

LEGAL ALERT

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Benefits and challenges for import and export industry from the adoption of FTAs in Vietnam

Vietnam is currently a member country of new-generation free-trade agreements such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and EU-Vietnam Free Trade Agreement (EVFTA). Such agreements have generated incentives for attracting foreign investments into Vietnam. Both local and foreign-invested companies are able to benefit greatly from the provisions in these agreements. Goods exported from Vietnam will have unfettered access to markets not only in the 11 members of CPTPP but also in the 27 member states of the EU, countries with whom Vietnam has been long building its relations on trade and investment.

According to the recently published statistics of the General Department of Vietnam Customs, from the beginning of 2019 to 15 August 2019, Vietnam has recorded USD157.35 billion in national export value, a year-on-year increase of 8.4% which is equivalent to USD12.19 billion. Specifically, Vietnam enjoyed more than USD1 billion surplus from trade with CPTPP nations in the first 8 months of this year.

According to the National Center for Socio-Economic Information and Forecast, Vietnam's gross domestic product (GDP) and export revenue will expand by 1.32% and 4.04% respectively by 2035 thanks to the ratification of CPTPP.

Regarding CPTPP, the initial six countries which have already ratified CPTPP: Canada, Australia, Japan, Mexico, New Zealand, and Singapore, have slashed import tariffs for Vietnam since late 2018 and early 2019. The remaining CPTPP member states—Brunei, Malaysia, Chile, and Peru—will conduct tariff cuts for Vietnam after they ratify this agreement. Once the agreement is comprehensively implemented, duty-free access in CPTPP countries shall be granted to Vietnam for a large part of its agriculture, industrial, forest product, fish and seafood.

Vietnam, in return, has issued Decree No. 57/2019/ND-CP dated 26 June 2019, on schedules of preferential export and special preferential import tariffs to implement its commitments under CPTPP from 2019 to 2022, applying to the six nations which already adopted the agreement. Accordingly, preferential export/import tax rate on numerous tariff lines will be pared down gradually from 2019 to 2022.

Regarding EVFTA, after this agreement comes into effect, tax rates on approximately 50% of the products currently taxed from 6% to 22% will be slashed to 0%. The remaining products with tax rates of 5.5% to 26% will enjoy tariff cuts to 0% within 3 to 7 years after adoption of this EVFTA.

Although Vietnam will see comparative advantage in sectors such as garment and textile manufacturing, seafood and agriculture production, Vietnam will face many challenges from the adoption of FTAs. James Hill, CEO of Agility Logistics, said "In the first quarter of this year, many trucks had to wait 4-5 days just for unloading containers at a port in Ho Chi Minh City. The insufficient capacity of the road, traffic congestion, and the limitation of railroad usually cause delay in transportation". It is because of the rapid increase in transactions resulting from the adoption of FTAs in Vietnam. It is apparent that Vietnam should focus on developing infrastructure in order to absorb extensive increases to shipping volume and create a workable solution for sustaining economic growth.



In recent years, investment capital from many foreign investors, especially Chinese investors, has shifted remarkably into Vietnam, thanks to Vietnam's deep economic integration with other nations. Companies from other countries who are not members of the FTAs that Vietnam has adopted make use of Vietnam as a base for their goods to be exported to FTA member states' markets. For example, a company from a non-FTA member state may partially or wholly move its manufacturing stage to Vietnam. By installing the last part of the product in Vietnam, they try to obtain the preferential certificate of origin in order to export "Made in Vietnam" goods to EU, Japan, and other countries. The export enterprise is dissolved shortly after the target is achieved. As the manufacturing of products like electronics involve thousands of components, investigations by customs officers become more complicated, and requiring closer scrutiny. Positively, Vietnam is working on its regulations to build a better framework to regulate products made in Vietnam.

The Ministry of Industry and Trade has issued Circular 03/2019/TT-BCT dated 22 January 2019, which came into force on 8 March 2019, regulating the rule of origin in implementation of CPTPP. In comparison with other FTAs signed by Vietnam, Circular 03/2019/TT-BCT stipulates new points including rules of origin; formulas for calculating NAFTA Regional Value Content (RVC); rules of origin for refurbished goods and recycled goods; and Production Surveillance Reporting (PSR).

In short, EVFTA and CPTPP will create opportunities for enterprises to promote comprehensive partnership and trade cooperation between Vietnam and others provided adequate regulations are also in place. The signing of CPTPP and EVFTA reflect Vietnam's ability to become a global manufacturing centre in years to come.

If you have any questions or require any additional information, please contact [Kevin Hawkins](#) or [Kiet Do](#) of ZICO Law Vietnam (a member of ZICO Law).

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