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Desk study EU-Vietnam Agreement
***“The relationship between EU and
Vietnamese businesses in global supply
chains in the context of due diligence
regulations”***

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List of acronyms

ARISE	ASEAN Regional Integration Support by the EU
ASEAN	Association of Southeast Asian Nations
BAU	Business as Usual
CBAM	Carbon Border Adjustment Mechanism
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership
CSDD	Corporate Sustainability Due Diligence
CSR	Corporate Social Responsibility
DAG	Domestic Advisory Group
DFID	Department for International Development (United Kingdom)
EC	European Commission
ECJ	European Court of Justice
ENSA	European Network of Supervisory Authorities
EU	European Union
EUDR	European Union Deforestation-free products Regulation
EVFTA	European Union - Vietnam Free Trade Agreement
FAO	Food and Agriculture Organisation
FDI	Foreign Direct Investment
FLEGT	Forestry Law Enforcement, Governance and Trade
FTA	Free Trade Agreement
GDP	Gross Domestic Product
GHG	Greenhouse Gas
GI	Geographical Indication
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit (Germany)
GoV	Government of Vietnam
GVC	Global Value Chain
GSP	Generalised System of Preferences
HRIA	Human Rights Impact Assessment
IMF	International Monetary Fund
IPR	Intellectual Property Rights
ITC	International Trade Centre
ILO	International Labour Organisation
MNE	Multinational Enterprise
MSME	Micro, Small and Medium Enterprises
NDC	Nationally Determined Contribution
NGO	Non-Governmental Organisation
NTMs	Non-Tariff Measures
OECD	Organisation for Economic Co-operation and Development
OSH	Occupational Safety and health
RBC	Responsible Business Conduct
RoO	Rules of origin
SDG	Sustainable Development Goals
SIA	Sustainable impact assessment
SME	Small and Medium Enterprises
SOEs	State-owned enterprises
SPS	Sanitary and Phytosanitary
SPI	Sustainable Product Initiative
TBT	Technical Barriers to Trade
TRTA	Trade-Related Technical Assistance
UNCTAD	United Nations Conference on Trade and Development
US	United States
USAID	United States Agency for International Development
USD	United States Dollar
USTR	United States Trade Representative
VGCL	Vietnam General Confederation of Labour
VPA	Voluntary Partnership Agreement
WB	World Bank
WTO	World Trade Organisation

Executive Summary

Trading relations with the EU have a considerable impact on the capacity of third countries to achieve the UN Sustainable Development Goals which comes with a responsibility to address the potential adverse effects of these trade relations. The upcoming European Union legislation on Corporate Sustainability Due Diligence (CSDD) is an integral part of that effort since actions of private sector organisations significantly affect society and the environment in which they operate beyond the products and/or services they offer.

Yet, the increased complexity of that environments and reliance by companies on globalised value chains make adequate due diligence processes all the more difficult to implement. This study analyses the current EU-Vietnam trade relations and attempts to assess the potential impact of the upcoming EU CSDD directive on such relations through the lens of a selection of specific value chains selected according to their economic, social and environmental importance. These specific value chains are electronics, coffee, textile and timber.

The study outlines a number of recommendations for the EU and Vietnam to support adequate due diligence processes in their value chains. It calls in particular both the European Commission and the Government of Vietnam to adopt Due Diligence legislations aligned with international standards such as the UN Guiding Principles on Business and Human Rights (UNGP) or the OECD Due Diligence Guidance for Responsible Business Conduct. Such an alignment between the EU and Vietnamese DD policies would avoid policy fragmentation at the international level and provide economic operators, including Vietnamese exporters, with a transparent level-playing field thus facilitating sustainable trade relations between both partners. The European Commission should eventually work with other DGs as well as the EU Delegation in Vietnam to provide external partners with a consistent and informed message on the future implementation of the CSDD legislation.

The study also outlines a number of sectoral recommendations pertaining to the specific value chains identified:

1. The EU should provide targeted support (including financial) to conduct and share further studies on due diligence in the context of the EVFTA combined with activities designed to build capacities of government officials and rights holders to monitor UNGPs implementation. The EU could also elaborate on adequate purchasing practices requirements in the Corporate Sustainability Due Diligence Directive (CSDDD) to limit the risks for companies to cause or contribute to labour rights or safety breaches in the sector
2. The EU should promote and support a conducive environment on civic space, to ensure access to information and the ability of the whole civil society to seek and impart information and to ensure meaningful engagement with relevant stakeholders, including human rights defenders for their views to be taken into account with respect to activities that may significantly impact them
3. The EU should promote systematic consultations of independent civil society representatives in the context of the Domestic Advisory Groups (DAGs) and joint forum to provide evidence-based policy recommendations and inform policy makers. Direct technical and financial support should be provided to CSOs, including trade unions and human rights defenders, for them to be able to do so.
4. The EU should provide support for capacity building activities of smallholders to understand the new requirements implied by other relevant legislations such as the

VPA/FLEGT system or the recently adopted due diligence regulations, including EUDR, CBAM, Forced Labour Act etc. In particular, the EU should:

- Support multi-stakeholder initiatives to foster dialogue and share knowledge in the context of implementation of due diligence regulations including EUDR and CSDDD, while also taking into account the challenges faced by smallholder farmers.
 - support capacity-building initiatives for CSOs, human rights defenders, local small producer communities and local authorities, enabling them to effectively monitor and enforce compliance with the EUDR requirements.
5. The European Union should raise awareness among government officials, employees, and management in both large corporations and small and medium-sized enterprises (SMEs), as well as civil society. Clear messages, adequate guidance materials, and practical tools should be provided to support implementation, specifically customized for various sectors and industries. This includes recommendations on textile supply chain due diligence aligned with global standards.
 6. Both the EU and Vietnam should support the effective engagement with relevant stakeholders, including workers and human rights defenders in the elaboration/definition/monitoring/implementation of due diligence processes, plans and mechanisms by the company or the group, through information, participation, consultation and collective bargaining, and the integration of grievance mechanisms accessible to NGOs, human rights defenders and CSOs such as trade unions, unions and workers representatives in Due Diligence mechanisms. This would allow for such organisations and defenders to file complaints on due diligence related issues, human rights labour rights, working conditions or environmental concerns and allow for better monitoring and improvement of working conditions and human rights and environmental impact in relevant value chains.
 7. The EU should conduct a comprehensive SIA and human rights impact assessment and set up dedicated trade human rights complaint mechanism, both as recommended by the EU ombudsman¹²

The adoption of the EU legislation on CSDDD provides a crucial opportunity to improve sustainability aspects in key value chains between the EU and Vietnam. Both parties have now the chance to make do with their international commitments and promote the adoption and implementation of ambitious sustainability standards in their value chains.

¹ Decision 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 (26/02/2016). : <https://www.ombudsman.europa.eu/en/decision/en/64308>

² Closing note on the Strategic Initiative concerning how the European Commission ensures respect for human rights in the context of international trade agreements (SI/5/2021/VS)https://www.ombudsman.europa.eu/en/doc/correspondence/en/158519?utm_source=some_EO&utm_medium=twitter_organic&utm_campaign=trade_humanrights

1. Context:

1.1. Introduction on the EVFTA

The European Union and Vietnam signed a Free Trade Agreement (EVFTA) and an Investment Protection Agreement on 30 June 2019 which entered into force on 1st August 2020.

After 14 rounds of talks starting in June 2012 and following less successful earlier attempts with the Association of Southeast Asian Nations (ASEAN), negotiations of the EVFTA were formally concluded in December 2015. After being split into separate trade and investment agreements related to a European Court of Justice (ECJ) ruling, which stated that the EU does not have the mandate to conclude agreements on certain investment-related issues on its own, the EVFTA was adopted by the European Commission in October 2018, approved by the EU Council in June 2019 and, a week later, on 30 June 2019, signed in Hanoi by both parties.

Table 1: Timeline of the EVFTA.	
Date	Event
Oct-10	EU and Vietnam agree to negotiate FTA
Jun-12	Negotiations officially begin
Aug-15	Agreement on broad lines of EVFTA
Dec-15	Negotiations conclude, legal review starts
Feb-16	Final draft made public
May-17	ECJ ruling with implications for the EVFTA
Sep-17	EU requests Vietnam to split agreement
Jun-18	Vietnam agrees to split agreements
Oct-18	European Commission adopts EVFTA
Jun-19	European Council approves signing
Jun-19	EVFTA officially signed in Hanoi
Jan-20	EP INTA gives its consent
Feb-20	European Parliament gives its consent
Mar-20	EVFTA concluded by Council
Jun-20	Ratified by National Assembly of Vietnam
Aug-20	EVFTA enters into force

Source: author

After a green light from the European Parliament in early 2020, the EVFTA was concluded by the European Council in March, ratified by the National Assembly of Vietnam in June and entered into force on 1 August 2020 (see Table 1).

The EVFTA covers issues such as (i) Market Access for trade in goods; elimination of tariff and non-tariff measures, agreement on standards for key sectors, addressing Sanitary and Phytosanitary (SPS) and Technical Barriers to Trade (TBT) issues, trade facilitation and customs cooperation, and rules of origin (RoO); (ii) Commitments for the liberalisation of trade in services; (iii) Investment; (iv) Competition; (v) Government procurement; (vi) Regulatory environment; (vii) Sustainable development, including labour issues; and (viii) State-owned enterprises (SOEs) and the market status of Vietnam³. In terms of content, the EVFTA entails an almost full and reciprocal liberalisation of merchandise trade as well as provisions on non-trade barriers, competition policy and public procurement, among others (Grumiller et al., 2018). The Agreement was also promoted as putting a strong focus on sustainable development, to the point that the EU considers that it "can serve as a model for trade agreements concluded between the EU and developing countries"⁴.

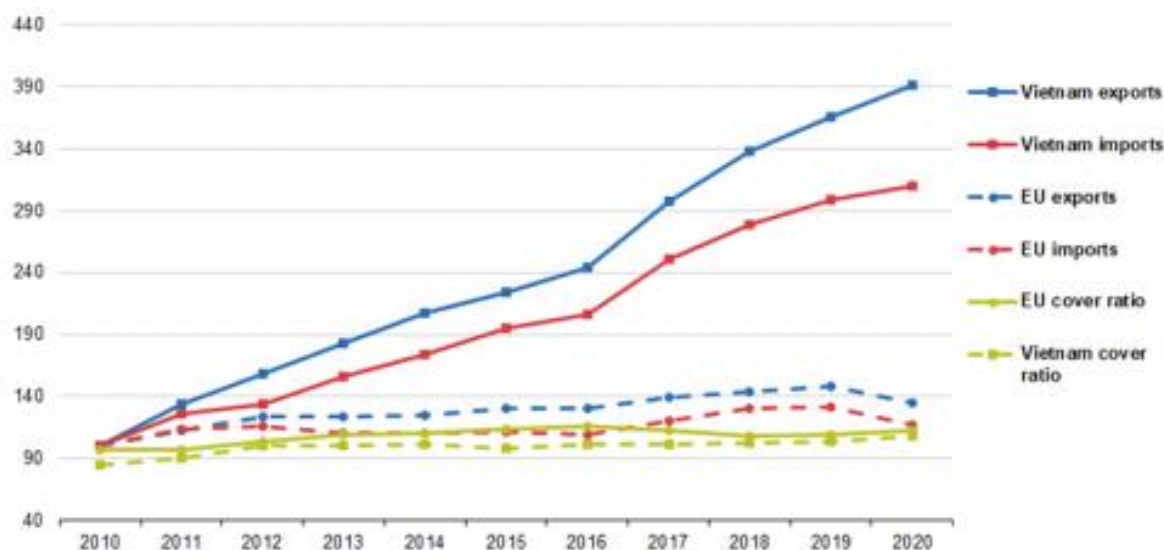
The EVFTA entered into force in a context of prosperous trade relations between both parties. EU import value from Vietnam reached 38.5 billion EUR in 2021 while exports were worth 10.6 billion EUR i.e. a trade surplus for Vietnam of 27.8 billion EUR, a 20% increase since 2019 when the EVFTA was signed, and more than four times the value of 10 years ago⁵.

³ See https://ec.europa.eu/commission/presscorner/detail/en/IP_15_5467

⁴ EU-Vietnam declaration announcing the conclusion of the FTA negotiations. [Link](#)

⁵ EUROSTAT - Vietnam-EU - international trade in goods statistics. [Link](#)

Figure 1: trade in goods of the EU and Vietnam, 2010-2020



Note: While the trade balance provides information on the absolute value of trading positions, the cover ratio provides a relative measure that is based on the ratio (in %) between the value of exports and the value of imports (i.e. if exports > imports then cover ratio > 100)

Source: Eurostat

This sharp increase in trade flows can be reasonably attributed to some extent to the EVFA as we note the jump in trade in goods between the EU and Vietnam as of 2016 (figure 1), which coincides with the publication of the draft text of the agreement (see table 1) that provided economic operators with a fairly good idea of the new trade environment that would be established after the entry into force of the agreement.

Other factors come into play, including the general economic success story of Vietnam in the past decades which we develop further in the next section, or the shift away from China for a number of companies, including EU companies, seeking to diversify and upscale the resilience and predictability of their supply chains. China tends to be increasingly seen as a less reliable or efficient actor as it engages in more opaque policy making, thus increasing the perceived risk for EU companies' investment, reputation or global compliance⁶. Such trends are also true for US companies and are eventually beneficial for neighbouring countries such as Vietnam. Economists at Japanese investment bank Nomura for instance found that Vietnam had been the largest winner from the US-China trade tensions with trade diversion equating to a gain of 7.9% of GDP⁷. Yet, from an economic perspective, the impact of the EVFTA is undeniable, even if it fits into a wider positive trend.

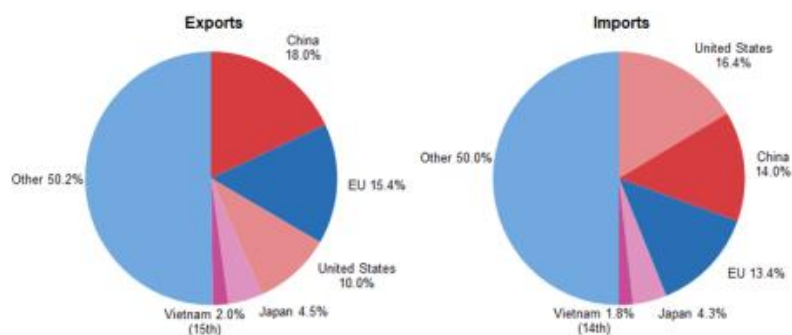
1.2. The economic success story of Vietnam

Vietnam plays a prominent role in world trade for a country of its economic size and population, standing as respectively 14th and 15th place in volumes of imports and exports worldwide (Figure 1).

⁶ European business in China position paper 2022/2023 - The European Union Chamber of Commerce in China (2022). [Link](#).

⁷ Deutsche Welle (2019). Vietnam is winning US-China trade war. [Link](#).

Figure 2: Vietnam's share of world exports and imports (2020)

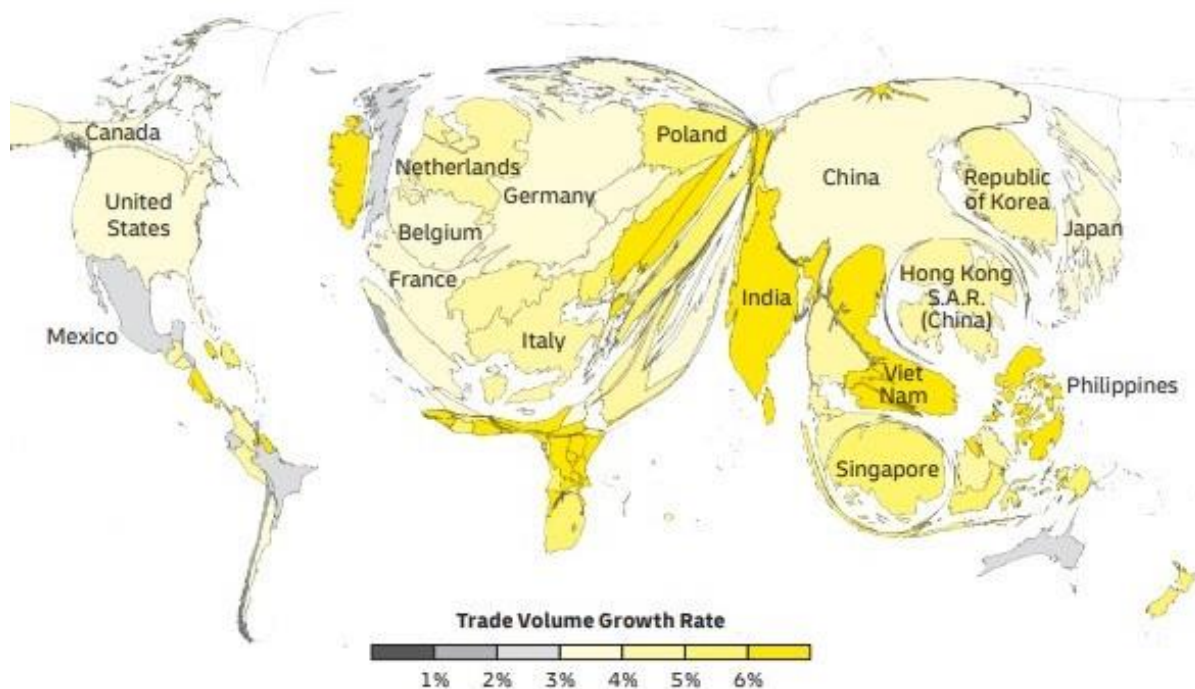


Source: Eurostat.

This prominence is expected to endure as Vietnam achieved the world's 8th largest increase in overall globalisation between 2001 and 2019 based on combined trade, capital, information, and people flows as measured in the DHL Global Connectedness Index. The country is even uniquely ranked among the top 10 countries over the past five years (2016-2021) for both the speed (growth rate) and scale (absolute amount) of its trade growth⁸. This represents a culmination of the country's efforts to scale up its development through its integration into manufacturing value chains since the mid-1980s when exports represented less than 20% of Vietnam's GDP (see box 1). The country then ranked among the world's poorest (with a GDP per capita of about \$500 in today's US dollars). By 2019, exports had then soared to 101% of GDP and Vietnam had reached middle-income status with a GDP per capita of nearly \$3,000 in today's US dollars (IMF, 2020).

Overall, this trend is expected to continue as Vietnam ranks among the top countries in the world in terms of forecast growth through 2026 (Figure 2).

Figure 3 : Merchandise trade volume growth, IMF forecast, 2021-2026



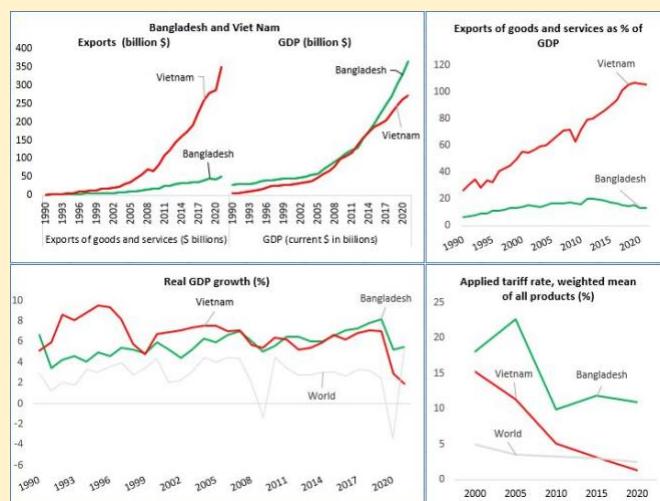
Source: IMF World Economic Outlook April 2022 and IMF Direction of Trade Statistics.

⁸ DHL trade growth atlas 2022 - Mapping the shifting landscape of global trade. [Link](#).

Box 1: Vietnam and Bangladesh - Two Trade Policy Choices:

In 1990, exports from Vietnam and Bangladesh were almost the same at around \$1.7 billion. Since then, Vietnam's exports rocketed to \$350 billion in 2021, and Bangladesh, which is regarded as an apparel export success story, saw its exports rise to just above \$50 billion.

Vietnam's export-led growth strategy has seen its export-GDP ratio rise from 25% in 1990 to more than 100% in 2021. The same ratio for Bangladesh, in contrast, peaked at 20% in 2011 and then declined to 13% in 2021.



In the early 1990s, while Bangladesh reduced its applied tariff rate from more than 70% to less than 20%, its import regime remains amongst the most protected ones in the developing world. In fact, Bangladesh is one of the very few countries to achieve and sustain high GDP growth with high protection for its import-competing sector. In 2020, the applied tariff rate in Bangladesh was over 10% compared to only 1.34% in Vietnam (see graphs, Mansur, 2018).

Most importantly, Vietnam's trade policy choices tended to invest more in human capital, infrastructure, Foreign Direct Investment (FDI) inflows and thus gained strong trade competitiveness (Nhat Chi Mai, 2019). Eventually, and while Bangladesh performed better in terms of GDP growth in the 2010s, Vietnam's GDP per capita is today 40% higher (World Bank). These two nations stand out as classic contrasting examples of trade policy choices between export-orientation and import-substituting industrialisation.

The EVFTA was deemed a strong fit in that economic success story as the EU considered it 'the most ambitious and comprehensive FTA that the EU has ever concluded with a developing country' (European Commission, 2016, p. 7). Data from the General Department of Vietnam Customs showed that the EU is now the third biggest export market and the fifth largest import market of Vietnam. Meanwhile, Vietnam surpassed Singapore to become the biggest trade partner of the EU in ASEAN and the world's 11th biggest supplier of goods to the bloc⁹. Figure 1 also demonstrates the impact of the publication of the draft text of the agreement on the trade relations between both partners, highlighting the appetite from operators on both sides to increase their economic ties.

Meanwhile, modelling from the World Bank estimate that Vietnam's GDP would increase by 2.4% in standard productivity by 2030 under the EVFTA relative to the baseline scenario, while exports and imports would increase by 12% and 14% respectively (World Bank, 2020). We provide more details on the EU-Vietnam trade relations in Section 2 below.

Last but not least, a sustainable Impact Assessment of the EVFTA conducted by International Economics in 2015 also concluded that the agreement might have a "limited, albeit positive impact on reducing poverty levels in Vietnam" with an expected 51,900 people escaping

⁹ Ministry of Industry and Trade (MOIT) of Vietnam (October 2022). [Link](#).

poverty with the implementation of the FTA¹⁰. World Bank estimations even increase the number of additional people lifted out of poverty due to the full implementation of the EVFTA to 0.1-0.8 million by 2030 (Ibid.)

1.3. The social, environmental and human rights context of the EVFTA

Vietnam's achievements in economic growth and poverty alleviation have been praised by the development community¹¹ and the EVFTA is perceived as further supporting these successes. Yet, a recent review of the agreement by the Institute for European Environmental Policy (IEEP, 2022) concluded that its provisions aiming to address social, environmental and human rights challenges in the country were not living up to the same standards. Although the EVFTA Trade and Sustainable Development (TSD) chapter indeed expands the coverage of international agreements to be ratified as part of the parties' commitments, it still fails to address key concerns related to the operationalisations of provisions aiming to foster sustainability in the TSD Chapter as highlighted in Table 2 below.

Table 2: Review of sustainability aspects in EVFTA:

Positive aspects	Negative aspects
<ul style="list-style-type: none"> ❖ Commonly reaffirming parties' commitments to 12 Multilateral Environmental Agreements - MEAs (Paris Agreement, Convention on Biological Diversity – CBD etc.), and to UNFCCC and agenda 2030 ❖ Highlighting the need to exchange information and cooperate to implement these commitments. ❖ Including the welfare perspective of present and future generations. This is a relatively new addition into FTA provisions although it so far lacks transcription in concrete actions/provisions. ❖ Including clauses on climate change, biodiversity, forestry, fisheries, sustainable energy and investment which is reflective of latest FTAs wide coverage. ❖ Including clause on due diligence taking into account relevant internationally agreed instruments that have been endorsed or are supported by that Party, such as the Organisation for Economic Co-operation and Development Guidelines for Multinational Enterprises 	<ul style="list-style-type: none"> ❖ Questions on the applicability of the language used on environmental aspects e.g. provisions stating that measures to implement MEAs "should not 'constitute a means of arbitrary or unjustifiable discrimination between the parties or a disguised restriction on trade". ❖ Mention of Sustainable Development Goals (SDGs) and agenda 2030 but lacking of elaboration and focus on civic space and the three pillars of UNGPs ❖ No mention of Sustainable Development Goals (SDGs) ❖ No monitoring framework for concrete action or progress required from the parties on the implementation of MEAs, environmental impacts and the human rights aspect of the just transition ❖ No new Sustainable Impact Assessment (SIA) to support the FTA negotiations; sole reliance on a 6-years old EU-ASEAN SIA, which lacked country-specific conclusions and does not respect human rights requirement as stated by the Ombudsman in 2016. ❖ Absence of dedicated human rights complaint mechanism as recommended by the Ombudsman in 2021¹² ❖ Civil society meetings were held prior to EU-Vietnam negotiations ending but as an ex-post briefing of negotiations status (Oct 2015).

Source: author.

From the outset there was a significant amount of criticism of the EU-Vietnam FTA due to the Vietnamese government's contested records on human and labour rights. Human rights concerns in Vietnam included detention of human rights activists and journalists, violations of

¹⁰ Sustainable Impact Assessment of the EU-Vietnam Free Trade Agreement. International Economics (2015). [Link](#).

¹¹ See for instance Share4VNDev. Poverty Reduction in Vietnam: Achievements and Challenges. [Link](#).

¹² Closing note on the Strategic Initiative concerning how the European Commission ensures respect for human rights in the context of international trade agreements (SI/5/2021/VS); https://www.ombudsman.europa.eu/en/doc/correspondence/en/158519?utm_source=some_EO&utm_medium=twitter_organic&utm_campaign=trade_humanrights

the freedom of expression and the right to protest, the restriction of democratic freedoms and violence against women¹³.

A human rights impact assessment (HRIA) was eventually demanded by civil society organisations and the European Parliament to assess the human rights situation in Vietnam, as well as the impact the FTA would have on human rights, and the action needed to address these issues¹⁴. But the European Commission argued that human rights clauses in the EU-Vietnam FTA were sufficient, and that no assessment was required. However, such human rights clauses appear to be of limited use for addressing the human rights issues that are prevalent in Vietnam because they are only activated in exceptional circumstances such as a *coup d'état* or in other situations where there is political unrest (Prickartz and al, 2019). The clause has been considered as not fully sufficient to ensure human rights enforcement in trade agreements¹⁵. A case was therefore brought by civil society organisations to the European Ombudsman for failure to conduct an HRIA, which she concluded constituted maladministration¹⁶. However, no subsequent HRIA was conducted by the Commission neither prior nor after to the EU-Vietnam FTA coming into force. In relation to labour rights, the EVFTA was negotiated in a context of significant external pressure for Vietnam to implement social reforms, such as the parallel negotiation of the Trans-Pacific Partnership (TPP) which included demands by the US, internal debates and social struggles but also involvement of the European Parliament on the matter.

These pressures are credited with being important in the Vietnamese government's decision to ratify ILO Convention 98 (Right to Organise and Collective Bargaining), to pass a new labour code, and to create a roadmap for ratifying the ILO core conventions to which it is not yet party (Marslev and al, 2021). This pre-ratification period is where the EU is in its strongest position to demand reform from potential trade partners (Smith, et al. 2020) and prior efforts bore fruits in several FTA negotiations processes, including with Vietnam (table 3)."

Table 3: Ratification of fundamental ILO conventions by EU FTA partners.

Ratification of fundamental ILO conventions by EU FTA partners								
EU FTAs			Canada	Mexico	South Korea	Japan	Singapore	Vietnam
Conclusion of negotiations*			30/10/2016	21/04/2018	06/10/2010	17/07/2018	19/10/2018	30/06/2019
Ratification of ILO fundamental conventions	Freedom of association	C087	1972	1950	2021	1965	X	X
		C098	14/06/2017	23/11/2018	2021	1953	1965	05/07/2019
	Forced labour	C029	2011	1934	2021	1932	1965	2007
		C105	1959	1959	X	2022	X	14/07/2020
	Discrimination	C100	1972	1952	1997	1967	2002	1997
		C111	1964	1961	1998	X	X	1997
	Child labour	C138	08/06/2016	2015	1999	2000	2005	2003
		C182	2000	2000	2001	2001	2001	2000

Ratification of convention that can reasonably be linked to the FTA negotiations process

Ratification of convention that stems for the TSD dispute settlement mechanism

Note: We consider here the date for conclusion of the negotiation i.e. the date of signature of the agreement rather than the date of ratification or entry into force. We consider that the bargaining power of the EU fades after the conclusion of the

¹³ See e.g. Human Rights Watch, World Report 2022, Vietnam. [Link](#).

¹⁴ European Parliament resolution (17/04/2014) on the state of play of the EUVFTA, Parag. 1&25. [Link](#).

¹⁵ See Strategic Initiative concerning how the European Commission ensures respect for human rights in the context of international trade agreements (SI/5/2021/VS);

https://www.ombudsman.europa.eu/en/doc/correspondence/en/158519?utm_source=some_EO&utm_medium=twitter_organic&utm_campaign=trade_humanrights

¹⁶ European Ombudsman, Decision 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 (26/02/2016). [Link](#).

negotiations, irrespective of when the agreement enters into force. We consider the ratification of a convention to be linked to the FTA negotiation process if it occurred within a 13-month range around the date of conclusions of the negotiations.

Source: author from ILO ratification of fundamental conventions by country. [Link](#).

However, since the EU-Vietnam FTA has come into force, concerns have been raised that Vietnam's labour reforms do not in fact allow for independent trade unions, and that progress on labour reform has otherwise stalled, despite the commitments made (Buckley, 2022, Hutt, 2021). The European Trade Union Confederation (ETUC) for instance called in December 2019 on the European Parliament to oppose the ratification of the EVFTA until Vietnam has ratified, or defined a binding roadmap to ratify, ILO Convention 87 and Convention 105 on the abolition of forced labour¹⁷. Vietnam defined a roadmap, ratified Convention 105 but has not yet ratified Convention 87 on freedom of association and protection of the right to organise. Plans to ratify Convention 87 in Vietnam in 2023 have not materialised, and there is no clear timeline as to future ratification. The EU DAG to the FTA also raised concerns about the ongoing imprisonment of civil society activists in Vietnam and about the necessity for Vietnamese DAG constituted under the FTA to be composed of "independent representative organisations"¹⁸.

The European Parliament eventually adopted a resolution on 21 January 2021 on the human rights situation in Vietnam¹⁹ in reaction to these evolutions, demanding the immediate release of the imprisoned journalists, human rights and environmental defenders, trade unionists and prisoners of conscience. In the same resolution, the European Parliament calls for Vietnam to revise its criminal code which governs notably the rights to freedom of association in Vietnam and is in direct contradiction to ILO convention 087 despite Vietnam's commitment to ratify it.

Arguments were made that the EU should have put more pressure on the Vietnamese government prior to the conclusion of the negotiations to press for domestic (legal) reforms and obtain so called "pre-ratification commitments", whether this relates to human rights, labour rights or environmental standards. The EU might have taken inspiration for instance from the US model of FTA compliance which formally involves several layers of the administration, from the U.S. Trade Representative (USTR) to the president to ensure that the FTA partner implement domestic reforms before the agreement can enter into force (Velut et al. 2022). The negotiations of the EVFTA indeed took place in parallel to talks over the Trans-Pacific Partnership (TPP) Agreement, an FTA between 12 countries along the Pacific Rim. While the TPP was scrapped with the US withdrawal, the groundwork of US negotiators related to the labour chapter allows to contextualise the impact of the EVFTA. The US negotiated a bilateral 'Consistency Plan', signed in February 2016, detailing the legal-institutional reforms that Vietnam needed to make prior to the entry into force of the TPP. The US did put much more pressure on pre-ratification conditions than the EU. We note that, after the US exit, negotiations continued and in March 2018, Vietnam and ten other countries signed the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), which retained the labour chapter, but – without the Consistency Plan – placed significantly weaker demands on Vietnam.

Regarding labour rights, the parties reaffirms, as in other EU FTAs, their commitments to the ILO 1998 Declaration in the TSD chapter of the EVFTA, including freedom of association and collective bargaining. The agreement, however, is notably vague, requiring each party to 'make continued and sustained efforts towards ratifying, to the extent it has not yet done so, the

¹⁷ ETUC position on the EU-Vietnam Free Trade and Investment Protection Agreements. [Link](#).

¹⁸ Statement from EU DAG on the occasion of the 1st Vietnam – EU Joint Civil Society Dialogue Forum meeting on 12/11/21. [Link](#).

¹⁹ EP resolution of 21 January 2021 on the human rights situation in Vietnam, in particular the case of human rights journalists Pham Chi Dung, Nguyen Tuong Thuy and Le Huu Minh Tuan (2021/2507(RSP)). [Link](#).

fundamental ILO conventions’ (Art. 13.4.3a) and to ‘effectively implement in its domestic laws and regulations and practice’ the content of those conventions (13.4.4). In terms of enforcement, the TSD chapter follows the usual dialogue-based design, even if the SEP can be seized and the human rights clause mobilised if deemed appropriated.

On environmental aspects, studies such as Heyl, K. et al. (2021) conclude that, despite a strong mention of MEAs and articles dedicated to trade and environment in the TSD Chapter (see table 4), the EVFTA lacks a comprehensive legal framework to uphold/enhance environmental protection as effective measures to ensure environmental protection as required by the goals of the Paris Agreement and the CBD are missing.

Table 4: Overview of the trade and environmental provisions included in the EVFTA TSD Chapter

Explicit reference to key MEAs						
UNFCCC	Paris Agreement	Kyoto Protocol	Montreal Protocol	CBD	CITES	Total
✓	✓	✓		✓	✓	12
Specific environmental area provisions						
Biodiversity	Forests & timber products	Marine resources & aquaculture	Climate change	Trade for sustainable development	Responsible management of supply chains	Total
✓	✓	✓	✓	✓		5

Source: Blot, E. & Kettunen, M. (2021).

Moreover, weak dispute settlement mechanisms to ensure compliance with sustainability measures limits their effectiveness. In addition, the provisions on regulatory cooperation and investor-state dispute settlement under the Investment Protection Agreement are likely to negatively affect the decision-making processes and (thus) discourage ecological pioneering policies in the trading Parties. Eventually, the EVFTA is deemed not compatible with global environmental goals. The SIA conducted by International Economics also concluded that the FTA was “likely to have a very limited impact on the environment as Vietnam’s growth will inherently be detrimental to CO2 emissions and other polluting issues”²⁰ and recommended that such environmental issues be addressed with environmental rather than trade policies.

A notable miss in the context of this study is the absence of specific text on Responsible management of supply chains in the EVFTA although the agreement does cover the notions of Corporate Social Responsibility (See section 3.1).

1.4. Due Diligence definition

It is important to note that not all countries may share the same understanding on what constitutes due diligence processes, and that include the EU and Vietnam (see box 3), hence the need to develop a shared understanding around global standards to facilitate cooperation on the matter. The most developed set of rules on the concept of due diligence globally are the UNGPs and its three pillars, referred to in OECD Due Diligence Guidance for Responsible Business Conduct²¹ refers since its revision in 2011²³. They call for companies and specifically management systems to adopt and integrate responsible business conduct covering their own operations and their supply chain in their policy. These processes include the following key operations:

²⁰ Ibid.

²¹ OECD. [Link](#).

²³ <https://www.ungpreporting.org/>

- **Embed responsible business conduct into policies and management systems**
- **Identify, assess, cease, prevent or mitigate and remedy harm** in the enterprise's own operations and in its supply chain.
 - Scope the risks of harm in the enterprise's own operations and in its supply chain.
 - Conduct a self-assessment of the enterprise's own operations.
 - Assess suppliers associated with higher-risks at the site-level.
 - Assess the enterprise's relationship to impacts.
 - Cease, prevent or mitigate harm (WHEN PREVENTION AND AVOIDANCE NOT POSSIBLE) in the enterprise's own operations and in the enterprise's supply chain.
 - Remedy
- **Track:** verify, monitor and validate progress on due diligence and its effectiveness in own operations and in the enterprise's supply chain.
- **Communicate:** communicate publicly and with affected stakeholders on the enterprise's due diligence processes, including how the enterprise has addressed potential and actual harm.
- **Remediate:** Provide for or cooperate in remediation when appropriate
- **Engage meaningfully with stakeholders** at all stage of the due diligence process, 'stakeholders' meaning the company's employees, the employees of its subsidiaries, trade unions and workers' representatives, consumers and other individuals, groupings, communities or entities whose rights or interests are or could be affected by the products, services and operations of the company, its subsidiaries and its business partners, including civil society organisations and persons whose purposes include the protection of the environment labour rights and human rights

In this study we will present the Corporate Sustainability Due Diligence Directive (CSDDD) which is inspired by these principles and outline other initiatives at the national or regional level to uptake due diligence processes in companies' operations. We will also look at a set of specific value chains between the EU and Vietnam and assess whether due diligence process are or will be implemented from a sectoral perspective. Ultimately we will outline existing or future support measures designed to support stakeholders to abide by the new requirements.

2. Analysis of EU-Vietnam trade flows and relevant value chains:

2.1. The EU-Vietnam trade relations in a changing social and environmental context.

Trade relations between Vietnam and the EU have been relatively stable for over three decades and the EU was the third-largest export market and the sixth-largest import market for Vietnam in 2018²⁴. From 2001 to 2018, Vietnam's exports to the EU have steadily grown at an average annual rate of 16% even though the share of Vietnam's total exports to the EU slightly decrease from 21% to 17% (although with strong variations among sectors as shown in table 6 below). Similarly, the annual growth rate of Vietnam's imports from the EU has been 14% on average (World Bank, 2020).

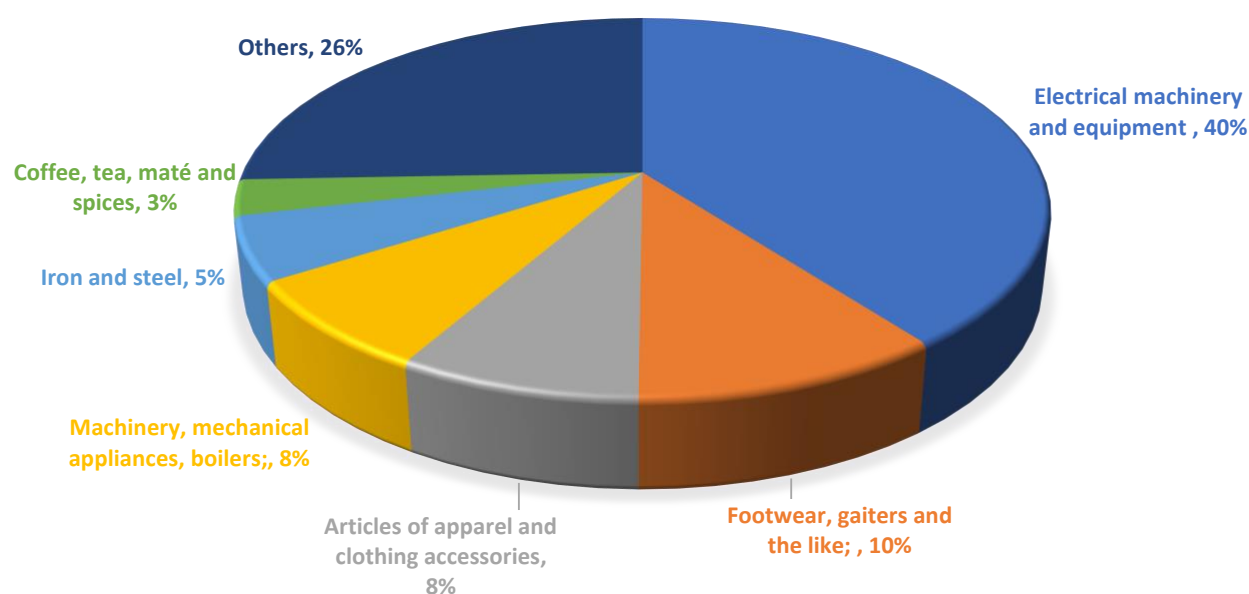
²⁴ WITS. World Bank. [Link](#).

Furthermore, bilateral trade between Vietnam and the EU tends to support strengthening Vietnam's key global value chains as Vietnam's most popular exports include manufacturing (electronics and electrical equipment, apparel, machinery etc.), agricultural products such as coffee or timber (World Bank, 2020).

Table 5: Vietnam's exports to the European Union (2021, value, thousand EUR).

Product code	Product label	Viet Nam's exports to European Union (EU 27)			
		Value in 2019	Value in 2020	Value in 2021	Total
'TOTAL	All products	31,918,086.00	30,731,024.00	33,857,625.00	100%
'85	Electrical machinery and equipment and parts thereof	13,201,979.00	12,963,027.00	13,433,675.00	40%
'64	Footwear, gaiters and the like; parts of such articles	4,109,614.00	3,465,482.00	3,538,461.00	10%
61 & 62	Articles of apparel and clothing accessories	3,129,017.00	2,697,929.00	2,760,750.00	8%
'84	Machinery, mechanical appliances, nuclear reactors, boilers;	2,323,800.00	2,686,054.00	2,594,785.00	8%
'72	Iron and steel	275,090.00	241,326.00	1,836,649.00	5%
'09	Coffee, tea, maté and spices	1,067,660.00	954,541.00	1,030,004.00	3%
	Others	7,810,918.00	7,722,704.00	8,663,348.00	26%

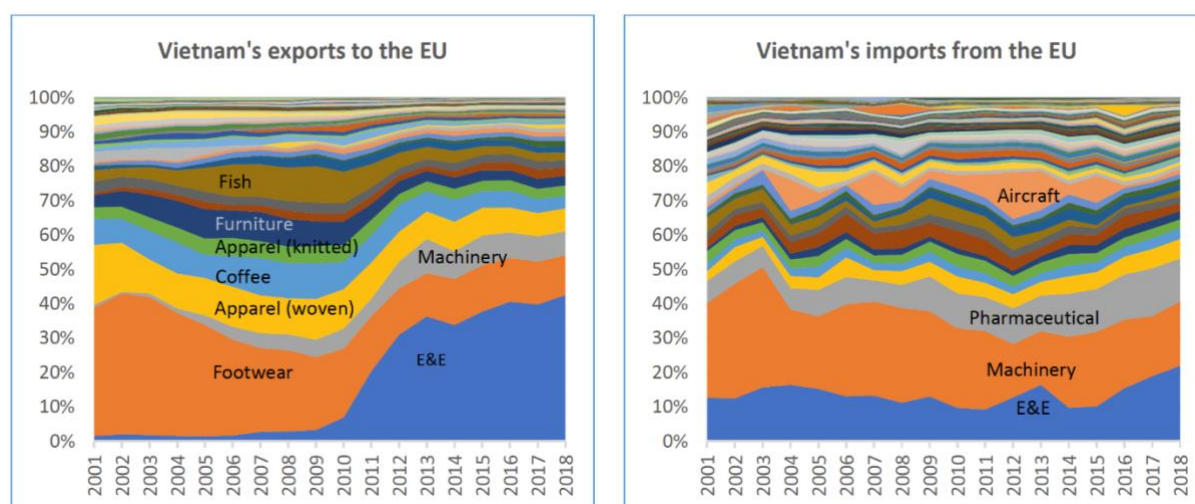
Graph 1: Bilateral trade between Vietnam and the EU (2021, value).



Source: Author, from ITC trade map. <https://www.trademap.org/>

These products fall mostly into two groups: capital goods and consumer goods. Vietnam consistently upgraded its export mix over time with a strong increase of the share of exports of capital goods deriving mostly from an increase in the export of electronics products even as it continues to be a major exporter of textiles. Electronics comprised 40% of Vietnam's goods exports in 2019, up from just 6% in 2000, taking over market shares from textiles which declined from 30% to 24% over the same period²⁵. The same trend can be observed, in an even steeper evolution, when looking at Vietnam's exports specifically to the EU (Table 6).

²⁵ Atlas of Economic Complexity – Country profile: Vietnam. [Link](#).

Table 6: EU-Vietnam sectoral trade relationship

Source: World Bank, 2020

Note: E&E = electronics and electrical equipment

Vietnam imports from the EU on the other hand remained relatively stable over the past two decade.

Social Context

The sectors of employment in Vietnam are relatively equally distributed among Agriculture, Industry and Services with respectively, 27%, 30% and 35% of the workforce²⁶. Average monthly earnings of women employees amounts to 87% of man employees which remain a significant gap although we assume that such a number hides high discrepancies among different sectors.

Table 7: Labour indicators in Vietnam (2021)

Indicators	Total	Men	Women
Labour force participation rate (%)	73	78	68
Employment-population ratio (%)	71	76	67
Share of managers, professionals (incl. associates) and technicians (%)	11	10	12
Share with less than basic education (%)	11	9	12
Share with advanced education (%)	14	13	15
Unemployment rate (%)	2	3	2
Share of youth not in employment, education or training (%)	15	14	16
Average monthly earnings of employees - VND Dong (Euro in Jan-23)	6,746,288 (268.55)	7,130,423 (283.84)	6,244,640 (248.58)
Monthly minimum wage, local currency	3,895,500 (155.07)	N.A.	N.A.
Average weekly hours actually worked per employed person	39	40	38
Share of employed working more than 48 hours per week (%)	27	30	24
Collective bargaining coverage rate (%; 2018)	25	N.A.	N.A.
Trade union density rate (%; 2018)	50	N.A.	N.A.
Population covered by at least one social protection benefit (%; 2020)	39	N.A.	N.A.

Source: ILO-STATISTICS - Micro data processing. [Link](#). Exchange rate InforEuro. [Link](#).

The figures presented above tend to paint a relatively positive picture of the labour situation in Vietnam in terms of unemployment rate, distribution among socio-professional categories, average weekly hours worked, or average monthly earnings of employees compared to official minimum wage. Yet some figures remain less positive with close to a third of employees working more than 48h per week, which is over the legal limit in the EU as per the EU's Working Time Directive (European Commission, 2003). The Vietnamese workers' average monthly salary also remains only a seventh of the regional average (South East Asia)²⁷ although Vietnam's National Wage Council an average increase of 5.5 percent in region-based minimum

²⁶ ILO Stats – Vietnam. [Link](#).

²⁷ Total Workforce Index (2019). [Link](#).

wage for non-state employees, starting from January 2020. Other progresses on labour conditions were promoted in the new national labour code adopted in 2021 (see Box 2).

Box 2: The new Labour code in Vietnam

Vietnam issued an amended Labour Code effective as of January 2021²⁸ to accompany the integration of Vietnam in the world economy. Key provisions of the new labour code entail:

Working hours: normal working hours cannot exceed eight hours a day or 48 hours per week, except under specific exemptions based on prior agreement between employee and employer, or to address higher workloads in certain sectors subject to seasonal demand (such as textile).

Labour contracts: only two types of labour contracts are listed (against three previously). Definite-term contracts, which cannot have a term longer than three years and can be renewed only once, and indefinite-term contracts. Seasonal contracts are no longer permitted as of 2021.

Termination: For unilateral termination, employers must give prior notice of at least 120 days for indefinite term contracts and at least a quarter of the duration for contracts less than 12 months. Furthermore, employees will be able to immediately terminate a contract for mistreatment, pregnancy or if the employer fails to pay salary on time (against previous legislation which required a minimum notice of 30 days for definite term and 45 days for indefinite term).

Collective bargaining: Vietnam allows workers' representative organisations (WRO), to gather at the company level once and if a relevant state agency has registered them and registration is maintained, given that WRO leaders cannot have a criminal record. -.

Discrimination: The new code has safeguards protecting employees from discrimination at the workplace. This includes protection from sexual harassment and discrimination based on skin colour, race, nationality, ethnic group, gender, marital status, pregnancy, political views, disability, HIV status or if in a trade group.

Most importantly, these figures do not cater for the informal economy which might skew this overall positive impression. Yet, World Economics estimate the size of Vietnam's informal economy to be "only" 20.5% of the country's GDP which, although a relatively high number, remains below the ratio of several EU member States such as Spain (21.3%) or Italy (23.7%)²⁹. Other sources estimate the size of the informal economy in Vietnam between 15% and 27% of GDP (Nguyen Thai Hoa, 2019), thus tempering the idea that the incorporation of the informal economy in the overall labour figures presented above would significantly alter the results³⁰. Furthermore, studies show that the trade openness resulting from the inclusion of Vietnam in the world economy, including through the signing of the EVFTA, has had a positive impact on reducing the size of the informal economy in the country (Ha Hoang, 2020).

That being said, informality remains extremely present in specific sectors such as agriculture which will shed a particular light in the potential impact of due diligence processes in agri-value chains. Overall, The ILO recommends for Vietnam to implement a formalisation strategy

²⁸ Decree 145/2020/ND-CP accessible [here](#).

²⁹ World Economics (2022). Vietnam's Informal Economy Size. [Link](#)

³⁰ There is a wide discrepancy on the number of informal workers in Vietnam based on different data sources and their definitions of informality. For instance using the ILO definition suggests there were 38.8 million informal workers in the country in 2018 (ILO, 2021), while the Vietnamese National Statistical Office (GSO) definition suggests there were only 19.3 million – or about one half – as it does not include household agricultural production. For the purpose of this study which aims to analyse export trends and patterns, it makes sense to not consider household agricultural production in informality numbers either.

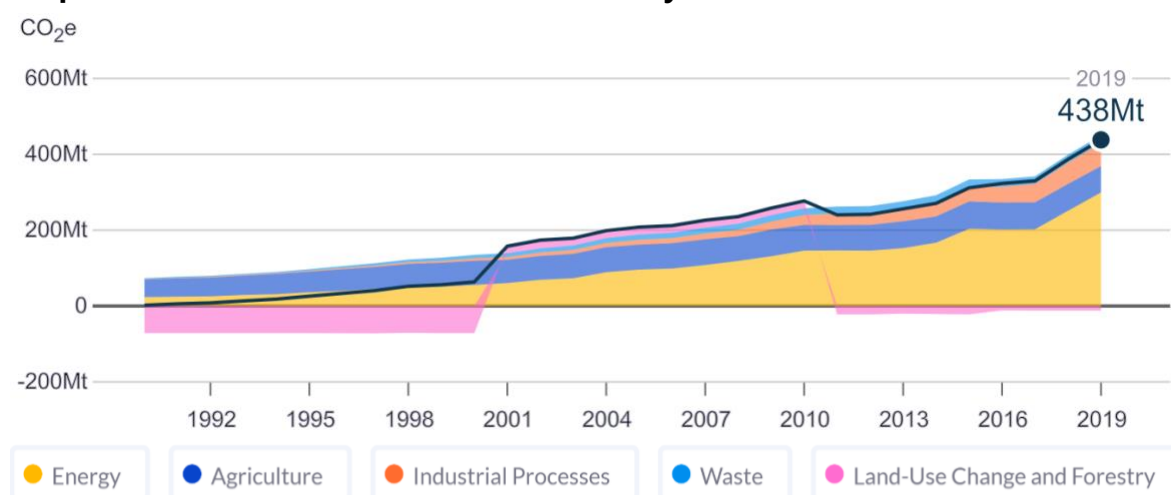
through coordinated and comprehensive approach as “promoting economic growth, although an important element, is not enough in itself” (ILO, 2021).

Environmental context

According to the third and final report of the UN’s Intergovernmental Panel on Climate Change (IPCC) sixth assessment published in April 2022, warning that it is “now or never” to limit global warming to 1.5°C, it is clear that the climate crisis is accelerating at a pace like never before. From deforestation and droughts to air pollution and plastic waste, there are several factors exacerbating climate change and its consequences are felt everywhere in the world. However, countries in the global south such as Vietnam suffer the most, as they often lack financial resources to tackle the emergency. Furthermore, Vietnam, with over 3,200 km of coastline and many low-lying cities and river delta regions, remains amongst the most vulnerable countries in the world to climate change (World Bank, 2020).

Vietnam is the World's 19th largest Greenhouse Gas (GHG) emitter, with a total share of 0.88% of total GHG emissions, and scores 95.2 on the World Economics Emission Index³¹ which places the country 17th worldwide between Germany and Algeria. The emissions are also on an upward trend (see Graph 2.) Yet the country’s carbon emission per Capita is only of 4.5 tCO₂e per person³² which is quite low (as a comparison, Germany and China emit 8 tCO₂e per person, the US 15 tCO₂e per person)³³.

Graph 2: GHG historical emissions of Vietnam by sectors



Source: Climate Watch. [Link](#).

Vietnam submitted its latest Nationally Determined Contribution (NDC) in November 2022. The Paris Agreement calls on countries to deliver new Nationally Determined Contributions (NDCs) every five years that are informed by the latest advances in technology, science and shifting economic trends. In its NDC, Vietnam commits to reducing its emissions by 15.8% (unconditional) and by 43.5% (conditional) by 2030 compared to “Business as Usual” (BAU). Yet the NDC lacks differentiated sectorial approach as it does not include strengthened or added sectoral targets.

Relevant recent initiatives from Vietnam to abide by international environmental commitments include Decision No. 876/QĐ-TTg (July 2022) on approving the Action Program for Transition to Green Energy and Mitigation of Carbon Dioxide and Methane Emissions from

³¹ The WEEI integrates other aspects such as air quality or water accessibility.

³² Climate Watch. [Link](#).

³³ World Economics. [Link](#).

Transportation³⁴, Decision No. 500/QĐ-TTg (2023) on approving the National Electricity Development Plan for 2021-2030, vision to 2050³⁵, Law No. 72/2020/QĐ14 (November 2020) on Environmental Protection³⁶, and the “One Strategic Framework for Sustainable Development Cooperation between the Government of the Socialist Republic of Vietnam and the United Nations for the Period 2022-2026” published in November 2022³⁷, among others. These necessarily imply a number of obligations for companies operating in Vietnam to adhere to stronger environmental standards and local requirements.

The private sector is also picking up on the process as 8 companies in Vietnam are now committed to set a “Science-Based Target” (i.e. in line with what the latest climate science deems necessary to meet the goals of the Paris Agreement) according to the “companies taking action tracker”³⁸. This trend is up from 2 companies in 2021, and 0 in 2020 and before. One company, Frasers property development services co., Ltd, even set a 1.5° target through a 46.2% reduction of its absolute scope 1 & 2 GHG emissions by 2030 from 2019.

This sense of urgency must be supported as climate change impacts such as higher and more variable temperatures or sea level rise are already disrupting economic activity and undermining growth with initial calculations suggesting that Vietnam lost \$10 billion in 2020, or 3.2 percent of GDP, to climate change impacts. This trend will only get worse as it is estimated that, without proper adaptation and mitigation measures, climate change will cost Vietnam 12% to 14.5% of GDP a year by 2050 and could plunge up to one million people into extreme poverty by 2030 (World Bank, 2022).

On the same time and as recalled by the UN Special rapporteur Clément Voule in 2022, effective climate action and just transitions depend on individuals’ ability to freely organize and participate in decision-making, requiring the protection of their rights to peaceful assembly and association, as emphasized by the Paris Agreement’s human rights obligations.³⁹ Regarding to the arrest of human rights and environment defenders in Vietnam OHCHR and UNEP urged an end to punitive actions against environmental and human rights advocates, stressing that civil society plays a vital role in addressing climate change, biodiversity loss, and pollution, and called on all Member States to protect the rights of environmental defenders by ensuring laws comply with international human rights standards⁴⁰.

³⁴ Available here: [Link](#).

³⁵ Available here: [Link](#).

³⁶ Available here: [Link](#).

³⁷ Available here: [Link](#).

³⁸ Science Based targets/Companies taking action. [Link](#).

³⁹ “The ability of individuals to mobilize, organize and connect and to contribute to shaping public opinion and decision-making without fear [...] is essential to the production of effective climate action and just transitions. Ensuring that such contributions can be made requires full enjoyment of the rights to freedom of peaceful assembly and of association. [...] The Paris Agreement calls for States to “respect, promote and consider their respective obligations on human rights”, [...] Compliance with these obligations in the context of the current climate crisis requires [...]: A. An enabling environment for civil society”. Available here: [Link](#).

⁴⁰ “It is imperative to stop the use of all punitive measures routinely leveled against human rights and environmental rights advocates in Viet Nam”[...] “We urge the authorities to ensure that environmental advocates and civil society organizations working on the environment in Viet Nam can operate freely [...] **Civil society which peacefully advocates for the right to a healthy environment is a fundamental partner in addressing the triple planetary crisis of climate change, biodiversity loss and pollution and to achieve sustainable development.**[...] The United Nations entities called on all Member States to uphold everyone’s right to participate in environmental protection and decision-making and to recognize the importance that environmental advocates play in contributing to the achievement of sustainable development. They also called for concrete steps to prevent and stop the use of legislation to hinder or

2.2. A heatmap of relevant value chains for detailed analysis

2.2.1. Methodology

We aimed in this study to select several value chains for further analysis against the current of future impacts of due diligence legislations. To do so, we retained a number of economic, social, environmental and human rights criteria measured by a number of indicators as listed in table 8.

Table 8: Criteria and indicators for value chain selection. These were assessed qualitatively.

In our analysis, we sought to use the following criteria (list non exhaustive)
<i>Economic criteria:</i> <ul style="list-style-type: none">▪ Trade volume; trade value; share of the GDP and/or of total exports.▪ Evolution of Vietnamese key exports to the EU in the context of the EVFTA.▪ Recent evolution of trade flows and opportunities in the context of EU diversification from China.
<i>Social, environmental, and human rights criteria:</i> <ul style="list-style-type: none">▪ Risks of adverse impacts.▪ Information on the domestic situations and existing vulnerabilities in the EU and Vietnam.▪ Relevant for the energy & circular economy transition of both partners.
<i>Existence of relevant legislation affecting the sector in the EU and/or in Vietnam:</i> <ul style="list-style-type: none">▪ General or sector-specific due diligence legislation(s).▪ Other relevant policies e.g. deforestation, CBAM, circular economy, energy efficiency etc.
<i>DAG members inputs:</i> all information provided by DAG members will be included in the analysis and weighed against the other criteria

Source: author.

Based on the criteria listed above, we qualitatively developed a heat map to help identify the most relevant value chains and prioritise and focus the project's resources on these study elements. A heat map is a schematic overview (Table or Figure) that shows the key issues that are most impacted and most impactful in a certain policy context, in this case: the EVFTA. We also provide a short analysis per value chain to report on the origin and characteristics of the different impact alerts identified in the table in the context of the EVFTA (See section 2.2.2).

The heat contains the following information:

- All candidate sectors/value chains in the first column, and key criteria of interest in the first row.
- The information that is shown in the heat map is the following:
 - Key economic and sustainability issues that are linked to the FTA.
 - Main findings of the 1st screening and scoping of issues.
 - We look at the incidence and intensity of 'relevant impact' within a given sector for more criteria (horizontally) or for the same criteria across multiple sectors (vertically) to prioritise. This leads us to conclude which sectors or value chains should get particular attention for the study.

The development of the heat map was done based on desk research and thorough literature review as well as interviews with key informants.

2.2.2. Short analysis of potentially relevant value chains.

We present below a short analysis of 10 potentially relevant Value Chains to assess their relevance in the light of the criteria outlined in table 8. More detailed information on these selected value chain, including sources of the figures and assertions outlined in the table, are provided in section 4.1.

Table 9: Review of relevant EU-Vietnam value chains⁴¹

Electrical & Electronic Equipment (product code: 85)	
Economic	<ul style="list-style-type: none"> Export to the EU (rank among Vietnam exports to the EU): 13Bn€ (1st)⁴². Product export value / Total export value (rank): 39% (1st). Product export to the EU / Product total export: 12%. Evolution since entry into force of the EVFTA: +2%.
Social, Environmental and human rights	<ul style="list-style-type: none"> Sector subject to poor labour conditions and lack of transparency. Social and environmental concern as per the sourcing of material needed to produce E&E.
Relevant legislation(s)	<ul style="list-style-type: none"> No specific Due Diligence related legislation. New labour code in Vietnam stipulates that seasonal orders during peak season require an extensive workload and authorise an increased overtime cap of 300 hours per year above the new legal limit (48h a week). This is also valid in the textile sector (see box 2). Relevant delegated act under the EU Regulation on eco-design for sustainable products (entry into force not before 2024).
DAGs feedbacks	<ul style="list-style-type: none"> Interviewees confirmed E&E as a key value chain to be considered.
Footwear, gaiters and the like (product code 64)	
Economic	<ul style="list-style-type: none"> Export to the EU (rank): 3.5 Bn€ (2nd). Product export value / Total export value (rank): 14% (2nd). Product export to the EU / Product total export: 23% (3rd). Evolution since entry into force of the EVFTA: -14%.
Social, Environmental and human rights	<ul style="list-style-type: none"> Sector prone to serious risks of human and labour rights violations, including child labour, discrimination, forced labour, occupational health and safety concerns, and unfair wages. Increased overtime cap under new labour code in Vietnam.
Relevant legislation(s)	<ul style="list-style-type: none"> Sectors considered as "high impact" under the EU CSDD proposal hence broader coverage. EU strategy for sustainable and circular textiles (March 2022). Vietnam Law on Environmental Protection (2022) EU regulation to prohibit products made using forced labour, including child labour, on the EU internal market (2024?). EU regulation on Ecodesign for Sustainable Products (2023?)
DAGs feedbacks	<ul style="list-style-type: none"> Interviewees confirmed textile as a key value chain to be considered.
Articles of apparel and clothing accessories (product code 61 & 62)	
Economic	<ul style="list-style-type: none"> Combined export to the EU (rank): 2,8 Bn€ (3rd). Product export value / Total export value (rank): 9% (3rd). Product export to the EU / Product total export: 11%. Evolution since entry into force of the EVFTA: -12%.
Social, Environmental and human rights	<ul style="list-style-type: none"> Sector also prone to serious risks of human and labour rights violations. Increased overtime cap under new labour code in Vietnam.

⁴¹ **Note:** This table gathers comments and findings that are referenced in relevant sectoral subsections of section 4.

⁴² **Note:** economic figures indicated in this table are extracted from ITC trade map accessible [here](#).

Relevant legislation(s)	<ul style="list-style-type: none"> Same as for footwear, gaiters and the like (product code 64) above
DAGs feedbacks	<ul style="list-style-type: none"> Interviewees confirmed textile as a key value chain to be considered.
Machinery (product code: 84)	
Economic	<ul style="list-style-type: none"> Export to the EU (rank): 2,6 Bn€ (4th). Product export value / Total export value (rank): 7% (4th). Product export to the EU / Product total export: 13%. Evolution since entry into force of the EVFTA: +12%.
Social, Environmental and human rights	<ul style="list-style-type: none"> High GHG emitting sector.
Relevant legislation(s)	<ul style="list-style-type: none"> No specific Due Diligence related legislation.
DAGs feedbacks	<ul style="list-style-type: none"> No particular mention of the sector in the interviews.
Iron and steel (product code: 72)	
Economic	<ul style="list-style-type: none"> Export to the EU (rank): 1.8 Bn€ (5th). Product export value / Total export value (rank): 4% (5th). Product export to the EU / Product total export: 18%. Evolution since entry into force of the EVFTA: +568%.
Social, Environmental and human rights	<ul style="list-style-type: none"> High GHG emitting sector both for production and export.
Existence of relevant legislation(s)	<ul style="list-style-type: none"> EU regulation for a Carbon Border Adjustment Mechanism (CBAM). No specific Due Diligence related legislation.
DAGs feedbacks	<ul style="list-style-type: none"> No particular mention of the sector in the interviews.
Coffee, tea, maté and spices (product code: 09)	
Economic	<ul style="list-style-type: none"> Export to the EU (rank): 1 Bn€ (6th). Product export value / Total export value: 1%. Product export to the EU / Product total export: 33% (1st). Evolution since entry into force of the EVFTA: -4%.
Social, Environmental and human rights	<ul style="list-style-type: none"> key coffee growing areas may eventually become unsuitable under intermediate emissions pathways. Significant number of small producers and vulnerable communities involved in the production of coffee. Coffee production linked to commodity-deforestation patterns.
Relevant legislation(s)	<ul style="list-style-type: none"> No specific Due Diligence legislation. EU Deforestation-free Regulation (entry into force foreseen in 2023 with additional 18-month period before obligations for exporters to comply).
DAGs feedbacks	<ul style="list-style-type: none"> Interviewees confirmed coffee as a key value chain to be considered.
Wood and articles of wood (product code: 44)	
Economic	<ul style="list-style-type: none"> Export to the EU (rank): 95 m€ (30th). Product export value / Total export value: 1%. Product export to the EU / Product total export: 2%. Evolution since entry into force of the EVFTA: +13%.
Social, Environmental and human rights	<ul style="list-style-type: none"> From 2000 to 2020, Vietnam experienced a net change of -645,000 ha (-3.1%) in tree cover, 79% of which can be linked to deforestation patterns (urbanisation and commodity-driven deforestation mainly⁴³). Large amount of high-risk timber still imported to Vietnam for processing and export of wood products.
Existence of relevant legislation(s)	<ul style="list-style-type: none"> EU Timber Regulation (N° 995/2010) & EU Forest Law Enforcement, Governance and Trade (FLEGT) Regulation (N°2173/2005). Voluntary Partnership Agreement signed between the EU and Vietnam. Decree No.102/2020/ND-CP on Vietnam Timber Legality Assurance System (VNTLAS). EU Deforestation-free Product Regulation.

⁴³ Global Forest Watch / Vietnam. [Link](#).

DAGs feedbacks	▪ Interviewees confirmed timber as a key value chain to be considered.
Cattle (product code: 01)	
Economic	▪ Export to the EU (rank): 2.4 m€ (78 th).
Social, Environmental and human rights	▪ High GHG emitting sector.
Relevant legislation(s)	▪ EU deforestation-free Regulation.
DAGs feedbacks	▪ No particular mention of the sector in the interviews.
Rice	
Economic	<ul style="list-style-type: none"> ▪ Export to the EU (rank): 20.7 m€ (46th). ▪ Evolution since 2021: +300%. Strongly benefited from EVFTA.
Social, Environmental and human rights	▪ "Perhaps the most important crop in Vietnam's agricultural sector". Detrimental impact expected of Climate change, especially on rain-fed rice with 50% production decline on higher emissions pathways by 2040 (World Bank, 2021).
Relevant legislation(s)	▪ No specific Due Diligence related legislation.
DAGs feedbacks	▪ No particular mention of the sector in the interviews.
Fisheries and sea food	
Economic	<ul style="list-style-type: none"> ▪ Export to the EU (rank): 573 m€ (12th). ▪ Product export value / Total export value (rank): 2% ▪ Product export to the EU / Product total export: 11%. ▪ Evolution since entry into force of the EVFTA: -4%.
Social, Environmental and human rights	<ul style="list-style-type: none"> ▪ 40% decrease of Environmental Performance Index (EPI) on Fish Stock Status⁴⁴ in the last 10 years. ▪ Vietnam pre-identified as a non-cooperating 3rd country in fighting IUU fishing in October 2017 but its status did not evolve since.
Relevant legislation(s)	<ul style="list-style-type: none"> ▪ EU Illegal, unreported and unregulated fishing (IUU) regulation. ▪ Recent WTO agreement on fisheries subsidies as MC12. ▪ UN "high sea treaty" with potential consequences for fisheries practices.
DAGs feedbacks	▪ Sector mentioned as area of interest during interviews.

2.2.3. Heat map for the section of key value chains in the context of the EVFTA

Based on the methodology outlined in 2.2.1. and this short analysis of a number of relevant value chains, we developed the following heat map to select value chains for further analysis in the light of Due diligence obligations.

Table 10: Heat map for selection of key EU-Vietnam value chains

		Criteria / impact					
		Economic	Social	Environmental	Human rights	legislation	DAGs
Sector / Value chain	Commodities						
	E&E Equipment	1 st					
	Machinery	4 th					
	Footwear	2 nd					
	Apparel & clothing	3 rd					
	Coffee	6 th					
	Cattle						

⁴⁴ EPI *Fish stock status* is the percentage of a country's total catch that comes from overexploited or collapsed stocks, considering all fish stocks within a country's exclusive economic zone (EEZs). [Link](#).

		Criteria / impact					DAGs
		Economic	Social	Environmental	Human rights	legislation	
	Wood/timber	30 th					
	Rice						
	Fishery & seafood						
	Iron and Steel	5 th					

Legend: Light colour = small expected impact/ Dark colour = large expected impact.

Note: Economic criteria integrate the rank of Vietnam's export to the EU by value. By leaving some cells blank, we do not imply that no impact at all is expected on this particular criteria/value chain, but merely to indicate that the expected impact will be less important than for others which allows to prioritise the value chains to be selected for further analysis.

Commodities	Large impact	Small impact	Selected Y/N
E&E Equipment	5	1	Y
Machinery	2	2	N
Footwear	4	1	Y
Apparel & clothing	4	1	Y
Coffee	4	2	Y
Cattle	0	2	N
Wood/timber	2	3	Y
Rice	2	1	N
Fishery & seafood	2	1	N
Iron and Steel	1	3	N

Based on this analysis, we retained 5 value Chains to be further analysed in the context of current and future Due Diligence legislations and requirements:

1. Electrical & Electronic Equipment
2. Footwear
3. Apparel & clothing
4. Coffee
5. Wood/timber

3. Review of relevant global, bilateral, and national initiatives on due diligence processes in the EU and Vietnam.

Companies, especially large ones, operate within complex global value chains involving a significant number of suppliers. This makes it difficult for them to identify and mitigate risks of adverse social, environmental and human rights impacts within their value chains. The exercise of due diligence processes and thus the production of more data will eventually facilitate actions aiming at addressing such impacts.

This section of the study seeks to list the existing and upcoming relevant legislations on Corporate Social Responsibility (CSR), Due Diligence (DD) & Responsible Business Conduct (RBC) processes⁴⁵ that are / will be adopted and implemented in the EU and Vietnam, with a particular focus on the upcoming EU legislation on Corporate Sustainability Due Diligence.

3.1. CSR & DD in the context of the EVFTA:

CSR is mentioned in two separate provisions of the Article 13 of the EVFTA on Trade and Sustainable Development (TSD Chapter):

- Art. 13.10 (e) (Trade and Investment Favouring Sustainable Development) states that *in accordance with their domestic laws or policies **agree to promote corporate social responsibility (...); measures for the promotion of corporate social responsibility include, among others, exchange of information and best practices, education and training activities and technical advice.*** The Article adds that "in this regard, each Party takes into account relevant internationally agreed instruments that have been endorsed or are supported by that Party, such as the Organisation for Economic Co-operation and Development Guidelines for Multinational Enterprises"
- Article 13.14 (Working Together on Trade and Sustainable Development) requests both parties to **promoting corporate social responsibility and accountability, including with regard to the internationally agreed instruments that have been endorsed or are supported by each Party.**

Yet, neither of these provisions pose any concrete additional legal obligations on the matter to the parties compared to the existing framework. It aims to encourage the EU and Vietnam to work together to promote CSR or DD processes and legislations within their own domestic contexts and in accordance with their respective international obligations (in particular the core ILO conventions, OECD guidelines, UNGPs and all human rights international convention and standards OECD guidelines refer too). These intentions are now yielding some results as Due Diligence aspects are now considered under collaborations mechanisms created in the context of the EVFTA, notably the Domestic Advisory Groups (DAGs). EU and Vietnam DAGs decided at the occasion of their 2nd meeting on 18 October 2022 to create a "common working group to deepen joint discussion on EU-Vietnam supply chains in the context of due diligence"⁴⁶. It is in that specific context that this study is developed, to analyse the recent EU proposal to create new Due Diligence requirements to grant market access to exporters in third countries, including Vietnam.

3.2. The Corporate Sustainability Due Diligence Directive

⁴⁵ We provide in table 3 some considerations on how these different terms are understood in the EU and Vietnam.

⁴⁶ Joint Statement of the 2nd EU-Vietnam DAG meeting, Hanoi, 18 October 2022. [Link](#).

In March 2021, the EU Parliament recommended for the EU to pass on a legislation addressing the detrimental social and environmental impacts of private sector companies' operations. The Parliament suggested at the time a directive covering all large companies, all publicly listed companies, all high-risk small and medium-size companies and a strict corporate civil liability in case of harm⁴⁷. The European Commission presented its CSDD proposal on the 23rd of February 2022 with the stated objective to "foster sustainable and responsible corporate behaviour throughout global value chains" (European Commission, 2022), as it seeks to establish a corporate sustainability due diligence duty for companies to address their negative societal and environmental impacts. Very large companies (at least 500 employees and 150 million EUR turnover worldwide for EU companies, EU-wide for non-EU companies) and other large companies (250 employees/EUR 40 million turn over) in high-risk sectors were subject to due diligence obligations and could be held liable for harm based on fault liability. A compromise text was originally agreed upon in December 2023.

Yet this proved still too far-reaching for some EU member states that obtained further concessions with respect to the size of the companies subject to due diligence obligations, the financial sector, climate obligations and conditions of liability. A qualified majority of the council of the European Union (EU) eventually voted in favour of the amended legislation on 15 March 2024, paving the way for its ultimate adoption.

The Corporate Sustainability Due Diligence Directive (CSDDD) entered into force on 25 July 2024⁴⁸. Its article 1 specifies the scope of the legislation as it lays down rule on:

- Obligations for companies regarding actual and potential human rights adverse impacts and environmental adverse impacts, with respect to their own operations, the operations of their subsidiaries, and the operations carried out by their business partners in the chains of activities of those companies.
- Liability for violations of these obligations.
- The obligation for companies to adopt and put into effect a transition plan for climate change mitigation compatible with the limiting of global warming to 1,5°C in line with the Paris Agreement.

We outline below some key aspects of the newly adopted legislation. We also note that, in order to provide initial guidance to all stakeholders, the European Commission published a first set of Frequently Asked Questions pertaining to the CSDDD⁴⁹. The EC is expected to publish additional FAQs moving forward, as well as official guidelines for all stakeholders and in particular private operator and public surveillance authorities on the implementation of the CSDDD but no particular date has been announced yet for such publications.

Box 3: DD vs CSR in the EU and Vietnam

It is important to note that Due Diligence (DD) can often be confused with other similar concepts such as "Corporate Social Responsibility" (CSR) or "Responsible Business Conduct" (RBC). This is especially true when two different countries or regions such as the EU and Vietnam discuss the matter in the context of their trade relations. Such

⁴⁷ European Parliament, Recommendations to the Commission on corporate due diligence and corporate accountability, 10 March 2021, Annex, Art 2 (scope) and 19 (civil liability). [Link](#).

⁴⁸ Official text available here: <https://eur-lex.europa.eu/eli/dir/2024/1760/oj>

⁴⁹ Available here: [Link](#).

misinterpretation or even confusion on the terms can hinder fruitful cooperations on what remains a crucial concept for workers. It is therefore necessary to clarify what is usually meant by DD, CSR and RBC in the EU and Vietnam to ensure a common understanding of the recommendations made in that study.

Due diligence is mostly understood in Vietnam as a part of a Merger and Acquisition processes and the verification undertaken by an acquiring firm in order to thoroughly and completely assess the target company's business, assets, capabilities, and financial performance before concluding the operation. This is mostly a financial process that is aimed at ensuring the success of a business operation and the future viability of the company. It has no (or very little) considerations for social or environmental aspects.

In the EU, Due Diligence relates to the notion that actions of private sector organisations have significant impacts on the lives of citizens around the world, both positive and negative. These impacts go beyond the products and/or services they offer or the jobs and opportunities they create, but also affect society and the environment in which they operate. It is required of companies that they include working conditions, human rights, health, the environment, innovation, education and training considerations in their operations, to prevent, manage and mitigate any negative impact that they may cause.

DD is therefore extremely similar to CSR or RBC for the EU as the European Commission defines CSR specifically as "the responsibility of enterprises for their impact on society" and that companies can become "socially responsible by Integrating social, environmental, ethical, consumer, and human rights concerns into their business strategy and operations, or by following the law" (EC, 2011). These key elements of CSR or DD processes for companies and businesses are identified in relation to the OECD Guidelines (see section 1.4) and UN Guiding Principles on Business and Human Rights (UNGPs)⁵⁰, which cover notably states' obligations to respect, protect and fulfil human rights and fundamental freedoms, and the role of the private sector when required to comply with all applicable laws and to respect human rights.

We therefore note that Due Diligence in the context of this study refers more to the European understanding of Due diligence, including of its social and environmental dimensions.

Extraterritoriality

The CSDDD will impact companies (and countries) outside the EU, either directly or indirectly, prompting changes in the policies and practises along value chains. In terms of extraterritoriality, the CSDDD applies to non-EU companies (personal scope) and to business partners in and outside the EU (duty). The preamble also states that EU values and the universality of human rights "should guide the Union's action on the international scene". This approach has attracted concerns, and sometimes frustration and criticisms, not only by countries impacted but also from other stakeholders due to the additional obligations imposed on economies facing already stringent capacity challenges (Keane, 2024). This study aims to further support exchanges between the EU and its partners to facilitate the implementation of the directive and allow all potential stakeholders to reap its benefits.

⁵⁰ UN Guiding Principles on Business and Human Rights (UNGPs). [Link](#).

Obligations

These obligations for companies to conduct risk-based human rights and environmental due diligence are implemented through the following actions:

- ✓ Integrating DD into their policies and risk management systems (Article 7).
- ✓ Identifying, assessing and prioritising actual or potential adverse impacts (Articles 8 & 9).
- ✓ Preventing and mitigating potential adverse impacts, while bringing actual adverse impacts to an end (Articles 10 & 11).
- ✓ Providing remediation for actual adverse impacts (Article 12).
- ✓ Carrying out “meaningful engagement” with stakeholders (Article 13).
- ✓ Establishing a notification mechanism and complaints procedure (Article 14).
- ✓ Monitoring the effectiveness of their DD policy and measures (Article 15).
- ✓ Publicly communicating on due diligence (Article 16).

These obligations for companies are expected to cover their own operations, the operations of their subsidiaries, but also the *operations carried out by their business partners in the “chains of activities” of those companies*. This new concept is defined⁵¹ as

- (i) Production of goods or the provision of services by a company’s upstream business partners (design, extraction, sourcing, manufacture, transport, storage and supply of raw materials, development of the product or the service etc.).
- (ii) Distribution, transport and storage of a product by a company’s downstream business partners, but only if the business partners carry out those activities for the company or on behalf of the company. These limitations depart from the UNGPs and OECD Guidelines, which expect due diligence to cover all sectors and be conducted along the full value chain⁵².

Scope

The new due diligence rules will apply only to the largest companies with a threshold of 1000+ employees and 450 million+ EUR in net turnover (worldwide for EU companies, EU-wide for non-EU companies)⁵³.

This was the result of intense political debates and last-minute compromises. The original compromise text for instance catered for the inclusion of smaller companies in high impact sectors such as textiles, agriculture or the extraction of minerals under an accelerated timeframe (compliance only 2 years after the entry into force). Yet this does not appear anymore in the legislation. The final text increases the threshold of number of employees (from 500 to 1000) and turn over (from 150m EUR to 450m). The legislation also introduces some phasing in for the companies to comply:

⁵¹ Article 3, CSDDD

⁵² As an example, the CSDDD does not cover downstream entities that are receiving financial services from Banks and other financial institutions event subject to due diligence obligations.

⁵³ Article 2, CSDDD

- Companies of more than 5.000 employees and 1.500m EUR revenue have 3 years to implement (i.e. 24 July 2027)
- Companies of more than 3.000 employees and 900m EUR revenue have 4 years to implement (i.e. 24 July 2028)
- Companies of more than 1.000 employees and 450m EUR revenue have 5 years to implement (i.e. 24 July 2029)

Eventually, Civil Society Organisations have regretted this lowering of ambitions. They note that the European Commission's initial proposal would have covered 16.600 EU companies (or 1% of the total), which was already disappointing, but that the final text further decreases the scope down to only 5.500 EU Companies covered⁵⁴. The EU evaluates that the directive will cover a total of 6.900 companies (6000 EU companies, and 900 extra-EU)⁵⁵.

In terms of material scope, companies covered by the CSDDD are expected to undertake due diligence regarding actual and potential human rights and environmental adverse impacts. Adverse human rights impact is defined as the impact resulting from an abuse of selected human rights which are detailed and listed in the Annex, part I, section I of the legislation. It also encompasses human rights enshrined in a list of international instruments such as the International Labour Organization's core/fundamental conventions (Annex, part I, section II). Similarly, an adverse environmental impact is defined as an impact resulting from the breach of a list of international environmental obligations described in the Annex, part II. These obligations are detailed to some great depth in the Annex which provides a welcome clarity to companies, yet we note that environmental obligations are not listed under entire international instruments such as multilateral Environmental Agreements (MEAs) as it does for human rights obligations.

Implementation and liability

The CSDDD deploys two complementary enforcement mechanisms. Member states are to set up public supervisory authority to investigate potential breaches (on their own account or as a result of substantiated concerns communicated to them) and verify compliance⁵⁶. They can also issue injunctions, such as order the cessation of an infringement or appropriate remediation, adopt interim measures and impose penalties, including pecuniary penalties of up to 5% of the worldwide net turnover of the company⁵⁷. However, these national authorities are limited to supervising companies that are domiciled in the country, have a branch there or generate most of their net EU turnover in their country. Thus, they have limited capacities to investigate, let alone sanction, companies operating in their countries but headquartered elsewhere.

As a complement, the CSDDD also introduces a fault-based civil liability as a way to provide access to justice for victims of adverse impacts⁵⁸. The level of details with which conditions of parent and contracting company liability are defined is quite unique (Bueno & Bright (2020). Conditions of liability cover issues such as damage arising from an adverse impact 'to a person' (excluding purely environmental damage), a negligent or intentional failure to comply with the obligation to prevent or end an adverse impact, and causation between this specific failure and the damage (Bueno et al. 2024). The burden of proof is carried by the claimant which

⁵⁴ European Coalition for Corporate Justice. [Link](#).

⁵⁵ European Commission. [Link](#).

⁵⁶ Article 24, CSDDD

⁵⁷ Article 25, CSDDD

⁵⁸ Article 29, CSDDD

could be a clear limitation for the effective enforcement of the mechanism and the capacity to rule against the company allegedly having a detrimental impact.

Review Clause

Article 36 of the CSDDD specifies the review clause of the CSDDD, thus providing clarity as to the future potential updates of the legislation, including on its scope. By 26th July 2030, and every three years thereafter, the Commission is required to submit a report to the EU parliament and EU council on the implementation of the Directive and its effectiveness in reaching its objectives and in addressing adverse impacts. The report shall be accompanied, if appropriate, by a legislative proposal. The report will notably cover the following issues:

1. The impacts of the Directive on SMEs, along with an assessment of the effectiveness of the different support measures and tools provided to SMEs.
2. The scope of the Directive in terms of the companies covered.

The first instance of the report in 2030 will therefore be a key moment to monitor the change of scope of the directive.

We note that the European Commission will also be required to publish a report before the 26th July 2026 on the opportunity to incorporate financial institutions within the scope of the legislation.

Conclusion

Monitoring the implementation of the new CSDDD requirements will be a particularly tricky point and the legislation leaves it to national administrative authorities which may be facing a daunting task. That being said, authorities will have the capacity to impose fines in case of non-compliance and victims will have the opportunity to take legal action for damages that could have been avoided with appropriate due diligence measures. This notion of civil liability and the explicit conditions under which a company could be held liable is quite groundbreaking for an EU legislation.

Although companies are expected to carry out “meaningful engagement” with stakeholders, there is also a lack of explicit requirements to involve employees’ or workers’ representative bodies in the diligence mechanisms put in place by companies as part of their corporate strategies, unlike other regulatory examples in France or Germany (see table 12).

We note that smaller and medium enterprises (SMEs) are not in the scope of the legislation, yet they may be indirectly affected if present in the chains of activities of companies falling into scope. The proposal therefore includes support measures such as the development of individually or jointly dedicated websites, platforms or portals and potential financial support for SMEs⁵⁹.

Overall, the legislation has the potential to foster sustainability globally by scaling quality due diligence processes, encouraging companies to tackle risks across their value chains, enhancing internal governance and accountability on sustainability risks, and expanding pathways to remedy for those harmed by business activity (Shift project, 2022). The legislation goes to great length to detail the conditions, impacts and scope that it will seek to regulate yet, significant implementation challenges still await public authorities and private operators in the coming years.

⁵⁹ Article 20, CSDDD

3.3. Impact of the CSDDD in Vietnam.

Firstly, it should be emphasised that the latest negotiations that led to the final version of the CSDDD have markedly narrowed the overall scope of the legislation by raising the employee and turnover thresholds for companies and thus significantly reducing the number of companies affected, including companies in Vietnam. Furthermore, and even more importantly for Vietnam, the final agreed text removes the original list of “specific sectors” that were considered to have an inherently higher risk of human rights violations, potentially affecting companies with smaller staff and turnover. Some of these sectors such as textile and leather production, or agriculture, forestry and fisheries feature prominently in the EU-Vietnam trade relations and thus the legislation in its original form would have been much more impactful for Vietnam. Last but not least, the tiered approach introduced in the final legislation and establishing transition periods for companies to apply CSDDD provisions, provides some more flexibilities to the most vulnerable operators in Vietnam still in scope.

That being said, Vietnamese companies can still fall under the scope of the CSDDD. This can be indirect as part of the supply chain of an EU company in scope which will then have to extend its due diligence obligations to their business partners, including those overseas; but also, directly providing that the Vietnamese company meets the more stringent criteria outlined above (450 million+ EUR turnover in the EU). Nonetheless, it is challenging at this stage to list in detail all potential companies (either Vietnamese or operating in Vietnam) that will eventually fall into scope. The European Network of Supervisory Authorities (ENSA) is expected to publish an indicative list of third country companies subject to the CSDDD but there is no information on a potential deadline for such a publication so far. In any case, the review of the CSDDD and the publication of a report on a potential review of its scope by July 2030 (see above) will be a key milestone to monitor for Vietnam.

3.4. Other EU legislations

The EU has recently launched a number of other initiatives that do directly or indirectly cater for due diligence requirements along the value chains in many sectors and countries.

EU regulation to prohibit products made using forced labour, including child labour, on the EU internal market

On 14 September 2022, the Commission proposed a regulation to ban products made using forced labour, including child labour, on the European Union (EU) internal market⁶⁰. Under that legislation, Member state authorities (or the European Commission if the production occurs in a third country) could investigate goods, supply chains, and manufacturers and, should a product deemed to have been made using forced labour, ban it from being sold in, imported on, or exported from, the EU market. The draft legislation was adopted by the European Parliament on 23rd of April 2024. The text is scheduled to be formally approved by the EU Council in November 2024. It will apply in all 27 member states three years later.

The European Commission is expected to publish a risk database. A new Forced Labour Single Portal, including guidelines, information on bans, database of risk areas and sectors, as well as publicly available evidence and a whistleblower portal, will also be set up to facilitate the enforcement of the legislation.

⁶⁰ Available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52022PC0453>

A major difference with the CSDDD is that the forced labour regulation focuses on EU investigation on specific products rather than imposing additional Due Diligence requirements on companies. It will also apply to all companies, regardless of size. Enforcement depends on existence of forced labour, or removal of forced labour (to lift a sanction) independent of the quality of the due diligence process.

The Corporate Sustainability Reporting Directive (CSRD)

The Corporate Sustainability Reporting Directive (CSRD) sets the standard by which nearly 50,000 companies based in the EU and beyond will have to report their climate and environmental impact. The CSRD entered into force on 5 January 2023. This directive requires companies to report on their environmental, social, and governance (ESG) performance in a standardised manner to increase quality, transparency, and comparability of sustainability reporting. The CSRD requires “double materiality,” which means that businesses will have to disclose not only the risks they face from a changing climate, but also the impacts they may cause to the climate and to society. The CSRD and its reporting requirement are implemented in combination with mandatory EU Sustainability Reporting Standards (ESRS), the Sustainable Finance Disclosure Regulation (SFDR), and the EU Taxonomy Regulation.

Companies subject to the CSRD will have to report according to European Sustainability Reporting Standards (ESRS). The standards are developed in a draft form by the EFRAG⁶¹ as an independent body bringing together various different stakeholders before their formal adoption by the EU. The first set of ESRS was published in the Official Journal on 22 December 2023 under the form of a delegated regulation⁶². These standards apply to companies under the scope of the CSRD regardless of which sector they operate in. The CSRD will also be implemented in combination with the Sustainable Finance Disclosure Regulation (SFDR)⁶³, and the EU Taxonomy Regulation⁶⁴.

In terms of scope, large EU Companies meeting two of the following three conditions will have to comply with the CSRD: (1) €50+ million in net turnover; (2) €25+ million in assets and/or (3) 250+ employees. In addition, non-EU companies that have a turnover of above €150 million in the EU will also have to comply. The CSRD will also apply to SMEs that are listed on European markets and meet at least two of the following three conditions: (1) €8+ million in net turnover; (2) €4+ million assets and/or (3) 50+ employees.

The directive will be phased in based on the size of companies as follow:

- January 2024 for entities already covered by Non-financial Reporting Directive (NFRD).
- January 2025 for all large entities.
- January 2026 for all listed SMEs (except micro-undertakings).
- January 2028 for non-EU ultimate parent companies with a combined group turnover in the EU of more than EUR 150 million.

EU Regulation on eco-design for sustainable products (ESPR)

With the CSDDD, this is the most recent trade-related autonomous measures enacted by the EU, with an entry into force on 18 July 2024. The Regulation establishes a framework for Ecodesign requirements, including *performance requirements* such as but not limited to a

⁶¹ previously known as the European Financial Reporting Advisory Group, more information here: <https://www.efrag.org/en>

⁶² Available here: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32023R2772>

⁶³ Available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019R2088>

⁶⁴ More information here: https://finance.ec.europa.eu/sustainable-finance/tools-and-standards/eu-taxonomy-sustainable-activities_en

product's durability, reusability, repairability, recyclability, upgradability, and environmental impact, for products sold in the EU. The ESPR also introduces *information requirements* with a Digital Product Passport (DPP) providing information on performance, traceability and technical documentation (Blot, 2024).

The roll out of the legislation is expected to be incremental with a first batch of delegated acts covering the requirements in sectors with the biggest environmental impact, including iron, steel, aluminium, textiles, footwear, furniture, tyres, petrochemical products, energy-related products, ICT products etc.

The Regulation also proposes a list of supporting measures to improve the sustainability of goods sold in the EU and empowering consumer choices, such as implementing requirements on the destruction of unsold goods, incentivising the choice for sustainable products, establishing a public online information platform fostering green public procurement or strengthening market surveillance for non-compliance.

The interaction between the ESPR and other EU Regulations including those listed above was clarified during a webinar held by DG ENV on 22 May 2024⁶⁵, specifically that the general principle would be that the ESPR takes the lead in regulating products *"when their environmental sustainability dimensions cannot be (adequately) addressed by other instruments."* This will be essential to avoid duplication of obligations for private operators navigating these different rules. It will be also key that, where possible, product declaration information should be streamlined, for example in a common Digital Product Passport, while the budget for customs and market surveillance authorities are scaled up accordingly to ensure their proper functioning and avoid costly delays (Blot, 2024).

Figure 4: Sustainability criteria to be considered in the context of the ESPR



Source: author based on product parameters in Annex 1 of the ESPR.

Table 11 below provides a short comparative analysis between EU and Vietnam legislations on Due Diligence in an attempt to provide an overview of some of the main provisions on scopes, timelines, obligations & methods of enforcement, relevant authorities etc. that companies will be expected to navigate in the next years.

⁶⁵ Available here: <https://webcast.ec.europa.eu/online-information-session-on-the-new-ecodesign-for-sustainable-products-regulation-espr-24-05-22>

Table 11: comparison of Due Diligence, enforcement and reporting legislations and requirements for companies in the EU and Vietnam

Legislation	Scope / Threshold	Timeline	Methods of Enforcement	Relevant authority
Directive on corporate sustainability due diligence (EU)	<ul style="list-style-type: none"> 1000 employees. 450m EUR net turnover (worldwide if EU company, EU-wide if non-EU companies). 	<ul style="list-style-type: none"> July 2027 for companies 5.000+ employees and 1.500m+ EUR turnover July 2028 for companies 3.000+ employees and 900m+ EUR turnover July 2029 for companies 1.000+ employees and 450m+ EUR turnover 	<ul style="list-style-type: none"> Prior DD obligations apply to all companies and sectors in scope. 2 complementary systems for enforcement: administrative supervision and civil liability. Conditions of liability include damage arising from an adverse impact to a person, negligent or intentional failure to comply with obligation to prevent or end an adverse impact, causation between specific failure and damage. Burden of proof carried by the claimant. 	<ul style="list-style-type: none"> Public supervisory authority at national level to investigate potential breaches. Can investigate on their own account or if alerted by third party. Can order the cessation of an infringement, appropriate remediation, adopt interim measures and impose penalties, including financial (up to 5% of the company worldwide net turnover).
Forced labour regulation (EU)	All products sold, imported in, or exported from the EU market	<ul style="list-style-type: none"> Text to be approved by EU Council to enter into force. It will be applied as of 3 years after (hence likely early 2028). 	<ul style="list-style-type: none"> Ex post investigation to determine if a breach has occurred rather than prior DD obligations. Benchmarking system to identify economic sectors & geographical areas prone to state-imposed forced labour as a criterion to launch an investigation. 	<ul style="list-style-type: none"> Competent Public supervisory authority designated at national level European Commission to investigate if the production occurs in a third country.
Deforestation free regulation (EU)	<ul style="list-style-type: none"> 7 commodities in scope: palm oil, soy, wood, cattle, cocoa, coffee, rubber. Selection of derived products. 	<ul style="list-style-type: none"> 12/2024 for large & medium enterprise 06/2025 for Small & Micro enterprise (note these may be delayed by one year, following Commission proposal to delay the entry into force) 	<ul style="list-style-type: none"> Prior DD obligations apply to all companies and sectors in scope. 3 tier benchmarking system to determine risk areas / frequencies of checks at the border. 	<ul style="list-style-type: none"> Competent Public supervisory authority designated at national level
Corporate Sustainability Reporting Directive (EU)	<ul style="list-style-type: none"> EU Large entities. EU SMEs (excluding micro). EU parent undertakings of large groups. Non-EU companies generating +EUR 150m on EU market. 	<ul style="list-style-type: none"> Direct application for companies covered by NFRD. 01/2025 for large entities. 01/2026 for SMEs. 01/2028 for non-EU companies 	<ul style="list-style-type: none"> Companies are required to disclose the sustainability information in a standardized digital format under their management reports to ensure EU-wide comparability in the European single access point database. Sustainability data are then subject to "limited third-party assurance," i.e. an auditor will be required to evaluate the data. 	<ul style="list-style-type: none"> The CSRD maintains the pre-existing EU supervisory regime under the Accounting Directive (Article 51) i.e. Member States-established national supervisory authority.
Law No. 72/2020/QH14 on environmental protection (Vietnam)	<ul style="list-style-type: none"> Agencies, organisations, residential communities, households and individuals of Vietnam. 	<ul style="list-style-type: none"> Entry into force from January 01, 2022 	<ul style="list-style-type: none"> Set up of an emissions trading system and carbon tax and reinforcement of EPR policy. New requirements for ministries and localities as well as producers and importers to integrate circular economy in their planning strategies, development plans, waste management, and waste recycling practices. New master license & procedure for environmental registration 	<ul style="list-style-type: none"> Many authorities are involved including: <ul style="list-style-type: none"> Ministry of Natural Resources & Environment Ministry of National Defense Ministry of Public Security Ministry of Agriculture and Rural Development

Source: Author.

3.5. Other legislations and instruments, including soft law

Several other countries have enacted legislation that pertains to due diligence obligations for companies operating in their territories (see table 12). This further complexifies the context for companies as they introduce various scopes and levels of obligations to comply with. In the EU all member state will have to transpose the new directive in their national legislation and adapt existing rules.

Table 12: Other due diligence policies by relevant partners (non-exhaustive)

Legislation	Scope
Duty of Vigilance Act (France)	French companies with 5,000+ employees in France or 10,000+ worldwide.
Supply Chain Act (Germany)	German-based companies with 1,000+ employees in Germany.
Dodd-Frank Act Section 1502 (US, 2010).	
Transparency in Supply Chains Act (California, US)	Retail Sellers or Manufacturers doing Business in the State of California with Annual Worldwide Gross Receipts \$100m+.
Transparency Act (Norway)	Enterprises which are liable to tax in Norway, which offer goods and services in Norway, and which are large (sales revenue > NOK 70 million and balance sheet total NOK 35 million and average number of employees in financial year = 50 Full time Equivalents)

Source: Author.

Beyond national legislations, there are many other internationally agreed instruments that have been endorsed or are supported by the EU and/or Vietnam such as the Organisation for Economic Co-operation and Development Guidelines for Multinational Enterprises, the United Nations Global Compact, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy and the UNGPs.

Among these international initiatives, the OECD published its updated Guidelines for Multinational Enterprises on Responsible Business Conduct in June 2023⁶⁶.

⁶⁶ Accessible here: https://www.oecd.org/en/publications/2023/06/oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct_a0b49990.html

4. Impact of EU Due diligence regulations on selected value chains and support mechanisms

We aim to build upon the findings of the previous sections to identify the challenges faced by stakeholders (public and private) in the selected value chains relating to existing or future Due Diligence processes and legislation. These challenges can take various forms such as (i) limited capacities to abide by complex, EU-focused, procedures; (ii) regulatory environment not conducive enough to instal due diligence processes; or (iii) lack of clarity or certainty for businesses on the rights and obligations they must comply with. The identification of these constraints then allows to analyse how the planned DD regulations affect or will affect stakeholders in the EU and Vietnam in the context of the EVFTA.

4.1. DD impact on the selected value chains

Electrical & Electronic Equipment

Electronics has become one of the largest industries in the world and is expected to continue to grow as our societies continue to rely on constant technology use. The E&E equipment production and export sector covers a huge diversity of processes and stakeholders, from suppliers of raw materials to smelters, refineries, component producers, Research & Development actors, manufacturing and assembly, retailers etc. producing, processing and disseminating a wide range of different products. Should we take into account the full life cycle of E&E products, actors involved in recycling, upcycling or disposal of such products should also be included. Even when only looking only at the manufacturing and assembly phases of electronics hardware, the sector represents one of the largest industries in the world, with approximately 18 million workers who produce 20% of global imports (UNCTAD, 2015). The global market for electronics reached 4.22 trillion EUR in 2017 (Statista, 2018). Incidentally and as mentioned previously it is also by far the single most important export of Vietnam. The situation of the sector might be impacted by the end of the Generalised System of Preferences (GSP) rule as of January 2023. The new Rules of Origin (RoO) and reduced scope for cumulation that will apply under the EVFTA are of particular concern as Vietnam imports an important volume of electrical machinery and equipment from other GSP beneficiaries like the Philippines (Trade Economics, 2023).

Overall, the industry is characterised by its globalised, outsourcing, fragmentation, complexity, competitiveness, concentration and continuous product development nature, as well as a prevalent lack of transparency (Martin-Ortega and al, 2015). This makes it a particularly challenging value chain for meaningful due diligence processes.

In Vietnam, as in other developing countries, the sectors is particularly exposed to poor labour conditions such as low wages, unstable employment and the use of temporary workers in developing countries. It is also marked by a high presence of young and female working force. A study conducted by Electronics Watch and the Center for Development and Integration in Vietnam (2019) suggested that workers were particularly exposed to the breach of a number of labour standards such as freedom to choose an employment, freedom of Association and Right to Collective Bargaining, no Discrimination in employment, no excessive Working Hours, safe and Healthy Working Conditions, no abusive termination of employment or living wages.

A root cause analysis of these risks point mainly toward the lack of awareness by the companies' management and labour inspectors on the risks in the electronics industry. This is especially true regarding the cyclic characteristic of the industry which implies a strong reliance

on temporary workers or regular excess of overtime limits during peak seasons with detrimental Occupational safety and health (OSH) consequences. This lack of awareness is made worse by the limited number of labour inspectors in Vietnam, especially those with specialised knowledge of the electronics industry. The lack of independence of many labour unions from the management also hinder awareness raising processes.

To address some of these risks inherent to the sector would require specific legislations at the national level, especially regarding the necessary independence of labour unions from management to support grassroots unionists and eventually better address workers' conditions and complaints. Yet we can also assume that targeted support initiatives financed by the EU could for instance include conducting and sharing further studies of the risks in the industry combined with trainings for labour inspectors on these risks. It would also be beneficial to train Vietnamese trade unions so that they can be more effective in using social dialogue to address risks. Due diligence legislations could also take these risks into account by ensuring that leading electronic firms (i.e. those eventually covered for instance by the EU CSDD) and their direct suppliers do not cause or contribute to labour rights or safety breaches. This could take the form for instance of ensuring that leading firms did consult with their suppliers on the delivery schedule and their internal capacity, especially during peak seasons, when deciding upon the contract to prevent pushing the suppliers into a situation where exceeding overtime limits and other labour standards violations becomes necessary to abide by the contract. DD legislations could also include transparency and reporting considerations related to purchase prices to ensure that leading firms avoid paying a price to their suppliers that makes it impossible for the goods to be produced or the services to be performed in compliance with labour rights and safety standards.

Coffee

Vietnam is the second largest coffee producer in the world with 29 million 60kg bags produced in 2020, far behind the world's largest producer, Brazil (69 million bags), but significantly in front of the third, Columbia (14 million bags)⁶⁷. A third of Vietnam's total coffee export went to the EU in 2021 for a value of close to 1 billion EUR which ranks 6th in the country's exports⁶⁸.

There are currently about 113 coffee processing and exporting companies in Vietnam, two third of which do not have factories processing coffee directly for export but rely on a system of traders and agents to buy coffee from smaller producers and export it (Nhưng Thị Hồng Thăng, 2022). The production of coffee in Vietnam is therefore highly linked to the livelihoods of small farmers and producers, 500,000 of whom are estimated to be producing coffee in the country (Blot and al. 2022). The sector is also highly vulnerable to climate change as studies projects that many key coffees growing areas of Vietnam's central highlands will become unsuitable for coffee under intermediate emissions pathways (Bunn and al, 2015, World Bank, 2022). Coffee is therefore a crucial value chain for the sustainable development of Vietnam which makes appropriate Due Diligence systems in the sector all the more relevant.

Yet, there is no specific domestic DD legislation in Vietnam covering coffee production, nor its exports to the EU beyond the voluntary practices that larger corporations can put in place internally as we saw in the E&E value chain. The EVFTA does not include specific provisions on the matter beyond calls for relevant collaborations mentioned above, yet the latest EU policy developments may change the picture with the recent adoption of the EU Deforestation Free

⁶⁷ Coffee production worldwide in 2020 by leading country. Statista. [Link](#).

⁶⁸ ITC trade Maps. See section 2.2.2.

Product Regulation in December 2022⁶⁹ aiming to make mandatory for companies to ensure that goods placed on the EU market have not led to deforestation and forest degradation anywhere in the world after 31 December 2020.

420 million hectares of forest — an area larger than the EU — have been lost to deforestation between 1990 and 2020 and European consumption was found responsible for 10% of global deforestation between 1990 and 2008 (FAO, 2020). Addressing this indirect deforestation is the main objective of this new regulation yet it is raising concerns that it will bring undue burden to those depending on the production and selling (eventually for export) of the commodities covered by the legislation which include coffee and timber (see section below) among others (such as cattle, cocoa or soya).

Under the new regulation, companies will be required to collect precise geographical information on the farmland where the commodities that they source have been grown and issue a so-called “due diligence” statement that these commodities are compliant with the new EU legislation as well as local deforestation laws when entering the EU market. EU authorities will have the capacity to check this statement through monitoring and verification tools such as geolocation coordinates and satellite monitoring, or DNA analysis, and conduct checks to verify where the products come from. The legislation also includes the obligation for companies, as additional requirements, to verify compliance with relevant legislation of the country of production that the rights of concerned indigenous people have been respected.

The EU will classify countries, or part thereof, into low, standard or high risk to determine the level of scrutiny for commodities exported from these countries or regions into the EU with proportion of checks on operators will be of 9% for high risk, 3% for standard risk and 1% for low risk. We note that this benchmark does not differentiate the severity of the requirements that operators will have to comply to but focuses on the number of checks. There is still a lack of clarity as to the criteria that will be used to determine which category a country or region would fall into and therefore it is not possible to determine at this stage in which category Vietnam might fall into. This is of course of particular importance for Vietnam’s coffee exporters, and in particular of its smallholders and producers which are most vulnerable to external shocks.

It is estimated that 131,597 smallholders are directly exporting coffee to the EU in 2022 (Blot and al. 2022) and would therefore be directly covered by the new obligation set forth by the regulation. Yet it is highly likely than many more are involved in different ways in the production and processing of coffee thus the actual number of small holders impacted should be closer to 500.000 as noted above or even higher⁷⁰. Furthermore, communities such as ethnic minorities, women and children, living near forests are regularly involved for their subsistence in commodity (including coffee) deforestation and are among those most vulnerable to any changes to the rules of the market⁷¹.

The coffee value chain is therefore expected to be quite impacted by Due Diligence requirements coming from the EU, yet most likely not through the upcoming dedicated CSDD legislation but through the deforestation free product regulation. In that context, targeted support measures for small farmers to understand the requirements of the European Union Deforestation-free products Regulation (EUDR) and better engage in the coffee value chain will be key. These capacity building activities for smallholders in Vietnam could easily be

⁶⁹ European Commission press release. [Link](#).

⁷⁰ Comments during interview conducted mentioned that 6 million people eventually depend on coffee in Vietnam while 80% of coffee production in Vietnam is done by small farmers (1-2 Ha).

⁷¹ Vu Thi Bich Hop (Fern, 2022). EU deforestation regulation must not imperil Vietnam’s coffee farmers’ livelihoods. [Link](#).

undertaken by the EU and other funders through existing or future cooperation programmes (see section 4.2).

Systematic and meaningful consultations of civil society, farmers and human rights defenders including in the context of the EU-Vietnam DAGs should also be encouraged throughout the EVFTA implementation as they remain best placed to provide evidence-based policy recommendations and inform policy makers for the enactment of sensible legislations.

Textile Value chain

Global textiles⁷² production close to doubled between 2000 and 2015 (EMF, 2017), and this trend is expected to continue with consumption of clothing and footwear expected to increase by another 63% to 102 million tonnes in 2030 (EEA, 2019). The EU has a direct impact on such trends as it is the largest importer of clothing worldwide for a value of €154 billion in 2019, almost half of which came from developing countries (Eurostat, 2020). The sector is particularly key for Vietnam as represents 14% of the country's total export (ITC, 2022). The country is the fourth largest exporter of textiles and apparel globally (after China, India and Bangladesh) and the 6th external EU source of apparel⁷³. In 2018, the textile sector was estimated to employ more than three million people, with a total of 7,000 factories across the country⁷⁴. These trends are supported by the EVFTA, under which Vietnam can export apparel products on a tariff-free basis to the EU.

Such figures translate into environmental impacts as the European consumption of textiles currently represents the fourth highest negative life cycle impacts on the environment and climate change, after food, housing, and mobility (Duhoux et al, 2022).

While the sector is crucial for the economy of Vietnam and carries significant environmental considerations. It is also prone to serious risks of human and labour rights violations, including child labour, discrimination, forced labour, occupational health and safety concerns, and unfair wages (OECD, 2018). The sector also carries vital gender considerations as it is estimated that 75% of global garment workers are women⁷⁵. Due Diligence principles could be instrumental in addressing such risks, yet the textile sector was approached so far mostly through circular economy considerations as an indirect way to address labour conditions in terms for instance of toxic work environment⁷⁶.

The Vietnamese government for instance recently developed national legislations such as the Law on Environmental Protection which entered into force in January 2022 to foster a circular textiles industry in the country. Yet, current activities and legislations that seek to enhance sustainability in the textiles and apparel sector in Vietnam do tend to focus on greening the production processes (Van der Ven, 2022). That is also true for the future EU regulation on Ecodesign for Sustainable Products also known as the Sustainable Product Initiative (SPI). The proposal published by the EC on 30 March 2022 foresees the introduction of a Digital Product Passport for textiles including mandatory information requirements on the conditions in which the products was produced. Calls were made for this passport to include information on a product's social footprint e.g. requiring manufacturers to prove that their products are not

⁷² In this section, we will consider at times the exports of "footwear, gaiters and the like", as well as "articles of apparel and clothing accessories" under the appellation "textile". As there is no particular due diligence regulation that would make the differentiation between these two value chains at the moment, we do not consider that this would significantly alter the findings.

⁷³ CBI (2022). what is the demand for apparel on the European market? [Link](#).

⁷⁴ WWF (2018). Textile and Garment Sector in Vietnam: Water Risks and Solution. [Link](#).

⁷⁵ SWD (2017) Sustainable garment value chains through EU development action. [Link](#).

⁷⁶ See e.g. EC communication on a zero pollution ambition aiming to ensure that no harm to human health or the environment is caused by pollution ([COM\(2021\) 400](#)) or the Chemicals Strategy for Sustainability ([COM\(2020\) 667 final](#)) that includes working towards more ambitious global action on the sustainable management of chemicals worldwide which affect workers' safety.

linked to human rights abuses, for example. Yet these additional reporting requirements will focus on circularity and other key environmental aspects as the proposal specifically states that “due to the adoption of the Commission Proposal for a Directive on Corporate Sustainable Due Diligence, it was deemed appropriate to exclude requirements on social aspects from the scope of this legislative proposal”⁷⁷.

The potential most relevant aspect for future DD legislation in the sector is its inclusion in the “high impact” category under the EU CSDD proposal which means that more companies trading in textiles would fall under the scope of the legislation and see their reporting requirements improved. It is therefore left to the type of provisions eventually put forward in the final version of the legislation. These should in particular integrate the following aspects identified as key to improve the labour conditions in the sector by the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector which was published in 2017⁷⁸:

- Focus on prevention and follow a Risk based approach.
- Moves beyond company own operations & direct suppliers, e.g. to tier 2/3 & subcontractors.
- Involves workers and human rights defenders at every stage.
- Includes a focus on purchasing practices.

Timber value chain.

From 2000 to 2020, Vietnam experienced a net change of -645 000 ha (-3.1%) in tree cover⁷⁹. Although this indicator should not be confused with “deforestation” as tree cover loss includes change in both natural and planted forest and does not need to be human caused, it is still estimated that 79% of this loss occurred in areas where the dominant drivers of loss are urbanisation and commodity-driven deforestation. This is also due to the sheer growth of Vietnam’s timber sector as the country now ranks 3rd in Asia and 11th in the world for the value of its timber product exports⁸⁰.

We note that Vietnam exports of timber products are down for the past year, including to the EU. Export orders since the beginning of 2022 decreased significantly, with a 38% year-on-year decline in June and a continued drop by 5.5% in July⁸¹. This is mostly due to the difficulties of navigating high inflation and interest rates, the increased freight costs due to the conflict between Russia and Ukraine, and the lower demand of timer products after an all-time high during the covid period where many housing renovation work were undertaken in Vietnam’s main exports markets such as the US, UK or the EU. Such tensions also incurred supply challenges for the industry as Vietnam 5.79 million m3 of round wood equivalent (RWE) in 2020 (To Xuan Phuc and al, 2021). These issues could therefore be considered contextual and not mean a sustained decline for the sector over a longer period of time.

The Vietnam Government’s commitment to remove illegal timber from the supply chain was reflected in the signing of a Voluntary Partnership Agreement on Forestry Law Enforcement, Governance and Trade (VPA FLEGT) with the EU in 2019. Vietnam also subsequently adopted Decree 102/2020-ND-CP, also known as the VNTLAS Decree (Vietnam, 2020) installing a

⁷⁷ COM(2022) 142 final - 2022/0095 (COD). [Link](#).

⁷⁸ OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector. Available [here](#).

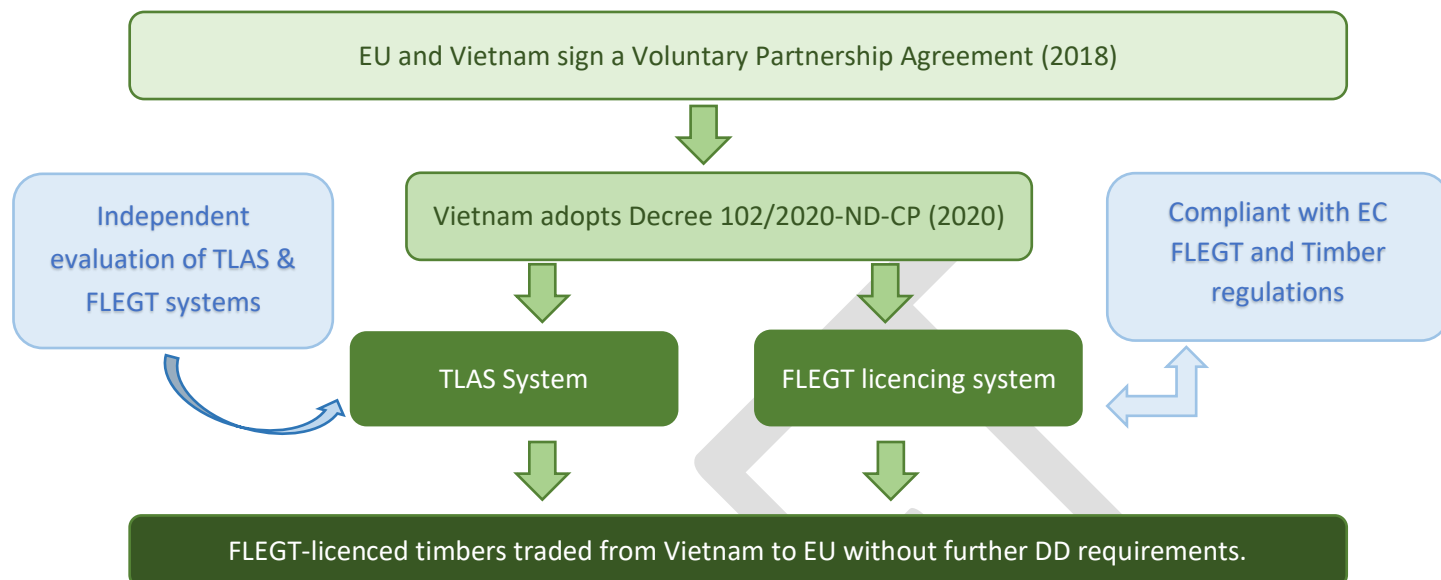
⁷⁹ Global Forest Watch. [Link](#).

⁸⁰ OEC. Wood products. [Link](#).

⁸¹ Forest trends. [Link](#).

national Timber Legality Insurance System (TLAS). The Decree 102 is expected to be revised towards the 3rd quarter of 2023 to remedy some of the weaknesses in the current VNTLAS system and ultimately leading to moving into FLEGT test licensing stage to be compliant with the EU FLEGT Regulation of 2005 (European Council, 2005) and the EU Timber Regulation of 2010 (European Union, 2010).

Graph 3 : Timber legal certification system between the EU and Vietnam.



Source: Author.

Specific voluntary processes were put in place following these legal developments such as the Due Diligence System (DDS) of the Handicraft and Wood Industry Association of Ho Chi Minh City (See Box 4).

The EU legal system has now been reinforced with the EU regulation on Deforestation-free Product which repeals and replace the EU timber regulation. While a FLEGT licence remains proof of legality under this new regulation, licensed timber and wood products, like other goods, would have to undergo the additional further due diligence requirement designed to minimise and mitigate the risk of their harvesting and production being implicated in deforestation and forest degradation (see above in the section on coffee value chain).

Box 4: Example of due diligence system in the timber sector in Vietnam

The Handicraft and Wood Industry Association of Ho Chi Minh City (HAWA) developed a Due Diligence System (DDS) with support of the FAO-EU FLEGT Programme.

Established in 1991, HAWA is a Non-Governmental Organisation and Volunteer Association with nearly 400 company members operating in wood processing, handicrafts (bamboo, rattan, water hyacinth, etc.), trade and service providers.

The HAWA DDS is an IT platform supporting transparency and due diligence for each seller-buyer transaction involving HAWA DDS members. For domestic timber sources, real-time and georeferenced evidence can be uploaded together with the required documentation or verifiers listed in the Legality Definition of the VNTLAS. The HAWA DDS team flags possible risks and makes all information available to potential buyers. As well as providing the opportunity for forest owners to register their plantations and

document their harvests, the platform contains a trading module to facilitate and document a transparent due diligence process for all transactions and sales along the timber supply chain. The project also provides corresponding training to ensure the system's overall effectiveness. More information can be found [here](#).

The timber Value Chain can therefore be considered as the most heavily regulated in terms of due diligence requirements between the EU and Vietnam. Yet ongoing case studies seem to demonstrate that in effect little progress have been made in terms of labour conditions in the sector. They notably finds that practices such as lack of a living wage paid to workers, weak recruitment processes such as recurrent reliance on subcontractors thus creating double standards, toxic working environment (high levels of dust, toxic chemicals used), lack of effective union representation, or even weak certification and standards are widespread in the companies surveyed. A lot of work therefore remains to be done on the matter.

Beyond the working conditions, due diligence processes to combat illegal logging and eventually deforestation remain difficult. Assessing the legality of imported timber is difficult, as species verification, complex regional and global supply chains, and international regulation demand extensive knowledge and skills. Because the VNTLAS is a new initiative, acquiring this level of expertise takes time. We will outline in the next section some existing support measures designed to overcome these barriers.

4.2. Support mechanisms

Ultimately this desk study seeks to identify and outline cooperation mechanisms aiming to support stakeholders to comply to their existing or future obligations in terms of due diligence, thus providing DAG members with new information and capacities to address the issue efficiently. These mechanisms can be from the EU or occur in the context of other multilateral or multi-stakeholders' initiatives. This task builds on all previous activities under this project and is crucial to eventually promote due diligence in selected supply chains between the EU and Vietnam.

We list below, although not exhaustively, the projects and programmes in direct support of more sustainable practices in relevant value chains between the EU and Vietnam.

Table 13: Cooperation projects to support sustainable EU-Vietnam value chains between the EU and Vietnam

Relevant cooperation projects between the EU and Vietnam
<p>Ongoing projects:</p> <ul style="list-style-type: none"> ▪ ARISE+ Vietnam (EU, 6.4mEUR, 2018-2023): aims to support the integration of the Vietnam's economy into the global production chain through targeted support to both public and private sectors. The Project will support the Vietnamese Government to reap the benefits of new bilateral and regional trade commitments, with a focus on the implementation of the EU-Vietnam Free Trade Agreement (EVFTA). More information here. ▪ Responsible Supply Chains in Asia Programme (OECD, ILO, EU; 2018-2022): Covering Japan, China, Thailand, Vietnam, the Philippines, and Myanmar, the project aims to support in-country policy developments and action to create an enabling environment for Responsible Business

Conduct (RBC), to boost industry capacity and to raise awareness of the importance of RBC. More information [here](#).

- **Trade for Decent Work Project (EU, ILO, Finland, 8.5mEUR, 2019-2022):** covers Vietnam, Bangladesh, and Myanmar. The project aims at improving the application of the ILO fundamental Conventions in EU trading partner countries through improved labour relations and working conditions. More information [here](#).
- **Training course on the Voluntary Partnership Agreement on Forestry Law Enforcement, Governance and Trade (EU, GIZ, FCDO, Vietnam Administration of Forestry and the General Department of Vietnam Customs):** training course for representatives from state agencies and timber import enterprises nationwide on import controls, the timber supply chain, and timber species identification. More information [here](#).
- **DDS e-training course (Preferred by Nature and GIZ):** This e-course aims to ensure that law enforcement, timber businesses, and other stakeholders have the opportunity to learn about the VNTLAS and due diligence processes in the timber value chain. More information [here](#).
- **Free timber legality toolkit to support Vietnam's efforts to tackle illegal logging (Preferred by Nature):** More information [here](#).
- **Human Rights Due Diligence Top-Up (CNV Internationaal, FNV Mondiaal, Fair Wear; 2024-2025):** This project supported by the Dutch Ministry of Foreign affairs. It aims to obtain feedback of country-based knowledge for implementation of EU law in the area of Corporate Sustainability Due Diligence. The project has three main goals:
 - Capacity-building on HRDD and relevant legislation for trade unions, NGOs and business associations in production countries to strengthen their awareness
 - Collect stakeholder data from production countries on how to make HRDD legislation, such as CSDDD, as impactful as possible
 - Share stakeholder data with European policymakers to ensure successful, impactful implementation of HRDD legislation such as CSDDD

Recent projects:

- **Improved Governance in Herbal Value Chain (EU, 550.000 EUR, 2017-2021):** the overall objective of this action was to promote the contribution of CSOs to improved governance in herbal medicine value chain. More information [here](#).
- **Business and Human Rights in Trade Relations and Global Supply Chains in Vietnam (EU, 500.000 EUR, 2018-2021):** The overall objective was to ensure Human Rights Due Diligence in global value chains through the promotion of civil society participation in the implementation of international labour and human rights standards in trade and sustainable development, with special focus on the electronics, footwear & garment industries in Vietnam. More info [here](#).
- **Inclusive and Sustainable Clam and Bamboo Value Chains Development in Vietnam (EU, 4.3mEUR, 2018-2022):** The objective of the action was to increase farmers' and processors' income through better market access and better organisation of clam and bamboo value chains. More information [here](#).

5. Conclusion and recommendations

Trading relations with the EU have a considerable impact on third countries, including on social and environmental issues, and on their capacity to achieve the UN Sustainable Development Goals. The global impact of the EU economy on the environment and on the social rights of millions of workers around the world through global value chains comes with a responsibility to address potential adverse effects of these trade relations. The publication by the European

Commission of a proposal for an EU legislation on Corporate Sustainability Due Diligence is part of that objective.

Companies operate in complex environments and increasingly rely on globalised value chains which include a significant number of suppliers. This makes adequate DD processes all the more difficult to implement as they require comprehensive identification and mitigation processes for adverse impacts throughout companies' value chains and integrating sustainability into their management systems. The integration of these new processes will become easier if more companies exercise due diligence and thus more data is available on human rights and environmental adverse impacts.

This study assessed the potential impact of the EU CSDD as well as other relevant legislations on specific EU-Vietnam value chains and we propose in that section a number of recommendations to promote ambitious objectives for the legislation.

General recommendations

Potentially the most important recommendation coming out of the interviews conducted with EU-Vietnam Domestic Advisory Groups for the purpose of this study is for the European Commission to engage without delay in diplomatic efforts to promote the adoption by the Government of Vietnam of a national due diligence regulation consistent with international standards⁸².

The adoption of consistent DD regulations by both partners would provide economic operators with a transparent level-playing field thus greatly facilitating sustainable trade relations between both partners.

To facilitate implementation of European due diligence regulations, information and support from the EU should be provided in Vietnamese language and time zone. The EU should also support social dialogue efforts in Vietnam to better address labour risks. The EU should provide support for capacity building activities of CSOs, local small producer communities and local authorities to understand the requirements of the EUDR and CSDDD and better engage in relevant value chains.

Sectoral recommendations

Looking at the specific value chains considered in this study, we can make a number of recommendations which we list below.

We note however that most of these recommendations although stemming from a sectoral analysis also apply to other sectors, and cross sectoral learning should be prioritised.

Electronics:

1. The EU to provide targeted support (including financial) to conduct and share further studies of the risks inherent to the electronics sector combined with activities designed to build capacities of government officials and relevant stakeholders on the matter.
2. EVFTA DAGs to discuss and address issues pertaining to the necessary independence of labour unions from management to support grassroots unionists and human rights defenders and eventually better identify and address workers' conditions and complaints when necessary.

⁸² E.g. UN Guiding Principles on Business and Human Rights or OECD Due Diligence Guidance for Responsible Business Conduct

3. The EU to also take these risks into account by requiring adequate purchasing practices for companies covered by its upcoming Due Diligence legislations so that they and their direct suppliers do not cause or contribute to labour rights or safety breaches.

Coffee:

4. With specific reference to coffee as included in the EUDR, the EU to provide support for capacity building activities of CSOs, local small producer communities and local authorities to understand the requirements of the EUDR and better engage in relevant value chain.
5. The EU to promote systematic consultations of civil society including in the context of the DAGs to provide evidence-based policy recommendations and inform policy makers. This should be accompanied by technical and financial support to build capacity of CSOs to do so.
6. The EU to support businesses in implementing standardized, digital traceability systems that approach international standards for comprehensive traceability systems. Such systems need to ensure that small producers can keep track of the process from production to market.

Textile:

7. The EU to promote awareness amongst government officials, companies' workers and management as well as civil society on the recommendations regarding textile supply chain due diligence in global standards such as the OECD Due Diligence guidance for responsible supply chains in the garment and footwear sector.
8. The EU to provide support to identify and fill the knowledge gaps for the alignment of public and private initiatives in the sector with these global standards.

Timber:

9. The EU to provide support for capacity building activities of smallholders to understand the new requirements implied by the EUDR for the sector, as well as existing legislation and processes such as the EU-Vietnam VPA FLEGT system and Vietnam VNTLAS Decree.
10. The EU needs to coordinate with Vietnam to support the development of specific and accessible guidance documents for all actors to understand the specific requirements and regulations they need to comply with to successfully carry out due diligence, including for the EUDR.

General trade and climate recommendations for EU and Vietnam

In addition to these recommendations specifically targeted at DD processes, we comment on what could be done to ensure that trade & climate policies in the EU and Vietnam are mutually reinforcing toward the achievement of the objective of the Paris Agreement and the SDGs.

11. Support ongoing efforts at the multilateral level to increase transparency on the carbon intensity of trade through traceability of carbon use along value chains.
12. Facilitate the imports of clean technologies by cutting non-tariff measures applied on environmental goods and services to be agreed upon in the context of the EVFTA.
13. Support human rights and environment defenders, and focus on opening civic space, participation and access to information.

DRAFT

References:

- Blot, E. & Kettunen, M. (2021). Environmental credentials of EU trade policy – A comparative analysis of EU free trade agreements. Institute for European Environmental Policy, Brussels and London. [Link](#).
- Blot, E., Oger, A., and Harrison, J. (2022), Enhancing sustainability in EU Free Trade Agreements: The case for a holistic approach, Policy report, Institute for European Environmental Policy (IEEP). [Link](#).
- Blot, E. and Hiller, N. (2022). 'Securing the position of smallholders in zero-deforestation supply chains', Policy Briefing, Institute for European Environmental Policy (IEEP). [Link](#).
- Blot, E. (2024). More standards for more circular products? Navigating the Ecodesign for Sustainable Products Regulation. Blog, Institute for European Environmental Policy (IEEP). [Link](#).
- Buckley J. (2022). The Limits of Vietnam's Labor Reforms. [Link](#).
- Bueno, N., & Bright, C. (2020) Implementing Human Rights Due Diligence through Corporate Civil Liability, 69(4) International & Comparative Law Quarterly (2020) 789–818. [Link](#).
- Bueno N., Bernaz N., Holly G., Martin-Ortega O. (2024). The EU Directive on Corporate Sustainability Due Diligence (CSDDD): The Final Political Compromise. Business and Human Rights Journal. Published online 2024:1-7. [Link](#).
- Bunn, C., Läderach, P., Ovalle Rivera, O. et al. A bitter cup: climate change profile of global production of Arabica and Robusta coffee. Climatic Change 129, 89–101 (2015). [Link](#).
- Duhoux, T., Le Blévenec, K., Manshoven, Grossi, F., Arnold & M., Fogh Mortensen, L. (2022). Textiles and the Environment - The role of design in Europe's circular economy. ETC/CE Report. [Link](#).
- Electronics Watch and the Center for Development and Integration in Vietnam (2019). Regional Risk Assessment: Electronics Industry, Vietnam. [Link](#).
- Ellen MacArthur Foundation (2017). A New Textiles Economy: Redesigning fashion's future. [Link](#).
- European Commission (2003). Directive concerning certain aspects of the organisation of working time. COM/2003/88/EC. [Link](#).
- European Council (2005). Regulation on the establishment of a FLEGT licensing scheme for imports of timber into the European Community. EC N°2173/2005. [Link](#).
- European Environment Agency (2019). Textiles & the environment in a circular economy. [Link](#).
- European Union (2010). Regulation laying down the obligations of operators who place timber and timber products on the market Text with EEA relevance. EU N° 995/2010. [Link](#).
- European Commission (2011). Communication on a renewed EU strategy 2011-14 for Corporate Social Responsibility. COM/2011/0681 final. [Link](#).
- European Commission (2016). Commission staff working document. Human Rights and Sustainable Development in the EU-Vietnam Relations with specific regard to the EU-Vietnam Free Trade Agreement. [Link](#).
- European Commission (2022). Proposal for a directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence. COM/2022/71 final. [Link](#).

Food and Agriculture Organization of the United Nation (2020). Global Forest Resources Assessment 2020. [Link](#).

Gore, T. and Meysner, A. (2022) 'EU Climate Change Due Diligence: Addressing climate change in the Corporate Sustainability Due Diligence proposal', Discussion Paper, Institute for European Environmental Policy. [Link](#).

Grumiller, J., Raza, W., Staritz, C., Tröster, B., von Arnim, R., & Grohs, H. (2018). The economic and social effects of the EU free trade agreement with Vietnam (Research Report 8/2018). ÖFSE. [Link](#).

Ha Hoang (2020). The underground economy in transition countries from the perspective of globalization: The case of Vietnam. *Amazonia Investiga*, 9(29), 234-242. [Link](#).

Heyl, K., Eckart, F., Roos, P., Stubenrauch, J., Garske, B. (2021). Free Trade, Environment, Agriculture, and Plurilateral Treaties: The Ambivalent Example of Mercosur, CETA, and the EU–Vietnam Free Trade Agreement. *Sustainability* 2021, 13, 3153. [Link](#).

Hutt D. (2021). Vietnam's labor rights make two steps forward, one step back. [Link](#).

ILO (2021). Informal employment in Vietnam: Trends and determinants. [Link](#).

Jiang, Z., Raghavan, S. V., Hur, J., Sun, Y., Liong, S.-Y., Nguyen, V. Q., & Van Pham Dang, T. (2019). "Future changes in rice yields over the Mekong River Delta due to climate change- Alarming or alerting?." *Theoretical and Applied Climatology*. 137(1), 545-555. [Link](#).

Keane, J. (2024). New EU trade rules could put poor countries in a billion dollar 'green squeeze'. ODI. [Link](#).

Le, L. & Baker P. (2023). Vietnam: The End Of Trading Under The European Unions' Generalised Scheme Of Preferences For Vietnam. *Trade Economics*. [Link](#).

Maliszewska, M., Pereira, M., Osorio-Rodarte, I., Zoryana O. (2020). Economic and distributional Impacts of the EVFTA and CPTPP in Vietnam. [Link](#).

Dr. Mansur A., H. (2018). A tale of two economies. Policy Research Institute. [Link](#).

Martin-Ortega O., Outhwaite O., and Rook W. (2015). Buying power and working conditions in the electronics supply chain: legal options for socially responsible public procurement. *International Journal of Human Rights*, vol. 19 (3), 2015, pp 341-368. [Link](#).

Marslev, Kristoffer, and Cornelia Staritz. "Towards a stronger EU approach on the trade-labour nexus?: The EU-Vietnam FTA, domestic labour reforms and social struggles in Vietnam." 33rd SASE 2021 Conference: After Covid? Critical Conjunctures and Contingent Pathways of Contemporary Capitalism. 2021, page 19f. [Link](#).

N. T. Hoa (2019). How large is Vietnam's informal economy? Institute of Economic Affairs. [Link](#).

Nhat Chi Mai (2019). Comparative Analysis of Trade Competitiveness between Bangladesh and Vietnam: Lessons for Bangladesh. REPEC. [Link](#).

Nhung Thị Hồng Thảng (2022). The Role of Vietnam in the Global Coffee Value Chain. *European Journal of Business and Management Research*. [Link](#).

OECD (2018). Due diligence guidance for the garment and footwear sector. [Link](#).

Prickartz A.-C. & Staudinger I. (2019). Policy vs practice: The use, implementation and enforcement of human rights clauses in the European Union's international trade agreements. 3(1): 2. *Europe and the World: A law review* at 20. [Link](#).

Shift Project (2022). The EU Commission's Proposal for a Corporate Sustainability Due Diligence Directive. Shift analysis. [Link](#).

Smith, A., Harrison, J., Campling, L., Richardson, B. & Barbu, M. (2020). FTAs and Global Labour Governance: The European Union's Trade-Labour Linkage in a Value Chain World. Routledge. [Link](#).

Statista Research Department, Market share of electronics industry APAC 2018, by region. [Link](#).

To Xuan Phuc, Cao Thi Cam, & Tran Le Huy (2021). Vietnamese imports of high-risk timber: current status and control mechanisms. Forest policy trade and finance initiative. [Link](#).

UNCTAD (2015). Trade in ICT Goods and the 2015 Expansion of the WTO Information Technology Agreement. [Link](#).

Van der Ven, C. (2022). Circular innovation and ecodesign in the textiles sector - Towards a sustainable and inclusive transition. Tulip Consulting & Sitra. [Link](#).

Velut, JB., Baeza-Breinbauer, D., De Bruijne, M., Garnizova, E., Jones, M., Kolben, K., Oules, L., Rouas, V., Tigere Pittet, F. & Zamparutti, T. (2022). Comparative Analysis of TSD Provisions for Identification of Best Practices to Support the TSD Review. London School of Economics. [Link](#).

Vietnam (2020). Decree 102/2020/ND-CP on Vietnam Timber Legality Assurance System. [Link](#).

World Bank (2020). Vietnam: deepening international integration & implementing the EVFTA. [Link](#).

World Bank & the Asian Development Bank (2021). Climate Risk Country Profile: Vietnam. [Link](#).

The World Bank Group (2022). Vietnam – Country Climate and Development Report. [Link](#).

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