

Thursday 17 April 2014

P7_TA(2014)0458

EU-Vietnam Free Trade Agreement negotiations

European Parliament resolution of 17 April 2014 on the state of play of the EU-Vietnam Free Trade Agreement (2013/2989(RSP))

(2017/C 443/13)

The European Parliament,

- having regard to the Organisation for Economic Cooperation and Development (OECD) Guidelines on Multinational Enterprises and the International Labour Organisation (ILO) Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy,
- having regard to the Ministerial Declaration of the Fourth Session of the WTO Ministerial Conference, adopted on 14 November 2001 in Doha, and in particular to paragraph 44 thereof on Special and Differential Treatment (SDT),
- having regard to the Cooperation Agreement of 1995 between the EC and the Socialist Republic of Vietnam (hereinafter 'Vietnam'), and the new Partnership and Cooperation Agreement signed on 27 June 2012,
- having regard to the Commission communication of 4 October 2006 entitled 'Global Europe: Competing in the World. A contribution to the EU's Growth and Jobs Strategy' (COM(2006)0567),
- having regard to its resolution of 12 July 2007 on the TRIPS Agreement and access to medicines ⁽¹⁾,
- having regard to its resolution of 22 May 2007 on Global Europe — external aspects of competitiveness ⁽²⁾,
- having regard to the Council's negotiating directives of 23 April 2007 authorising the Commission to negotiate a free trade agreement with countries of the Association of Southeast Asian Nations (ASEAN),
- having regard to the Vietnam Country Strategy Paper (2007-2013) ⁽³⁾,
- having regard to its previous resolutions on Vietnam, in particular that of 1 December 2005 on the human rights situation in Cambodia, Laos and Vietnam ⁽⁴⁾, and that of 18 April 2013 on Vietnam, in particular freedom of expression ⁽⁵⁾,
- having regard to its resolution of 25 November 2010 on human rights and social and environmental standards in international trade agreements ⁽⁶⁾,
- having regard to its resolution of 6 April 2011 on the future European international investment policy ⁽⁷⁾,
- having regard to the Commission communication of 9 November 2010 entitled 'Trade, Growth and World Affairs — Trade Policy as a core component of the EU's 2020 strategy' (COM(2010)0612),
- having regard to its resolution of 27 September 2011 on a New Trade Policy for Europe under the Europe 2020 Strategy ⁽⁸⁾,
- having regard to its resolution of 13 December 2011 on trade and investment barriers ⁽⁹⁾,

⁽¹⁾ OJ C 175 E, 10.7.2008, p. 591.

⁽²⁾ OJ C 102 E, 24.4.2008, p. 128.

⁽³⁾ http://eeas.europa.eu/sp/index_en.htm#V

⁽⁴⁾ OJ C 285 E, 22.11.2006, p. 129.

⁽⁵⁾ Texts adopted, P7_TA(2013)0189.

⁽⁶⁾ OJ C 99 E, 3.4.2012, p. 31.

⁽⁷⁾ OJ C 296 E, 2.10.2012, p. 34.

⁽⁸⁾ OJ C 56 E, 26.2.2013, p. 87.

⁽⁹⁾ OJ C 168 E, 14.6.2013, p. 1.

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- having regard to the Commission communication of 21 February 2012 entitled ‘Trade and Investment Barriers — Report 2012’ (COM(2012)0070),
 - having regard to the Commission’s statement to the April 2014 plenary on the EU-Vietnam FTA,
 - having regard to Rule 110(2) of its Rules of Procedure,
- A. whereas the rule-based multilateral trading system, established through the World Trade Organisation (WTO), is the most suitable framework for regulating and promoting open and fair trade, and whereas multilateral negotiations do not preclude bilateral WTO+ agreements, which can be complementary to them;
- B. whereas the Commission’s negotiating directives for the EU-Vietnam FTA are attached to the Council’s authorisation of 23 April 2007 to enter into negotiations for a Free Trade Agreement with countries of the Association of Southeast Asian Nations (ASEAN) and follow on the endorsement by the Council of the scoping paper which outlines the common objectives of both negotiating parties, namely to intensify existing bilateral trade relations; recalls that the initial objective was to negotiate an FTA with the ASEAN region; supports therefore the possibility of negotiating fully comprehensive agreements with countries of the ASEAN region (as building blocks towards the ultimate objective of negotiating a region-to-region FTA in the future);
- C. whereas the official launch of the EU-Vietnam FTA negotiations took place on 26 June 2012 in Brussels, and whereas on 8 November 2013, after the fifth round of negotiations, the two negotiating parties committed to joint efforts with a view to concluding the negotiations by the end of 2014;
- D. whereas the EU-Vietnam trade relationship is embedded in the framework of the Partnership and Cooperation Agreement signed on 27 June 2012, which ensures an effective framework for bilateral trade and investment relations;
- E. whereas the EU and Vietnam have a well-developed bilateral Human Rights Dialogue; whereas all efforts should be made in that framework to help prevent a deterioration of human rights protection in Vietnam; whereas human rights should be treated as an essential element of EU trade policy; whereas the EU is committed, under its Strategic Framework and Action Plan on Human Rights and Democracy, to include human rights in its impact assessments, as and when they are carried out, including for trade agreements that have significant economic, social and environmental impacts;
- F. whereas Vietnam experienced a prosperous decade with uninterrupted GDP growth of around 8 % per year which culminated with its accession to the WTO on 11 January 2007, and whereas the country has since been adversely affected by the global economic downturn, which has led to a sharp decline in export growth, a drop-off in foreign direct investment (FDI) inflows and a fall in remittances from overseas;
- G. whereas over the past ten years the EU has maintained a negative trade balance with Vietnam, as illustrated again by the figures for the second quarter of 2013, which show total trade to the value of EUR 13,4 billion, with the EU’s imports from Vietnam amounting to EUR 10,5 billion, while EU exports to Vietnam were worth EUR 2,8 billion; whereas this represents a sharp decrease compared to the figures for 2012, for which year total trade amounted to EUR 23,871 billion, made up of EUR 18,520 billion in imports from Vietnam to the EU and EUR 5,351 billion in exports to Vietnam from the EU;
- H. whereas the garment and textile industry not only constitutes Vietnam’s largest single source of formal sector employment, with a direct labour force of more than two million workers, but is also its largest export sector; whereas the electronics assembly sector, another leading export manufacturing sector, employs approximately 120 000 workers;
- I. whereas Vietnam has so far only ratified 5 of the 8 core ILO conventions; whereas it has not ratified ILO Convention No 87 on Freedom of Association and Protection of the Right to Organise, No 98 on the Right to Organise and Collective Bargaining, or No 105 on the Abolition of Forced Labour;

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- J. whereas Vietnam, a beneficiary of the EU's Generalised System of Preferences, ranks as the EU's 32nd trading partner and its fifth biggest partner within ASEAN, while the EU is Vietnam's second largest trading partner after China, ahead of the USA, and is also Vietnam's largest source of FDI, accounting for 6,5 % of total FDI in the country in 2012; whereas, however, the potential of FDI from Vietnam into the EU remains largely untapped;
- K. whereas both negotiating parties expect to secure significant benefits from the elimination of both tariffs and non-tariff barriers to trade (NTBs), and whereas both parties should aim at achieving a good outcome as regards the liberalisation of trade in services and of establishment, as well as developing a system for the appropriate protection, implementation and enforcement of intellectual property rights, including patents and designs, trade or service marks, copyright and similar rights, and geographical indications including marks of origin for agricultural and foodstuff products;
- L. whereas both negotiating parties should join forces to ensure and promote legal trade in medicines (both patented medicines and generics) in compliance with the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and its flexibilities;
- M. whereas both negotiating parties should continue to use trade defence instruments in full compliance with existing WTO rules in order to avoid recourse to the WTO dispute settlement mechanism, and should agree on an effective bilateral safeguard clause or equivalent mechanism to adequately protect their respective industries against injury or threat of injury as a result of a surge in imports, especially in their respective sensitive sectors, which have been identified by each party's impact assessment;
1. Welcomes the ongoing progress in the FTA negotiations, in particular in the chapters on customs and trade facilitation, on technical obstacles to trade and on competition, and the Commission's regular debriefing with Parliament on their state of play; recalls that Parliament's consent to the FTA is mandatory⁽¹⁾, and that the Commission and Council should not propose any provisional application of the FTA before the EP has given its consent;
2. Is of the strong opinion that respect for workers' and trade union rights must be a key feature in all trade agreements the EU signs with third countries; calls on the Vietnamese Government to live up to all its obligations under the core ILO conventions it has ratified and to ratify and implement the outstanding core conventions without further delay; reiterates that workers' and trade union rights must be universal and be applied to all workers, including to those working in the Special Economic Zones;
3. Expects the Council and Commission to fully take into account Parliament's requests as expressed in this resolution before concluding the FTA, which must be compatible with WTO rules and obligations; considers that a successful FTA would allow both negotiating parties to reap a balanced set of benefits and would contribute to creating and safeguarding jobs on both sides;
4. Calls on both negotiating parties to fully respect their WTO commitments in the spirit of trade liberalisation; simultaneously underlines their obligation to eliminate WTO-inconsistent measures and practices so as to achieve an ambitious agreement;
5. Appreciates the positive prospects highlighted in the scoping paper which shows that the FTA would increase overall exports and imports for both the EU and Vietnam and provide opportunities for further FDI flows; calls, therefore, for substantial tariff elimination on the Vietnamese side as regards both the average tariff for non-agricultural market access and the agricultural tariffs;
6. Stresses, however, that the objective for industrial trade should be reciprocal full duty elimination, while respecting a degree of asymmetry also involving suitable transition periods in implementation, and that any possible exception to this objective should be limited and subject to review; believes that the elimination of duties should include sectors that are of importance to either side;

⁽¹⁾ Article 218(6)(a)(v) TFEU.

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7. Urges both negotiating parties to respect each other's right to regulate, including on the provision of public services, and to ensure that their respective regulations do not hamper bilateral trade with unjustified NTBs; calls, therefore, on both the EU and Vietnam to develop effective mediation disciplines to prevent the emergence of unjustified regulatory obstacles to trade and to tackle existing obstacles by fostering harmonisation or compliance with international standards;
8. Considers that particular attention should be given by the Commission to ensure that the benefits of the future agreement encompass strong and enforceable verification measures in order to guarantee that the benefits of the agreement will accrue only to EU and Vietnamese producers on a basis of full respect for the preferential rules of origin that would be negotiated; calls also for a simplification of EU rules of origin — without lessening the strictness of the current system — in order to make them easier to apply for economic operators and customs administrations and to allow them to derive the full benefits from tariff elimination;
9. Recognises that Vietnam has offensive interests in the liberalisation of Mode 4 in the General Agreement on Trade in Services (GATS) and the conclusion of Mutual Recognition Agreements recognising the professional qualifications of nationals of Vietnam and of the EU, and that the EU has offensive interests in the liberalisation of market access and national treatment under Mode 1, 2 and 3 in most services; is of the view that addressing the EU's offensive interests is an imperative to permit, under Mode 4, temporary stays of necessary skilled professionals, and facilitate distinguishing such stays from national policies on foreign workers in each party's labour markets;
10. Calls on the EU and Vietnam to agree in the FTA on a fair and equitable treatment of all investors and services providers in the banking, insurance, legal, accounting, transport, and distribution services, including both retail and wholesale sectors; recalls that as regards financial services, it is also essential to ensure adequate policy space to reduce systemic risk, fight money laundering, and provide the highest possible level of consumer protection, as well as to enforce fair competition rules and practices between domestic and foreign investors and service providers, inter alia by reducing, if not fully eliminating, existing equity caps and abolishing restrictions on establishment and licence acquisition; recommends that the Commission negotiates strong and binding provisions on transparency and fair competition so that a level playing field also applies between private businesses and state-owned enterprises (SOEs);
11. Strongly encourages Vietnam to develop appropriate data protection legislation in order to achieve the status of a country with an adequate level of protection, yet without creating obstacles to the use of the flexibilities of the TRIPS Agreement, thereby allowing or enabling the transfer of personal data from the EU on the basis of and in compliance with EU legislation and thus boosting bilateral data flows and trade in related services such as e-commerce;
12. Calls on the Commission and the Vietnamese authorities to negotiate effective and transparent procurement systems so as to ensure fair competition between private and state-owned enterprises in the award of public contracts, and to ensure the broadest possible coverage, to include public-sector undertakings, while duly taking into account mutual sensitivities and needs;
13. Urges the Commission to ensure the reduction and the regular supervision of the use of subsidies and other preferences, such as beneficial conditions provided to SOEs and domestic companies in Vietnam, which distort competition with European companies, in particular in the sectors that are of importance for the export policy of Vietnam; also urges the Commission to negotiate disciplines aimed at ensuring a level playing field between EU and Vietnamese public and private market participants;
14. Considers that particular attention should be paid in the FTA to the development of business opportunities for small and medium-sized enterprises (SMEs) and that investment in and by SMEs should be promoted to help finance market-driven local projects and joint ventures in renewable energy and trade in environmental goods and technologies; calls for European investors to be provided with a more transparent and predictable legislative framework in Vietnam, and for fair conditions of competition to be guaranteed between Vietnamese and European undertakings;
15. Urges both negotiating parties to secure a good outcome in the FTA as regards the liberalisation of trade in manufacturing by ensuring effective implementation and enforcement of intellectual property rights, including patents and designs, trademarks, copyright and similar rights for a range of manufactured goods;

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16. Considers that the FTA should respect sensitivities linked to trade in agricultural and fisheries products, but that this should not prevent the mutual opening of markets in sectors of complementarity, and emphasises that new market access must be subject to the thorough enforcement of intellectual property protection, also covering geographical indications, including marks of origin for agricultural and foodstuff products, as well as sanitary and phytosanitary measures (SPS), in the interests of producers and consumers; insists that nothing in the agreement must hamper access to affordable generic medicines;

17. Asks for transparent and effective state-to-state dispute settlement arrangements, and, where applicable, provisions on investor-to-state dispute resolution to be included in the FTA, so as to ensure due investment protection and deter investors from filing frivolous claims; takes the view that any mechanism for settling disputes between investors and states should, as far as possible, be based on the rules of the UN Commission on International Trade Law (UNCITR) or of the International Centre for the Settlement of Investment Disputes (ICSID), or else on any bilaterally agreed rules based on international norms and conventions, and should have a suitable legal framework and be subject to strict transparency criteria;

18. Calls for it to be ensured that an investment agreement does not curtail progress in the ratification and full implementation of international human rights agreements, ILO conventions and multilateral environmental agreements (MEAs) by both parties;

19. Prefers the inclusion of animal welfare standards in the FTA's SPS chapter or in a standalone chapter with equivalent enforceable provisions;

20. Expects the FTA to include a binding and enforceable sustainable development chapter reflecting the EU's and Vietnam's common commitment to promote respect for, compliance with, and enforcement of international human rights agreements, the eight core ILO conventions, and key MEAs such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), with measures in the event of infringement providing for the involvement of independent civil society organisations representing economic, social, and environmental stakeholders in the monitoring of FTA negotiations and the implementation and monitoring of the sustainable development chapter, as well as encouraging enterprises to take up CSR practices, taking account of internationally agreed principles and instruments such as those of the OECD Guidelines for Multinational Enterprises and the UN guiding principles on business and human rights, as well as the UN Principles for Responsible Investment and Reporting, and also to address outstanding issues such as the welfare of both farm and wild animals;

21. Asks that such a sustainable development chapter be covered by the institutional and legal link to be established between the FTA and the Partnership and Cooperation Agreement (PCA), to include the possibility of suspension of the FTA in case of severe human rights abuses;

22. Calls on the Commission to apply an approach based on conditionality, so as to offer the signing of the FTA in exchange for concrete progress on human rights and other fundamental rights;

23. Commends the socio-economic progress made by Vietnam as part of its Doi Moi reform, and supports the country's continued efforts for further societal improvements; salutes, therefore, Vietnam's candidature, as endorsed by ASEAN, for membership of the United Nations Human Rights Council for the term 2014-2016, as well as the decision of the Vietnamese Government of 27 August 2013 to submit an aide-memoire containing voluntary pledges and commitments to contribute to the promotion and protection of human rights, thus fostering sustainable development on its territory and in relation to its partners; urges the Vietnamese Government to consistently follow up on its pledges and commitments to effectively prevent and correct any human rights violations and deteriorations of fundamental freedoms;

24. Stresses that human rights, democracy and security are essential elements of the overall relationship between the EU and Vietnam; calls, therefore, on both sides to ensure that dialogue on pending issues is actively pursued, with particular reference to the freedom of speech of individual citizens, freedom of the media, and religious freedom;

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25. Urges the Commission to carry out as soon as possible a Human Rights Impact Assessment, as requested by Parliament in its resolution of 25 November 2010 on human rights and social and environmental standards in international trade agreements⁽¹⁾, with a view to ensuring 'comprehensible trade indicators based on human rights and on environmental and social standards', and in line with the Report of the UN Special Rapporteur on the right to food;

26. Instructs its President to forward this resolution to the Council, the Commission, the parliaments of the Member States and the Government and Parliament of Vietnam.

⁽¹⁾ OJ C 99 E, 3.4.2012, p. 31.