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## Guide to understanding the EU-Vietnam Free Trade Agreement

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### EU-VIETNAM FREE TRADE AGREEMENT - OVERVIEW

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<b>BACKGROUND</b>	The European Union and Vietnam reached an agreement on a free trade deal after three years of negotiations. <b>The agreement will remove nearly all tariffs on goods traded between the two economies and contribute to further market access, albeit with long transition periods for certain products.</b>
<b>BENEFITS TO TRADE</b>	The agreement will create new market access opportunities across a range of sectors, covering goods, services and investment. Overall, European commerce will benefit in multiple ways: <ul style="list-style-type: none"><li>• <b>Customs:</b> lowering and gradual abolishment of 99% of tariffs</li><li>• <b>Non-tariff-barriers:</b> reduction of technical obstacles to trade</li><li>• <b>Trade rules:</b> transparent formulation and implementation of future legislation</li><li>• <b>Market access:</b> facilitation of investments and commercial presence</li></ul>
<b>CHALLENGES</b>	A number of issues do not correspond with today's business realities: <ul style="list-style-type: none"><li>• Due to the notoriously slow approval procedures in the EU it will <b>take a number of years for the benefits to materialise</b></li><li>• The <b>agreement also imposes long transition phases</b> for sensitive products of up to 7 years for certain Vietnamese goods.</li><li>• the <b>strict rules-of-origin scheme for textiles</b> means that the current producers will not be able to immediately benefit since the majority of primary materials for production in Vietnam are imported from elsewhere.</li></ul>
<b>WAY FORWARD</b>	The text of <b>the agreement is currently undergoing the legal review</b> and it will then be translated into the official EU languages and Vietnamese. After, it will be presented to the Council of the EU for ratification and the European Parliament for consent in 2017. <b>It is expected that the agreement will enter into force in the beginning of 2018.</b>
<b>WHY READ THIS?</b>	This paper aims to provide FTA Members with a first insight into the technical workings of the agreement and how to go about its complex schedules and lists.
<b>FURTHER READING</b>	For the detailed description of the agreement's contents, please refer to the <a href="#">FTA Insight on the EU-Vietnam Free Trade Agreement</a> (February 2016).

## 1. HOW TO INTERPRET THE DIFFERENT CATEGORIES OF TARIFF REDUCTIONS

### A. TARIFF SCHEDULES

The EU-Vietnam Free Trade Agreement (EVFTA) will remove duties on almost all products, except for a few so-called “sensitive products” that will still remain subject to duty-free tariff rate quotas (mainly agricultural products such as rice, sweetcorn, sugar, surimi etc.).

- The EVFTA “Annex 2-c-i” outlines the full [Tariff schedule of the EU](#) on reducing EU duties for Vietnamese products.
- The EVFTA “Annex 2-c-ii” outlines the full [Tariff schedule of Vietnam](#) on reducing Vietnamese duties for EU products.

### B. GRADUAL TARIFF REDUCTIONS

The reductions in the EU-Vietnam Free Trade Agreement are classified in ten categories ranging from immediate effect, to 11 equal annual stages.

[Annex 2-C](#), Section A outlines the staging categories under the Agreement. These categories run from “A” to “B10”. These categories specify when tariffs on the specific product will be entirely eliminated. Thus:

- Category “A” means tariffs will be **entirely eliminated when the Agreement enters into force**;
- Category “B3” means tariffs will be **entirely eliminated in 4 equal annual stages** beginning on the date the Agreement enters into force;
- Category “B5” means tariffs will be entirely **eliminated in 6 equal annual stages** beginning on the date the Agreement enters into force;
- **And so on**, until Category “B10” which means tariffs will be entirely **eliminated in 11 equal annual stages** beginning on the date the Agreement enters into force.

### C. CONCRETE EXAMPLES

Taking the example of CN code CN 6404 19 90 00 (Footwear with outer soles of rubber or plastics) which belong to category “B3”, tariffs on the products will be entirely eliminated in 4 equal stages.

The first reduction will occur on entry into force. Subsequent reductions will occur on 1 January the following year, that is:

Base rate	Entry Into Force (EIF)	1 Jan EIF+1	1 Jan EIF+2	1 Jan EIF+3
17%	12.75%	8.5%	4.25%	0%

**However**, according to Paragraph 3 of section A in Annex 2-C, EU preferential customs duties under the Free Trade Agreement cannot be higher than the EU customs duties applied to goods originating in Vietnam before the entry into force of the Agreement. Therefore, you also need to take into account

any prior beneficial rates that Vietnam enjoys, such as under the Generalised Scheme of Preferences (GSP).

Therefore, as Vietnam is currently benefiting from GSP rates, which are currently 11.9% for the CN code 6404 19 90 00, the resulting tariff reductions are as follows:

Base rate	EIF	1 Jan EIF+1	1 Jan EIF+2	1 Jan EIF+3
17%	11.9%	8.5%	4.25%	0%

For the rest of the **customs duties on EU and Vietnamese products before to the entry into force of the EVFTA**, refer to the [EU Export Helpdesk online database](#).

## 2. RULES OF ORIGIN IN THE EU-VIETNAM FREE TRADE AGREEMENT

### A. BASIC PROVISIONS

For goods to benefit from the preferential treatment provided for under the EVFTA, a number of conditions have to be met:

- They must 'originate' in the EU or Vietnam;
- be accompanied by a certificate of origin;
- fulfil certain additional requirements (see below).

### B. HIGH LEVEL OF COMPLEXITY

The rules of origin in the EVFTA are based on the approach in the EU's General System of Preferences (GSP). Every HS heading under the EVFTA has its own working or processing requirements which will provide originating status to a product. The [full list of processes that confer originating status](#) to a product is found in the annex of the agreement.

The additional requirements or specific rules that are applicable to each product are highly diverse, but the most general categories are:

- that only materials from the EU or Vietnam can be used;
- that non-originating materials can be used in, or are excluded from, the working or processing;
- that a specific working or processing operation must be carried out in the EU or Vietnam;
- that a certain percentage of value is added or cannot be exceeded in the production process;
- a combination of different rules.

Source: [List Rules](#), DG TAXUD, European Commission,

## C. SPECIFIC PRODUCT GROUPS

### I. Agriculture

In general, most of the basic agricultural products have to be wholly obtained in Vietnam or in the EU, while processed agricultural products mostly require a change of tariff classification, but often provide for weight limitations (between 20% and 60%) in relation to non-originating content of raw agricultural materials (i.e. dairy, sugar, cereals etc.).

### II. Textiles

**Double transformation** is required for textiles and garments to receive originating status, which means that origin is conferred only in cases where the fabric is produced from local fibre, or garments from local yarn.

However, the EVFTA provides some flexibility for **mixed fabrics**, where the [chapter on rules of origin](#) states that “a synthetic yarn which does not satisfy the origin rules, or woollen yarn which does not satisfy the origin rules, or a combination of the two, may be used, provided that their total weight does not exceed 10% of the weight of the fabric”.

The processes that **do not confer origin** to textiles and textiles articles include ironing or pressing.

**Printed fabrics** benefit from the so called ‘printing rule’, which gives printed fabric the originating status if printing is accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47,5 % of the ex-works price of the product.

### III. Footwear

Unlike agriculture and textile products, footwear enjoys a very straightforward rules of origin regime. The agreement confers origin if the goods were manufactured from any material, except for sole components (including inner soles) which are already fixed to the upper of a shoe.

## D. OVERLAP WITH GSP

According to Article 5(2)(b) of the [GSP Regulation](#), a specified beneficiary country will be removed from the list of GSP beneficiary countries **two years after the date of application of a preferential market access arrangement**, in this case the EVFTA.

Therefore, if the EVFTA enters into force before Vietnam is graduated from GSP, there may be an overlap period when both the EVFTA and GSP agreements will apply. This means that businesses will be able to benefit from either agreement if they find that the rules of origin and cumulation under the GSP are more beneficial than under the EVFTA.

## E. MAIN PRINCIPLES

The EVFTA entails a number of overarching principles that aim at facilitating or regulating trade, and which are outlined below:

**Cumulation:** EVFTA provides for *bilateral cumulation*, which means that, for example, EU textile producers may supply Vietnamese garment producers with fabrics originating in the EU. The agreement also allows for *diagonal cumulation* with South Korea, which means that Vietnam may benefit from using fabrics sourced from South Korea.

**This means that the current GSP regional cumulation between ASEAN countries will not be allowed under the EVFTA.** Nevertheless, as mentioned above, economic operators may still be able to apply GSP Rules of Origin for two years after the entry into force of the EVFTA.<sup>1</sup> That is, they could choose between the GSP or the EVFTA rules, depending on which ones they find more beneficial during the first two years of application of the agreement.

However, in the future, Vietnam **may again benefit from cumulation with ASEAN countries**, but only with those with whom both the EU and Vietnam have a free trade agreement. In order for this to happen, the EU or Vietnam will have to request a product to be included and both parties will have to agree on this. Currently the EU only concluded a free trade agreement with Singapore, while it is negotiating with Malaysia, Indonesia, the Philippines and Thailand.

**Duty drawback:** exporters using inward processing schemes for subsequent export to the EU or Vietnam may benefit from suspension or reimbursement of duties applied to non-originating inputs used in the manufacture, provided that they have complied with the rest of the rules relating to the specific product heading (see above).

**Non-alteration:** products are allowed to transit through third countries only if they were not altered, transformed or subjected to operations other than preserving them in good condition or adding/affixing marks, labels, seals or any other documentation to ensure compliance with specific domestic requirements of the importing country.

Documentary proof of compliance with non-alteration (certificate of non-manipulation) may be required in case of doubt. It is thereby ensured that the authorities of the importing country cannot systematically require that evidence. This will facilitate the use of regional hubs such as Singapore.

**Certification and self-certification:** Vietnamese exporters will need government certificates (Certificates of Origin), but Vietnam can also introduce self-certification under the system of registered exporters (REX) when it decides to.

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<sup>1</sup> Article 5(2)(b) of the [GSP Regulation 978/2012](#)

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