 5 years after its registration date.

- Enforcement: The Agreement provides for border control measures for the exports of goods suspected of infringing intellectual property rights.

- Commitment to most-favored-nation (MFN) treatment: Commitment to MFN principle in this Agreement ensures that EU organizations and individuals enjoy the benefits of high protection standards, not only intellectual property rights under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), but also on other intellectual property rights enumerated under FTAs to which Vietnam is a party (such as the CPTPP Agreement).

The state-owned enterprises (SOEs) provision aims to create an equal competitive environment among economic actors. The commitment covers the crucial role of SOEs in realizing public policy goals, stabilizing the macro-economy, and ensuring national security and defense. Therefore, EVFTA only governs commercial activities of state-owned or controlled enterprises and designated monopolies whose commercial sizes are large enough to be competitive.

The main obligations of SOEs include: (i) operates under market mechanisms, meaning they have decision-making power on their business operations and are not subject to State administrative intervention, except when implementing public policy objectives; (ii) ensures no discrimination in the purchase and sale of goods and services for industries and fields that have been opened; and (iii) makes transparent basic information about enterprises in accordance with the provisions of Law on Enterprises.

In order to develop and encourage EU-Vietnam e-commerce, the two parties agreed not to impose import tax on electronic transactions. Each party would also cooperate by maintaining dialogues to discuss management issues facing e-commerce, including:

- Responsibilities of intermediary service providers for information transmission or storage;

- Dealing with forms of electronic communication in commerce without recipient consent (e.g., email marketing, advertisements...);

- Protecting consumers engaged in electronic transactions.

The two parties would also cooperate to exchange information on domestic legal regulations and related enforcement issues.

As the domestic legal environment greatly impacts trade, EVFTA dedicates a separate chapter to transparency, featuring the most general requirements to ensure an effective and predictable regulatory environment for economic operators, especially small and medium-sized enterprises.

The two parties would pursue sustainable development, including economic development, social development and environmental protection. Regarding labor issues, as members of the International Labor Organization (ILO), the two parties committed to respecting, promoting and implementing the ILO 1998 Declaration on Fundamental Principles and Rights at Work, including promoting the ratification and effective implementation of fundamental ILO conventions. In addition, the two parties also agreed to strengthen cooperation through a mechanism to share information and experiences on promoting the ratification and implementation of conventions on labor and environment in areas such as climate change, biodiversity, sustainable forest management and trade in forest products…

CHAPTER III. LEGAL GAP BETWEEN THE EVFTA AND VIETNAMESE DOMESTIC LAWS

Fundamentally, EVFTA is a new-generation free trade agreement. Unlike the approach on previous FTAs, which were solely about conventions on free trade and investment, the new-generation FTAs require two parties to collaborate in all related areas including institution, legislation and environmental quality. Therefore, to optimize trade benefits from the Agreement, Vietnam must make legal amendments and supplements to meet EVFTA's provisions. According to the WTO Center statistics, by May 17, 2021, in addition to the Government's EVFTA implementation plan, 19 ministries, central agencies, and 57 of 63 provinces and cities nationwide have issued their plans to implement the Agreement. In this study, we analyze the legal basis in the Agreement and Vietnam's legal system to identify common and consistent points or points that must be supplemented and improved.

In December 2015, Vietnam and the EU wrapped up EVFTA negotiations and started the legal review process to prepare to sign the Agreement. In 2016, the Center for WTO and Integration under the Vietnam Chamber of Commerce and Industry published a series of reports concerning the Review of Vietnam's legal system against EVFTA commitments on Customs and Trade Facilitation (Chapter 4 of the Agreement), Intellectual Property (Chapter 12 of the Agreement), Public Procurement (Chapter 9 of the Agreement), Transparency (Chapter 14 of the Agreement) and Investment (Separated into the Investment Protection Agreement, IPA). In this study, we do not analyze investment-related provisions, which are located in a separate agreement. The Center for WTO and Integration reports showed that Vietnam's legal system, as it relates to the above-mentioned areas, is complete except for several shortcomings concerning specialized laws, and particularly notes related to law enforcement. In this study, we review changes and updates in the Vietnamese legal system intended to meet requirements of the Agreement after completion of the negotiations. Below are the details:

3.1. National Treatment and Market Access for Goods

More than one month after the Agreement entered into force, being aware of legal shortcomings of the Tariff Schedule that Vietnam committed to under Chapter 2 on National Treatment and Market Access for Goods, the Vietnamese government promulgated Decree No. 111/2020/ND-CP on Preferential Export Tariffs and Special Preferential Import Tariffs for goods committed under EVFTA.

In terms of provisions on re-manufactured goods in Article 2.6 of the Agreement, neither the 2017 Law on Foreign Trade Management nor the 2005 Commercial Law of Vietnam contains provisions on re-manufactured goods. Decree No. 31/2018/ND-CP providing guidelines for the Law on Foreign Trade Management concerning the origin of goods also lacks regulations on re-manufactured goods. Similarly, both Circular No. 05/2018/TT-BCT on origin of goods and Circular No. 11/2020/TT-BCT on rules of origin in EVFTA do not contain regulations on re-manufactured goods. Currently, Vietnam only has regulations on re-manufactured goods in Circular No. 03/2019/TT-BCT on rules of origin in CPTTP. Therefore, the Ministry of Industry and Trade must add regulations on re-manufactured goods to the guiding circulars, specifically Circular No. 11/2020 to promptly meet the Agreement's requirements.

Commitments in Article 4 of Annex 2B on motor vehicles and motor vehicle parts and equipment refers to both parties' acceptance of products (listed in Annex 2B) covered by a valid UNECE type-approval certificate. However, Vietnam has not yet joined the 1958 UNECE Agreement as of the time EVFTA took effect. The Ministry of Transport is responsible for the submission of the plan to join UNECE, scheduled for 2020. However, up to now, the Ministry of Transport has not yet issued its EVFTA implementation plan. Therefore, motor vehicles and motor vehicle spare parts businesses are likely to face difficulties while Vietnam is negotiating UNECE 1958 with the EU.

3.2. Customs and Trade Facilitation

Proposed amendments relating to specialized management of imported and exported goods, criteria and conditions for enjoying the priority mechanism in implementing customs procedures, and the application of modern management approaches in physical inspection of goods specified in Decree 08/2015/ND-CP have been considered in the Draft Revised Decree currently being developed by the Ministry of Finance and opened for comments and suggestions (the second round took place in July 2021).

When it comes to the method of calculating customs service fees and charges, Circular No. 231/2016/TT-BTC, which replaced Circular No. 223/2012/TT-BTC, has removed regulations on calculating customs service fees based on the value of the inspection of food hygiene and safety criteria to meet Agreement requirements. Regarding the commitment to designating contact points, guiding customs procedures and laws to implement EVFTA, there is still no official document or decree issued as proposed by the WTO Center. However, the provision of consultation and response to queries about legal regulations have been underway on the online public service portal of the General Department of Customs. Legitimization in the form of legal documents to meet EVFTA commitments appears not too difficult to achieve.

3.3. Public Procurement

The WTO Center Review (2016) showed that most of the provisions in Vietnam's Law on Bidding are compatible with EVFTA commitments on public procurement. Commitments that are inconstant with the Vietnamese law include commitments on bidding packages within the scope of adjustment of the Agreement and commitments on transparency and competition in general. The WTO Center’s proposals so far have not been realized, especially the proposal on promulgating a Decree guiding implementation of procurement under EVFTA as with CPTPP. Currently, the Ministry of Planning and Investment (the Department of Procurement Management) is preparing to submit to the Government legal normative documents guiding implementation of these commitments.

3.4. Transparency

Article 14.3.2 of the Agreement allows for the explanation of objectives and reasons when each party makes any proposal or draft amendments to the law of general application (subject to adjustment of this Agreement). In 2016, the WTO Center argued that it was necessary to issue the guiding decree for the 2015 Law on Promulgation of Legal Documents which stipulates the mandatory publication of reasons and objectives of the draft amendments when they were open for public comments. However, until the present, after the 2015 Law on Promulgation of Legal Documents was amended in 2020, this proposal has yet to be considered in the Decree guiding implementation (amended and supplemented in 2021).

Regarding the requirement to designate contact points to ensure effective implementation of the Agreement in Article 14.4.1, on August 4, 2020, the Prime Minister of Vietnam issued Decision No. 1175/QD-TTg on the designation of contact point for EVFTA implementation.

For the administration of measures of general application when implementing legal normative documents as provided for in Article 14.5 of the Agreement, in 2016, the WTO Center proposed to amend and supplement 01 Article on law enforcement principles into Decree No. 59/2012/ND-CP on monitoring law enforcement in addition to Article 10 of Decree 59. However, the Decree No. 32/2020/ND-CP of the Government amending Decree 59 only added provisions on the review and assessment of the law enforcement situation in addition to monitoring law enforcement. Therefore, it is necessary to continue to amend the Decree on monitoring law enforcement, adding provisions on law enforcement principles, at least the provisions on terms of general application in EVFTA.

Turning to transparency and disclosure of information about trade remedies, the WTO Centre's 2016 revealed that the Vietnamese law, at that time, provided for the disclosure of this information, but only in conclusion report, but not before it is published.

However, Circular No. 37/2019/TT-BCT providing detailed regulations on trade remedies clearly stipulates the investigating agency responsibility to provide information. Accordingly, before issuing a decision on application of official anti-dumping safeguards and subsidies measures, the investigating agency shall notify and collect opinions on the draft investigative conclusions relating to the requesting party and the requested party. In addition, on November 26, 2020, the Ministry of Industry and Trade also issued Circular No. 30/2020/TT-BCT guiding the implementation of EVFTA trade remedies, including provisions on notifying the EU in writing of the investigation into the application of bilateral safeguard measures and consultation with the EU in accordance with the provisions of the Agreement. Thus, current Vietnamese law has met this requirement of the Agreement.

3.5. Intellectual Property

FTAs include strict provisions on intellectual property. On EVFTA, Chapter 12 consists of 63 articles related to definitions, regulations and obligations of the parties in the enforcement and protection of intellectual property rights. In general, the 2019 Intellectual Property Law was amended and supplemented to meet the requirements of CPTPP. In addition, there are similarities between CPTPP and EVFTA concerning regulations on intellectual property. Therefore, most of the content in Chapter 12 in the Agreement is compatible with the 2019 Intellectual Property Law. However, there are some points that must be adjusted:

With regards to the right to protection against unfair competition, EVFTA provides for the implementation of Article 10bis of the Paris Convention for the Protection of Industrial Property. The Convention clearly states that anti-unfair competition includes at least the prohibition of 03 groups of certain acts and not limited to actors. Meanwhile, the IP Law only prohibits a few acts of unfair competition in IP among the acts listed in the IP Law (Article 130) and not limited to actors. This incompatibility was not amended in the 2019 IP Law.

In the case of commitments to join the WIPO Copyright Treaty (WTC) and the WIPO Performance and Phonographic Performance Treaty (WPPT), currently Vietnam is not a signatory on these two treaties. The entry application for WTC and WPPT is under preparation for submission to the Government allowing Vietnam to join in 2022.

Regarding copyright, rights of performers, rights of phonogram producers, rights to remuneration, the WTO Center 2016 Review showed that current Vietnamese law is compatible. However, in terms of detailed regulations, Vietnamese law is not as detailed and comprehensive as the Agreement. Proposals on amending Article 20 (on copyright), Article 29 (on rights of performers), Article 30 (on rights of phonogram producers) and Article 31 (on rights to remuneration) in the IP Law have been introduced, but the amended IP Law in 2019 did not include these amendments.

Turning to the protection of technical measures against infringement of rights, the WTO Center 2016 review showed that Vietnamese law provided for narrower acts than the Agreement requires and proposed amendments and supplements to be made to Articles 28.14 and 37.5 in the IP Law. However, the amended IP Law in 2019 retained this provision as in the 2005 IP Law (amended in 2009).

When the protection of rights management information is concerned, Vietnamese law has not specified the case where rights management information is attached to or embodied in a copy of a work or a copy of a work made available to the public as specified in Article 12.13.3 of the Agreement. The proposal to add regulations on copies to Article 28 of the IP Law was not considered in the 2019 amended IP Law.

As for exceptions and limitations, Vietnamese law meets basic requirements, except for the condition of having “no independent economic significance” for the temporary copy as specified in Article 12.14 .2 of the Agreement. The proposal to add regulation on the condition of having "no independent economic significance" to Article 69 of the IT Law was not considered in the 2017 amended IT Law.

In terms of registration procedures, the WTO Center 2016 Review showed that Vietnam had regulations requiring that refusal to register a trademark by the relevant trademark administration be communicated in writing but had no regulation requiring that refusal notice be duly reasoned as specified in Article 12.19.1 of the Agreement. However, our review found that Article 117.3.a of the IP Law 2005, revised in 2009 and 2019, clearly stipulates that the reason must be stated if a protection certificate is refused. This indicated that Vietnamese law met this requirement of the Agreement.

Regarding the enforcement of protection, Article 12.31.1 of the Agreement requires each Party to provide for enforcement of protection of geographical indications protection by appropriate administrative action, to the extent provided for by their respective national law to prohibit a person from manufacturing, preparing, packaging, labelling, selling, importing or advertising a food commodity in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its origin. Vietnamese law has basically met this requirement. However, there is still no regulation on penalizing advertisements likely to give a false impression about the origin of such goods.

Concerning the marketing authorization procedure, Article 12.40 of the Agreement provides for "compensation" to patent owners for "unreasonable" delays in marketing authorization. However, current Vietnamese law contains no provisions on this matter. The proposal to add provisions on "compensation" for damage to Article 93 of the IP Law was not considered in the 2019 amended IP Law. Therefore, the law must be adjusted to meet the requirements of the Agreement.

In respect to civil enforcement, Article 12.45 of the Agreement provides that, when one party presents reasonable evidence to support their claims of having intellectual property right infringed, the competent judicial authorities have the authority to order urgent provisional measures without having to notify the other party. Meanwhile, Article 206 of the 2019 amended IP Law stipulates that the application of provisional measures can only be taken when a party initiates a lawsuit or after a lawsuit is instituted. In addition, there is inconsistency between the Agreement and Vietnamese law concerning situations where provisional measures are applied. Therefore, it is necessary to adjust the IP Law to meet requirements of the Agreement.

In the matter of the application of injunctions (court orders) to infringement of intellectual property right, Article 12.49 of the Agreement provides that when a judicial decision finds an infringement of an intellectual property, the competent judicial authorities may issue against the infringer and, where appropriate, against a party whose services are being used by the infringer. In addition, there are two different interpretations of whether the prohibited act is the one that has been concluded by the Court or the restraining order only applies to the continuation of the infringement. In 2016, the WTO Center proposed to amend and supplement Article 202 of the IP

Law to be consistent with the Agreement. However, the amended IP Law in 2019 has not yet met this requirement.

Referring damage compensation, Article 12.51 of the Agreement clearly distinguishes two cases where the infringer knows and has reasonable grounds to know and the case where the infringer does not know or has reasonable grounds not to know about the damages to determine legal measures. However, Vietnamese law does not clearly distinguish these cases. The WTO Center's proposal in 2016 to amend Article 205 of the IP Law was not realized in the 2019 IP Law. Therefore, it is necessary to adjust the IP Law to meet this requirement of the Agreement.

Vietnamese law contains no provision on the presumption of authorship or ownership as specified in Article 12.54 of the Agreement. The WTO Center's proposal in 2016 to amend Article 203 of the IP Law was not realized in the 2019 IP Law. Therefore, it is necessary to adjust the IP Law to meet this requirement of the Agreement.

Turning to the active involvement of customs authorities as specified in Article 12.59 of this Agreement, Vietnamese law contains no provision on custom authorities' obligations to cooperate with right holders, including the provision of information for risk analysis. The WTO Center's proposal in 2016 to amend Article 204 of the IP Law was not realized in the 2019 IP Law. Therefore, it is necessary to adjust the IP Law to meet this requirement of the Agreement.

3.6. Other related commitments

With regards to the management of telecommunications activities as specified in Article 8.28 of the Agreement, the regulatory authority shall be separate from and not accountable to any provider of public telecommunications networks or services. In reality, the telecommunications regulatory body in Vietnam, the Ministry of Information and Communications, is managing the Posts and Telecommunications Group (VNPT) according to Decision No. 888/QD-TTg dated June 10, 2014 of the Prime Minister.

Regarding workers' rights, Article 13.4 of the Agreement on multilateral labor standards and agreements requires the Parties to the Agreement to comply with their obligations under the ILO and *the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up,* 1998. Specifically, workers have the freedom of association (under Convention No. 87) and substantive recognition of the right to collective bargaining (under Convention No. 98). This is an opportunity for Vietnam to reorganize the trade union system, making it a workers' essential organization.

In terms of climate change commitments, Article 13.6 of the Agreement requires the Parties to commit to the provisions of *the 1992 United Nations Framework Convention on Climate Change (UNFCCC)*, *the 2012 Kyoto Protocol* and *the 2015 Paris Agreement on climate change.* Most noteworthy is the provision on the development, implementation and operation of carbon market mechanisms at home and abroad. Although the Law on Environmental Protection 2020 contains specific provisions on the carbon credit trading market in Article 139, the law only specifies development of the domestic carbon market and does not provide for trading carbon credits with foreign partners. In addition, Article 13.7 of the Agreement on Biological Diversity requires the parties to "encourage trade in products which contribute to the sustainable use and conservation of biological diversity, in accordance with its domestic laws and regulations" and "promote and encourage the conservation and sustainable use of biological diversity, including access to genetic resources and the fair and equitable sharing of benefits arising from their utilization". The Law on Biodiversity 2008 and Decree No. 59/2017/ND-CP dated May 12, 2017 are compatible with Article 13.7 of the Agreement.

CHAPTER IV. ONE-YEAR IMPLEMENTATION OF EVFTA AND ITS ECONOMIC IMPACTS ON VIETNAM

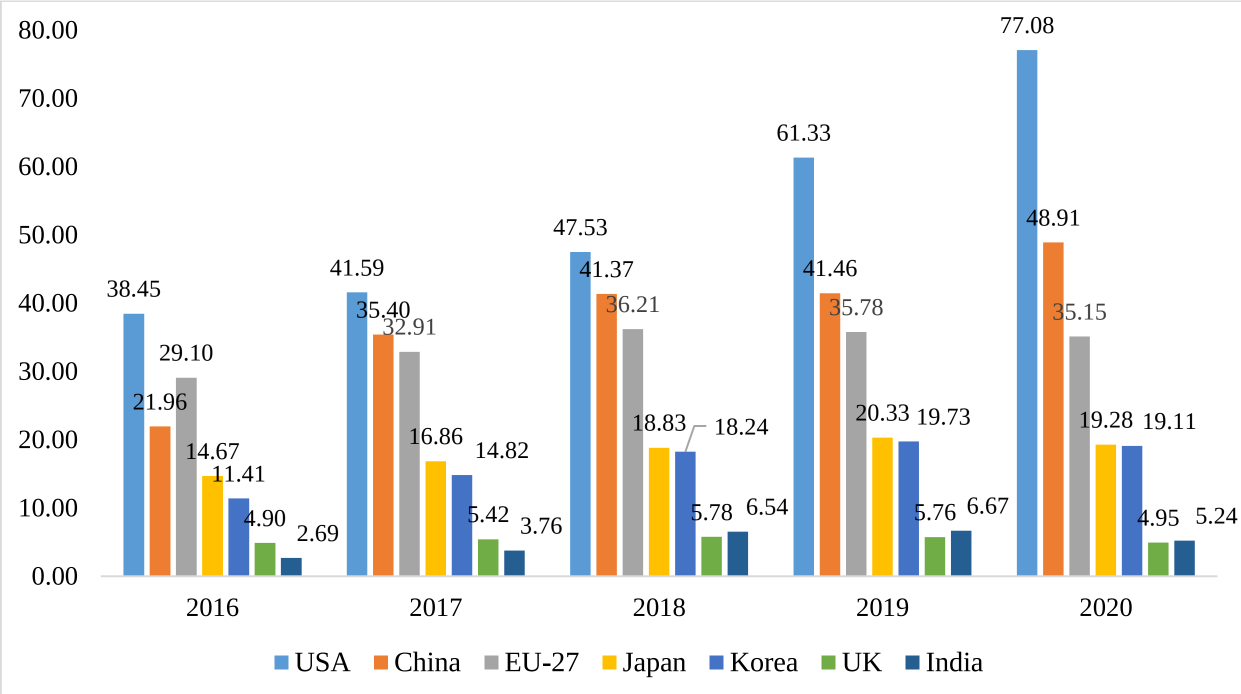
4.1. EU-Vietnam trade and investment relations after EVFTA beginnings

EVFTA came into force in an unprecedented time when Vietnam and EU countries were facing the outbreak of the COVID-19 pandemic. EU-Vietnam trade was negatively affected by supply-chain disruptions as countries temporarily locked down to prevent the spread of coronavirus. The EU's total import value in 2020 reached about 3,234 billion USD, down 7.4% compared to 2019. The EU's imports from Vietnam reached more than 39 billion USD, down 0.2% compared to 2019. However, this reduction did not represent the positive side of the Agreement since its entry into force on August 1, 2020. According to statistics from the European Statistical Office (Eurostat), from August to later 2020, Vietnam's exports to the EU registered about 14.8 billion USD, while average imports reached nearly 3 billion USD.

4.1.1. Vietnam's exports to EU since the entry into force of EVFTA

In the period 2016-2020, the EU was one of Vietnam's three main export markets after China and the US. But compared to US and Chinese markets, Vietnam's exports to the EU have grown steadily, despite a slight decline in the period 2018-2020. Meanwhile, Vietnam's exports to China increased sharply since the ASEAN-China Free Trade Agreement took effect in May 2016. As a result, China surpassed the EU to become Vietnam's second largest importer since 2016. As of the end of 2020, Vietnam's export turnover to China reached 48.9 billion USD, an increase of 17.96% compared to 2019. For the US market, Vietnam's exports benefited from the US-China trade war in 2018. Vietnam's exports to the US skyrocketed in the period 2018 – 2020, marking an average year-on-year increase of about 23%.

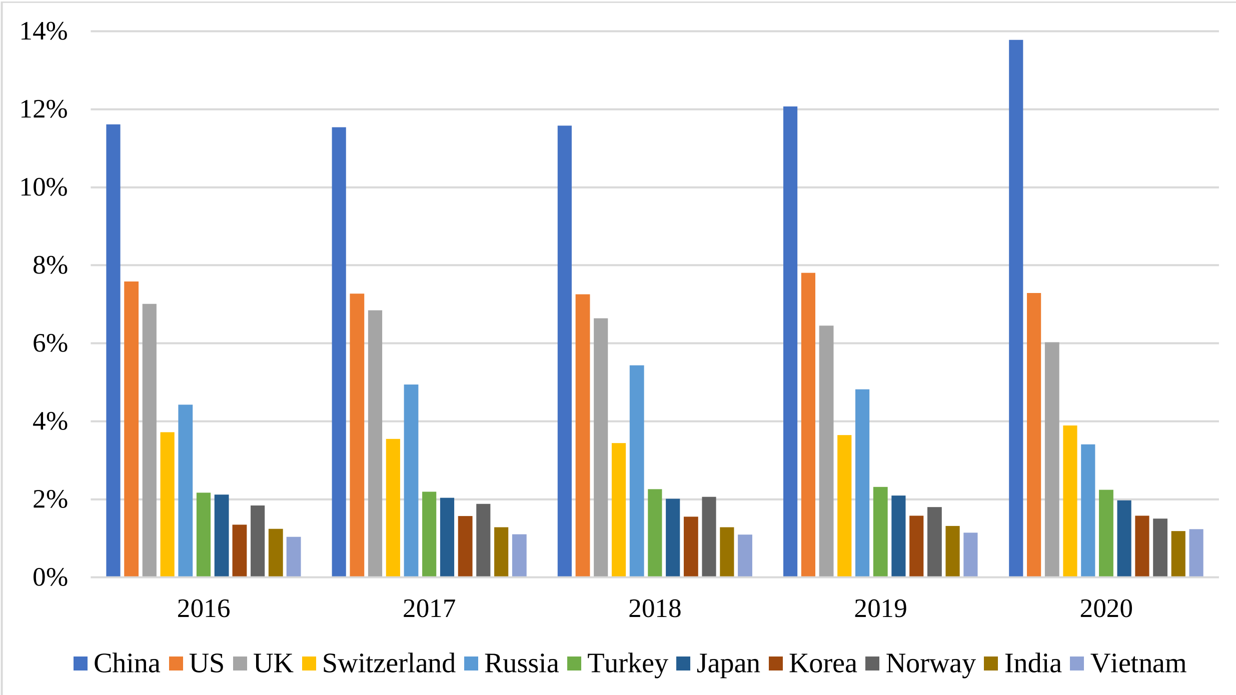
Figure 2: Vietnam's exports to important partners (2016-2020, billion USD)



Source: General Department of Vietnam Customs

China was the EU's most important exporter in the period 2016-2020, accounting for over 11% of the total import value. After the UK's left the EU and declining export trends to the EU among countries with relatively large export turnover to the EU, such as Russia and Switzerland in the period 2016 - 2020, Vietnam's merchandise exports to the EU increased continuously. According to Eurostat statistics, Vietnam's exports to the EU have risen, from 1.04% in 2016 to 1.23% in 2020. In 2020 alone, Vietnam surpassed India to become one of the ten countries with high export value to the EU market.

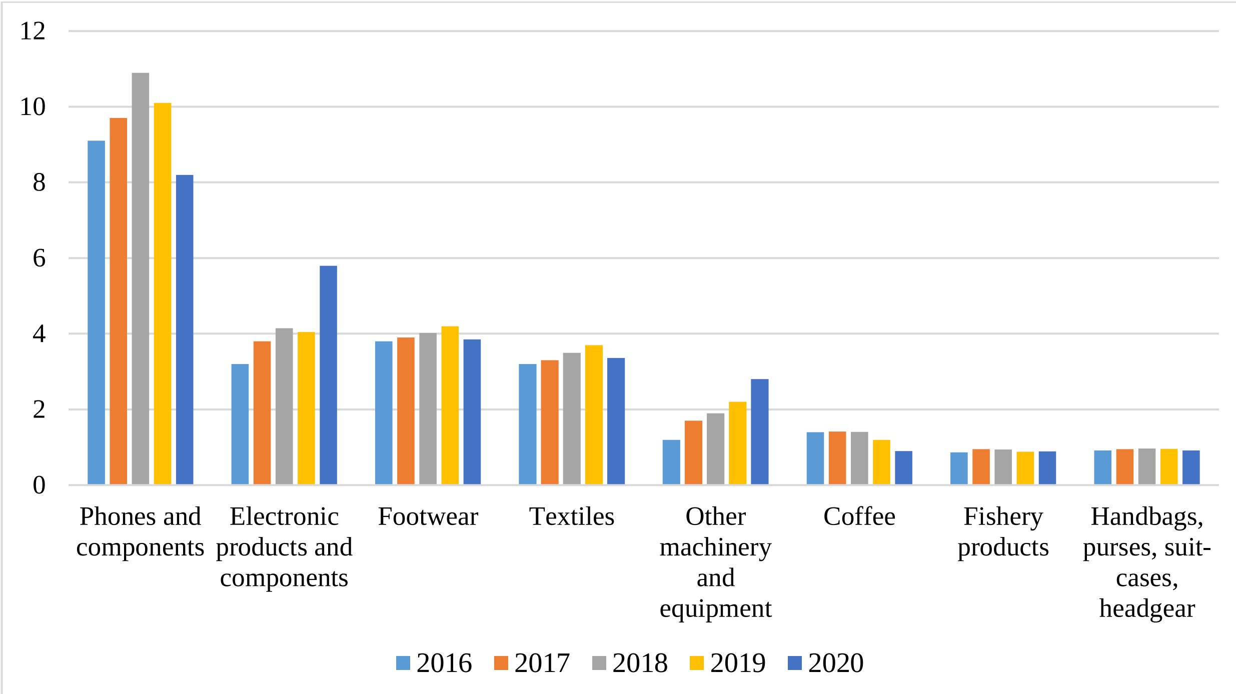
Figure 3: Share of EU's imports from main partners (2016-2020, %)



Source: Eurostat, 2021

Among Vietnam's exports to the EU, telephones and components registered the highest value in 2016-2020 period. However, it fell by more than 2 billion USD in 2020, equivalent to a 20% decrease against the previous year. Most export products to the EU in 2020 experienced a decline in value as the consequence of COVID-19 (Figure 4), except for computers, electronic products and components, and other machinery, equipment, tools and spare parts. In particular, export value of computers and electronic products and components increased more than 13.5% compared to 2019, earning nearly 5.8 billion USD. Although these items have high export value, they all are produced by domestic FDI enterprises.

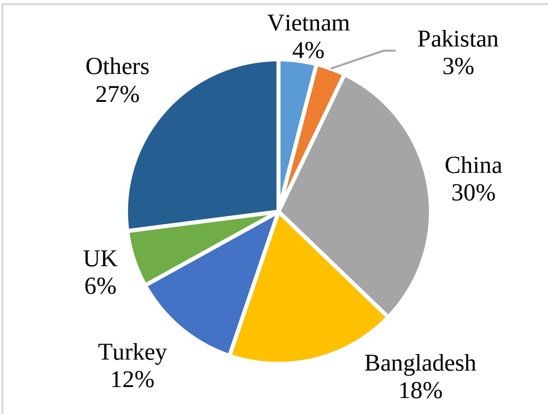
Figure 4: Year-on-year export turnover of some products with high export value (2016-2020, billion USD)



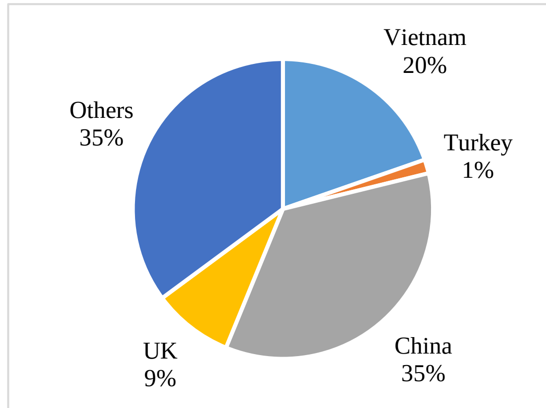
Source: Authors' calculations based on data from General Department of Vietnam Customs

Vietnam's exports to the EU market faces tough competition from other countries. For garments and textiles, in 2020, Vietnam only accounted for 4% of EU's total market share due to an intense competitive pressure from large textile exporters in Asia such as Bangladesh and China. Meanwhile, Vietnam held the second largest share in the total market value of EU footwear, accounting for 20%. Vietnam's share in the EU seafood market reached 7%, representing one of the 6 largest seafood exporters to the EU in 2020. Vietnam's coffee products account for 13% of EU's total market share, second only to Brazil in export turnover. However*, the average export value per ton of Vietnamese coffee only reached 1.592 USD/ton, the lowest among 5 top coffee exporters in the world (Brazil, Vietnam, Indonesia, Colombia and Chile).* Even as the world's second largest rice exporter (IMF, 2020), Vietnam's rice market share in the EU is only 3%, much lower than other ASEAN countries such as Cambodia accounting for 11%; Myanmar 13% and Thailand 16%. *The average export value per ton of Vietnamese rice is only 495.50 USD/ton, much lower than that of Thailand and Cambodia (653 USD/ton and 719 USD/ton, respectively).*

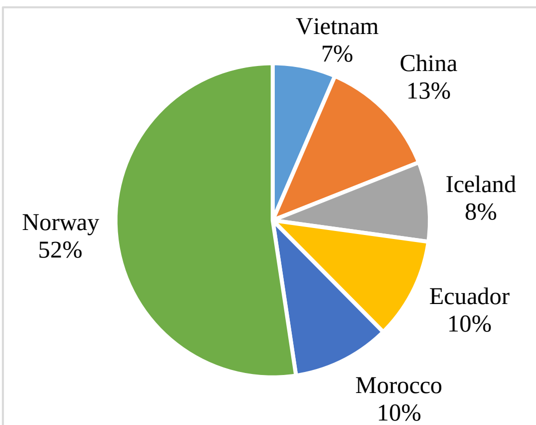
Figure 5: Share of Vietnam's key export products to the EU market (2020, %)



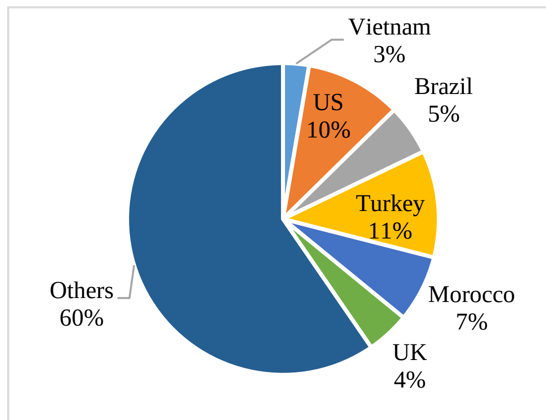
Garments and Textiles



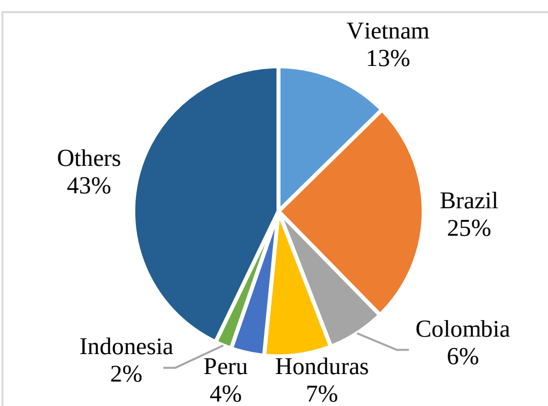
Footwear



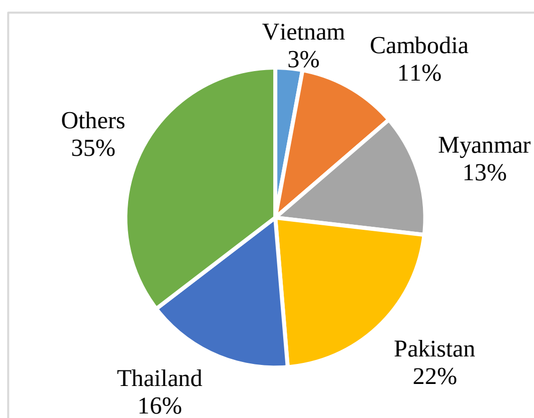
Seafood



Fruits and Vegetables



Coffee

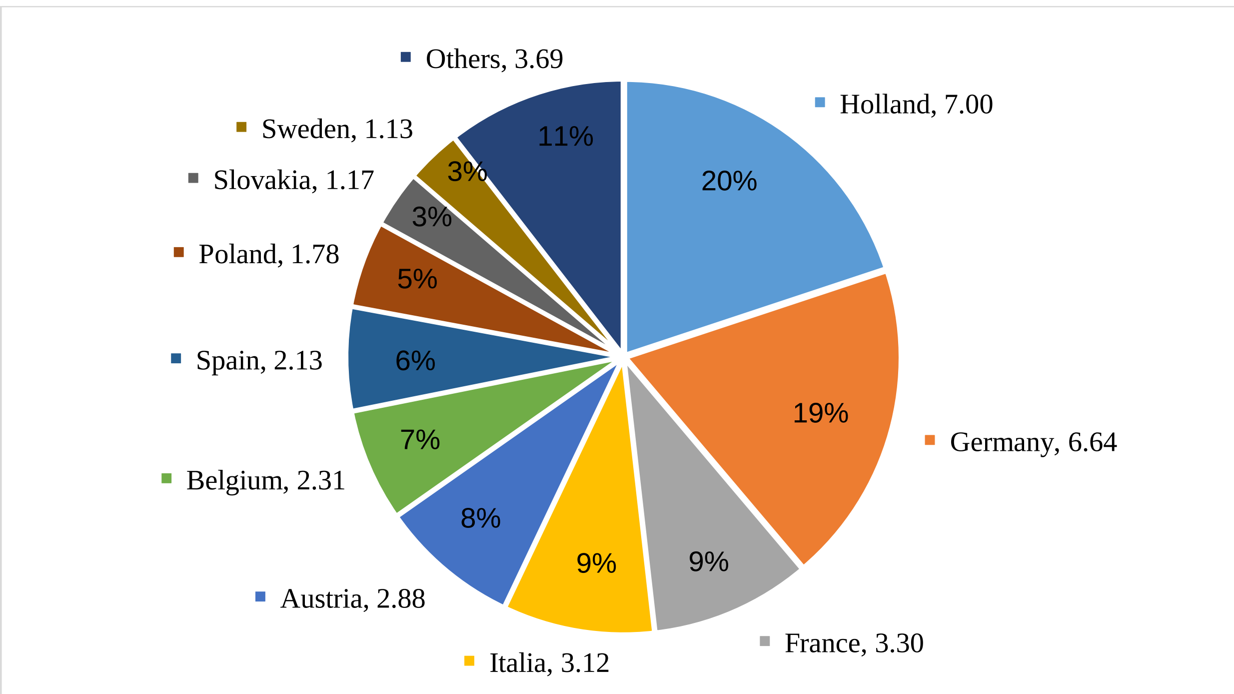


Rice

Source: Authors' calculations based on Eurostat data

Among the 27 EU member states, the Netherlands and Germany were Vietnam's large importers in 2020. The Netherlands imported about 7 billion USD of Vietnamese goods, accounting for 20% of Vietnam's total export value. Germany imported about 6.64 billion USD of Vietnamese goods, about 19% of its total import value. Following Brexit when the UK withdrew from the EU early 2020, France became Vietnam's third largest importer, with more than 9% of total market share, equivalent to 3.3 billion USD. Vietnam's exports to Italy reached over 3.12 billion USD, equivalent to 9% of its total exports to the EU. In addition, other export markets worth over 1 billion USD include: Austria (about 8% of export turnover, equivalent to 2.88 billion USD); Belgium (at 7% of export turnover, equivalent to 2.31 billion USD); Spain (about 6% of export turnover, equivalent to 2.13 billion USD); Poland (about 5% of export turnover, equivalent to 1.78 billion USD); Slovakia (about 3% of export turnover, equivalent to USD 1.17 billion) and Sweden (about 3% of export turnover, equivalent to USD 1.13 billion).

Figure 6: Share of Vietnam's exports to EU countries (2020, billion USD, %)

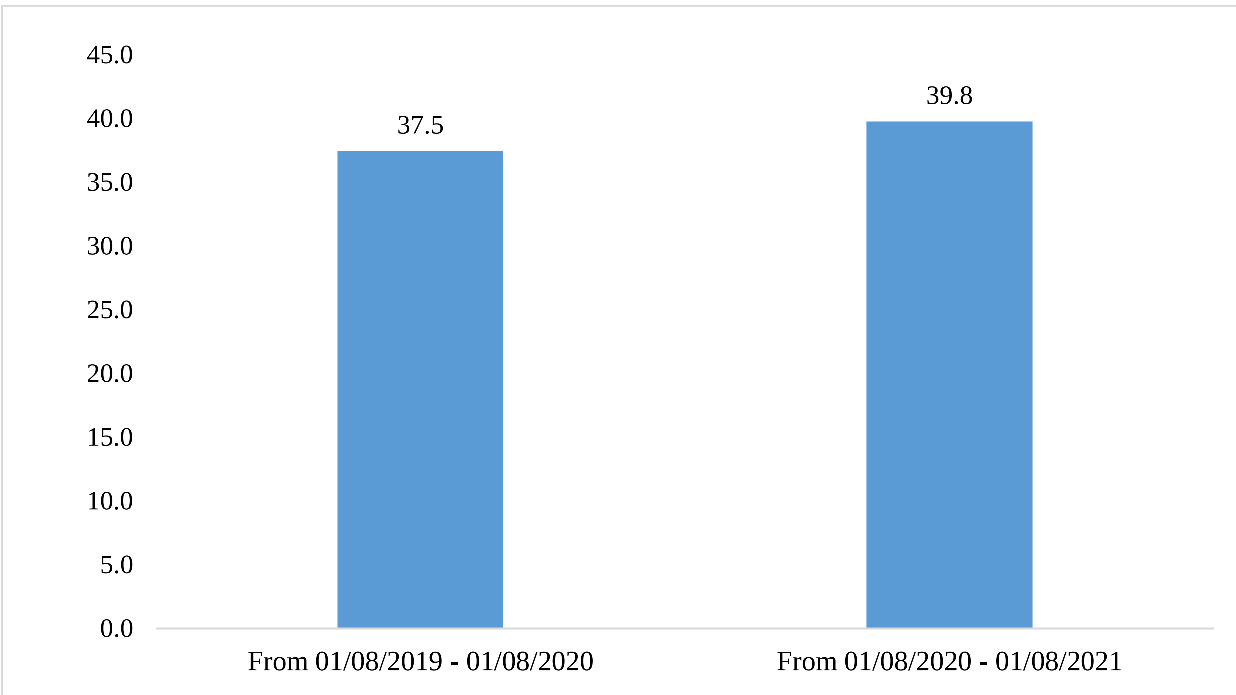


Source: Authors' calculations based on data from General Department of Vietnam Customs

One year after the Agreement took effect, Vietnam's export turnover to the EU market recorded 39.75 billion USD as of August 1, 2021, up 6.2% over the same period last year. This growth is attributed to the EU economic recovery in the second quarter of 2021. In addition, EVFTA tariff reduction helped boost Vietnamese exports to optimize benefits from the Agreement.

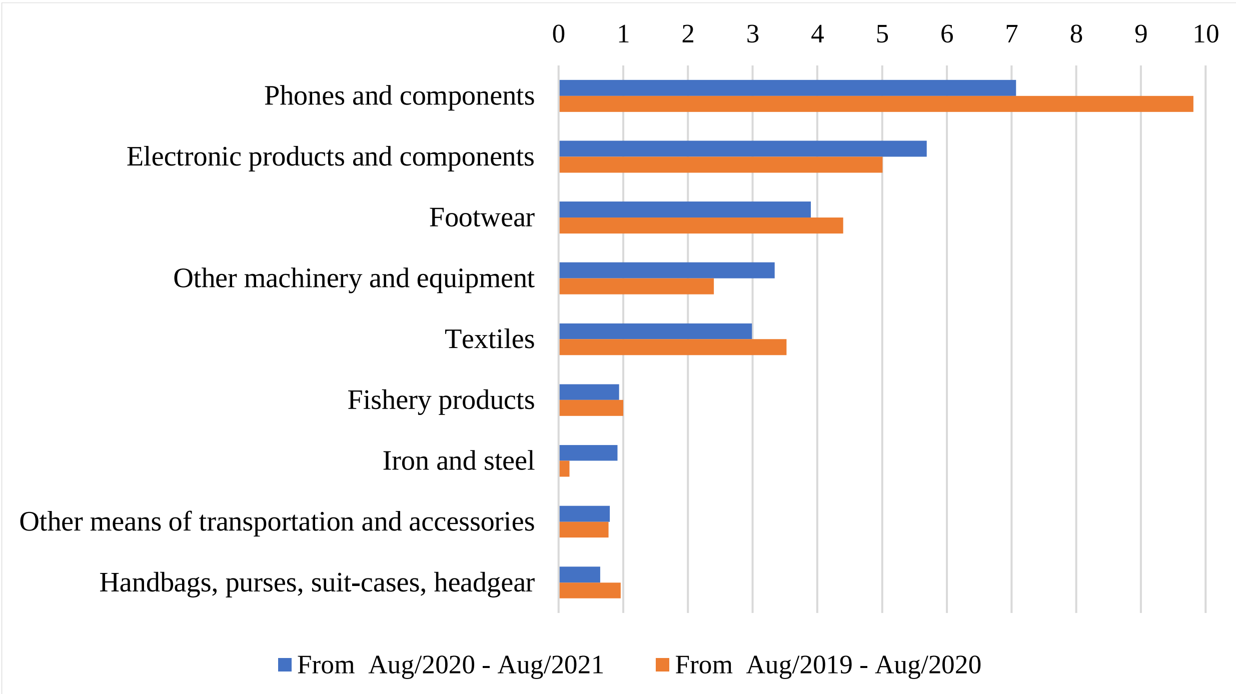
Although Vietnam's total export turnover to the EU increased since the entry into force of EVFTA until early August this year, most of Vietnamese key export items declined. Specifically, telephones and components reached 7.1 billion USD, down 27.9% compared to 2020; textiles and garments earned more than 2.9 billion USD, down 15.2% compared to 2020; footwear registered 3.9 billion USD, down 11.3% (Figure 8). Export value of iron and steel products and rubber-related materials increased in 2021 as a result of a zero-import duty for most of product lines. In particular, the export value of iron and steel products skyrocketed this year because of tariff reductions and increased prices of raw materials which nearly doubled the price of finished steel.

Figure 7: Vietnam's total export turnover to the EU (2020, billion USD)



Source: Authors' calculations based on data from General Department of Vietnam Customs

Figure 8: Export value of Vietnamese key products to the EU (08/2020-08/2021, billion USD)

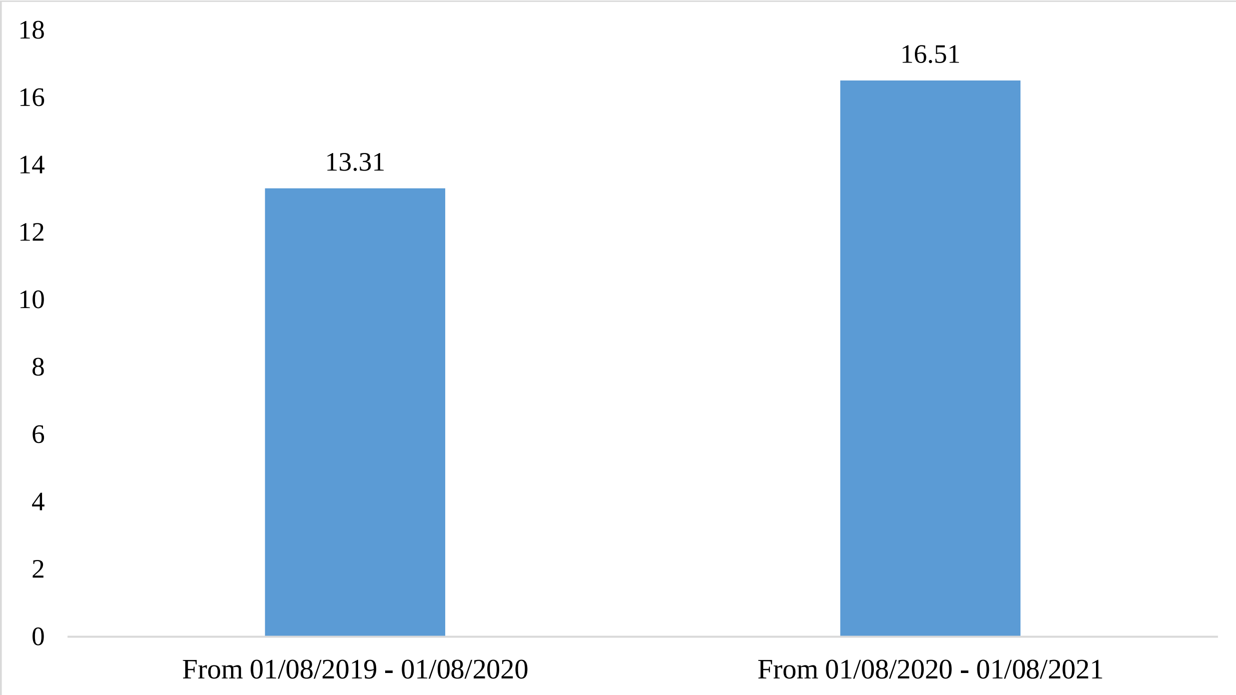


Source: Authors' calculations based on data from General Department of Vietnam Customs

4.1.2. Vietnam's imports from the EU since the entry into force of EVFTA

One year after EVFTA came into effect, Vietnam's total EU imports reached 16.51 billion USD, up more than 24% over the same period last year. Major import items include pharmaceutical products, machinery, equipment and tools, and chemical products.

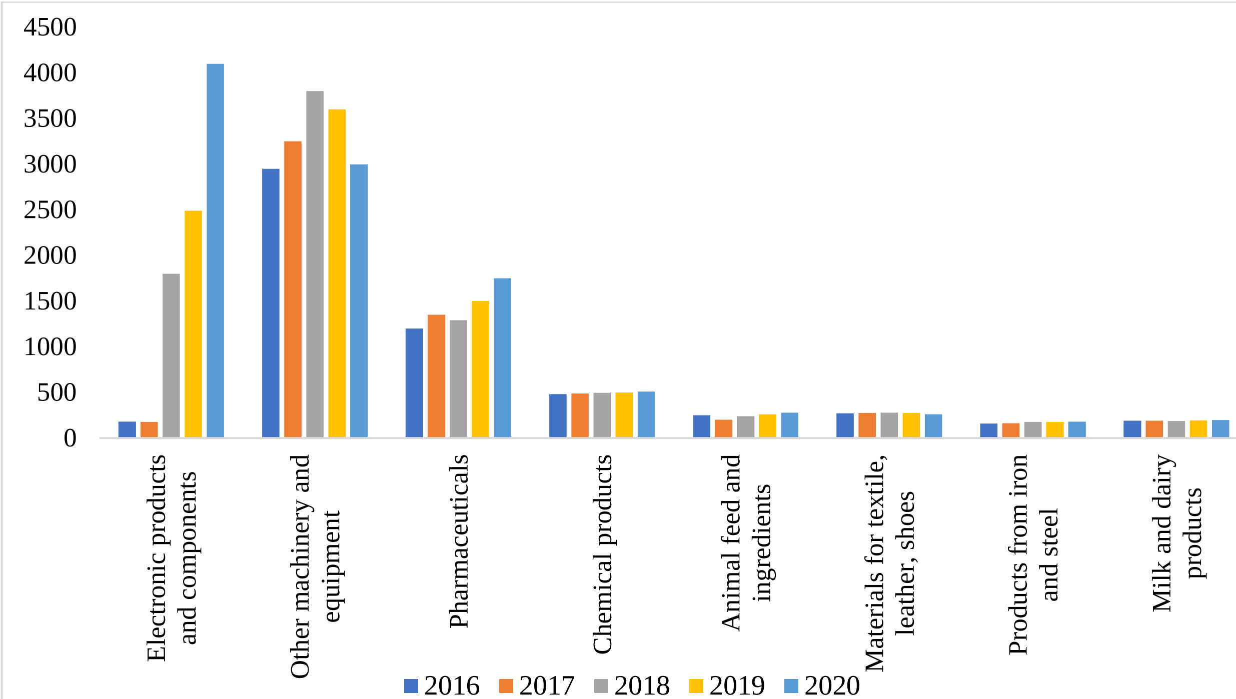
Figure 9: Vietnam's total imports from the EU since EVFTA took effect (2020, billion USD)



Source: Authors' calculations based on data from General Department of Vietnam Customs

In the period 2016-2020, Vietnam mainly imported machinery, equipment, and other tools and spare parts; pharmaceuticals and computers, electronic products and components from the EU. In particular, imports of computers, electronic products and components have increased sharply since 2018 following the entry into force of the CPTPP, which provides for cumulative Rules of Origin for some participating countries which signed FTA with the EU, namely Mexico, Japan, New Zealand and Australia. This has encouraged Vietnamese importers to optimize the benefits of preferential tariffs from CPTPP.

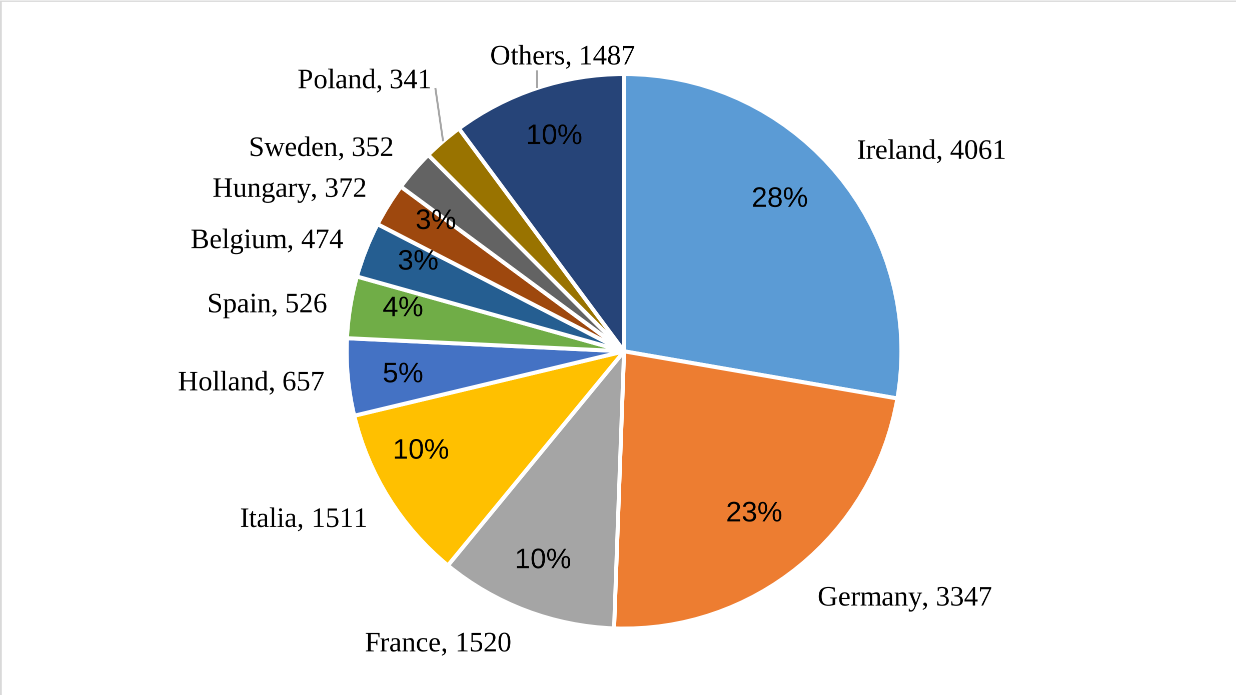
Figure 10: Import value of some products from the EU (2016-2020, billion USD)



Source: Authors' calculations based on data from General Department of Vietnam Customs

Most notably, neither Germany nor France, but Ireland, was a leading Vietnam's EU import partners with import turnover reaching 4.06 billion USD in 2020, accounting for 28% of Vietnam's total import value. Vietnam's main imports from Ireland included computers, electronic products and components (3.8 billion USD); pharmaceutical products (111 million USD); and machinery, equipment, and other tools and spare parts (40 million USD). After one year of implementing EVFTA (from 01/8/2020 to 01/8/2021), Vietnam imported 4.46 billion USD of goods from Ireland and computers, electronic products and components accounted for 95.7% (4.27 billion USD). Ireland is home to 9 largest pharmaceutical companies in the world and over 1000 multinational corporations in pharmaceuticals, chemicals, computer hardware and software chose Ireland to buttress their strategic European base. Some of these companies have branch operations and factories in Vietnam. This implies that the intra-industry trade through value chain plays a crucial role. This is one of three strategic directions for EU's trade policy in the period 2021-2030 aimed at Open Strategic Autonomy. With the signing of EVFTA, trade in goods between Vietnam and Europe in general and Ireland in particular is expected to become more diversified and convenient than before.

Figure 11: Share of Vietnamese imports from the EU (2020, million USD)

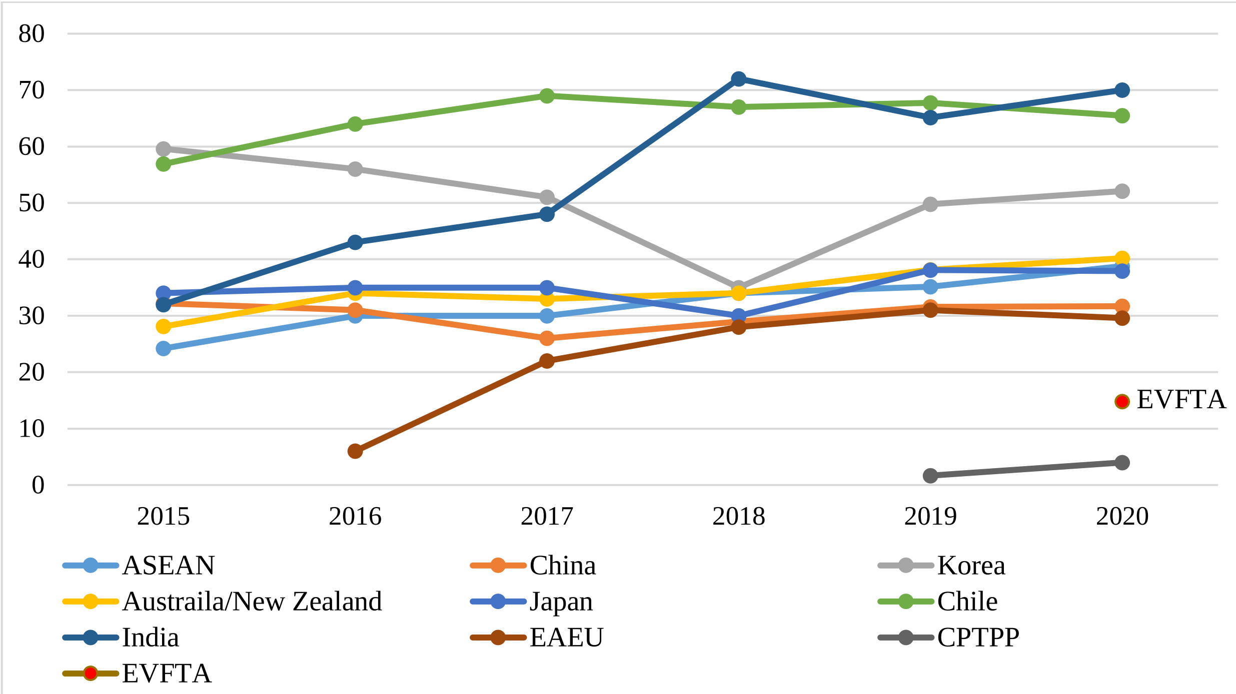


Source: Authors' calculations based on data from General Department of Vietnam Customs

4.1.3. The results of using preferential certificate of origin (C/O)

According to Import-Export Department statistics, in the first year of EVFTA, competent agencies and organizations issued about 207,628 C/O form EUR.1 for products worth some 7.71 billion USD to the EU market, equivalent to FTA preference utilization rate of about 14.8%. This figure is quite modest, but reasonable, given that this resulted from the first-year implementation of the Agreement. However, results of FTA preference utilization reflected in the rate of successful C/O grants to the markets that Vietnam has FTAs, show that for the markets requiring high standards for goods quality and origin such as Japan, Australia/New Zealand, Vietnam, Vietnam's FTA utilization rate is expected to reach about 40% in 2021. This outcome demonstrates a significant challenge for Vietnamese businesses to penetrate and dominate the EU market.

Figure 12: Vietnam's FTA preference utilization rate (2015-2020, %)

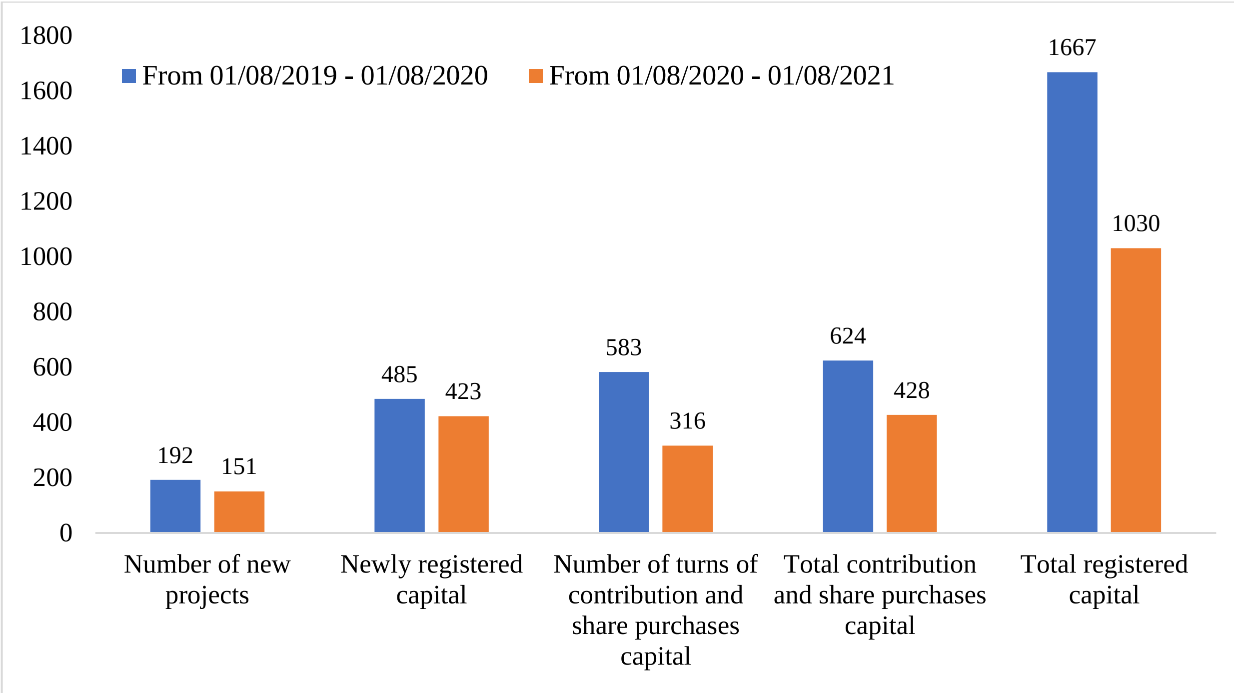


Source: Import-Export Department, Ministry of Industry and Trade

4.1.4. EU direct investment in Vietnam since the entry into force of EVFTA

According to statistics from the Ministry of Planning and Investment, accumulated to the end of September 2021, EU countries have invested in 2,249 projects in Vietnam (accounting for 6.59%) with a total cumulative registered capital of 22.27 billion USD (accounting for 5.52%). From the entry into force of the Agreement until August 1, 2021, the COVID-19 pandemic halted the movement between the two regions, damaging investments. In one year since EVFTA took effect, the total number of new EU projects in Vietnam was 151, down 21.35% compared to the period last year. Newly registered capital reached 423 million USD, down 12.7% over the period last year. For contributed capital for share purchases, there were 316 capital contributions worth 428 million USD, down to 45.8% in the number of capital contributions and 31.5% in the value of capital contribution. Total registered FDI capital from EU countries reached more than 1 billion USD in the period from August 2020 to August 2021, down more than 38.2% over the period last year.

Figure 13: EU investment in Vietnam before and after the entry into force of the EVFTA (million USD)



Source: Authors' calculations based on data from Ministry of Planning and Investment

From August 1, 2020 to August 1, 2021, the Netherlands and Germany were the two largest foreign investors in Vietnam with a total registered capital of 535 million USD and 100 million USD, respectively.

Table 3: EU investment in Vietnam from 01/08/2020 to 01/08/2021 (million USD)

Country	No. of newly-granted projects	Newly-registered capital (million USD)	Total registered capital (million USD)
The Netherlands	18	224.58	535.99
Germany	11	51.99	100.00
France	20	16.27	31.41
Poland	2	1.12	19.01
Luxembourg	-	-	8.61
Iceland	-	-	12.00
Spain	3	1.00	1.04
Denmark	2	0.12	9.18
Sweden	3	0.24	6.21

Italia	3	2.61	5.01
Belgium	5	3.46	3.63
Republic of Cyprus	4	0.10	3.11
Portugal	-	-	0.01
Finland	3	0.19	0.37
Austria	-	-	0.04
Malta	-	-	0.26
Czech Republic	-	-	0.01
Greece	-	-	0.04
Latvia	-	-	-
Lithuania	1	0.01	0.04
Slovakia	-	-	0.00
Belarus	1	0.04	0.04
Rumania	-	-	0.00
Bulgaria	-	-	-
Lithuania	-	-	-
Total	**76**	**301.73**	**736.02**

Source: Ministry of Planning and Investment

Analyses above demonstrated EVFTA's positive impacts on trade between Vietnam and the EU even though only in effect for a year. However, trade benefits for both Vietnam and the EU have not been fully optimized as the COVID-19 pandemic continues to ravage the world. Vietnam saw declining demand for some major import items from the EU despite tariff reductions as committed to in the Agreement. On these grounds, further analysis of the potential of EVFTA since its entry into force is required to assess the assumption that there is no impact of the COVID-19 pandemic. Such analysis will demonstrate the real potential of the Agreement for Vietnam's exports.

4.2. Estimating impacts of EVFTA on Vietnam's exports

In order to assess the impact of EVFTA on Vietnam's trade under the scenario, "there being no COVID-19 impact," the research team built a forecasting model to calculate the value of export products in 2020, assuming no COVID-19 pandemic (referred to as BAU condition). Because results did not reveal an elimination of import duties of some items, the team continued to use SMART simulation model to calculate the export value of the items after their tariffs were removed under the commitments in Annex 2B of EVFTA. This study used export statistics of the General

Department of Customs from August 2016 to July 2021 for analysis. Since EVFTA took effect on August 1, 2020, for the convenience of analysis and evaluation, we refer to the year as beginning on August 1 and ending on the following July 31.

a) *Calculating the value of goods exported in 2020 in BAU condition*

Because the study employed “array data structures”—that is, groups of values or variables—projections using “temporal data structures”—that is, data captured over time—could not be utilized. On the other hand, theoretical studies for array data forecasting were only introduced in the 2000s and remain controversial (Baltagi 2008, 2013). One of the methods used to forecast array data widely used by reputable economists and statisticians is the PVAR (panel vector auto regression) model. Studies use PVAR to forecast macroeconomic indicators of a set of countries (Canova and Ciccarelli, 2004; Dees and Güntner, 2017), environmental economics (Magazzino, 2017; Charfeddine and Kahia, 2019), and international trade (Fauzel et al., 2014; Fauzel, 2017). Given similarities among these studies, the research team employed the PVAR model to calculate the value of goods exported to the EU market in 2020.

Based on a study by Charfeddine and Kahia (2019), the research team built the following forecasting model:

$$Y_{it} = \sum_{j=1}^{N} B_{it}^{j} Y_{jt-1} + D_{it} z_t + U_{it,}$$

Where:

- i and j = product number i and j respectively
- D_{it} = matrix $G_P \times q$
- $U_{it,}$ = noise matrix

Modeling results show that the total merchandise exports to the EU in 2021, assuming no COVID-19 crisis, exceeds 45.46 billion USD; among which key export products still account for a high proportion in the structure of exports to the EU market. Specifically: Telephones of all kinds and their components account for more than 23%, reaching 10.5 billion USD; Computers, electronic products and components account for 20%, reaching 9.1 billion USD; Footwear registers 4.8 billion USD and account for 14.5%; Garments account for 10.7% of total exports with a value of more than 4.8 billion USD.

Table 4: Estimated value of Vietnam's exports to the EU from 01/8/2020 to 31/7/2021 under BAU condition (before EVFTA tariff elimination and no COVID-19 crisis)

Commodities	Export value (billion USD)
Electronics (computers, mobile phones, …)	18.76
Footwear	6.63
Clothing and Apparel	4.88
Machinery, mechanical appliances	3.30
Coffee, tea and spices	1.32
Furniture	1.31
Leather products	1.22
Fishery products	0.85
Fruits and Nuts	0.75
Other chemicals	0.73
Cameras, camcorders and accessories	0.73
Steel and iron products	0.68
Other commodities	4.31
Total	**45.46**

Source: Authors' calculations

b) Simulating trade between Vietnam and the EU using the SMART model

SMART models are tools for simulating tariff change scenarios across countries by utilizing the Trade Analysis Information System (TRAINS) of UNCTAD, developed and maintained by the World Bank, which provides widespread open access since 2005 to provide researchers and policy makers with another tool to easily analyze and estimate effects of tariffs on trade.

Some assumptions of the SMART model (Jammes and Olarreaga, 2005):

1. No partial equilibrium income effect (Partial Equilibrium): analyses employ more than one market.

2. SMART relies on the Armington assumption to model consumer behavior: goods from different regions are imperfect substitutions.

3. Export supply elasticity is infinite by default: the world price of each item is fixed.

The calculation of the export value of Vietnamese goods to the EU is shown in the following system of equations:

$$\begin{cases} TC_{ij} = \varepsilon_{ij} M_{ij} \dfrac{dt_{ij}}{(1 + t_{ij})} \\ \varepsilon_{ij} = \dfrac{dM_{ij}/M_{ij}}{dp_{ij}^{d}/p_{ij}^{d}} \\ X'_{ik} = TC_{ij} + M_{ij} \end{cases}$$

Where:

TC_{ij} = trade creation of product *i* in the EU

ε_{ij} = elasticity of the export of product *i* in the EU

t_{ij} = tariff levied on product *i* set by the EU

X'_{ik} = Vietnam's export value after tariff change

According to Bitan Mondal, Smita Sirohi and Vishal Thorat (2012); and Dina and Associates (2014), SMART is the most appropriate model for analyzing and predicting trade reform impacts when there are no perfect substitute goods and the FTAs, once implemented, will create trade efficiency for member countries, especially trade creation and trade diversion effects. In addition, FTAs also affect revenue and the welfare of participating countries. The common limitation of these studies is they only examine FTA impacts at a single-industry level, without considering inter-industry effects.

Hadjinikolov and Zhelev (2018) used the SMART model and trade indicators to analyze EVFTA's impact (ex-ante) on Bulgaria's exports to Vietnam suggesting that Bulgaria's export turnover to Vietnam will increase by 15 million USD and create numerous export opportunities for food, chemical and textile industries. This study's limitation is that when running the simulation, it defaulted to the case of full liberalization even though tariffs are still levied on some products. For domestic studies, when adopting the SMART model to assess ex-ante impacts of EVFTA on Vietnam's pharmaceutical imports from the EU, Vu Thanh Huong (2016) concluded that EVFTA will help increase Vietnam's pharmaceutical imports from the EU by 3% and the EU will still be the largest source of pharmaceuticals for Vietnam imports despite Vietnam's commitments to ASEAN+3 and TPP. However, the study only analyzed the pharmaceutical industry without calculating the impact across related industries.

Nguyen Thi Huyen Trang (2020), when analyzing EVFTA commitments over footwear products, concluded that EVFTA is more attractive with nearly all tariff lines reduced to 0% compared to GSP regulations, because it creates greater momentum for footwear exports to the EU, promising a growth rate of between 20% - 30%. The largest EU partner countries for Vietnamese exports footwear include Belgium, Germany and the Netherlands, respectively.

Although the study reached a number of important conclusions, it only analyzed the current situation and provided an overall projection for several key export industries of Vietnam. It did not quantify the specific Agreement impacts. When analyzing bilateral trade flows between Vietnam and the EU once EVFTA came into effect, Vu Thanh Huong and Nguyen Thi Minh Phuong (2016) argued that industries that Vietnam has export opportunities thanks to comparative advantages over the EU to include: footwear, hats, plant products. On the contrary, the EU industry groups with comparative advantage include: chemicals, vehicles and transport equipment, processed foods and base metal products. Despite the important conclusions, the study did not produce exact figures on FTAs' impacts on trade and social welfare of member countries. Nguyen Thi Ha (2016) employed a gravity model to study the impact of FTAs on Vietnam's leather and footwear exports, concluding that EVFTA will bring positive impacts to Vietnam's leather and footwear exports, especially when footwear tariffs are reduced from 12.4% to 0% under 7-year roadmap. EU member states import Vietnamese footwear products more than the non-member states by 3.14%. However, to attain the results, the study had to make a number of assumptions in addition to conducting multiple complicated tests and cross-checks.

Using the WITS - SMART model to analyze the potential impact of EVFTA on Vietnam's apparel exports to the EU, Le Quynh Hoa and Associates (2021) illustrated that Vietnam's apparel export turnover will increase 42%, reaching 4.22 billion USD by 2026. The trade creation impact contributes 268.6 million USD and the trade diversion effect contributes 981.3 million USD. However, to achieve this growth, Vietnam needs to meet the rules of origin of fabrics in its commitments under the Agreement. A limitation is that the SMART model only used current data to make projections and made no attempt to discover factors that may change over time. When running SMART simulations to investigate the EVFTA's impact on the export of Vietnam's key products to the EU, Pham Van Phuc Tan (2020) pointed out that the trade creation impact dominates the impact of trade diversion when it accounts for about 69% of the total impact of the EVFTA on Vietnam's seafood exports. Trinh Thuy Ngan (2020) concluded that EVFTA will create a positive impact, where the effect of trade diversion dominates the effect of trade creation, increasing the value of Vietnam's agricultural exports to the EU by more than 37,532 million USD.

Nguyen Phu Huu Thanh (2019) believed that EVFTA positively impacts Vietnam's textile and garment exports to the EU market, making Vietnamese goods more competitive than competitors, even more than European products, and increasing consumer demand in the EU. The common limitation of these studies is they only assess EVFTA’s impacts at the single industry level, and analyze tariff reduction impacts while omitting policy, politics, economic integration, product and market linkages impacts, which have reciprocal effects on the products under study.

None of the studies provided a comprehensive assessment of EVFTA’s impacts. This is the why the team calculated analysis results to evaluate EVFTA’s impacts on Vietnam’s export value.

a. Analysis results

Modelling results shown in Appendix 3 indicate that Vietnam’s total export value after EVFTA launch reached over 51 billion USD. Major export industries to the EU increased sharply: electronic goods (computers, mobile phones, etc.) increased by 18.1% after tariff removal, earning over 22.1 billion USD; footwear industry reached USD 7.5 billion, up 13.6%; clothing and apparels reached 5.8 billion USD, up 19.6% after tariff reduced from 3-12% to 0% since EVFTA early days. Some high-value export industries enjoying a 0% tariff include: machinery and mechanical equipment (3.26 billion USD turnover); iron or steel products (3.8 billion USD turnover).

Table 5: The estimated value of Vietnam's exports to the EU from 01/8/2020 to 31/7/2021 when applying new tariff schedule under EVFTA (assuming no COVID-19 crisis)

Commodities	**Estimated export value (billion USD)**
Electronics (computers, mobile phones, …)	22.17
Footwear	7.53
Clothing and Apparel	5.84
Machinery, mechanical appliances	3.27
Coffee, tea and spices	1.31
Furniture	1.30
Leather products	1.23
Fishery products	0.92
Fruits and Nuts	0.85

Commodities	Estimated export value (billion USD)
Other chemicals	0.74
Cameras, video recording cameras, and accessories	0.72
Steel and iron products	0.67
Other commodities	4.50
Total	**51.04**

Source: Authors' calculations

Modelling results demonstrated Vietnam's potential export value to the EU market under BAU assuming no COVID-19 crisis. The partial or full tariff elimination helped increase the total export turnover to the EU by more than 5.5 billion USD. Compared to the actual context, simulation results also showed potential EVIPA benefits at startup. Under the assumption that the demand side remains unchanged, the value of Vietnam's key exports to the EU market continues to grow (compare Appendix 1 and Appendix 3). However, the simulation model ran on assumptions for an ideal environment. Therefore, these calculated results are not intended to be used for policy recommendations. Instead, these results are used to evaluate EVFTA's impact on Vietnamese exports from August 2020 to August 2021.

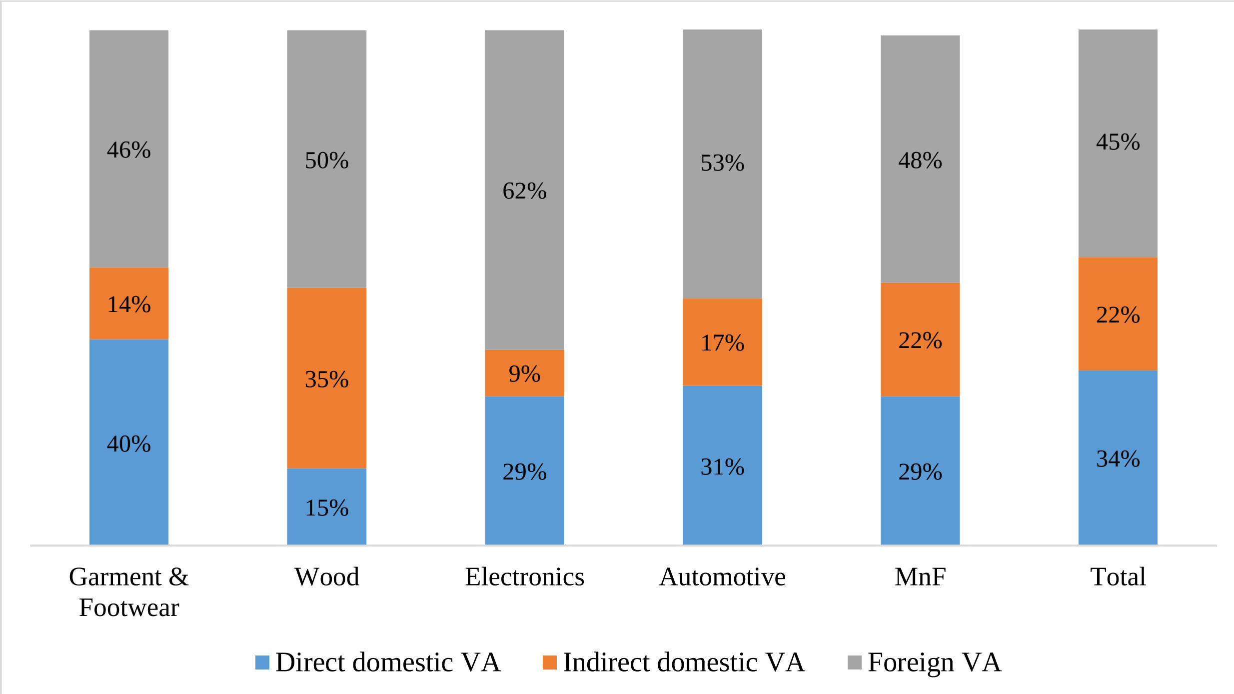
4.3. Challenges remain as Vietnam joining the EVFTA

SPS and TBT-related issues

Along with EVFTA's substantial benefits for Vietnam's socio-economic development and institutional reform, the country is facing challenges in complying with rules of origin and sanitary and phytosanitary measures (SPS).

Currently, Vietnam is dependent on raw materials from countries outside the EU. Figure 13 shows that Vietnam's key manufacturing industries use more foreign value added (VA) than domestic VA. This gap is larger for IT-intensive manufacturing industries such as electronics (62% of foreign VA compared to 29% domestic VA) and the automobile industry (53% of foreign VA compared to 31% domestic VA). With the strict rules of origin in EVFTA, Vietnamese businesses will face numerous difficulties in optimizing tariff exemption benefits.

Figure 14: Foreign value added vs. Domestic value added (2019, %)



Source: World Bank, 2019

In recent years, the fact that Vietnamese agricultural and seafood exporters failed to meet food safety and hygiene requirements of importing countries has undermined Vietnam's prestige and position in the international market.

Table 6: SPS violations of Vietnamese exporters, 2015-2021

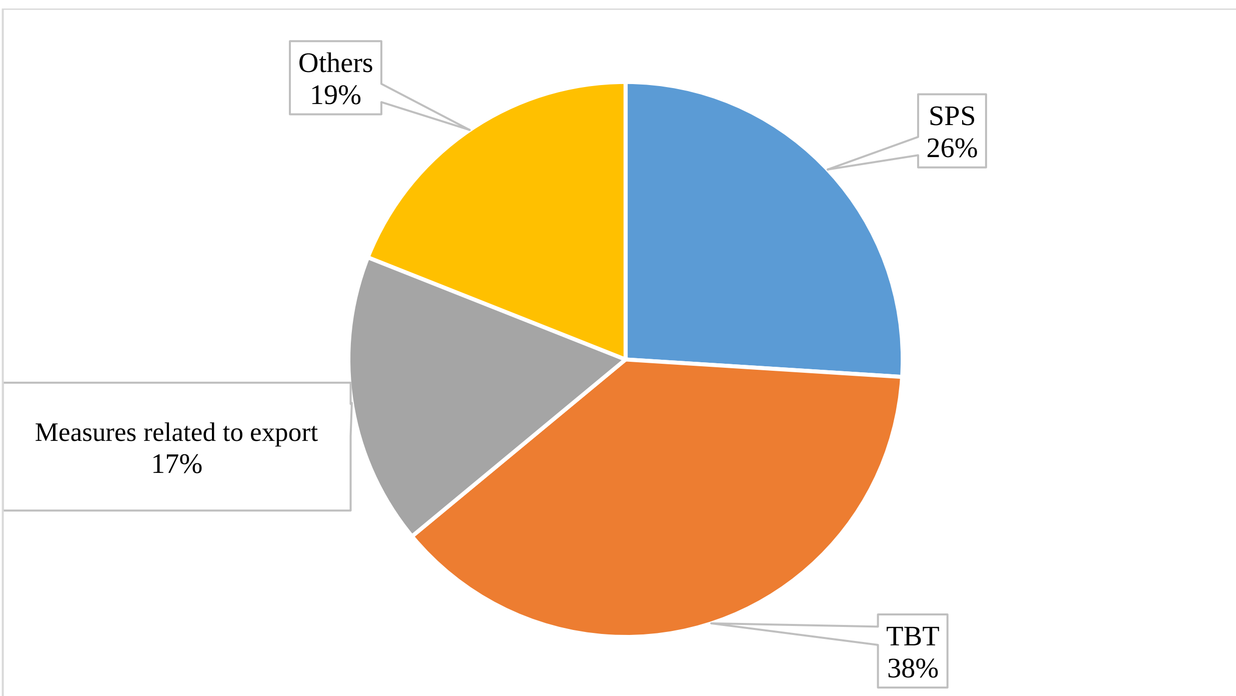
Time	Description
From 25/08/2021 to 27/08/2021	Instant noodles originating from Vietnam were recalled in the EU because of ethylene oxide residues
From 01/01/2021 to 30/03/2021	15/40 seafood shipments exported to China were returned because they did not meet SPS
10/2020	About 20% of the fruits exports to Thailand has a pesticide content exceeding the permitted level
From 01/05/2019 to 05/05/2019	17 shipments of agricultural and fisheries products from Vietnam were returned
06/2018	Dragon fruit exported from Vietnam is subject to quality supervision due to the content of

	pesticides and food protection chemicals exceeding the permitted level
From 01/01/2015 to 31/12/2015	More than 32,000 tons of seafood were returned because the antibiotic residues exceeded the allowed limit

Source: Collected by authors

Pham and Associates (2018) study shows that SPS measures and technical barriers to trade (TBT) in Vietnam account for a high proportion (64%) of the total number of non-tariff measures. Study results also indicate that Vietnam's technical costs are quite high, specifically the cost of loading and unloading at the port is the highest (39.5%). Total import costs include regulatory compliance costs (25%), customs clearance costs (11%), costs for no-customs clearance procedures (0% - only applicable for goods selected for 2018 Vietnam Business case study), inland transportation costs (24.5%), and loading and unloading time at the port (39.5%).

Figure 15: Structure of Vietnam non-tariff measures (2018, %)



Source: Pham, Artuso and Mtonva (2018)

Box 2: EU SPS measures for agricultural, forestry and fishery products

About 98% of EU SPS measures are harmonized and regulated at the Alliance level (USDA, 2016), with only a small number of other measures applied exclusively at the Member State level and for certain products. EU regulations are compatible with the WTO SPS Agreement, and are based on international standards and recommendations (WTO, 2016). The EU and its member states are members of the Codex Alimentations Commission and the World Organization for Animal Health, and also are parties to the International Plant Protection Convention (IPPC) (WTO, 2016).

However, in reality, the EU often applies higher standards than recommended by the above international organizations and also has higher food safety regulations than other countries. In addition to the SPS measures issued by the European Commission (and in some cases by EU member states), exporters of agricultural, forestry and fishery products must also comply with regulations and additional requirements of EU importers or buyers. The combination of these requirements makes EU SPS measures one of the most challenging barriers for foreign exporters of agricultural, forestry and fishery products, especially for exporters from developing countries.

- **For SPS Measures:**

Foreign exporters are directly impacted by regulations on food safety management procedures based on the Hazard Analysis and Critical Control Point (HACCP). EU members are required to ensure that foreign food businesses comply with HACCP principles in the production of food exported to the EU. The HACCP requirements are not applicable to the input production process, meaning that the growing stage of fresh fruit is not subject to these requirements. However, all post-harvest production processes must comply with HACCP principles.

Although foreign exporters are not required to provide HACCP certification at the import border, they must maintain all records and evidence to demonstrate HACCP compliance. Also, as a precaution, EU importers often require exporters to provide HACCP certificate for processed fruits (CBI, 2016b). For fresh fruits, EU importers often require food safety certification of different sorts, the most popular being GLOBAL G.A.P. (CBI, 2016a). Some of Vietnam's other food export markets also require HACCP certification.

Although HACCP, GLOBAL G.A.P. and other product quality management systems are becoming increasingly popular, in most cases, only large enterprises are able to meet these requirements. For SMEs, especially from LDCs and developing countries, it remains a challenge to comply with the principles and requirements of these systems (Taylor and Kane, 2005). Because an efficient implementation of HACCP system requires a business to invest in both human and financial resources to develop and operate the system (Marques, Matias, Teixira & Brojo, 2012). In Vietnam, the HACCP and GLOBAL G.A.P. systems are still new to many food manufacturers. They become more commonly used in recent years, but mainly by big companies whose export markets require such certifications, like the EU (WB, 2017).

- **For regulations on pesticide residues and impurities:**

Most countries have maximum residue level (MRL) regulations for pesticides in or on food products, to protect consumer health and environment. Imported products must also meet pesticide residue requirements to be able to access and sell in import markets. However, since there is currently no international MRL standard system, countries are applying different MRL standards to the same product. Although Codex has developed the Codex MRL for pesticides as a reference standard for countries, there is currently no international consensus on compliance with the Codex MRL.

The EU has its own set of MRLs, and is adhered to by many of its top exporters (Neff, et al., 2012). In 2008, the EU harmonized the pesticide residue regulation of its Member States, and established common MRL regulations under EC Regulation No 396/2005 (and its amendments). All food products, including imported products, will be expelled from the European market if they contain illegal pesticides or higher levels of pesticide residues than the legal limit set by these Regulations. The EU MRLs for pesticides is applicable to both fresh and processed food products. For processed products, the MRLs are considered based on the MRL of the fresh ingredients and taken into account the concentration or dilution of the product during processing.

The EU's regulatory system for pesticide residues is sophisticated because it is regularly updated. Each year, Regulation 396/2005 is revised several times. MRL standards of some pesticides are reviewed and revised continuously, making it difficult for foreign exporters to update and comply. In addition, the EU MRL levels applied to certain products are very different from those applied by Codex or other countries. As products are exported not only to the EU market but also to many other markets, differences in standards for each market can make it more confusing for exporters and more challenging to comply with. For instance, Vietnamese mangoes exported to the EU, US and Japan are subject to different MRLs applicable to several pesticides, and most EU MRLs are stricter than those of other countries.

Although the level of impurities in food is usually low and harmless to the consumer, most countries have regulations on food impurities as a precaution. The EU's principles for control of food impurities are detailed in Council Regulation No 35/93/EEC, and maximum levels for food impurities are specified in Commission Regulation 1881/2006 (EC, 2017a). Similar to pesticides, limits for impurities are updated regularly. Besides general limits for foods, there are also limits for some specific products. The most common impurities found in fruit products (fresh, dried and frozen) are mycotoxins (aflatoxins, ochratoxin A, patulin), heavy metals (lead, tin and cadmium) and microbiological impurities (salmonella, norovirus, hepatitis A virus) (CBI, 2016b).

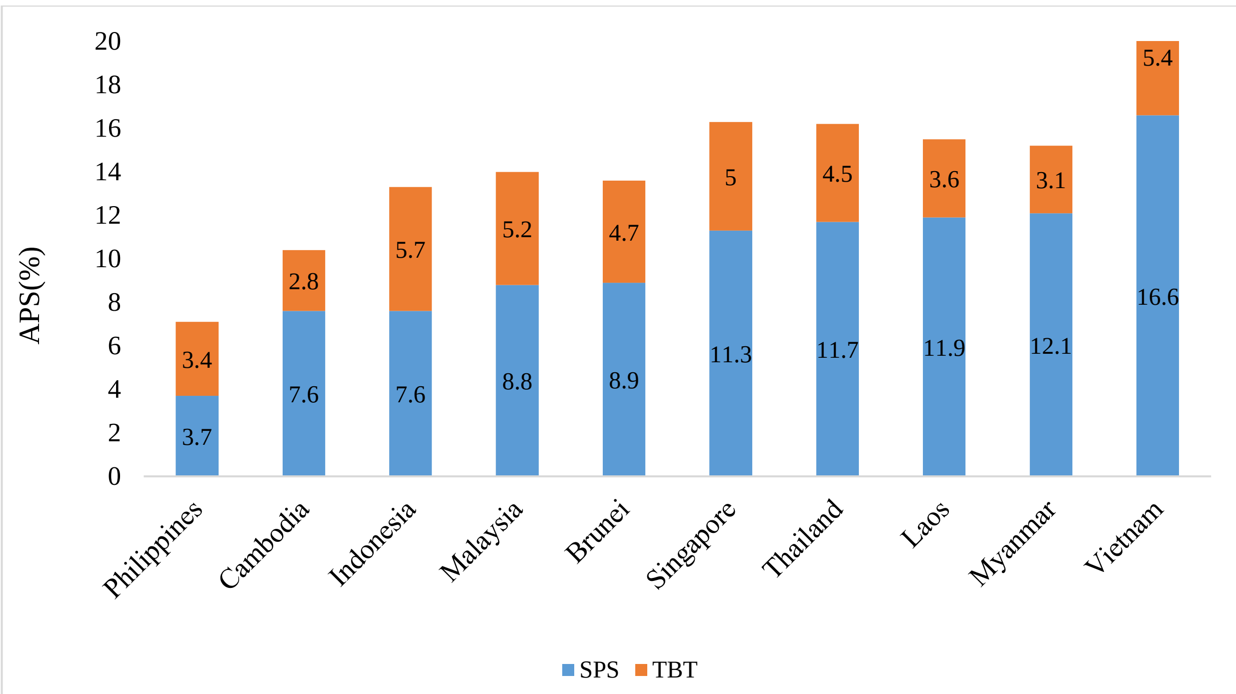
Like many other importing countries, the EU has SPS requirements for plants and plant produces originating from non-EU countries, aimed at protecting plants from harmful organisms such as pests. Council Directive 2000/29/EC established a uniform set of regulations on phytosanitary conditions which is applicable to all EU trading partners. Imported plants and plant products are not permitted to contain dangerous harmful organisms specified in this Directive. The same SPS requirements are applicable to live animals and products of animal origin when exporting to the EU market.

The directive also established a list of products prohibited from being imported into the EU, and a list of products subject to border control and require a phytosanitary certificate to confirm their compliance with EU regulations. Once entering EU territory, imported products are granted an EU Plant Passport and can penetrate EU member states with no additional restrictions. None of the top 9 Vietnamese exported fruits are prohibited and only 4 products (mango, lime, passion fruit and guava - only fresh) are required have phytosanitary certificate.

Source: Authors' compilation

According to the World Bank (2018), trade costs and the non-tariff measure (NTM) coverage ratio in Vietnam are higher than other ASEAN countries. At the same time, the study also reveals that the number of legal normative documents, procedures and NTM forms/templates is much higher compared to other countries. Figure 16 shows that the *ad valorem equivalent* (AVE) for NTMs (including SPS and TBT) of Vietnam is 22%, while the average rate of ASEAN countries is around 13%. This resulted in Vietnam's higher trade costs compared to that of other regional countries, while at the same time reducing Vietnam's competitiveness over foreign trading partners and investors. On the other hand, Vietnam risks violating the provisions of Chapter 4 of the Agreement on Customs and Trade Facilitation.

Figure 16: Tariff equivalent of SPS and TBT (%)



Source: World Bank, 2018

Box 3: Origin-related issues

Similar to the WTO and many other Agreements, EVFTA specifies that goods are considered as originating in a Party include: (1) goods of pure origin in a Member State. (i) goods of non-pure origin in a Member State from non-originating materials provided that such materials have gone through full processing or manufacture.

For goods of pure origin:

- Goods of pure origin are mainly basic agricultural products such as crops and crop products like vegetables, fruits, pigs and chickens, eggs, milk, honey… These products are grown, harvested, raised, and exploited entirely in any Member State.
- Seafood products are considered as goods of pure origin when fish, crustaceans and mollusks are born or raised in a member country. In other Agreements, fishery products are considered to be of pure origin when born and raised in a Member State. Thus, there is a difference between EVFTA and other Agreements in the provision on born or raised and the provision on born and raised in a Member State.
- For seafood products obtained from hunting or fishing, EVFTA also provides for the fishing fleet, including specific requirements on vessel registration, flag flying and fishing vessel ownership.

Goods of non-pure origin are determined by the following criteria:

- The basic conversion criteria, sometimes called the code transfer of commodity (CTC), is illustrated in this application: A rice plant has a commodity classification code or HS code specified in Chapter 07. After harvest, the rice plant product is rice grains with HS code 70 specified in Chapter 10. Rice grains are used to make rice noodles which have HS code specified in Chapter 19. So, input materials and output products have changed fundamentally in the nature of the commodity – a conversion from rice plant to rice grains and then into rice noodle. The HS code of the input material is 07, which is different from the HS code of the output product of 19. In this case, the country where the processing takes place to change the nature of the goods is called the country of origin.
- Limits on the proportion of non-originating materials: This is the difference in EVFTA mindset about goods origin compared to other agreements. EVFTA provides for an examination of the maximum amount of non-originating materials used in the process of production and processing. Meanwhile, other agreements determine the origin of goods based on the total content of value created in the bloc. Under EVFTA, the determination of the limit is based on the ex-factory price, while most other agreements determine the content based on the FOB price.

- Regarding criteria for machining and processing stages or specific manufacturing or processing operation criteria (SP), EVFTA provides that non-originating materials must undergo the specific process of manufacturing, machining or processing in the territory of a party/country.

In addition, cumulative rules of origin under EVFTA allow Vietnam to expand the application on (1) several seafood products originating from ASEAN countries included in FTAs with the EU and (2) fabric of Korean origin, providing that Vietnam, ASEAN and the Republic of Korea have written to notify the EU about the application of the principle of cumulation origin and to ensure administrative cooperation in the case of origin verification. Specifically:

- Cumulation for seafood: Allow to culture several aquatic products from imported breeds (sturgeon, salmon) and offer a flexibility in raw materials for Vietnamese processed squid and octopus to use imported materials originating from ASEAN, which is an FTA partner of the EU.
- Cumulation for garments and textiles: Allow to use fabrics of Korean origin. EVFTA allows Korean material fabric to be considered as originating fabrics for the textiles and garments production because Korea has an Agreement with the EU and an Agreement with Vietnam. To implement this cumulation principle, Vietnam, Korea and the EU must agree on a number of technical issues and mechanisms for verifying the origin of material fabrics. After reaching an agreement with Korea and the EU, the Ministry of Industry and Trade will issue guidelines. Currently, the Ministry of Industry and Trade is negotiating with the parties to soon apply this cumulative principle.

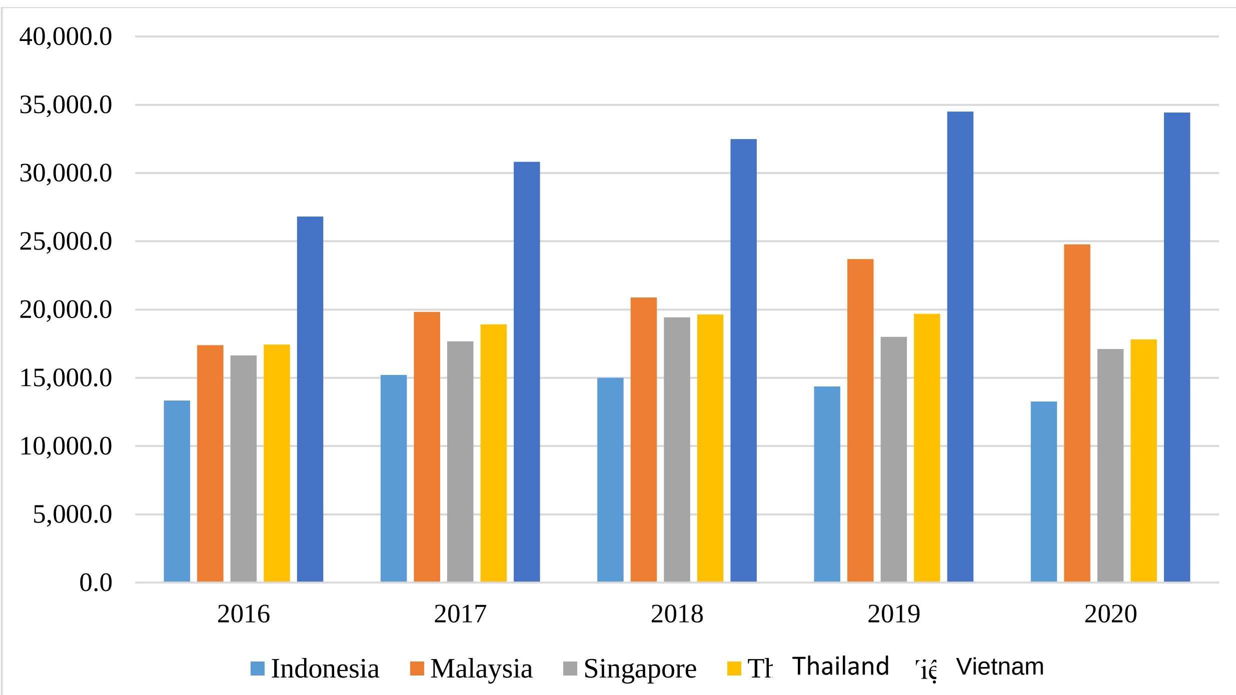
Source: Authors' compilation

To learn more about EVFTA's impacts on domestic enterprises, the team approached and interviewed 8 businesses operating in agricultural production, garments and textiles, and smart toys production. Some 7 enterprises are directly involved in exporting goods and processing goods for exports to the EU market. Only 2 enterprises said that the export value to the EU increased last year as a result of increasing orders. The remainder experienced a declining export value to the EU market. The reduction in export turnover is mainly the result of decreasing orders, rising production costs, tightening of export conditions and increasing logistics costs (increasing freight costs due to scarcity of containers). In particular, pesticide residues in fruit and vegetable products remains the biggest barrier for agricultural exports to the EU.

ASEAN intra-block competition over exports to the EU

In addition to Vietnam and Singapore, two FTA signatory countries in Southeast Asia, the EU is currently negotiating FTAs with other regional countries, namely Thailand, Malaysia, the Philippines and Indonesia. All are competing directly with Vietnam over merchandise exports to the EU, similarly in electronic equipment and components, garments and textiles, and tropical fruits. Vietnam is leading in two-way trade with the EU and can be considered as a gateway for the EU to access Southeast Asia and possibly China. However, if Vietnam does not optimize the first-mover advantage in trade relations with the EU, it will likely face competition from neighboring countries once they enter into FTAs with the EU.

Figure 17: Export turnover of ASEAN countries to the EU (2016-2021, million USD)



Note: Eurostat does not provide data on Philippine exports to the EU

Source: Eurostat, 2021

CHAPTER V. CONCLUSIONS AND POLICY RECOMMENDATIONS

5.1. Conclusions

In general, EVFTA is one of the new-generation FTAs that Vietnam is participating in, bringing strategic benefits through the development of potential trade-investment relations. Vietnam's legal system is undergoing positive changes to be compatible with the requirements of the EVFTA. However, Vietnam is pursuing the strategy of “easy wins first, difficult tasks later" (equivalent to the western saying “low-hanging fruit”). It is foreseeable that the speed of legislative change (reform) in Vietnam will be slower than EVFTA requires. Law enforcement will be high on the agenda. The most notable areas include intellectual property, workers' rights, state-owned enterprises, and environmental protection/climate change.

When the entire world is struggling with the COVID-19 pandemic, the supply chain is disrupted as countries lockdown and close borders to prevent the spread of virus. Trade turnover between the EU and Vietnam still increased compared to the previous year. One year after EVFTA entry into force, Vietnam’s exports earned 39.75 billion USD from the EU market, up 6.2% although the value of its key export products, including telephones and components, garments and textiles, decreased. This growth was attributed to the EU’s economic recovery in the second quarter of 2021. At the same time, the tariff reductions helped boost exports of products covered in the EVFTA. Some industries, exempted from almost all import duties in the EU market like iron and steel products, plastic and rubber products, enjoyed strong growth. For iron and steel, in addition to tariff reductions, prices of raw iron and finished steel nearly doubled in the past year, resulting in a skyrocketing turnover. Total import turnover of Vietnam's goods from the EU market reached 16.51 billion USD, up more than 24% over last year. In which, Vietnam imports the most goods from Ireland, mainly computers and electronic products.

The negative impact of COVID-19 pandemic also affected bilateral cooperation when FDI flows from the EU to Vietnam dropped sharply from August 2020 to August 2021. The total number of new EU projects in Vietnam was 151, down 21.35% compared to last year. Newly registered capital reached 423 million USD, down 12.7% over last year. For contributed capital for share purchases, there were 316 capital contributions worth 428 million USD, down to 45.8% in the number of capital contributions and 31.5% in the value of capital contribution. Total registered FDI capital from EU countries reached more than 1 billion USD from August 2020 to August 2021, down more than 38.2% over last year.

Assuming that EU-Vietnam trade will not be affected by COVID-19 pandemic, EU demand remains unchanged, Vietnamese exports to the EU for the first year of EVFTA, and without applying tax exemption and reduction policies, it could reach 45.46 billion USD. When applying the tax exemption and reduction policies under EVFTA, the export value of goods could reach 51.04 billion USD, an increase of 12.27% compared to the case without COVID-19 and the tax reduction has not been applied, and increased by 36.28% over the past year. Results show the potential value of tariff reduction policies from the EU on Vietnam's exports in 2021 under ideal conditions. In which, the main export items include electronic goods; footwear; clothing and garments; machinery and mechanical equipment; coffee, tea and spices; furniture and seafood products, accounting for more than 82% of Vietnam's total exports to the EU.

Agricultural, forestry and fishery exports to the EU account for a large proportion of total export turnover. But these products are facing multiple risks as the Vietnamese exporters often violate SPS regulations. For Vietnam's key export products, the domestic value added is still low. As a result, it is challenging for these products to fully optimize benefits of tariff reduction or exemption when they do not meet the requirements in the origin verification processes. In addition, Vietnam's trade costs are higher than those of other ASEAN countries. Non-tariff measures and administrative procedures remain complicated and obstructive to foreign investors and import activities, thereby reducing Vietnam's competitiveness over other regional countries. In addition, Vietnam may also face risks in violating EVFTA's provisions which prohibit discrimination between domestic and EU exporters after the Agreement's launch.

5.2. Policy Recommendations

It is important to be aware that **Vietnam's reforms to meet the requirements of EVFTA will be increasingly difficult and slower, while the relative advantages of this Agreement for Vietnam over the regional countries will decrease more and more rapidly.** It is extremely important to take advantage of the first-mover advantage in trade relations with the EU. Because this advantage will no longer exist when the EU completes the negotiation and signings of FTAs with other countries in Southeast Asia. In order to achieve long-term and sustainable benefits from EVFTA, instead of focusing on immediate benefits from export, import or service growth, Vietnam must change its "low hanging fruit" strategy, as analyzed above. By substantively complying, implementing and protecting EVFTA commitments, especially intellectual property rights, it will help Vietnam attract investment from high-tech enterprises not only from Europe, but also from other developed countries like UK, US or Japan.

The trade in goods through value chain plays an important role in trade relations not only with the EU but also with other countries. However, it is not easy for Vietnamese businesses to participate in the global value chain. EVFTA opens up opportunities for domestic enterprises to access European modern and advanced technologies. In the context that trade patterns may change direction in reducing the trade surplus with Europe, increasing imports of state-of-the-art machinery and equipment will not only help domestically produced goods achieve quality and meet higher standards, but also increase the ability and opportunity to participate more deeply in the global value chain of domestic enterprises. Therefore, domestic enterprises must renew themselves, improve products in both design and quality to improve their competitiveness to avoid losing their home advantage.

Over the longer term, the impact of COVID-19 and trade tensions combined could lead to a deep re-engineering of global value chains. Global value chains tend to be less dependent on a small number of global production hubs like China, paving the way for Vietnam to step in to fill supply chain gaps. Global supply chains can also be shortened with fewer countries participating. In places where unilateralism and bilateralism are growing, leading corporations may seek to bring all or part of their supplies home or to mutually-beneficial countries. This phenomenon could potentially create more severe and unfair competition at the global level. The structure of the global value chain may change towards more forward integration and less backward integration than before. Vietnam can maximize the benefits and minimize risks from this process if it can best reposition itself in the post-COVID-19 market. Vietnam must take stronger and more proactive policy measures to enhance production and export capacity towards prioritizing value-added and high technology.

In addition, to ensure compliance with EVFTA's commitments and optimize its benefits, the research team recommends the following:

Legislative Recommendations:

- The Ministry of Finance urgently reviews and finalizes draft amendments to Decree No. 08/2015/ND-CP providing specific provisions and guidance on enforcement of the customs law on customs procedures, examination, supervision and control procedures to submit to the Government for promulgation at the earliest time.

- The Ministry of Industry and Trade should add a regulation on re-manufactured goods to the Guiding circular, specifically Circular No. 11/2020 to promptly meet Agreement requirements.
- The Ministry of Planning and Investment (Public Procurement Agency) must soon finalize and submit to the Government the legal normative documents to provide guidelines for realizing the content concerning public procurement to meet the requirements of the Agreement as what had been done with the CPTPP Agreement.
- The Ministry of Transport must soon release the EVFTA implementation plan and finalize procedures for joining UNECE Agreement to help motor vehicles and motor vehicle spare parts businesses access market more easily and take advantage of Agreement preferences.
- It is crucial to continue amending the Decree guiding the monitoring of law enforcement (32/2020/NĐ-CP), and add a provision on law enforcement principles, at least a regulation on general provisions under EVFTA.
- For the provisions on Intellectual Property, it is necessary to amend and supplement several Articles in the 2019 Intellectual Property Law as follows: Amend Article 130 on Limiting Acts of unfair competition. Amend Article 20 (on copyright), Article 29 (on rights of performers), Article 30 (on rights of phonogram producers) and Article 31 (on rights to remuneration) in the 2019 IP Law in a more detailed manner as committed in the Agreement. Amend and supplement Articles 28.14 and Article 37.5 of the 2019 IP Law on Acts of infringing IP rights in the direction of expanding the scope as agreed in the Agreement. Add a regulation on Protection of Rights Management Information attached to or embodied in a copy of a work to Article 28. Add a regulation on Damage "compensation" to Article 93. Amend Article 206 on Application of provisional measures and situations applicable for provisional measures. Amend Article 202 on Prohibiting related parties from providing services to the organizations and individuals that have committed acts infringing intellectual property rights. Amend Article 203 by adding assumptions about copyright. Amend Article 205 on Distinguishing two cases where the person causing damage, known and not known, about his/her violation act. Amend Article 200.4 by adding regulation on Active participation of Customs in cooperation with rights holders. In addition, Vietnam must also urgently join the WIPO Copyright Treaty (WTC) and the WIPO Performance and Phonographic Performance Treaty (WPPT) to be consistent with the Agreement and add a regulation on Condition "with no independent economic purpose" to Article 69 of the 2017 Law on Information Technology.

Administrative Recommendations:

- Reduce customs procedures and non-tariff barriers for imported goods when Vietnam's trade costs are higher than most regional countries.
- Strengthen communication and provide domestic enterprises with guidelines on EVFTA regulations to help them get the full benefits from the Agreement.
- Although SPS measures have been coordinated and supervised by the Vietnam Sanitary and Phytosanitary Notification Authority and Inquiring Point (SPS Vietnam) since 2005 under Decision No. 99/2005/QĐ-TTg, the number of cases of agricultural and fisheries products violating SPS regulations of importing countries have been increasing over the past years. Therefore, it is necessary to reform and improve management and supervision capacity for SPS Vietnam to minimize violations of SPS regulations of importing countries.

Some other important notes:

- As for telecommunication management, it is necessary to separate the state regulatory role for the Posts and Telecommunications Group to meet the requirements of the Agreement.
- Turning to workers' rights, Vietnam must soon implement Convention No. 87 on Freedom of Association (Union) and Convention No. 98 on substantive recognition of the right to Organize and Collective bargaining. This presents an opportunity for Vietnam to reorganize/restructure the trade union system, making trade unions truly workers' organization, in line with international practices and basic principles of the modern market economy.
- Domestic businesses must be proactive, improve capacity and product quality to be able to participate more deeply in the global supply chain because with or without an FTA, the trend in production and trade in goods through value chain has been actively underway and accounts for a significant part of the global import and export value.

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Annex 1: Value of Vietnamese export goods one year before and after EVFTA came into effect (million USD)

Goods	From 8/2020 – to 8/2021	From 8/2019 – to 8/2020	Growth
Telephones and components	7072.676	9809.233	-27.9%
Computers, electronic products and components	5687.397	5007.742	13.6%
Other products	4053.724	3564.791	13.7%
Footwear	3901.197	4400.029	-11.3%
Machinery, equipment, other tools and parts	3341.987	2400.071	39.2%
Garments and Textiles	2989.13	3522.98	-15.2%
Seafood	934.0383	1000.496	-6.6%
Iron and Steel	910.7649	166.1964	448.0%
Vehicles and spare parts	793.7061	772.9179	2.7%
Handbags, wallets, suitcases, hats, umbrellas	644.3512	961.8509	-33.0%
Coffee	630.2834	1041.272	-39.5%
Cashews	614.9745	872.4387	-29.5%
Iron and Steel products	580.3832	485.6707	19.5%
Wood and wooden products	524.4899	534.5139	-1.9%
Plastic products	479.1705	495.4233	-3.3%
Toys, sport equipment and parts	300.498	361.5829	-16.9%
Rattan, bamboo, sedge products and carpets	172.91	130.8345	32.2%
Rubber products	156.7623	116.2041	34.9%
Rubber	127.7137	101.5971	25.7%
Materials and ingredients for textiles, garments, leather, shoes	114.558	199.2237	-42.5%
Confectionery and cereal products	105.5723	103.6335	1.9%
Pepper	103.4918	91.91407	12.6%
Fruits and Vegetables	93.02149	188.4976	-50.7%
Ceramic products	71.50634	72.94807	-2.0%
Gems, precious metals and products	66.8617	53.43683	25.1%
Chemicals	53.84852	62.50164	-13.8%

Goods	From 8/2020 – to 8/2021	From 8/2019 – to 8/2020	Growth
Plastic materials	44.63942	18.35653	143.2%
Cameras, video camera recorders and components	43.38938	44.82833	-3.2%
Ordinary metals and products	34.94095	28.34638	23.3%
Furniture products from wood alternatives	32.43927	31.45173	3.1%
Yarns, textile yarns of all kinds	31.5547	17.93741	75.9%
Curtains, other technical fabrics	19.41901	18.31861	6.0%
Power wires and cables	15.61528	10.44422	49.5%
Rice	13.48168	9.97399	35.2%
Chemical products	13.35393	17.72027	-24.6%
Paper and paper products	2.443701	6.329678	-61.4%
Tea	1.641012	0.501333	227.3%
Total	**39774.58**	**37450.9**	**6.2%**

Source: Authors’ calculations based on data from General Department of Vietnam Customs

Annex 2: Export duties of several goods one year before and after EVFTA came into effect (%)

Goods	Before	After
Telephones and components	15	0.5
Computers, electronic products and components	25	0.5
Other products	5 – 15	0.25
Footwear	5 – 15	0.15
Machinery, equipment, other tools and parts	20	3.15
Garments and Textiles	5 – 10	0
Seafood	3 – 5	0
Iron and Steel	15	0
Vehicles and spare parts	20	0
Handbags, wallets, suitcases, hats, umbrellas	3 -5	0
Coffee	2	0
Cashews	3	0
Iron and Steel products	10 – 25	0
Wood and wooden products	12	0
Plastic products	12	3
Toys, sport equipment and parts	3 – 10	0.5
Rattan, bamboo, sedge products and carpets	0	0
Rubber products	3 – 5	0
Rubber	3	0
Materials and ingredients for textiles, garments, leather, shoes	3 – 5	2.5
Confectionery and cereal products	12	0
Pepper	12	0
Fruits and Vegetables	12	0
Ceramic products	15	0
Gems, precious metals and products	15	0
Chemicals	10 -15	0
Plastic materials	10 - 25	5
Cameras, video camera recorders and components	20	5
Ordinary metals and products	25	0
Furniture products from wood alternatives	12	0
Yarns, textile yarns of all kinds	15	0

Goods	Before	After
Curtains, other technical fabrics	15	0
Power wires and cables	10 – 20	0
Rice	0 – 4	0
Chemical products	15	0
Paper and paper products	0	0
Tea	3	0
Total		

Source: Authors' compilation from EVFTA's official documents

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The European Union-Vietnam Free Trade Agreement (EVFTA) was signed in the spirit of comprehensive cooperation and balanced interests of Vietnam and the European Union (EU). It is one of the new-generation FTAs expected to bring strategic benefits for Vietnam through the potential development of trade and investment with one of the largest and most important partners.

After one-year implementation of EVFTA, Vietnam's imports growing faster than its exports signals the shift in trade patterns between Vietnam and the EU towards reducing trade surplus. Due to the impact of COVID-19, in a short term, it is not possible to confirm whether the trade surplus reduction is the actual trend, and it takes more time to comment on this phenomenon and its indirect effects. Another notable point is that intra-industry trade through global value chains among multinational corporations plays a crucial role in trade relations between Vietnam and the EU. However, it is not easy for Vietnamese businesses to participate in this value chain. This requires Vietnam to take stronger and more proactive policy measures to improve production and export capacity towards prioritizing value-added and high technology.

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