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*Plenary sitting*

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**A9-0017/2020**

28.1.2020

## **REPORT**

containing a motion for a non-legislative resolution on the draft Council decision on the conclusion of the Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam  
(06050/2019 – C9-0023/2019 – 2018/0356M(NLE))

Committee on International Trade

Rapporteur: Geert Bourgeois

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## MOTION FOR A EUROPEAN PARLIAMENT NON-LEGISLATIVE RESOLUTION

### **on the draft Council decision on the conclusion of the Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam (06050/2019 – C9-0023/2019 – 2018/0356M(NLE))**

*The European Parliament,*

- having regard to the draft Council decision (06050/2019),
- having regard to the draft Free Trade Agreement (FTA) between the European Union and the Socialist Republic of Viet Nam (06051/2019),
- having regard to the proposal for a Council decision on the conclusion of the investment protection agreement between the European Union and its Member States, of the one part, and the Socialist Republic of Viet Nam, of the other part (0000/2019),
- having regard to the request for consent submitted by the Council in accordance with Articles 91(1), 100(2), 207(4), first subparagraph, Article 218(6), second subparagraph, point (a)(v), and Article 218(7) of the Treaty on the Functioning of the European Union (TFEU) (C9-0023/2019),
- having regard to the Framework Agreement on Comprehensive Partnership and Cooperation (PCA) between the European Union and its Member States, of the one part, and the Socialist Republic of Viet Nam, of the other part, signed in Brussels on 27 June 2012, which entered into force in October 2016<sup>1</sup>,
- having regard to the Framework Participation Agreement, signed on 17 October 2019, which will facilitate Vietnam's participation in European Union-led civilian and military crisis management operations and show strong commitment from both sides to a rules-based multilateral approach to international peace and security,
- having regard to the opinion of the Court of Justice of the European Union of 16 May 2017 in procedure 2/15<sup>2</sup>, pursuant to Article 218(11) TFEU, requested on 10 July 2015 by the Commission,
- having regard to its resolution of 5 July 2016 on a new forward-looking and innovative future strategy for trade and investment<sup>3</sup>,
- having regard to the Commission communication entitled ‘Trade for all - towards a more responsible trade and investment policy’,
- having regard to the Council decision of 22 December 2009 to pursue bilateral FTA negotiations with individual member states of the Association of Southeast Asian Nations (ASEAN),

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<sup>1</sup> OJ L 329, 3.12.2016, p. 8.

<sup>2</sup> Opinion of the Court of Justice of 16 May 2017, 2/15, ECLI:EU:C: 2017:376.

<sup>3</sup> OJ C 101, 16.3.2018, p. 30.

- having regard to the negotiating directives of 23 April 2007 for a region-to-region FTA with ASEAN member states,
  - having regard to its resolution of 9 June 2016 on Vietnam<sup>4</sup>,
  - having regard to its resolution of 14 December 2017 on freedom of expression in Vietnam, notably the case of Nguyen Van Hoa<sup>5</sup>,
  - having regard to its resolution of 15 November 2018 on Vietnam, notably the situation of political prisoners<sup>6</sup>,
  - having regard to the decision of the European Ombudsman of 26 February 2016 in case 1409/2014/MHZ on the European Commission’s failure to carry out a prior human rights impact assessment of the EU-Vietnam Free Trade Agreement<sup>7</sup>,
  - having regard to the Treaty on European Union (TEU), and in particular Title V thereof on the Union’s external action,
  - having regard to the Treaty on the Functioning of the European Union (TFEU), in particular its Articles 91, 100, 168 and 207 in conjunction with Article 218(6)(a)(v),
  - having regard to the Council conclusions on child labour of 20 June 2016,
  - having regard to the Council conclusions on business and human rights of 20 June 2016,
  - having regard to the economic impact of the EU-Vietnam Free Trade Agreement<sup>8</sup>,
  - having regard to the 2019 Universal Periodic Review on Vietnam undertaken by the UN Human Rights Council,
  - having regard to the conclusions following its fact-finding mission to Vietnam (28 October to 1 November 2018) and the Commission’s evaluation of May 2018 on the country’s progress in tackling illegal, unregulated and unreported (IUU) fishing following the notification by the Commission of a ‘yellow card’ on 23 October 2017,
  - having regard to its legislative resolution of ...<sup>9</sup> on the draft decision,
  - having regard to Rule 105(2) of its Rules of Procedure,
  - having regard to the opinions of the Committee on Foreign Affairs, the Committee on Development and the Committee on Fisheries,
  - having regard to the report of the Committee on International Trade (A9-0017/2020),
- A. whereas Vietnam is a strategic partner for the European Union, and whereas the EU and Vietnam share a common agenda, namely to stimulate growth and employment, improve competitiveness, fight poverty and achieve the Sustainable Development Goals

<sup>4</sup> OJ C 86, 6.3.2018, p. 122.

<sup>5</sup> OJ C 369, 11.10.2018, p. 73.

<sup>6</sup> Texts adopted, P8\_TA(2018)0459.

<sup>7</sup> <https://www.ombudsman.europa.eu/en/decision/en/64308>

<sup>8</sup> See: [https://trade.ec.europa.eu/doclib/docs/2019/february/tradoc\\_157686.pdf](https://trade.ec.europa.eu/doclib/docs/2019/february/tradoc_157686.pdf)

<sup>9</sup> Texts adopted, P9\_TA(0000)0000.

(SDGs), as well as a strong commitment to open, rules-based trade and to the multilateral trading system;

- B. whereas this is the second bilateral trade agreement concluded between the EU and an ASEAN member state and is an important stepping-stone towards a region-to-region FTA; whereas this agreement, along with the FTA between the EU and the Republic of Singapore to which Parliament gave its consent on 13 February 2019, will also serve as a benchmark for the agreements the EU is currently negotiating with the other main ASEAN economies;
- C. whereas 90 % of future world economic growth is predicted to be generated outside Europe, with a significant part occurring in Asia;
- D. whereas Vietnam joined the WTO in 2007 and is now an open and pro-free trade economy, as shown by its 16 trade agreements with 56 countries;
- E. whereas Vietnam is a founding member of the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) and a party to the recently concluded negotiations on the Regional Comprehensive Economic Partnership (RCEP);
- F. whereas Vietnam is a booming, competitive and connected economy with almost 100 million citizens, a growing middle class and a young and dynamic workforce, although it remains a lower-middle income economy faced with specific development challenges, as illustrated by its position on the UNDP human development index, which currently stands at 116 out of 189 countries;
- G. whereas Vietnam is also one of the fastest-growing countries in ASEAN, with average GDP growth of around 6.51 % in the period 2000-2018; whereas Vietnam is estimated to continue growing at similarly strong rates in the upcoming years;
- H. whereas the EU is currently Vietnam's third largest trading partner after China and South Korea, and its second largest export market after the US; whereas EU exports to the country in the last ten years have been growing annually at an estimated average rate of 5 to 7 %; whereas the economic impact assessment carried out by the Commission predicted 'export gains of EUR 8 billion by 2035 for EU firms', with Vietnam's exports to the EU being 'expected to grow by EUR 15 billion'; whereas it is important to maximise the opportunities offered by this agreement in the most inclusive manner for businesses, in particular SMEs;
- I. whereas the Council has emphasised that it is in the EU's interest to continue to play a leading role in implementing the 2030 Agenda in a coherent, comprehensive, and effective manner, as an overarching priority of the EU, for the benefit of its citizens and for upholding its credibility within Europe and globally; whereas in the mission letter sent to all commissioners-designate President-elect von der Leyen insisted that all commissioners will ensure the delivery of the UN Sustainable Development Goals within their policy area;
- J. whereas Vietnam still faces challenges in relation to sustainable development, human, political and civil rights, with particular reference to the situation of minorities, fundamental freedoms, freedom of religious belief and freedom of the press, and the exploitation of natural resources (e.g. sand, fisheries and timber), waste management

and pollution; laments the fact that the EU and Vietnam continue to take differing stances on the recommendations of international human rights bodies concerning Vietnam and on the implementation of those recommendations, for instance those relating to the International Covenant on Civil and Political Rights (ICCPR); whereas the forced labour of prisoners remains a concern in Vietnam;

- K. whereas despite the economic and political reforms initiated in 1986, Vietnam remains a one-party state which does not recognise fundamental freedoms such as freedom of association, freedom of speech, freedom of religion and freedom of the press; whereas the repressive nature of the regime and the grave and systematic violation of human rights in Vietnam have been documented by the European External Action Service in the 2018 EU annual report on human rights and democracy in the world, highlighting in particular the growing number of political prisoners in the country;
- L. whereas in its resolution of 15 November 2018 Parliament called on the government of Vietnam to ‘repeal, review or amend all repressive laws, notably its Criminal Code’; whereas this call was not responded to by Vietnam; whereas none of the recommendations to amend or repeal abusive provisions in the penal legislation made in the framework of the latest Universal Periodic Review in March 2019 were accepted by Vietnam;
- M. whereas the EU-Vietnam FTA recognises the importance of ensuring the conservation and sustainable management of living marine resources and ecosystems, together with the promotion of sustainable aquaculture, and provides in its Article 13.9 for cooperation in the fight against IUU fishing;
- N. whereas some fish-based products, such as those with CN codes 1604 14 21 and 1604 14 26, are not included in the duty-free regime in the FTA owing to their sensitivity for the European Union;
- O. whereas it is acknowledged that IUU fishing constitutes an organised crime of the seas which has disastrous environmental and socio-economic impacts worldwide and creates unfair competition for the European fishing industry;
- P. whereas Vietnam is the world’s fourth biggest fish producer, followed by the European Union, and the fourth biggest producer of aquaculture products;
- Q. whereas the EU is the world’s largest trader in fisheries and aquaculture products in value terms, having generated a trade volume of more than EUR 2.3 billion in 2017; whereas the EU imports more than 65 % of the fish products it consumes and is one of the largest foreign investors in Vietnam;
- R. whereas Vietnam has so far secured protection for one geographical indication (GI) product – Phú Quốc, a variety of fish sauce – as a protected designation of origin (PDO) within the EU quality schemes; whereas the FTA provides for the protection of 169 EU GIs for wines, spirits and food products in Vietnam and reciprocal protection for 39 Vietnamese GIs in the EU;
- S. whereas Vietnam has a market of 95 million people with long-established traditions in the consumption of fish and aquaculture products, and is the EU’s second largest trading partner in the ASEAN region; whereas fisheries could herald, for European

small and medium-sized enterprises, a strong potential for growth and significant benefits; whereas this sector is of vital interest for European prosperity and innovation;

1. Stresses the fact that the EU-Vietnam FTA (EVFTA) is the most modern, comprehensive and ambitious agreement ever concluded between the EU and a developing country and should serve as a reference point for the EU's engagement with developing countries and especially with the ASEAN region; recalls that Vietnam will remain a GSP beneficiary for a transitional period of two years once the FTA is in force;
2. Notes that negotiations began in June 2012 and were concluded in December 2015 after 14 negotiating rounds, and regrets subsequent delays in bringing forward the agreement for signature and ratification - notably the delay of the Council in requesting the consent of the European Parliament in due time before the European elections;
3. Stresses the economic and strategic importance of this agreement, as the EU and Vietnam share common goals – to stimulate growth and employment, boost competitiveness, fight poverty, bolster the rules-based multilateral trade system, achieve the SDGs, and support workers' rights and fundamental freedoms; emphasises the geopolitical considerations that render EU partners in the Far East key players to engage with, in a complex local geo-economic environment;
4. Notes that Article 21 of the Treaty on European Union stipulates that the actions of the Union on the international scene shall be guided by the principles of democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the UN Charter and international law; stresses the need to respect the principle of aligning policies with development cooperation objectives in accordance with Article 208 TFEU;
5. Underlines the significance of the agreement in terms of competitiveness of EU businesses in the region; notes that European companies are facing increased competition from countries with which Vietnam already has free trade agreements, notably the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP);
6. Hopes that the agreement, together with the EU-Singapore Free Trade Agreement, will mark further strides towards setting high standards and rules in the ASEAN region, helping pave the way for a future region-to-region trade and investment agreement; stresses that the agreement also sends out a strong signal in favour of free, fair and reciprocal trade, in times of growing protectionist tendencies and serious challenges to multilateral rules-based trade; highlights that the agreement helps the EU strengthen its presence in the ASEAN region, taking into account the recent conclusions of the Regional Comprehensive, Economic Partnership (RCEP) and the entry into force of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP); also stresses that the agreement allows the EU to promote its standards and values in the region; recalls its full support for multilateralism and the importance of achieving a sustainable and ambitious reform of the WTO that can ensure rules-based international trade;

7. Underlines that the agreement will eliminate over 99 % of tariffs<sup>10</sup>; notes that Vietnam will liberalise 65 % of import duties on EU exports upon entry into force, with the remainder of the duties being gradually eliminated over a 10-year period; notes also that the EU will liberalise 71 % of its imports upon entry into force and that 99 % will be duty-free after a 7-year period; points out that the agreement will also contain specific provisions to address non-tariff barriers for EU exports, which frequently constitute a significant hurdle for SMEs; considers that the EVFTA can help in addressing the trade deficit of the EU with Vietnam, tapping into the growth potential of the ASEAN country in the upcoming years;
8. Stresses the importance of ensuring effective and reliable controls, including through enhanced customs cooperation in Europe, to prevent the agreement becoming a gangway for the entry into Europe for goods from other countries;
9. Notes the improved access under this agreement to Vietnamese public procurement in line with the Government Procurement Agreement (GPA), as Vietnam is not yet a member of the GPA; underlines that the government procurement chapter of the EVFTA achieves a degree of transparency and procedural fairness comparable to other FTAs that the EU has signed with developed countries and more advanced developing countries; underlines that the agreement must not restrict domestic procurement rules or room for manoeuvre in procurements when it comes to setting requirements on what is to be procured and demands on areas such as the environment, labour and employment conditions;
10. Welcomes the fact that the provisions on rules of origin included in the EVFTA follow the EU approach, and that their main features are identical to those laid down in the EU's GSP as well as in its trade agreement with Singapore; calls on the Commission to monitor the proper and faithful implementation of these rules, with special attention to national content, and to step up action against any kind of manipulation and abuse, such as repackaging products coming from third countries;
11. Notes that Vietnam will no longer be able to use cumulation from other trading partners that are GSP beneficiaries in the region to be able to comply with the rules of origin; stresses that rules of origin in free trade agreements should not unnecessarily break existing value chains, especially with countries that currently benefit from the GSP, GSP+ or EBA schemes;
12. Stresses the fact that around 169 EU geographical indications will benefit from recognition and protection on the Vietnamese market at a comparable level to that of EU legislation, in view of the fact that Vietnam is an important export market in Asia for EU food and drink exports; considers that this list should be enlarged in the near future; stresses furthermore that some EU agri-sectors, rice amongst others, could be negatively affected by the provisions of the FTA; in that respect calls on the

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<sup>10</sup> EU exports to Vietnam: 65 % of duties to disappear as soon as the FTA enters into force, and the remainder to be phased out over a period of up to 10 years (for example, in order to protect the Vietnamese motor sector from European competition, duties on cars will remain for the full 10 years); Vietnamese exports to the EU: 71 % of duties to disappear on entry into force, the remainder to be phased out over a period of up to seven years.



Commission to constantly monitor the flow of imports of those sensitive products and make a full utilisation of the provisions of the safeguard clause regulation whenever the legal and economic requirements are met, in order to avoid any possible negative impact on the EU agri-sectors as a direct consequence of the implementation of the FTA;

13. Welcomes the strong SPS chapter which will set up a single and transparent procedure for the approval of EU exports of food products to Vietnam, in order to accelerate the approval of EU export applications and avoid discriminatory treatment; commends Vietnam's commitment to applying the same import requirements to like products coming from all EU member states;
14. Recalls that, in terms of services, Vietnam goes beyond its WTO commitments, provides for substantially better access in a number of business subsectors, and offers new market access to sectors such as packaging services, trade fair and exhibition services or rental/leasing; underlines that Vietnam has opened up cross-border higher education services for the first time; welcomes the use of a positive list in the services schedule;
15. Recalls that that a swift ratification of the EVFTA can help Vietnam go further in improving IPR protection and can guarantee the highest standards of production and best quality for consumers; stresses that Vietnam will accede to the World Intellectual Property Organisation (WIPO) Internet Treaties, which set standards to prevent unauthorised online access to or use of creative work, protect the rights of owners, and address the challenges that new technologies and methods of communication pose to IPR; stresses the strategic importance of standard-setting capacity in a region that is witnessing tendencies of decoupling on the normative and standardisation fronts; reiterates that a lack of strong regulatory frameworks could trigger a race to the bottom and negative competition on important legal provisions; points out that promoting access to medicines remains an essential pillar of EU policy and that the IPR provisions in the agreement in relation to pharmaceutical products are specifically adapted to the level of development, the current regulatory framework and the public health concerns in Vietnam;
16. Regrets that the agreement does not contain a specific chapter on SMEs, but notes that different provisions on SMEs are nonetheless included in several of its parts; stresses that the implementation phase will be crucial for introducing an action plan to help SMEs make use of the opportunities offered by the agreement, starting by increasing transparency and disseminating all relevant information, as this sector of the economy is of vital interest for prosperity and innovation in Europe; considers that in a potential revision of the agreement the Commission should explore the possibility of introducing an SME chapter;
17. Welcomes the provisions for cooperation on animal welfare, including technical assistance and capacity-building for the development of high animal welfare standards, and encourages the Parties to make full use of them; urges the Parties to develop an action plan for cooperation on animal welfare as soon as possible, including a programme for training, capacity-building and assistance in the framework of the agreement, with a view to safeguarding animal welfare at the time of killing and better protecting animals on farms and during transport in Vietnam;

18. Underlines that the agreement specifies the EU's right to apply its own standards to all goods and services sold in the Union, recalling its precautionary principle; underlines that the EU's high standards, including in national laws, regulations and collective agreements, should never be seen as trade barriers;
19. Regrets that the agreement does not include a provision on cross-border data transfers; considers that in a future revision of the agreement such a provision, respecting EU on data protection law and the protection of privacy, should be included, and stresses that any future outcome must be subject to the consent of Parliament; notes in this regard that the General Data Protection Regulation is fully compatible with the general exceptions under the GATS;
20. Underlines that the EVFTA includes a comprehensive and binding chapter on Trade and Sustainable Development (TSD), dealing with labour and environmental matters based on widely accepted multilateral conventions and norms; points out that the enforceability of the TSD chapter could be significantly improved, in the first place through consideration of, among various enforcement methods, a sanction-based mechanism as a last resort, and secondly through a reform of the Domestic Advisory Group (DAG) system, as repeatedly called for by Parliament and also mentioned in the mission letter for the new EU Trade Commissioner; stresses that the TSD chapter is designed to contribute to broader EU policy objectives, notably on inclusive growth, the fight against climate change, the promotion of human rights, including workers' rights, and, more generally, the upholding of EU values; emphasises that the agreement is also an instrument for development and social progress in Vietnam, supporting the country in its efforts to improve labour rights and enhance protection at work and protection of the environment; calls for the swift establishment and operability of broad and independent DAGs, and calls on the Commission to cooperate intensively with the Vietnamese authorities and provide them with the necessary support; calls on the Joint Committee to immediately begin work on strengthening the enforcement of the TSD provisions;
21. Calls for the establishment of a Joint Committee of the Vietnamese National Assembly and the European Parliament to improve coordination and review of the measures of the TSD chapter and the implementation of the agreement as a whole; welcomes the favourable position of the Chairperson of the National Assembly of Vietnam towards this call for action, and calls for a Memorandum of Understanding between both parliaments to be negotiated rapidly;
22. Welcomes the concrete steps taken by the Vietnamese Government so far, including amending labour legislation and the legal framework on the minimum age at work, with the aim of abolishing child labour and making commitments on non-discrimination and gender equality at work; expects this new legislation to be completed by implementing decrees and fully enforced by the Vietnamese authorities as soon as possible;
23. Acknowledges the decrease of child labour in Vietnam in recent years, recalling that Vietnam was the first country in Asia and the second in the world to ratify the UN Convention on the Rights of the Child; further calls on the Vietnamese Government to present an ambitious roadmap for the eradication of child labour by 2025 and to eliminate forced labour, modern slavery and human trafficking by 2030; looks forward to the ILO's assessment in good time prior to ratification of the agreement; calls on the

EU and Vietnam to cooperate to develop an action plan, accompanied by available EU programmes, to fight child labour, including the necessary due diligence framework for enterprises;

24. Stresses, however, that despite this progress important challenges remain, and urges the Vietnamese authorities to engage more on a progressive workers' rights agenda through concrete measures, welcoming in this regard the adoption of the reformed Labour Code on 20 November 2019; also welcomes the ratification of fundamental ILO Convention 98 (collective bargaining) on 14 June 2019 and the commitment by the Vietnamese Government to ratify two remaining fundamental conventions, namely 105 (abolition of forced labour) in 2020 and 87 (freedom of association) in 2023, and calls on the Vietnamese authorities to provide a credible roadmap for their ratification; stresses the central role of implementing decrees in the implementation of the revised Labour Code and ratified ILO conventions and therefore underlines the need for the implementing decrees to the reformed Labour Code to incorporate the principles of ILO conventions 105 and 87; stresses its willingness to engage in an active dialogue on this issue; calls on the Vietnamese Government to continuously inform the EU on the progress of ratification and implementation of these outstanding conventions; recalls the significance of such commitments that portray truly positive trends in a developing country, while stressing the vital role of effective implementation of the provisions on human rights, ILO conventions and environmental protection; stresses that specific criteria included in the implementing legislation, such as thresholds and registration formalities, should not result in effectively precluding independent organisations from competing with state-run organisations; also stresses that penal legislation should be brought into line with the relevant ILO conventions; stresses that Vietnam's obligations under the International Covenant on Civil and Political Rights (ICCPR) and the newly reformed Labour Code should be applied in a manner that does not render practically impossible the exercise of freedoms, especially as regards the freedom of assembly of independent labour unions; commends the pre-ratification conditionality stance taken by the EU;
25. Welcomes the envisaged cooperation on the trade-related aspects of the ILO Decent Work Agenda, in particular the interlinkage between trade and full and productive employment for all, including young people, women and people with disabilities; calls for a swift and meaningful start to this cooperation;
26. Notes that Vietnam is one of the countries most vulnerable to the effects of climate change, in particular extreme weather events such as storms and floods; urges the Vietnamese Government to introduce effective adaptation measures and to ensure the effective implementation of legislation relating to the protection of the environment and biodiversity;
27. Welcomes the commitment to effectively implement multilateral environmental agreements such as the Paris Agreement on climate change, and to act in favour of the conservation and sustainable management of wildlife, biodiversity and forestry; recalls that Vietnam is one of the most active countries in the broader ASEAN region in showcasing its commitment to the agenda of the Paris Agreement; emphasises that a swift ratification of the EVFTA as well as full respect and effective implementation of the Paris Agreement will contribute to ensuring the highest possible standards for environmental protection in the region;

28. Underlines the strategic importance of Vietnam as a crucial partner of the EU in South-East Asia and among the ASEAN countries, specifically, but not exclusively, in relation to climate change negotiations, good governance, sustainable development, economic and social progress and the fight against terrorism; stresses the need for Vietnam to become a partner in the advancement of human rights and democratic reform; notes that Vietnam is ASEAN chair for 2020; stresses the need for the EU and Vietnam to fully respect and implement the Paris Agreement;
29. Welcomes the agreement between the EU and the Government of Vietnam establishing a framework for the participation of Vietnam in EU crisis management operations, which was signed on 17 October 2019; underlines that Vietnam has become the second partner country in Asia to sign a Framework Participation Agreement with the EU; stresses that the agreement constitutes a significant step forward in relations between the EU and Vietnam;
30. Recalls that the Agreement provides for specific measures to fight against IUU fishing and to promote a sustainable and responsible fishery sector, including aquaculture; acknowledges in this regard Vietnam's engagement to address IUU fishing by having applied for full membership of the Western and Central Pacific Fisheries Commission (WCPFC), by having become an official member of the Port State Measures Agreement (PSMA), by adopting the revised Fisheries Law in 2017, which takes into consideration international and regional obligations, agreements and recommendations from the Commission, and by implementing a national action plan for combating IUU fishing;
31. Recognises, however, the huge challenges still facing the Vietnamese authorities with regard to the overcapacity of the country's highly fragmented fishing fleet and the overexploitation of marine resources, noting the yellow card Vietnam has been given as well as the measures already taken to improve the situation; calls for further action in line with the findings of the November 2019 review mission, and for continuous monitoring and scrupulous checks regarding Vietnam's efforts to ensure that the country keeps making progress in combating IUU fishing and to guarantee full traceability of fishery products arriving on the Union market so as to exclude illegal imports; recalls that the revocation of the yellow card must be conditional on the full and effective implementation of all the recommendations made by the EU in 2017;
32. Acknowledges Vietnam's engagement to address illegal logging and deforestation through the conclusion of a Voluntary Partnership Agreement on Forest Law Enforcement, Governance and Trade (VPA/FLEGT) with the EU; notes that this agreement has been in force since 1 June 2019 and introduces mandatory due diligence obligations for importers; welcomes the open and constructive participation of all relevant stakeholders in Vietnam in this process;
33. Underlines the crucial importance of effectively implementing all provisions and chapters of the agreement, from market access to sustainable development and enforcement of all commitments; considers that all of the TSD provisions should be read as providing legal obligations in international law and in the FTA; highlights in this context the new post of Chief Trade Enforcement Officer, who will work directly under the guidance of the Trade Commissioner, and the commitment of Parliament's Committee on International Trade to assume an active role in the monitoring of the implementation of the EVFTA engagements; underlines furthermore that European

companies, especially SMEs, should be encouraged to make full use of the benefits of the agreement and that any hurdle regarding implementation should be remediated immediately;

34. Stresses that the entry into force of the agreement will create the conditions for a major and fruitful cooperation between the two parties with a view to the effective implementation of the provisions on sustainable development, which could bring about the improvement of the political and human rights situation in the country; underlines that the proper implementation of the EVFTA can advance Vietnam in complying with European standards on the environment, human rights, good governance and Corporate Social Responsibility (CSR); welcomes in this context the commitment of Vietnam to present its national implementation plan for complying with the provisions of the EVFTA;
35. Recalls previous experience which shows that the correct implementation of FTAs and the presence of EU companies on the ground can lead to improvements in the human rights situation, CSR and environmental standards; asks EU companies to continue to play a major role in bridging standards and good practices with a view to the creation of the most suitable and sustainable business environment in Vietnam through the EVFTA;
36. Calls for the detailed and rigorous monitoring of the agreement and for commitments to ensure that shortcomings are addressed rapidly with our trading partner; calls on the EU to support the necessary capacity-building measures and for specific technical assistance in order to help Vietnam implement its commitments via projects and expertise, notably where linked to environmental and labour provisions; reminds the Commission of its reporting obligations to the European Parliament and the Council on the implementation of the EVFTA;
37. Stresses that the involvement of independent civil society and social partners in monitoring the implementation of the agreement is crucial, and calls for the preparation and swift establishment of DAGs following the entry into force of the agreement, as well as for a broad and balanced representation of independent, free and diverse civil society organisations within those groups, including independent Vietnamese organisations from the labour and environmental sectors as well as human rights defenders; supports the efforts of civil society organisations in Vietnam to develop proposals in this regard, and will support capacity-building efforts;
38. Recalls that the EU-Vietnam relationship is grounded in the PCA, which covers non-economic areas, including political dialogue, human rights, education, science and technology, justice and asylum and migration;
39. Acknowledges the institutional and legal link between the FTA and the PCA, which ensures that human rights are placed at the core of the EU-Vietnam relationship; stresses the significance of truly positive trends in terms of human rights for the swift ratification of this agreement, and calls on the Vietnamese authorities to take concrete measures to improve the situation as a signal of their commitment; recalls its demand of 15 November 2018, notably with respect to the reform of the penal legislation, the death penalty, political prisoners and fundamental freedoms; urges the Parties to make full use of the agreements in order to improve the urgent human rights situation in Vietnam, and underlines the importance of an ambitious human rights dialogue between the EU and

Vietnam; points out that Article 1 of the PCA contains a standard human rights clause which can trigger appropriate measures, including, as a last resort, the suspension of the PCA, and implicitly of the EVFTA, or parts thereof, without delay;

40. Regrets that the Commission has failed to undertake a comprehensive human rights impact assessment of the FTA; calls on the Commission to carry out such an assessment; asks it to systematically 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; points out that the Commission has also committed to carrying out an ex post economic, social and environmental impact assessment;
41. Calls for the EU and Vietnam to set up an independent monitoring mechanism on human rights and an independent complaints mechanism, providing affected citizens and local stakeholders with effective recourse to remedy, and a tool to address potential negative impacts on human rights, notably through the application of the state-to-state dispute settlement mechanism to the TSD chapter;
42. Expresses its concerns regarding the implementation of the new cybersecurity law, notably on localisation and disclosure requirements, online surveillance and control, and the protection of personal data measures, which are not compatible with the EU's value-based and liberalisation trade agenda; welcomes the willingness to engage in an intensive dialogue, including the commitment of the Chairperson of the National Assembly of Vietnam to include both parliaments in the discussion and deliberation of the implementing decrees; calls furthermore on the Vietnamese authorities to take concrete measures and welcomes the EU's assistance in this regard;
43. Recalls that Article 8 of the TFEU states that 'in all its activities, the Union shall aim to eliminate inequalities, and to promote equality, between men and women'; welcomes the fact that both Vietnam and the EU have signed the WTO Buenos Aires Declaration on Women and Trade and calls on the Parties to strengthen the commitments to gender and trade in the agreement; calls for the conditions of women to be improved so that they may benefit from this agreement, including through capacity-building for women at work and in business, promoting women's representation in decision-making and positions of authority, and improving women's access to, and participation and leadership in, science, technology and innovation; recalls the Commission's commitment to include Gender Chapters in future EU trade agreements, including those reached after conclusion of this agreement; calls on the EU and Vietnam to commit themselves to evaluate the agreement's implementation and to include a specific chapter on Gender and Trade in its future review;
44. Demands the immediate release of all political prisoners and members of civil society such as bloggers or independent labour unionists who are currently detained or convicted, notably those named in Parliament's resolutions of 14 December 2017 and 15 November 2018;
45. Calls on the Commission and the EEAS to formally report to Parliament on Vietnam's commitment to making progress on a series of human rights issues, as referred to in

Parliament's resolution of 17 December 2015<sup>11</sup>;

46. Stresses that the agreement has already fostered changes in many areas through dialogue, and sees it as the basis for further improvements for the people through dialogue;
47. Welcomes the agreement, which will create more free and fair trade opportunities between the EU and Vietnam; considers the European Parliament's consent to be justified, given that Vietnam takes steps to improve the civil and labour rights situation so as to move in the direction of its commitments;
48. Calls on the Council to swiftly adopt the Agreement.
49. Instructs its President to forward this resolution to the Council and the Commission, the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the EEAS, the governments and parliaments of the Member States and the government and parliament of the Socialist Republic of Viet Nam.

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<sup>11</sup> European Parliament non-legislative resolution of 17 December 2015 on the draft Council decision on the conclusion, on behalf of the Union, of the Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Socialist Republic of Vietnam, of the other part (OJ C 399, 24.11.2017, p. 141).

5.12.2019

## OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS

for the Committee on International Trade

on the draft Council decision on the conclusion of the Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam (2018/0356M(NLE))

Rapporteur for opinion: Isabel Wiseler-Lima

### SUGGESTIONS

The Committee on Foreign Affairs calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Recalls that Parliament gave its consent to the EU-Vietnam Framework Agreement on Comprehensive Partnership and Cooperation (PCA) on 17 December 2015<sup>1</sup>, which defines future relations and aims to enhance further cooperation on global and regional challenges; notes with concern that the human rights situation in the country has deteriorated since the entry into force of the PCA;
2. Regrets that the Commission did not carry out a human rights impact assessment on the EU-Vietnam Free Trade Agreement, though requested to do so by Parliament, which runs counter to the decision of the European Ombudsman of 2015 and to the commitments made in the EU Action Plan on Human Rights and Democracy, and calls on it to carry out such an assessment immediately; points out that the Commission also committed to carrying out an *ex post* economic, social and environmental impact assessment;
3. Underlines the strategic importance of Vietnam as a crucial partner of the EU in South-East Asia and among the ASEAN countries, specifically, but not exclusively, in relation to climate change negotiations, good governance, sustainable development, economic and social progress and the fight against terrorism; stresses the need for Vietnam to become a partner in the advancement of human rights and democratic reform; notes that Vietnam holds the ASEAN chairmanship for 2020; stresses the need for the EU and Vietnam to fully respect and implement the Paris Agreement;

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<sup>1</sup> Texts adopted, P8\_TA(2015)0467.



4. Welcomes the agreement between the EU and the Government of Vietnam establishing a framework for the participation of Vietnam in EU crisis management operations, which was signed on 17 October 2019; underlines that Vietnam has become the second partner country in Asia to sign a Framework Participation Agreement with the EU; stresses that the agreement constitutes a significant step forward in relations between the EU and Vietnam;
5. Acknowledges Vietnam's efforts to undertake a reform agenda, notably on the environmental and labour rights of the sustainable development chapter of the Free Trade Agreement (FTA); calls on the Vietnamese Government to take all appropriate legislative and non-legislative measures to effectively guarantee and implement the highest attainable human rights standards, including, but not limited to, environmental and labour standards; welcomes the ratification of six out of eight core ILO Conventions, namely No 29 on forced labour, Nos 100 and 111 on non-discrimination, Nos 138 and 182 on child labour and most recently No 98 on the right to organise and collective bargaining; urges the Vietnamese Government to quickly ratify and fully implement the outstanding conventions; calls for an effectively enforceable mechanism that applies to the trade and sustainable development (TSD) chapter and for a clear, public and binding timeline for the ratification of ILO Convention Nos 87 on Freedom of Association and Protection of the Right to Organise and 105 on the Abolition of Forced Labour;
6. Remains concerned about human rights violations in Vietnam, including the sentencing, political intimidation, intrusive surveillance, harassment, assault, kidnapping and unfair trials of political activists, journalists, bloggers, dissidents and human rights defenders, the curtailing of religious freedom and freedom of expression and association, and the application of the death penalty; calls on Vietnam to introduce a moratorium on the death penalty and take immediate steps towards abolition; deeply regrets that the number of political prisoners and journalists, bloggers and human rights, labour, religious and environmental activists detained has increased in recent years; calls for the release of all those detained for merely exercising their freedom of expression and for all charges against them to be dropped;
7. Highlights that human rights constitute a cornerstone of the TSD chapter of the FTA; is concerned that the FTA focuses on only a certain range of rights, mainly the core ILO conventions; calls, therefore, for human rights to be included in a more comprehensive way, accompanied by a mechanism to ensure their effective enforcement; calls for a periodic, independent evaluation of the impact of the agreement;
8. Calls on Vietnam to implement the recommendations made during the most recent Universal Periodic Review; calls on the authorities of Vietnam to bring its legislation into conformity with international human rights standards and obligations, including the International Covenant on Civil and Political Rights (ICCPR) to which Vietnam is a party, notably by revising its Penal Code, its law on cybersecurity and its law on belief and religion; calls on the Vietnamese Government to bring legislation regulating public gatherings and demonstrations into conformity with the rights of freedom of assembly and association;
9. Underlines that Article 13 of the FTA embodies a cooperative approach based on

common values and interests, taking into account the differences in the Parties' respective levels of development; welcomes the possibility of first resolving matters that fall under Article 13 on trade and sustainable development through exchange in the Committee on Trade and Sustainable Development; regrets that in the event that such matters are not resolved, the second mechanism, which allows a Party to request an independent Panel of Experts, may remain subordinate to the Parties' own procedures and subject to their willingness to use it; calls for the EU and Vietnam to set up an independent monitoring mechanism on human rights and an independent complaints mechanism, providing affected citizens and local stakeholders with effective recourse to remedy, and a tool to address potential negative impacts on human rights, notably through the application of the state-to-state dispute settlement mechanism to the TSD chapter;

10. Highlights that the FTA creates an institutional and legally binding link to the PCA; points out that Article 1 of the PCA contains a standard human rights clause which can trigger appropriate measures, including, as a last resort, the suspension of the PCA, or parts thereof, without delay; recalls that in case 1409/2014/MHZ on the EU-Vietnam FTA, the European Ombudsman found that the preamble of the EU-Vietnam FTA and other traditional tools, such as the 'essential element' clause of the PCA and the human rights dialogue, were insufficient to ensure adequate respect for EU obligations, especially when the third country's legislation was not in line with international human rights standards; calls for the establishment of a mechanism to monitor the implementation of the human rights clause on the basis of periodic assessments and for a procedure setting out clear and credible consequences that follow from breaches of the agreement;
11. Notes with concern that Vietnamese independent civil society has been harshly repressed and that many of its representatives operate underground for fear of persecution and retaliation; encourages the Commission to step up technical assistance and available funding to develop Vietnam's independent civil society in order to support the country's compliance with its international human rights obligations and the monitoring of the proper implementation of Article 13 of the FTA; calls on the Commission to guarantee that the domestic advisory groups (DAGs) provided for in the TSD chapter include truly independent representatives of civil society and to clarify the mechanisms in place to ensure that they can properly and safely play their role in scrutinising the implementation of the FTA without fear of reprisals;
12. Underlines the need for Parliament and its competent interparliamentary delegation to closely follow and monitor developments in Vietnam and the implementation of all sections of the FTA in order to allow for a response to developments on the ground; calls on the European External Action Service (EEAS) and the Commission to cooperate closely with Parliament in preparation for the annual human rights dialogues, the associated debriefings and in the updating of the EU human rights country strategy for Vietnam;
13. Strongly believes that improvements are necessary in Vietnam in the areas of the rule of law, good governance, sustainable development and respect for human rights;
14. Calls on the Commission and the EEAS to formally report to Parliament on Vietnam's

commitment to making progress on a series of human rights issues, as referred to in its resolution of 17 December 2015<sup>2</sup>;

15. Considers that consent should be given to the agreement only if the Vietnamese authorities release their political prisoners; stresses the need to commit to and agree with the Commission on a clear timeline for taking effective legislative and non-legislative measures to address the concerns set out in this resolution; calls on the Commission to address these concerns.

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<sup>2</sup> European Parliament non-legislative resolution of 17 December 2015 on the draft Council decision on the conclusion, on behalf of the Union, of the Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Socialist Republic of Vietnam, of the other part (OJ C 399, 24.11.2017, p. 141).

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Conclusion of the Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam	
<b>References</b>	2018/0356M(NLE)	
<b>Committee responsible</b>	INTA	
<b>Opinion by</b> Date announced in plenary	AFET 24.10.2019	
<b>Rapporteur</b> Date appointed	Isabel Wiseler-Lima 30.9.2019	
<b>Discussed in committee</b>	14.10.2019	2.12.2019
<b>Date adopted</b>	4.12.2019	
<b>Result of final vote</b>	+: 47	-: 7
	0: 8	
<b>Members present for the final vote</b>	Alexander Alexandrov Yordanov, Maria Arena, Traian Băsescu, Phil Bennion, Fabio Massimo Castaldo, Susanna Ceccardi, Włodzimierz Cimoszewicz, Gina Dowding, Tanja Fajon, Michael Gahler, Giorgos Georgiou, Raphaël Glucksmann, Klemen Grošelj, Bernard Guetta, Márton Gyöngyösi, Sandra Kalniete, Andrius Kubilius, Ilhan Kyuchyuk, David Lega, Nathalie Loiseau, Jaak Madison, Thierry Mariani, David McAllister, Vangelis Meimarakis, Sven Mikser, Javier Nart, Urmas Paet, Demetris Papadakis, Tonino Picula, Manu Pineda, Kati Piri, Diana Riba i Giner, Catherine Rowett, Nacho Sánchez Amor, Isabel Santos, Jacek Saryusz-Wolski, Radosław Sikorski, Sergei Stanishev, Hermann Tertsch, Idoia Villanueva Ruiz, Viola Von Cramon-Taubadel, Irina Von Wiese, Witold Jan Waszczykowski, Charlie Weimers, Isabel Wiseler-Lima	
<b>Substitutes present for the final vote</b>	Andrea Cozzolino, Arnaud Danjean, Loucas Fourlas, Jytte Guteland, Andrzej Halicki, Martin Horwood, Katrin Langensiepen, Hannah Neumann, Juozas Olekas, Kris Peeters, Bert-Jan Ruissen, Mick Wallace, Javier Zarzalejos, Bernhard Zimniok	
<b>Substitutes under Rule 209(7) present for the final vote</b>	Heidi Hautala, Gilles Lebreton, Geoffrey Van Orden	

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

47	+
NI	Fabio Massimo Castaldo, Márton Gyöngyösi
PPE	Alexander Alexandrov Yordanov, Traian Băsescu, Arnaud Danjean, Loucas Furlas, Michael Gahler, Andrzej Halicki, Sandra Kalniete, Andrius Kubilius, David Lega, David McAllister, Vangelis Meimarakis, Kris Peeters, Radosław Sikorski, Isabel Wiseler-Lima, Javier Zarzalejos
RENEW	Phil Bennion, Klemen Grošelj, Bernard Guetta, Martin Horwood, Ilhan Kyuchyuk, Nathalie Loiseau, Javier Nart, Urmas Paet, Irina Von Wiese
S&D	Maria Arena, Włodzimierz Cimoszewicz, Andrea Cozzolino, Tanja Fajon, Raphaël Glucksmann, Jytte Guteland, Sven Mikser, Juozas Olekas, Demetris Papadakis, Tonino Picula, Kati Piri, Nacho Sánchez Amor, Isabel Santos, Sergei Stanishev
VERTS/ALE	Gina Dowding, Heidi Hautala, Katrin Langensiepen, Hannah Neumann, Diana Riba i Giner, Catherine Rowett, Viola Von Cramon-Taubadel

7	-
ECR	Bert-Jan Ruissen, Jacek Saryusz-Wolski, Geoffrey Van Orden, Witold Jan Waszczykowski
GUE/NGL	Mick Wallace
ID	Gilles Lebreton, Thierry Mariani

8	0
ECR	Hermann Tertsch, Charlie Weimers
GUE/NGL	Giorgos Georgiou, Manu Pineda, Idoia Villanueva Ruiz
ID	Susanna Ceccardi, Jaak Madison, Bernhard Zimniok

**Key to symbols:**

+ : in favour

- : against

0 : abstention

3.12.2019

## OPINION OF THE COMMITTEE ON DEVELOPMENT

for the Committee on International Trade

on the draft Council decision on the conclusion of the Free Trade Agreement between the European Union and the Socialist Republic of Vietnam (2018/0356M(NLE))

Rapporteur for opinion: Tomas Tobé

### SUGGESTIONS

The Committee on Development calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Notes that Article 21 of the Treaty on European Union stipulates that the actions of the Union on the international scene shall be guided by the principles of democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law;
2. Recalls the European Parliament's previous resolutions on the situation in Vietnam, in particular those of 14 December 2017 on freedom of expression in Vietnam, notably the case of Nguyen Van Hoa<sup>1</sup>, of 9 June 2016 on Vietnam<sup>2</sup>, and of 15 November 2018 on Vietnam, in particular the situation of political prisoners<sup>3</sup>;
3. Urges the EU and Vietnam to make full use of the provisions in the FTA in order to contribute to the strengthening of human rights in Vietnam; reiterates the importance of the well-developed bilateral EU and Vietnam Human Rights Dialogue, notably in the institutional framework and procedures under the FTA and Investment Protection Agreement (IPA);
4. Welcomes the legal link between the EUFTA/IPA and the EU-Vietnam Partnership and Cooperation Agreement (PCA); urges the Commission to use all available tools in the Agreements, including, as a last resort, suspension, when necessary to protect and

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<sup>1</sup> OJ C 369, 11.10.2018, p. 73.

<sup>2</sup> OJ C 86, 6.3.2018, p. 122.

<sup>3</sup> Texts adopted, P8\_TA(2018)0459.

promote fundamental freedoms;

5. Underlines the importance of the inclusion of a comprehensive and binding chapter on Trade and Sustainable Development (TSD) with explicit references to Multilateral Environmental Agreements, the Paris Agreement and the 2030 Agenda for Sustainable Development; notes that the chapter on sustainable development is not covered by a state-to-state dispute settlement mechanism but by a TSD-specific one, which does not provide for a suspension of trade preferences; takes the view that the Union could consider, among other options, the inclusion of a sanctions-based approach in the TSD chapter; underlines the importance of mandatory and enforceable provisions in the chapter on trade and sustainable development in order to contribute effectively to the strengthening of labour rights and environmental standards, including corporate responsibility;
6. Calls for the strengthening of effective monitoring and enforcement mechanisms; asks the Commission to systematically 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;
7. Recalls that the EU-Vietnam relationship is grounded in the Partnership and Cooperation Agreement (PCA), which covers non-economic areas, including political dialogue, human rights, education, science and technology, justice and asylum and migration;
8. Stresses the need to respect the principle of policies aligned with development cooperation objectives in accordance with Article 208 TFEU;
9. Urges the Commission to earmark specific funding for civil society organisations, such as the domestic advisory groups (DAGs), in order to fulfil the key objectives of the TSD chapter, which include an increased monitoring of commitments, the development of action plans for areas where concerns have been identified, and the triggering of dispute settlement processes in the event that action plans have not been respected; notes that the DAG must be genuinely representative of civil society, including participants representing organisations advocating the advancement of human rights, labour rights and environmental protection; regrets that the mandate of the DAGs is limited to monitoring the TSD Chapter only; urges the EU and Vietnam to make full use of the provisions in the FTA in order to contribute to the strengthening of human rights in Vietnam; reiterates the importance of the well-developed bilateral EU and Vietnam Human Rights Dialogue, notably in the institutional framework and procedures under the FTA and Investment Protection Agreement (IPA); regrets that the promotion of gender equality and women's empowerment is not prominently mentioned in the FTA;
10. Welcomes, as a first step, Vietnam's ratification of six of the ILO's eight fundamental conventions, namely No 29 on forced labour, Nos 100 and 111 on non-discrimination, Nos 138 and 182 on child labour and, most recently, No 98 on the right to organise and collective bargaining; urges the Vietnamese Government to quickly ratify the outstanding conventions, namely No 105 on forced labour and No 87 on freedom of association, and highlights the crucial importance of ensuring that all of these conventions are rigorously and promptly implemented in accordance with a clear timetable set out prior to the European Parliament's ratification of the FTA,

incorporated in Vietnam's legal system, and enforced; calls on the Vietnamese authorities to modify the penal code in accordance with the ratification of these conventions;

11. Highlights that according to Article 4.1(b) of Regulation 978/2012 (the GSP Regulation), after the conclusion and entry into force of the FTA the Socialist Republic of Vietnam will lose the status of an eligible country that can benefit from tariff preferences provided under the general GSP arrangement; expresses the hope that the FTA will contribute to growth, development, and employment in the Socialist Republic of Vietnam to a greater extent than did the GSP arrangement;
12. Welcomes Vietnam's commitment to revise and quickly ratify its Labour Code, which will allow effectively the formation of independent trade unions and promote decent work for all; highlights the importance of the promotion and practical enforcement of gender equality and female empowerment, as well as child protection; asks the Commission, in the framework of the PCA, to actively promote projects in the field of tackling child labour and forced labour of women in order to improve the working conditions of these groups; reiterates that gender inequality should no longer be seen as a purely social issue, but also as an economic one that presents a key challenge for the attainment of inclusive and sustainable growth; calls on the Commission to monitor developments closely and to keep Parliament regularly updated on the situation;
13. Underlines the need for corrective measures in response to any infringements of human rights or commitments entered into under the Paris Agreement; points out that the chapter on sustainable development needs to be closely and rigorously monitored and enforcement thereof treated as a priority;
14. Recalls the importance of adapting trade policies to support national efforts to combat climate change in order to comply with the Paris Agreement; stresses in this context the need to make the EU-Vietnam Free Trade Agreement consistent with the EU-FLEGT agreement with Vietnam, notably by including in its trade and sustainable development (TSD) chapters binding and enforceable provisions to halt illegal logging, deforestation, forest degradation and land grabbing; stresses the importance of effective monitoring of these provisions; underlines in particular that this mechanism must give special consideration to the rights of indigenous peoples and forest-dependent communities, including where applicable the rights granted under ILO Convention No 169 on Indigenous and Tribal Peoples;
15. Notes that Vietnam is one of the countries most vulnerable to the effects of climate change, in particular extreme weather events such as storms and floods; urges the Government of Vietnam to introduce effective adaptation measures and to ensure the effective implementation of legislation relating to environmental and biodiversity protection.
16. Recalls that the Commission issued a 'yellow card' to Vietnam in October 2017, in view of its failure to effectively tackle illegal, unreported, and unregulated (IUU) fishing; urges the Vietnamese Government to comply effectively with EU recommendations prior to the ratification of the EU-Vietnam Free Trade Agreement;
17. Notes the persistence in Vietnam of cases of violations of human and social rights, and



considers that more efforts must be made in this regard by the Vietnamese authorities; calls on the Vietnamese Government to implement a moratorium on the death penalty with a view to its full abolition.

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Conclusion of the Free Trade Agreement between the European Union and the Socialist Republic of Vietnam	
<b>References</b>	2018/0356M(NLE)	
<b>Committee responsible</b>	INTA	
<b>Opinion by</b> Date announced in plenary	DEVE 24.10.2019	
<b>Rapporteur</b> Date appointed	Tomas Tobé 4.9.2019	
<b>Discussed in committee</b>	5.9.2019	8.10.2019
<b>Date adopted</b>	3.12.2019	
<b>Result of final vote</b>	+: 14	-: 6
	0: 4	
<b>Members present for the final vote</b>	Hildegard Bentele, Dominique Bilde, Charles Goerens, Mónica Silvana González, Pierrette Herzberger-Fofana, György Hölvényi, Martin Horwood, Rasa Juknevičienė, Beata Kempa, Pierfrancesco Majorino, Lukas Mandl, Norbert Neuser, Michèle Rivasi, Louis Stedman-Bryce, Marc Tarabella, Tomas Tobé, Miguel Urbán Crespo, Chrysoula Zacharopoulou, Bernhard Zimniok	
<b>Substitutes present for the final vote</b>	Alessandra Basso, Stéphane Bijoux, Marlene Mortler, Caroline Roose, Patrizia Toia	

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

14	+
ECR	Beata Kempa
GUE/NGL	Miguel Urbán Crespo
ID	Bernhard Zimniok
PPE	Hildegard Bentele, György Hölvényi, Rasa Juknevičienė, Lukas Mandl, Marlene Mortler, Tomas Tobé
RENEW	Stéphane Bijoux, Charles Goerens, Chrysoula Zacharopoulou
S&D	Mónica Silvana González, Norbert Neuser

6	-
ID	Alessandra Basso, Dominique Bilde
NI	Louis Stedman-Bryce
VERTS/ALE	Pierrette Herzberger-Fofana, Michèle Rivasi, Caroline Roose

4	0
RENEW	Martin Horwood
S&D	Pierfrancesco Majorino, Marc Tarabella, Patrizia Toia

**Key to symbols:**

+ : in favour

- : against

0 : abstention

3.12.2019

## OPINION OF THE COMMITTEE ON FISHERIES

for the Committee on International Trade

on the draft Council decision on the conclusion of the Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam (2018/0356M(NLE))

Rapporteur for opinion: Pietro Bartolo

### SUGGESTIONS

The Committee on Fisheries calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- having regard to Article 13.9 of the EU-Vietnam Free Trade Agreement (FTA),
  - having regard to the conclusions following its fact-finding mission to Vietnam (28 October to 1 November 2018) and the Commission’s evaluation of May 2018 on the country’s progress in tackling illegal, unregulated and unreported (IUU) fishing following the notification by the Commission of a ‘yellow card’ on 23 October 2017,
  - having regard to Article 28(2)(b) of Regulation (EU) No 1380/2013 on the Common Fisheries Policy<sup>1</sup>,
  - having regard to its resolution of 30 May 2018 on the implementation of control measures for establishing the conformity of fisheries products with access criteria to the EU market<sup>2</sup>,
  - having regard to the Commission communication of 14 October 2015 entitled ‘Trade for all: Towards a more responsible trade and investment policy’ (COM(2015)0497),
- A. whereas the EU-Vietnam FTA recognises the importance of ensuring the conservation and sustainable management of living marine resources and ecosystems together with the promotion of sustainable aquaculture and provides for cooperation in the fight against IUU fishing under Article 13.9;
- B. whereas in 2017 the European Union issued Vietnam with a ‘yellow card’, which is still applicable, as a non-cooperating country in the fight against IUU fishing, on account of

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<sup>1</sup> OJ L 354, 28.12.2013, p. 22.

<sup>2</sup> Texts adopted, P8\_TA(2018)0223.

the serious deficiencies in its control system;

- C. whereas some fish-based products, such as those with CN codes 1604 14 21 and 1604 14 26, are not included in the duty-free regime in the FTA owing to their sensitivity for the European Union;
  - D. whereas it is acknowledged that IUU fishing constitutes an organised crime of the seas which has disastrous environmental and socio-economic impacts worldwide and creates unfair competition for the European fishing industry;
  - E. whereas Vietnam is the world's fourth biggest fish producer, followed by the European Union, and the fourth biggest producer of aquaculture products;
  - F. whereas the EU is the world's largest trader of fisheries and aquaculture products in value terms, having generated a trade volume of more than EUR 2.3 billion in 2017; whereas the EU imports more than 65 % of the fish products it consumes and is one of the largest foreign investors in Vietnam;
  - G. whereas Vietnam has so far secured protection for one geographical indication (GI) product – Phú Quốc, a variety of fish sauce – as a protected designation of origin (PDO) within the EU quality schemes; whereas the FTA provides for the protection of 169 EU GIs for wines, spirits and food products in Vietnam and reciprocal protection for 39 Vietnamese GIs in the EU;
  - H. whereas Vietnam has a market of 95 million people with long-established traditions in the consumption of fish and aquaculture products, and is the EU's second largest trading partner in the region of the Association of Southeast Asian Nations (ASEAN); underlines the potential for growth and the significant benefits that fisheries could herald for European small and medium-sized enterprises and considers this sector of vital interest for European prosperity and innovation;
1. Acknowledges and appreciates the adoption by the Vietnamese Government in 2017 of a new framework law for the fisheries sector, which takes into consideration international and regional obligations, agreements, and recommendations by the Commission, together with various sub-law documents; appreciates, moreover, the concerted efforts to inform fishermen of legal regulations and the setting up of coordinated monitoring, control and enforcement structures committed to effectively tackling and deterring IUU fishing, as well as Vietnam's commitment to present its national implementation plan for complying with the provisions of the FTA;
  2. Is concerned at the so-called 'blue boat' phenomenon of the Vietnamese fishermen, which has been pursued in recent years in the territorial waters of several neighbouring countries such as Thailand, the Philippines, Indonesia and Malaysia, in Pacific states such as Palau, Micronesia, Papua New Guinea, the Solomon Islands, Vanuatu and New Caledonia, and in Australia, and has created economic, social and security concerns for the nations affected and the region as a whole; expresses the hope that the efforts undertaken by the authorities will immediately serve the common good of both EU-Vietnam relations and the stability of the broader Southeast Asian region;
  3. Appreciates the framework for cooperation set out in the Trade and Sustainable

Development Chapter of the FTA on fostering sustainable aquaculture and strengthening cooperation between the partners in the fight against IUU fishing;

4. Underlines the importance of strengthening constructive dialogue with Vietnam in order to successfully address the global challenges posed by illegal fishing and considers that the FTA serves as a signal of encouragement to Vietnam to redouble its efforts to rapidly establish a regulatory and control framework to combat IUU fishing effectively;
5. Stresses that the entry into force of the FTA could create the conditions for major and fruitful cooperation between the two parties with a view to implementing effectively its provisions on sustainable development; underlines the fact that the proper implementation of the FTA could advance Vietnam's compliance with EU standards on the environment, fisheries governance, labour rights and social rights, and considers that any further delay to ratification would undermine the EU's credibility and leverage over Vietnam and its overall geostrategic ambitions in the ASEAN region;
6. Appreciates the increased region-wide cooperation on fisheries between the ASEAN Member States; acknowledges Vietnam's commitment to address IUU fishing by applying for full membership of the Western and Central Pacific Fisheries Commission (WCPFC) and by acceding, on 3 January 2019, to the Agreement on Port State Measures (PSMA), the first binding international agreement to specifically target IUU fishing, both of which will enable the EU and Vietnam to deepen their cooperation and develop more ambitious measures to tackle IUU fishing;
7. Underlines the huge challenges still facing the Vietnamese authorities with regard to the overcapacity of its highly fragmented fishing fleet and the overexploitation of marine resources;
8. Highlights the serious labour abuses that have been reported in the Vietnamese fishing industry; laments the fact, in this context, that Vietnam has not yet ratified the ILO Work in Fishing Convention (ILO C188) and urges the Vietnamese authorities to do so before the entry into force of the FTA;
9. Urges the Vietnamese authorities, with a view to guaranteeing a level playing field between EU and Vietnamese operators, preventing unfair competition and ensuring that no Vietnamese products originate from IUU fishing, to ensure the full traceability of fisheries products destined for export to the EU market and that those products meet the EU's general health, environmental, social and phytosanitary requirements before entering the EU market;
10. Stresses the need for further efforts to ensure that the new legal framework is implemented and enforced effectively, particularly at provincial level, and to communicate the importance of compliance to the local stakeholders in the fisheries sector;
11. Recalls that fishing and aquaculture products are conditional sectors for investment, as described in Vietnam's investment framework, which prohibit any investment deemed detrimental to the environment, among other areas;
12. Encourages the Vietnamese authorities to allocate sufficient financial and human

resources to the fight against IUU fishing at both national and provincial level and to step up awareness campaigns and capacity-building initiatives to discourage the inappropriate use of antibiotics in aquaculture and prevent the insurgence of antimicrobial resistance (AMR);

13. Emphasises the importance of policy coherence between EU initiatives, particularly with regard to trade and environmental activities; highlights the need for trade agreements to be connected and aligned with the Common Fisheries Policy, including the EU's policy on IUU fishing, and for the provisions of the FTA Chapter on Trade and Sustainable Development to be respected and treated consistently; calls on the Commission, therefore, to ensure the effective mainstreaming of and policy coherence between the EU's various sustainable development policies, including sustainable fisheries and aquaculture, within future trade agreements;
14. Emphasises that trade in fisheries and aquaculture products, and preferential tariffs, should be accompanied by conditions, such as controls, monitoring, auditing and a review of the achievements of the implementation of the Vietnamese Action Plan to tackle IUU fishing and the commitments made by Vietnam under Article 13.9 of the FTA;
15. Is concerned about the inclusion of a zero-tariff quota on exports of 11 500 tonnes of tinned tuna to the EU and its impact on the competitiveness of the EU canning sector, not least in view of the yellow card issued to Vietnam for failings relating to IUU fishing; considers it necessary to make this quota conditional on the remedying of such failings, and to monitor the impact of this type of quota on the EU industry and market;
16. Expresses its disappointment at the provisions of Article 12.26(2) of the FTA, which in principle does not allow a product to be added to the list of GIs, which are to be protected on the territory of the respective party, if that product is already listed in the relevant register of either party on the date of signature of the FTA; stresses the importance, in this context, of including all EU fisheries products protected with a GI of origin in Chapter 12 of the FTA on Intellectual Property;
17. Recalls that the yellow card notification should be seen as a means to urge the Vietnamese authorities to take measures to tackle IUU fishing activities; believes that further extension of the yellow card should be accompanied by clear operational targets and timelines with a view to implementing the measures needed and giving a constructive dimension to this sanction; recalls, furthermore, that the revocation of the yellow card must be conditional on the full and effective implementation of all recommendations made by the EU in 2017;
18. Calls on the Commission to provide specific financial and technical support to Vietnam in order to facilitate the implementation of environmental sustainability standards for seafood products; calls on the Commission, moreover, to incentivise individual Vietnamese fisheries to help meet sustainability standards;
19. Underlines the importance of a responsible trade policy as an instrument for the implementation of the Sustainable Development Goals;
20. Recalls that the IUU Regulation is the most effective instrument for ensuring

sustainable fisheries at a global level and expresses concerns about granting preferential trade conditions to a country subject to the yellow card procedure; calls on the Commission to continue monitoring Vietnam's efforts to ensure the country continues to make progress in combatting IUU fishing and to make full use of all the tools at its disposal, including the 'red card', should Vietnam fail to fulfil the conditions for sustainable fisheries and safe imports of fish and seafood products into the EU market; calls on the Commission to provide for safeguard measures in future agreements, such as the possibility of suspending preferential tariffs on fish products, until the yellow card has been lifted.



## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

22	+
ECR	Bert-Jan Ruissen, Ruža Tomašić
NI	Rosa D'Amato
PPE	Peter van Dalen, Niclas Herbst, Jeroen Lenaers, Francisco José Millán Mon, Cláudia Monteiro de Aguiar, Maria Walsh, Theodoros Zagorakis
RENEW	Izaskun Bilbao Barandica, Chris Davies, Pierre Karleskind
S&D	Clara Aguilera, Pietro Bartolo, Richard Corbett, Nicolás González Casares, Predrag Fred Matic, Manuel Pizarro
VERTS/ALE	Christian Allard, Francisco Guerreiro, Grace O'Sullivan

2	-
GUE/NGL	João Ferreira
NI	June Alison Mummery

2	0
ID	Rosanna Conte, Maxette Pirbakas

**Key to symbols:**

+ : in favour

- : against

0 : abstention

## PROCEDURE – COMMITTEE RESPONSIBLE

<b>Title</b>	Conclusion of the Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam		
<b>References</b>	2018/0356M(NLE)		
<b>Date of consultation / request for consent</b>	17.1.2019		
<b>Committee responsible</b> Date announced in plenary	INTA 24.10.2019		
<b>Committees asked for opinions</b> Date announced in plenary	AFET 24.10.2019	DEVE 24.10.2019	PECH 24.10.2019
<b>Rapporteurs</b> Date appointed	Geert Bourgeois 23.9.2019		
<b>Previous rapporteurs</b>	Jan Zahradil		
<b>Discussed in committee</b>	2.10.2019	6.11.2019	3.12.2019
<b>Date adopted</b>	21.1.2020		
<b>Result of final vote</b>	+: –: 0:	29 9 2	
<b>Members present for the final vote</b>	Nikos Androulakis, Anna-Michelle Asimakopoulou, Tiziana Beghin, Geert Bourgeois, Jordi Cañas, Daniel Caspary, Anna Cavazzini, Ellie Chowns, Miroslav Číž, Arnaud Danjean, Nicola Danti, Emmanouil Fragkos, Barbara Ann Gibson, Enikő Győri, Roman Haider, Christophe Hansen, Heidi Hautala, Danuta Maria Hübner, Karin Karlsbro, Jude Kirton-Darling, Maximilian Krah, Danilo Oscar Lancini, Bernd Lange, Emmanuel Maurel, Samira Rafaela, Luisa Regimenti, Inma Rodríguez-Piñero, Massimiliano Salini, Helmut Scholz, Liesje Schreinemacher, Sven Simon, Mihai Tudose, Kathleen Van Brempt, Marie-Pierre Vedrenne, Jörgen Warborn, James Wells, Iuliu Winkler, Jan Zahradil		
<b>Substitutes present for the final vote</b>	Saskia Bricmont		
<b>Substitutes under Rule 209(7) present for the final vote</b>	Nicolas Bay		
<b>Date tabled</b>	28.1.2020		

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

29	+
ECR	Geert Bourgeois, Emmanouil Fragkos, Jan Zahradil
ID	Roman Haider, Maximilian Krah
NI	Tiziana Beghin
PPE	Anna-Michelle Asimakopoulou, Daniel Caspary, Arnaud Danjean, Enikő Győri, Christophe Hansen, Danuta Maria Hübner, Massimiliano Salini, Sven Simon, Jörgen Warborn, Iuliu Winkler
RENEW	Jordi Cañas, Barbara Ann Gibson, Karin Karlsbro, Samira Rafaela, Liesje Schreinemacher, Marie-Pierre Vedrenne
S&D	Nikos Androulakis, Miroslav Číž, Nicola Danti, Bernd Lange, Inma Rodríguez-Piñero, Mihai Tudose, Kathleen Van Brempt

9	-
GUE/NGL	Emmanuel Maurel, Helmut Scholz
ID	Nicolas Bay, Danilo Oscar Lancini, Luisa Regimenti
VERTS/ALE	Saskia Bricmont, Anna Cavazzini, Ellie Chowns, Heidi Hautala

2	0
NI	James Wells
S&D	Jude Kirton-Darling

Key to symbols:

+ : in favour

- : against

0 : abstention