



**Vietnam Chamber of Commerce and Industry
The Center for WTO and Economic integration**

**REPORT:
REVIEW VIETNAM LEGAL FRAME WORK AGAINST COMMITMENTS ON
EUROPEAN UNION – VIETNAM FREE TRADE AGREEMENT (EVFTA)
ON TRANSPARENCY**

PREAMBLE

The Vietnam – EU Free Trade Agreement’s negotiation rounds were officially concluded in the early December 2015. It is among two biggest free trade pacts of Vietnam. Having large scope of commitments, covering a great deal of commercial field or commercial-related field both in the border and beyond border, EVFTA is predicted to have a great impact on legal framework and economy of Vietnam in the near future.

Transparency is among institutional issues impressed in the framework of EVFTA. It is institutional issue having direct impact to the quality and effectiveness of legislation implementation in particular, and to the predictability (transparency) of all the legal mechanism in general. Therefore, it is necessary to determine the difference; and consequently, revise and amend Vietnam legal framework to meet EVFTA commitments, and at a same time, use the motivation of EVFTA to improve transparency the mechanism and domestic legislations.

Review of Vietnam legal frame work against EVFTA commitments on transparency is prepared by the Vietnam Chamber of Commerce and Industry (VCCI) to analysis the incompatibility between Vietnam domestic legislations and EVFTA commitments in the aspect of enterprises; and, therefore, propose the implementation method to ensure Vietnam’s compliance for the sake of enterprises in the relationship with relevant competent authority.

This review is one sector of a project on reviewing Vietnam legal framework against EVFTA commitment on five (05) important areas (including customs and trade facilitation, investment, government procurement, intellectual property, and transparency) prepared by the Vietnam Chamber of Commerce and Industry in the framework the project: “Vietnamese legal framework ready for EU-Vietnam Free Trade Agreement (EVFTA) implementation” sponsored by the Embassy of the United Kingdom of Great Britain and North Ireland in Vietnam

We hope that this Review would be considered as a useful resource for the Government in reviewing Vietnamese legislations to implement EVFTA, and for reference of the competent authorities of the National Assembly in the process of EVFTA formal approval.

The Vietnam Chamber of Commerce and Industry would like to express our great appreciation to the Embassy of the United Kingdom of Great Britain and North Ireland in Vietnam for its sponsorship of this meaningful project./

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ABBREVIATION

EVFTA: the EU – Vietnam Free Trade Agreement

EU: the European Union

FTA: Free Trade Agreement

VLf: Vietnam legal framework

TPP: The Trans-Pacific Partnership

WTO: World Trade Organization

Part one

SUMMARY OF REVIEWING RESULT

I. Objectives and reviewing context

On 2nd December 2015, the negotiations of EU – Vietnam Free Trade Agreement (**EVFTA**) were officially concluded. Containing 24 chapters, the near-final draft of EVFTA published on 1st February 2016 indicates that this pact is a new generation one with a large scope of commitments, covering not only traditional commercial fields (e.g. trade in goods and services,) but also recently committed commercial fields (e.g. State-owned enterprises, government procurement,) and non-commercial by commerce-related issues (e.g. environment, and sustainable development,). The extent of commitments and liberalization provided in the pact is significant higher than the previous free trade agreement, and comparable to the Trans-Pacific Partnership (**TPP**).

Along with this scope and extent of commitments, EVFTA is predicted to have noteworthy impact to legal framework and economy of Vietnam in the near future. Consequently, in order to ensure the provided compliance and implementation under EVFTA, Vietnam legal framework (VLF) is challenged to adapt with EVFTA commitments. In other hand, the revision of VLF is expected to lead to a wave of institutional reform; as a result, the platform of sustainable development is constructed and brings opportunities to foreign business partners, especially from EU.

Mechanisms on transparency are among EVFTA commitments having great and direct impact to Vietnam legal framework and enterprise environment. This issue is a group of principles, requirements on public information, and rights to raise opinions such as business entities' right to complaint, right to sue against policies, legislations, Government administrative decisions, and therefore, impact many issues, and having special meaning in protection of rights of business entities in the political relationship with the Government. With this feature, transparency is impressed by EU (transparency seems to be the only issue that is provided not only in a separate chapter, but also in many articles in other EVFTA chapters). About Vietnam, although there is some principles of transparency under WTO, and some improvement in the process of making and issuing legislations, transparency is a remarkable issue shortcoming of the Vietnam legal framework and enterprise environment.

The review of Vietnam legal framework against EVFTA commitments on transparency is a basis to define the different mechanism, and institution, or incompatibility; and, therefore, propose the solution to amend and revise the

legal framework to ensure the compliance with EVFTA in this important aspect.

In principle, the negotiation and approval process of international agreement of Vietnam, a review shall be prepared by the relevant competent authorities (e.g., the Ministry of Justice) in order to implement the Government's responsibilities under EVFTA.

Despite this fact, the review in the aspect of enterprise in this case is necessary, because:

- In many case, the commitment could be interpreted and implemented in many different ways, and with a review prepared in the aspect of enterprise, the most beneficial approach for enterprise is defined and proposed;
- Different from commitments of different issues, EVFTA commitments on transparency shall not be implemented only for EU nationals, but also shall be apply to all entities; therefore, the factual impact of legislation revising requirements, if any, shall be remarkable. Hence, a review prepared in the aspect of enterprise is very meaningful.

This Review is prepared in order to (i) construct the detail comparison between Vietnam legal framework and EVFTA commitments on transparency; (ii) analysis the current situation of Vietnam legislations and actual implementation against EVFTA requirements; (iii) indicate the proposal of effective implementation method in the aspect and for the sake of enterprises.

II. Scope of review

1. EVFTA commitments on transparency

Under EVFTA, the institution of transparency is provided mostly under Chapter 18 (Transparency), and scatter in other ten chapters (trade in goods, trade remedies, SPS, TBT, customs, government procurement, State owned enterprises, competition and subsidy, intellectual property, sustainable development)

Chapter 18 on Transparency includes the following groups of commitment:

Group 1: Transparency in promulgation of legislative documents (draft and issuance of legislative documents)

- Early publication of draft
- Enable related entities to give comments
- Attempt to recognize the comments

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- Publish legislative documents (method of publication, the period between publication time and time of having effect)

Group 2: Transparency in legal norm implementation

- Commit to implement legislations firmly, objectively, and reasonably
- Commit to designate enquiry point
- Commit to establish the mechanism to response to legal questions
- Commit to have the mechanism to solve questions and issues raised from the implementation of EVFTA

Group 3: Transparency in legal application

- Inform the related entities about the procedure to proceed
- Provide chance to comment before issuing the final administrative decision
- Provide mechanism to allow complaining and suing administrative decision: parties have right to raise comments, administrative authorities have to implement decision

Group 4: Transparency between Vietnam and EU

- Information exchange point between two Parties
- Cooperation in enhancing the quality of legislative documents
- Cooperation in improving the quality of administrative activities

Requirements on transparency in other EVFTA chapter include the following groups of commitments:

- Transparency in issuing legislative documents (TBT, customs, sustainable development)
- Transparency in procedure (trade remedies, import/export licensing, customs, government procurement)
- Transparency in information exchange between Vietnam and EU (SPS, intellectual property, competition and subsidy)

Therefore, the review of Vietnam regulations against EVFTA commitment on transparency shall be prepared in each specific commitment under EVFTA Chapter 18, and other EVFTA articles on transparency (which have the “transparency” title, or transparency- related content as provided under Chapter 18). In the case of transparency articles in the two areas which are Custom and trade facilitation, and Government procurement, because VCCI already has separate review in these two are, this Review shall not reconsider these requirements.

2. Vietnam legal framework on transparency

Under Vietnam legal framework, transparency-related issues of Chapter 18 falls in the scope of the following domestic institutions:

- Legislation on process of drafting and promulgating legislative documents (Law on promulgation of legislative documents, Law on legislation propaganda...)
- Legislations on procedure of issuing administrative decision (Law on handling administrative violation and its guiding legislations in each sectors)
- Legislations on administrative complaint (Law on complaint, Administrative procedure law, and guiding document of these legislations...)

This review shall consider all regulations on transparency in all domestic legislations which relate to different content of EVFTA commitments on transparency.

However, in the case of commitment related to administrative decision (but for decision of administrative penalties), although Vietnam currently does not have separate legislation on administrative decision, and only have legislations on issuing administrative decision in separate areas under many legislations of many different authorities, the Ministry of Justice is hosting the draft of Law on promulgation of administrative decision to unify the legal system in this matter. Therefore, this review shall be prepared with the consideration of *the Draft of Law on promulgation of administrative decision*, the version submitted to the national assembly dated September 2015.

About the review of Vietnam legal framework against EVFTA commitments on transparency under other chapters, all related domestic legislations shall be reviewed, specifically:

- Chapter on Trade in Goods: regulations under Commercial Law, and its guiding legislations;
- Chapter on Customs and Trade Facilitation: regulations under Customs Law and its guiding legislations;
- Chapter on Trade Remedies: regulations under Ordinance on Safeguard, Anti-dumping, Anti-subsidy, and their guiding legislations;
- Chapter on Technical Barriers to Trade (TBT): Law on standards and technical regulations and its guiding legislations; Decision No. 114/2005/QĐ-TTg on the TBT network in Vietnam
- Chapter on Sanitary and Phytosanitary Measures: decisions of the Ministry of the Ministry of Agriculture and Rural development on the

implementation of WTO's SPS agreement on information and notification issues.

- Chapter on Government Procurements: Bidding Law and its guiding legislations
- Chapter on State owned enterprises (SOEs), enterprises granted special right or privileges and monopolies: Enterprise Law and guiding legislation on SOEs
- Chapter on Intellectual property (IP): Law on intellectual property and its guiding legislations
- Chapter on sustainable development: Law on promulgation of legislative documents and its guiding legislations

III. Overview of results and recommendations

The review of Vietnam legal framework against EVFTA commitments on transparency indicates the following result:

1. Group of EVFTA commitments on transparency which Vietnam legislations are compatible with

Results

The result of detailed review shows that Vietnam legal framework is mostly compatible with EVFTA commitment on transparency in all groups of commitments on this issue (but for groups related to transparency information between Vietnam and EU)

This result is not surprising although until now Vietnam has a small number of commitments on transparency (mainly commitment on transparency under the framework of WTO and Trade facilitation agreement of WTO). This statement could be explained by the following reason:

Firstly, acceding to WTO in 2007, Vietnam has change the domestic legal system in many areas to meet WTO's requirements (including GATT, TBT, SPS, anti-dumping, anti-subsidy, safeguard, state owned enterprise, TRIPS, etc) which contain a lot of articles on transparency with the similar content with respective EVFTA requirements.

Secondly, in the period of acceding to WTO in 2007, under the push of reform in the implementation of WTO in which there is the reform of transparency and improvement the involvement of civilians and enterprises in the process of making policy, Vietnam operates a series of important adjustment to improve the transparency issue in the policy and institution procedure, especially in the legal framework regulating enterprise activities. Law on

promulgation of legislative documents in 2008 includes the compatible regulations to related commitments of EVFTA. This improvement creates the improvement in awareness and actions for transparency effort of government, enterprises and interested parties in the following years. Furthermore, transparency becomes one of the priority criterion considered by the business community in the critical process of accessing policies and legislations. Therefore, in the Law of Promulgation of legislative documents 2015, transparency continues to be the fundamental criteria in all step of promulgation of legislative documents. Therefore, in this new legislation, the level of compatibilities with EVFTA is even higher than before, with a lot of detailed regulations attached to the transparency procedure of drafting and receiving feedbacks of interested parties during the draft process. At the same time, Law on complaint, laws on administrative procedure are remarkably amended in the process of transparency improvement of Vietnam, in the direction fitting the common trend in the world. In this wave of reforming, Vietnam is the process of drafting Law on promulgation of administrative decision to regulate in an unified manner, hence, and improve the transparency of this procedure which directly and immediately impacts the specific entities in the legislative application process.

Specifically, Vietnam legislations completely meet the following requirements of EVFTA Chapter 18 on Transparency:

Article 1:

- The definitions of “measure of general application”, “interested person”

Article 2:

- Commitments to pursue a predictable regulatory environment and efficient procedures for economic operators;

Article 3:

- Commitment to ensure that measures of general application are published promptly, and allow for a sufficient period of time between publication and entry into force of such measures;
- Commitments to publish at an early appropriate stage any proposal, and provide reasonable opportunities for interested persons to comment.

Article 5:

- Commitment to endeavour to provide interested persons with application procedures of the regulations which directly impact them (including the information content clearly provided under EVFTA)

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- Commitment to ensure that the procedure is based and in accordance with the domestic law.

Article 6:

- For the purpose of the prompt review and correction of administrative action, commitment to maintain the administrative, judicial, and arbitral procedure which shall be impartial and independent of the office or authority entrusted with administrative enforcement
- Commitment to ensure, in such tribunals or procedures, a reasonable opportunity to support or defend, and a decision based on evidence
- Commitment to ensure that decisions of such tribunals or procedures shall be implemented by the office or authority with respect to the administrative action at issue.

About commitments on transparency under other chapters (but not EVFTA Chapter 18):

- Chapter on Trade in Goods : Commitment to ensure the transparent requirement when implementing the measure of restricting import/export (Article 13);
- Chapter on Trade Remedies: Commitment to comply with WTO and transparent mechanism when apply trade remedy measures; commitment to enable interested persons to comment during the investigation (Article 2)
- Chapter on Customs and Trade Facilitation: see the Review of Vietnam legal framework against EVFTA commitments on customs and trade facilitation
- Chapter on Technical Barriers to Trade: Commitment to ensure the reasonable period between the publication time and time of having effect of TBT measure; Commitment to exchange information of TBT under the official language of WTO
- Chapter on Government Procurements: See the review of Vietnam legal framework to EVFTA commitment on government procurement.
- Chapter on trade and sustainable development: Commitment to exchange information and enable interest persons to comment on measures

Assessment and Recommendation

In general, if only considering the commitment on issue having impact to domestic legislations, but for the commitment of transparent information between EU and Vietnam authorities (which is out of scope of domestic legislation), Vietnam legislation is completely compatible with all commitment

on transparency under Chapter on Transparency and other chapters which are classified into two groups (i) draft, issuance, information publication of legislative documents; and (ii) administrative complaint solving. In fact, they are two biggest groups of EVFTA commitments on transparency.

With regard to these commitments, in principle, when implementing of EVFTA, Vietnam will not have to adjust, amend, or supplement any content of the current legislations.

However, it should be noted that some commitments which Vietnam is compatible not only require the compliance in legal regulations but also raise the target of implementing effectiveness to Vietnam.

For example, under commitment provided in Article 3.2 Chapter on Transparency, Vietnam commits to endeavour the publication of draft at early stage; provide interested persons with opportunities to comment and enough time to comment; and attempt to recognize feedback. All of this responsibility is provided in details under Law on promulgation of legislative documents, however, the issue of ensuring the commitment's implementation has a lot of shortcomings in reality. Shortcomings could come from the interpretation of related competent authority: How to define "soon enough", "enough time" in publication of draft? Does it have meaning when the early publication of draft is not the up-to-date one? Does it have meaning when the deadline for comment is not set, but the draft is suddenly submitted meanwhile interested parties continue to comment on the draft?... Shortcomings could come from the behaviour of these competent authorities: how are feedbacks received? How are interested persons' comments responded?...

The responsibility of implementation effectiveness, therefore, seems to be much harder than simply legalized the commitment as a legal norm of legislative document.

Therefore, with regard to the group of transparent commitments which Vietnam legislations are compatible with, although there is no need to amend, or adjust the legal framework, Vietnam has a lot of work to ensure the implementation effectiveness of current legislations in order to fully comply with respective EVFTA commitments.

It is noted that when the implementation of other issues require a huge resource (e.g., the implementation of commitments on customs and trade facilitation such as modernization – national single window; commitments on government procurement such as electronic bidding,...), the effective implementation of EVFTA commitment on transparency which Vietnam legal framework is compatible with does not require too much cost, but require the

basic change in the view, approach, and skills of related competent authority and its staff.

The implementation of these EVFTA requirements, therefore, is a big challenge because this process could meet obstacles from the bureaucracy, hardening and inertia of the public authority system. However, the positive point is that the situation has change in the positive direction, such as the open level of drafting authorities, the improvement of making policy in a long-term. The pressure coming from the public, and media press to this procedure also has the positive impact to the behaviours and transparent response of related competent authorities.

2. Group of EVFTA commitments on transparency which Vietnam legislations are not fully compatible with

Results

In comparison with EVFTA commitments on transparency which Vietnam legal framework is compatible with, the commitments which Vietnam legal framework is not compatible with have a small number, mostly concentrating in the following groups (i) commitments related to transparency in legal application, and (ii) commitments on transparency in publishing information of EVFTA.

The review indicates that Vietnam legal framework is partly incompatible with the following EVFTA commitment on transparency:

Chapter on Transparency:

- Article 3 (Information publication): Commitment to have explanation on the objectives, and reasons of proposal
- Article 5 (Managing the legal regulations): Commitment to manage and implement regulations in an unified, objective and reasonable manner; Commitment to provide interested persons with opportunities to raise opinions before the final decision;

Other chapters:

- Chapter on Trade remedies: Commitment to publish information of fact and analysis used to conclude a finding in order to provide interested persons with opportunities to comment before the final decision.

Vietnam legislations which is not compatible with EVFTA commitment on information transparency under Article 4 of the Chapter on Transparency (enquiries and contact points), include:

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- Commitment to designate a contact point in order to ensure the effective implementation between Vietnam and EU;
 - Commitment to establish the mechanism of answering the enquiries of interested organizations and individuals in relevant with measures general application;
 - Commitment to have the mechanism to support organizations and individuals to solve the issue raised from the application of legal norms under this pact; and
 - Commitment to explain the reasons and objectives of legal norms upon request.

Assessment and Recommendation

With regard to group of commitments on transparency which Vietnam legal framework is not compatible with, issues are mainly in the mechanism of legal implementation and application. This assessment could be explained by the fact that Vietnam has not yet had any separate legislative document on legal implementation (except for 01 legislative document on the control process of legal implementation of state management authorities – Decree No. 59/2012/ND-CP on supervising the legal implementation: this legal document only concentrates on criterion of supervision, but not the direct criterion for the implementation)

In addition, with this group, it is noted that the mechanism on administrative decision (the fundamental features of common legal application process for each specific case) basically accessed to be compatible with EVFTA commitments with the factual and main consideration of the Draft of law on promulgation of administrative decision (which is not an official legislative document having effect, and has changeable content)

The proposal of solution for this group is inevitably to revise, and amend Vietnam legislation to meet EVFTA commitments. It is noted that if not considering EVFTA, TPP also provides commitments on transparency, and therefore, in the process of amending to implement commitments, it is necessary to review the TPP commitments on transparency to have an uniform amending proposal. With regard to the Draft of law on promulgation of administrative decision, it is necessary to maintain the current situation or propose better regulation on EVFTA commitments' issues.

With regard to the group of EVFTA commitments which Vietnam legal framework completely does not have any regulation (and therefore, is completely incompatible), this group mainly include the regulations on information

transparency to implement EVFTA. This situation is inevitable, because EVFTA's negotiations was concluded not for so long, the official document of the pact has not be signed yet, and EVFTA commitment is not implemented. Consequently, there is no enquiries and contact points, and information on implementation and solving obstacles raised from EVFTA implementation.

The proposal of this case is that Vietnam need to attempt to establish effective and essential enquiries points under EVFTA requirements. In reality, the implementation of this EVFTA responsibility could not require Vietnam to issue any specific legislative document, but require the actual and specific action to establish and operate these enquiries and contact points.

3. Groups of EVFTA commitments on transparency out of the scope of domestic legislations

Chapter on Transparency and other EVFTA chapters include a remarkable commitment on exchange and provide information between competent authorities of Vietnam and EU. This commitment is out of the scope of domestic legislation on merit, therefore, shall not impact the current domestic legal framework.

This group includes the following commitments:

Chapter 18 on Transparency:

- Article 4 – Enquiries and contact points: Commitment to identify the office or official responsible for the matter and assist in facilitating communication with Vietnam and EU; Commitment to inform EU and answer the enquiries related to regulations upon request.
- Article 7 – Good regulatory practice and administrative behaviour: Commitment to co-operate between Vietnam and EU in improving the quality of legislative documents; Commitment to promote the good practice on administrative behaviour.
- Article 8 – Specific rules: Commitment to preferentially apply the EVFTA requirements on transparency in other chapters of this pact.

Other chapters having requirements on transparency

- Chapter on National treatment and Open market of good: Article 18 – State owned commercial enterprises (Commitment to provide information on state owned commercial enterprise under EU's requirements)
- Chapter on TBT: Article 7 – Transparency: Commitment to take consideration to EU's opinions when opening for public comments on a draft of TBT, and response for comment in writing upon EU's request;

Commitment to do the information responsibilities, recognize comment, and response to EU's comments related to the draft of TBT; Commitment to inform EU about the impact assessment result of the draft of TBT upon request.

- Chapter on SPS: Article on transparency and information exchange: the commitment on information responsibility, and co-operate with EU related to SPS measure.
- Chapter on customs and trade facilitation: see the Review on customs and trade facilitation
- Chapter on government procurement: see the Review on government procurement
- Chapter on state owned enterprise: Article 6 – transparency: Commitment to provide EU with state owned enterprise
- Chapter on competition policy: Section of Subsidy Article x.4 – transparency: Commitment to provide the information on subsidy measure to EU
- Chapter on intellectual property: Article 6.10 – co-operation and transparency: Commitment to co-operate in implementation and information exchange on specific issues (product specifications, and geographical indications)

These issues do not fall in the scope of domestic legislation on merit, therefore, being out of scope of this Review.

However, this implementation process of commitments in this group, related authorities need to pay more attention to the review of internal procedures, construct new mechanism to meet the requirement, to implement the application of this group of commitments.

Conclusion

The review of Vietnam legal framework against EVFTA commitments on transparency indicates that, in total, Vietnam legislations are basically compatible with EVFTA commitments on this issue, especially in the mechanism of drafting, issuing, and publishing legislative documents, and mechanisms of complaint settlements. Currently there are some single commitments on implementing and applying which Vietnam legislations are not compatible with EVFTA's requirements

Therefore, to implement EVFTA commitments on transparency, not mentioning the adjustment of some specific regulations, basically Vietnam mustn't amend and supplement the common domestic legislations system to implement EVFTA's commitments.

Related to commitment on publishing and exchanging information between related authorities of EU and Vietnam, Vietnam still need to have internal authority mechanism and regulation to implement this responsibility, but it is not the common legal norms applying to all individuals and organizations.

The more important issue during the implementation of EVFTA commitments on transparency is to ensure the effective and essential implementation of current domestic regulations. Therefore, the attempt to facilitate the effective implementation or control in applying legislations on issuing legislative documents, issuing administrative decision, granting administrative penalties, bringing administrative complaint and sue case,... need to be concentrated.\

Part two – Brief table of reviewing results

BRIEF TABLE

**RESULTS OF REVIEWING EVFTA COMMITMENTS AGAINST VIETNAM LEGAL FRAMEWORK
ON TRANSPARENCY**

Note

Commitments that Vietnam does not/ not yet have to perform (due to reserve, optional, not due to the schedule or the conditions have not occurred, etc)
Commitments that Vietnam’s legal framework have been fully compatible with
Commitments that Vietnam’s legal framework have been partly compatible with
Commitments that Vietnam’s legal framework have been not compatible with, need amending
Commitments on the procedures of cooperation/ exchange between VN-EU, not within the scope of regulation of domestic legislation

Articles	Specific commitment		
COMMITMENT ON TRANSPARENCY UNDER CHAPTER TRANSPARENCY OF EVFTA			
ARTICLE 1 DEFINITIONS	Definition of “Measure of general application”	Definition of “Interested person”	
ARTICLE 2	Commitment to pursuing a predictable regulatory environment		

OBJECTIVE AND SCOPE	and efficient procedures for economic operators		
ARTICLE 3 PUBLICATION	Commitment on the quick publication of measures of general application and on a reasonable period of time between publication and entry into force of such measures	<p>Committing</p> <ul style="list-style-type: none"> - Publishing at an early appropriate stage - Providing reasonable opportunities and enough time for interested parties to comment - Endeavoring to take into consideration the comments 	Commitment on explanation of the objective of and rationale of the proposal upon request
ARTICLE 4 ENQUIRIES AND CONTACT POINTS	Commitment to designating a Contact point in order to ensure the effective implementation of the Agreement and to facilitate communications between the Parties	Commitment to indentifying the office or official responsible for the communicating between VN and EU at the Contact point	Commitment on the establishment of appropriate mechanism for responding to enquiries from any interested person regarding any measures of general application
	Commitment on the establishment of mechanism to help interested persons deal with problems that have arisen from the application of measure of general application under this Agreement	Commitment to recognizing that the answers, advices provided for in this Article 4 may not be definitive or legally binding	Commitment to providing, upon request, an explanation of the objective of and rationale for measures of general application
	Commitment to providing information to EU and upon request, answering questions relating to measures of general application		

<p>ARTICLE 5 ADMINISTRATION OF MEASURES OF GENERAL APPLICATION</p>	<p>Commitment to administering in a uniform, objective, impartial and reasonable manner all measures of general application</p>	<p>Commitment to providing interested persons information about procedures of application of measures of general application that relates to (with the content of information as stated in agreement)</p>	<p>Commitment to affording interested persons opportunity to present their arguments in support of their positions prior to any final administrative action</p>
	<p>Commitment to ensuring all procedures to be performed in accordance with law</p>		
<p>ARTICLE 6 REVIEW AND APPEAL</p>	<p>Commitment to maintaining judicial, arbitral or administrative procedures for the purpose of prompt review or appeal against administrative decision independently with the issued authorities</p>	<p>Commitment to ensuring that the competent authorities gives the parties a reasonable opportunity to support or defend their respective positions as well as makes decisions based on the evidences</p>	<p>Commitment to ensuring that the appeal or further review of the administrative decisions shall be implemented</p>
<p>ARTICLE 7 GOOD REGULATORY PRACTICE AND ADMINISTRATIVE BEHAVIOUR</p>	<p>Commitment on cooperation between VN and EU in promoting the regulatory quality</p>	<p>Commitment to subscribing to the principles of good administrative behavior</p>	
<p>ARTICLE 8 SPECIFIC RULES</p>	<p>Commitment to preferentiating other rules relating to transparency in other chapter of EVFTA</p>		
<p>COMMITMENTS ON TRANSPARENCY IN OTHER CHAPTERS OF EVFTA</p>			
<p>CHAPTER NATIONAL TREATMENT AND</p>	<p>Article 13 - Import and export restrictions Commitment to ensuring the</p>	<p>Article 18 - State trading enterprises Commitment to providing</p>	

MARKET ACCESS FOR GOODS		requirements on transparency when performing import and export restrictions	information on individual case of state trading enterprises upon request from EU	
CHAPTER REMEDIES	TRADE	Commitment on the compliance with the relevant WTO requirements and the fair and transparent system when applying trade remedies	Commitment on the publication of information about facts and considerations to determine the case so that the parties can make their comments before the final decision	Commitment to giving the parties opportunity to express their views during trade remedies investigations
CHAPTER AND FACILITATION	CUSTOM TRADE	Please find the Result of reviewing EVFTA commitment against Vietnam legal framework on customs and trade facilitation		
CHAPTER TECHNICAL BARIERS TO TRADE		Commitment to taking into account the view of EU when opening the draft on TBT to public consultation and to providing written answer upon request from EU	Commitment to ensuring that all EU entities are allowed to participate in public consultation on terms no less favorable than VN entities	Commitment to informing EU about the results of proposed TBT impact assessment upon request
		Commitment to providing information, receiving and replying comments of EU relating to proposed TBT measures	Commitment on a sufficient time between the publication and the effective date of TBT measures	Commitment to publishing on website all the effective TBT measures
		Commitment to providing information to EU in one of the official WTO languages		
CHAPTER AND PHYTOSANITARY	SANITARY	Article Transparency and Exchange of Information Commitment on obligation of		

MEASURES	informing, cooperating with EU regarding SPS measures		
CHAPTER ON GOVERNMENT PROCUREMENT	Please find the Result of reviewing EVFTA commitment against Vietnam legal framework on government procurement		
SECTION III: STATE OWNED ENTERPRISES, ENTERPRISES GRANTED SPECIAL RIGHTS OR PRIVILEGES AND MONOPOLIES	Article 6 - Transparency Commitment to providing to EU information about state owned enterprises		
COMPETITION POLICY CHAPTER	Section Subsidies Article x.4 - Transparency Commitment to informing to EU about subsidies measures		
CHAPTER INTELLECTUAL PROPERTY	Article 6.10 - Cooperation and transparency Commitment on cooperation in implementing and informing about specific matters (information to identify products, geographical indications)		

TRADE AND SUSTAINABLE DEVELOPMENT	Article 12 – Transparency Commitment to informing and giving opportunity for interested party to comment on measures that affect the sustainable development		
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**DETAILED REVIEW OF VIETNAM LEGAL FRAMEWORK AGAINST EVFTA COMMITMENTS
ON TRANSPARENCY**

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
I – TRANSPARENCY CHAPTER OF EVFTA		
ARTICLE 1 DEFINITIONS		
<p>For the purposes of this Chapter “measure of general application” includes laws, regulations, judicial decisions, procedures and administrative rulings of general application that may have an impact on any matter covered by this Agreement; and</p>	<p>- Article 2.3.1, Article 4 of the Law on the promulgation of legislative documents 2015¹</p> <p>Article 2 Law on the promulgation of legislative documents 2015: Legislative documents</p> <p>Legislative documents are documents that contain legal regulations and the promulgation of which complies with regulations of law on authority, manner, and procedures provided for in this Law.</p>	<p>Assessment:</p> <p>The concept of “measure of general application” under EVFTA is nearly identical to the concept of “normative provisions” under Vietnam legislation except for some differences:</p> <p>-With regard to the promulgating manners and promulgating agencies: the measures in EVFTA is not limited in the manners and issuing agencies, while the normative regulations under Vietnam legal system are</p>

¹ Law No. 80/2015/QH2013 of The National Assembly dated 22nd June 2015 on The Promulgation of Legislative Documents. This Law will take effect on 1st July 2016, hence when EVFTA comes into force, this 2015 Law shall be applied. Therefore, this Review is done in accordance with the Law 2015; although at the Review’s time, the Law on promulgation of legislative documents 2008 is still in effect.

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>Legislative documents that contain legal regulations but the promulgation of which complies with regulations of law on authority, manner, and procedures provided for in this Law are not considered legislative documents.</p> <p>Article 3 Law on the promulgation of legislative documents 2015: Interpretation of terms</p> <p>In this Law, the terms below are construed as follows:</p> <p>1. Normative regulations are general rules of conduct, commonly binding, and applied repeatedly to agencies, organizations and individuals nationwide or within a certain administrative division, promulgated by the regulatory agencies and competent persons in this Law, and the implementation of which is ensured by the State.</p> <p>2. Entities regulated by legislative documents are agencies, organizations,</p>	<p>limited by the authorities of the promulgating agencies and the promulgating manners (Article 4 of the Law on the promulgation of legal documents). However, together with definition of “administrative decisions” in Vietnamese law, “normative provisions” is equal to measure of general application in EVFTA.</p> <p>-With regard to the scope of regulation: when measures imposed under EVFTA only relates to matters arising out of this commitment, the scope of the normative regulation under Vietnam legislation are not limited. Nonetheless, the principles applying to the “normative regulations” are also applied to the “measure of general application” under EVFTA, which complies with EVFTA.</p> <p>Recommendation: No revision to current legal framework recommended.</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>and individuals whose rights, obligations, and duties are directly affected by the application of such documents after they are promulgated.</p> <p>3. Explanation for the Constitution, Law, or Ordinance means a work of Standing Committee of the National Assembly meant to clarify the ideas and contents of certain Articles, Clauses, and paragraphs in the Constitution, Law, or Ordinance in order that they are known, correctly and uniformly applied.</p> <p>Article 4 Law on the promulgation of legislative documents 2015: The system of legislative documents</p> <ol style="list-style-type: none"> 1. The Constitution. 2. Codes and Laws (hereinafter referred to as Laws), Resolutions of the National Assembly 3. Ordinances, Resolutions of Standing Committee of the National Assembly; Joint Resolutions between Standing 	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>Committee of the National Assembly and Management Board of Central Committee of Vietnamese Fatherland Front</p> <p>4. Orders, Decisions of the President.</p> <p>5. Decrees of the Government; Joint Resolutions between the Government and Management Board of Central Committee of Vietnamese Fatherland Front</p> <p>6. Decision of the Prime Minister.</p> <p>7. Resolutions of Judge Council of the People’s Supreme Court.</p> <p>8. Circulars of executive judge of the People’s Supreme Court; Circulars of the Chief Procurator of the Supreme People’s Procuracy; Circulars of Ministers, Heads of ministerial agencies; Joint Circulars between executive judge of the People’s Supreme Court and the Chief Procurator of the Supreme People’s Procuracy; Joint Circulars between Ministers, Heads of ministerial agencies and executive judge</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>of the People’s Supreme Court, the Chief Procurator of the Supreme People’s Procuracy; Decisions of State Auditor General.</p> <p>9. Resolutions of the People’s Councils of central-affiliated cities and provinces (hereinafter referred to as provinces).</p> <p>10. Decisions of the People’s Committees of provinces.</p> <p>11. Legislative documents of local governments in administrative - economic units.</p> <p>12. Resolutions of the People’s Councils of districts, towns and cities within provinces (hereinafter referred to as districts).</p> <p>13. Decisions of the People’s Committees of districts.</p> <p>14. Resolutions of the People’s Councils of communes, wards and towns within districts (hereinafter referred to as communes).</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	15. Decisions of the People’s Committees of communes.	
<p>“interested person” means any natural or legal person that may be affected by a measure of general application.</p>	<p>- Law on the promulgation of legislative documents 2015</p> <p>Article 3 Law on the promulgation of legislative documents 2015: Interpretation of terms</p> <p>2. Entities regulated directly by legislative documents are agencies, organizations, and individuals whose rights, obligations, and duties are directly affected by the application of such documents after they are promulgated.</p>	<p>Assessment:</p> <p>The concept of “interested person” stipulated under EVFTA is broader than the concept of “entities regulated directly by legislative document” of Vietnam legislation. The “interested person” imposed under EVFTA includes entities that are regulated directly as well as indirectly by legal documents. However in fact, during all law and regulation making processes in Vietnam, all related persons are invited to make comments, thus in compliance with EVFTA.</p> <p>Recommendation:</p> <p>No revision to current legal framework recommended</p>
<p>ARTICLE 2</p> <p>OBJECTIVE AND SCOPE</p> <p>Recognising the impact that</p>	<p>- Law on the promulgation of legislative documents 2015</p> <p>Article 5 Law on the promulgation of</p>	<p>Assessment:</p> <p>-The Vietnam legislation has no principle of “predictability” and “efficient” like in EVFTA.</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>regulatory environment and procedures may have on trade and investment, the Parties shall pursue a predictable regulatory environment and efficient procedures for economic operators, especially small and medium-sized enterprises.</p>	<p>legislative documents 2015: Rules for formulating and promulgating legislative documents</p> <ol style="list-style-type: none"> 1. Ensure the constitutionality, legitimacy, and uniformity of legislative documents in the legal system. 2. Comply with regulations of law on authority, manner, and procedures for formulating and promulgating legislative documents. 3. Ensure transparency of legislative documents. 4. Ensure the feasibility, frugality, effectiveness, promptness, accessibility, and practicality of legislative documents; integrate gender equality issues in legislative documents; ensure simplification of administrative procedures. 5. Ensure national defense and security, environmental protection without obstruction of implementation of the 	<p>However, Vietnam legislation implies such principle in the principles of “transparency”, “feasibility, frugality, effectiveness, promptness, accessibility and practicality”, “publicity and democracy in receipt of and response to opinions and complaints”.</p> <p>-Concerning the transparency in the law making and implementing processes, Vietnam legislation provides general regulations applying to all entities.</p> <p>It is important to note that EVFTE requires a pursuit of this principle. It means that Vietnam has an obligation to fulfill such principle in practice rather than on-paper provisions.</p> <p>Recommendations:</p> <p>No revision to current legal framework recommended (however, of the current Law on promulgation of legal documents is put under revision, the principle of “a predictable regulatory environment” should be added to the revised law).</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>international agreements to which the Socialist Republic of Vietnam is a signatory.</p> <p>6. Ensure publicity and democracy in receipt of and response to opinions, complaints of agencies, organizations, and individuals during the process of formulating and promulgating legislative documents.</p> <p>Article 6 Law on the promulgation of legislative documents 2015: Providing opinions for formulation of legislative documents</p> <p>1. Vietnamese Fatherland Front, Vietnam Chamber of Commerce and Industry, other associate organizations of Vietnamese Fatherland Front, other agencies, organizations, and individuals are entitled and will be enabled to provide opinions about formulation of legislative documents and draft legislative documents.</p>	<p>This commitment of EVFTA concentrates on the obligation of results, hence Vietnam should pay attention to the implementation of current related legislation so that the commitment could be substantially fulfilled</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>2. During the formulation of legislative documents, the drafting agencies and relevant organizations must enable other organizations and individuals to provide opinions about formulation of legislative documents and draft legislative documents; seek opinions from entities regulated by legislative documents.</p> <p>3. Opinions about formulation of legislative documents and draft legislative documents must be considered during the process of adjusting draft documents.</p>	
<p>ARTICLE 3 PUBLICATION</p>		
<p>1. Each Party shall ensure that measures of general application: (a) are published promptly via an officially designated medium, including where possible electronic means, in such a</p>	<p>- Article 5, Article 6, Article 80, Article 146, from Article 150 to Article 154 of the Law on the promulgation of legislative documents 2015.</p> <p>Article 5 Law on the promulgation of legislative documents 2015: Rules for</p>	<p>Assessment: Vietnam legislation is in compliance with EVFTA's regulations regarding: -The publication of legal documents (that containing regulations of general application)</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>manner as to enable governments and interested persons to become acquainted with them; and</p> <p>(b) allow for a sufficient period of time, between publication and entry into force of such measures, except where not possible on grounds of urgency.</p>	<p>formulating and promulgating legislative documents</p> <ol style="list-style-type: none"> 1. Ensure the constitutionality, legitimacy, and uniformity of legislative documents in the legal system. 2. Comply with regulations of law on authority, manner, and procedures for formulating and promulgating legislative documents. 3. Ensure transparency of legislative documents. 4. Ensure the feasibility, frugality, effectiveness, promptness, accessibility, and practicality of legislative documents; integrate gender equality issues in legislative documents; ensure simplification of administrative procedures. 5. Ensure national defense and security, environmental protection without obstruction of implementation of the international agreements to which the 	<p>on the official portal. Vietnam legislation is even go beyond than EVFTA by providing for publication under many forms: electronic (Electronic gazette), websites of Ministries, Peoples' Committee; etc</p> <p>-Ensuring a reasonable period of time between the publishing date and the date that the legal documents come into force.</p> <p>Recommendations:</p> <p>No revision to current legal framework recommended.</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>Socialist Republic of Vietnam is a signatory.</p> <p>6. Ensure publicity and democracy in receipt of and response to opinions, complaints of agencies, organizations, and individuals during the process of formulating and promulgating legislative documents.</p> <p>Article 6 Law on the promulgation of legislative documents 2015: Providing opinions for formulation of legislative documents</p> <p>1. Vietnamese Fatherland Front, Vietnam Chamber of Commerce and Industry, other associate organizations of Vietnamese Fatherland Front, other agencies, organizations, and individuals are entitled and will be enabled to provide opinions about formulation of legislative documents and draft legislative documents.</p> <p>2. During the formulation of legislative documents, the drafting agencies and</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>relevant organizations must enable other organizations and individuals to provide opinions about formulation of legislative documents and draft legislative documents; seek opinions from entities regulated by legislative documents.</p> <p>3. Opinions about formulation of legislative documents and draft legislative documents must be considered during the process of adjusting draft documents.</p> <p>Article 80 Law on the promulgation of legislative documents 2015: Announcement of laws, ordinances, and resolutions</p> <p>1. The President shall announce a law or ordinance within 15 days from the day on which it is ratified.</p> <p>In case the President requests Standing Committee of the National Assembly to consider an ordinance ratified by Standing Committee of the National Assembly as prescribed in Clause 1</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>Article 8 of the Constitution, the President shall send the written request to Standing Committee of the National Assembly within 10 days from the day on which the ordinance is ratified. Standing Committee of the National Assembly shall reconsider the issues raised by the President at the nearest meeting. After the ordinance is put on the vote and ratified again by Standing Committee of the National Assembly, the President shall announce it within 15 days from the day on which it is ratified again by Standing Committee of the National Assembly. If the President still disagrees, the President shall present the case to the National Assembly for decision at the nearest meeting.</p> <p>The President shall announce a law or ordinance formulated and promulgated under simplified procedures within 05 days from the day on which it is ratified.</p> <p>2. Secretary general of the National</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>Assembly shall announce the resolution of the National Assembly, resolution of Standing Committee of the National Assembly within 15 days from the day on which it is ratified.</p> <p>Secretary general of the National Assembly shall announce the resolution formulated and promulgated under simplified procedures within 05 days from the day on which it is ratified.</p> <p>Article 146 Law on the promulgation of legislative documents 2015: Cases of formulation, promulgation of legislative documents under simplified procedures</p> <ol style="list-style-type: none"> 1. State of emergency according to regulations of law on state of emergency; urgent response to natural disasters, epidemics, conflagration; urgent situations for solving practical problems under decisions of the National Assembly. 2. Suspension of a legislative document in part or in full for a certain period of 	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>time.</p> <p>3. Necessary revisions to conform to new legislative documents.</p> <p>Article 150 Law on the promulgation of legislative documents 2015: Publishing legislative documents on Official Gazette</p> <p>1. Legislative documents of central regulatory agencies must be published on Official Gazette of Socialist Republic of Vietnam, except for those that contain state secrets.</p> <p>2. Legislative documents of the People’s Councils and the People’s Committees of provinces, local governments of administrative - economic units must be published of official gazettes of their provinces.</p> <p>3. Legislative documents of the People’s Councils and the People’s Committees of districts and communes must be posted publicly and broadcasted on local media.</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>Time and location for posting shall be decided by the President of the People’s Committee of the district or commune.</p> <p>4. Within 03 days from the publishing or signing date, the agency or person competent to promulgate legislative documents must send the document to the regulatory of Official Gazette (Vietnam News Agency) for publishing or publicly posting.</p> <p>Vietnam News Agency shall publish the legislative document in full on the Official Gazette within 15 days if it is promulgated by a central regulatory agency or 07 days if it is promulgated by the People’s Council or the People’s Committee of a province or local government of a administrative - economic unit from the day on which the document is received.</p> <p>5. Legislative documents published on paper and electronic Official Gazette are official and as valid as the original</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>documents.</p> <p>6. The Government shall provide regulations on Official Gazette and posting of legislative documents.</p> <p>Article 151 Law on the promulgation of legislative documents 2015: Effective dates of legislative documents</p> <p>1. The effective date of the whole or part of a legislative document shall be specified in the document. Nevertheless, the effective date is not sooner than 45 days from the day on which it is ratified or signed if it is promulgated by a central regulatory agency, or not sooner than 10 days from the day on which it is signed if it is promulgated by the People’s Council or the People’s Committee of a province, or not sooner than 07 days from the day on which it is signed if it is promulgated by the People’s Council or the People’s Committee of a district or commune.</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>2. A legislative document promulgated under simplified procedures may come into force from the day on which it is ratified or sign and must be immediately published on information portal of the promulgating agency and posted on the media; such document must be published on Official Gazette of Socialist Republic of Vietnam or the province within 03 days from the day on which it is announced or signed.</p> <p>Article 152 Law on the promulgation of legislative documents 2015: Retrospective effect of legislative documents</p> <p>1. A law, resolution of the National Assembly, or legislative document of a central regulatory agency may have a retrospective effect if it is necessary for assurance of common interests, rights and interests of the entities regulated by the document.</p> <p>2. A document must not have</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>retrospective effect in the following cases:</p> <p>a) The document imposes a new legal liability upon an act which does not incur such legal liability when it is committed.</p> <p>b) The document imposes a heavier legal liability.</p> <p>3. The legislative document is promulgated by the People’s Councils, the People’s Committee, or local government of an administrative - economic unit.</p> <p>Article 153 Law on the promulgation of legislative documents 2015: Suspension of legislative documents</p> <p>1. A legislative document shall be suspended in part or in full until a decision is issued by a competent authority in the following cases:</p> <p>a) The document is suspended according to Clause 3 Article 164, Clause 2 Article 165, Clause 2 and Clause 3 Article 166,</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>Clause 2 and Clause 3 Article 167 of this Law. The document will expire if the competent authority decides to annul it. Otherwise, its effect will be effective again;</p> <p>b) A competent authority which promulgates the document decides to suspend it for a certain period of time to solve new socio-economic issues that arise.</p> <p>2. The time of suspension of effect, resumption of effect, or expiration of the document must be specified in a legislative document of a competent authority.</p> <p>3. The decision on suspension of a legislative document must be published on the Official Gazette and the media within 03 days from the day on which it is issued.</p> <p>Article 154 Law on the promulgation of legislative documents 2015: Expiration of legislative documents</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>A legislative document expires in part or in full in the following cases:</p> <ol style="list-style-type: none"> 1. The document expires on the expiration date written therein; 2. The document is amended by or replaced with another legislative document which is promulgated by the same regulatory agency; 3. The document is annulled by another document of a competent authority; 4. When a legislative document expires, the documents elaborating it also expire. <p>- Decree No. 100/2010/ND-CP of the Government dated 28th September 2010 on Official Gazette (guided by Circular No. 03/2011/TT-VPCP)(This is the document guiding the Law on the promulgation of legislative documents 2008, so it may become invalid and be replaced by documents guiding the Law on the promulgation of legislative documents 2015)</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>Article 2 Decree No. 100/2010/ND-CP: Functions of Official Gazette</p> <p>1. Official Gazette is the State's official legal information publication uniformly managed by the Government, functioning to publicize legal documents promulgated or jointly promulgated by competent state agencies, treaties which have taken effect on the Socialist Republic of Vietnam, and other legal documents under regulations.</p> <p>2. Official Gazette includes Official Gazette of the Socialist Republic of Vietnam published by the Government Office and provincial-level Official Gazette published by Offices of People's Committees of provinces and centrally run cities.</p> <p>Article 3 Decree No. 100/2010/ND-CP: Forms of Official Gazette</p> <p>1. Official Gazette is published in printed and electronic forms.</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>2. The Government Office shall guide the forms, formats and techniques of presenting Official Gazette publications.</p> <p>Article 13 Decree No. 100/2010/ND-CP: Time limits for publication of documents in Official Gazette</p> <p>1. Within 15 days after receiving a document, the Government Office shall publish that document in Official Gazette of the Socialist Republic of Vietnam.</p> <p>2. Within 30 days after receiving a document, the Office of a provincial-level People's Committee shall publish that document in provincial-level Official Gazette</p> <p>3. Documents shall be published simultaneously in electronic and printed Official Gazette from the same database.</p>	
<p>2. Each Party shall:</p> <p>(a) Endeavour to publish at an early appropriate stage any proposal to adopt or amend any</p>	<p>- Article 6, Article 7, Article 34, Article 36, Article 57, Article 81.4, Article 85, Article 86, Article 91, Article 97, Article 101, Article 105, Article 106,</p>	<p>Assessment:</p> <p>1. About commitment in paragraph a</p> <p>- Vietnam legislation is in compliance</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>measure of general application, including, upon request, an explanation of the objective of, and rationale for the proposal;</p> <p>(b) provide reasonable opportunities for interested persons to comment on any proposal to adopt or amend any measure of general application, allowing, in particular, for sufficient time for such opportunities, except where not possible on grounds of urgency; and</p> <p>(c) Endeavour to take into consideration the comments received from interested persons with respect to any proposal to adopt or amend any measure of general application.</p>	<p>Article 105, Article 107, Article 109, Article 110, Article 113, Article 120, Article 133, Article 142, Article 146, Article 148 of the Law on the promulgation of legislative documents 2015.</p> <p>Article 6 Law on the promulgation of legislative documents 2015: Providing opinions for formulation of legislative documents</p> <p>1. Vietnamese Fatherland Front, Vietnam Chamber of Commerce and Industry, other associate organizations of Vietnamese Fatherland Front, other agencies, organizations, and individuals are entitled and will be enabled to provide opinions about formulation of legislative documents and draft legislative documents.</p> <p>2. During the formulation of legislative documents, the drafting agencies and relevant organizations must enable other organizations and individuals to provide</p>	<p>with EVFTA as to the publication of legal text drafts.</p> <p>However, in practice, that the publishing time is reasonably early enough or not depends a lot on whether the published draft is the final or not</p> <ul style="list-style-type: none"> - Regarding the publication upon request, the explanation of the objective of and rationale for the proposal: <p>Vietnam legislation has partially complied with EVFTA by requiring the publication of drafts together with the RIA and Submission Presentation which could contain objectives and rationale of the drafts. However, this is requirement only in case of law, ordinance and decree drafts, not circulars, resolutions of the Court, Peoples' Assembly, etc</p> <p>2. Regarding the reasonable opportunities for interested person to comment</p> <ul style="list-style-type: none"> -Vietnam legislation provides the procedures of seeking opinions from

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>opinions about formulation of legislative documents and draft legislative documents; seek opinions from entities regulated by legislative documents.</p> <p>3. Opinions about formulation of legislative documents and draft legislative documents must be considered during the process of adjusting draft documents.</p> <p>Article 7 Law on the promulgation of legislative documents 2015: Responsibilities of competent agencies and persons for formulation and promulgation of legislative documents</p> <p>1. The agency/person competent to submit the project/draft of legislative document (hereinafter referred to as submitting agency/person) is responsible for the punctuality and quality of such project/draft.</p> <p>2. The agency or organization in charge of drafting the legislative document (hereinafter referred to as drafting</p>	<p>“entities directly regulated by legislative documents” about all drafts of legislative documents within a 30 to 60 day period of time. Practically, the opinion-seeking procedure is not limited to “entities that are directly regulated by legislative documents” but opens to anyone wishing to comment. So Vietnam’s regulations are basically compatible with EVFTA’s.</p> <p>-However, in fact, the period to comment is sufficient or not depends on the type of the draft</p> <p>3. Regarding the commitment of taking into consideration the comments during the adoption and amendment of the proposal</p> <p>-Vietnam legislation basically complies with the requirement of EVFTA (although it is just a requirement on “effort”, not an obligation of result): the agencies in charge of the drafting are obliged to examine and take into account opinions of all drafts. Such competent agencies are even obliged</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>agency/person) is responsible to the submitting agency/person or the agency/person competent to promulgate the document (hereinafter referred to as promulgating agency/person) for the punctuality and quality of the project/draft.</p> <p>3. The competent agencies, organizations, and persons asked for opinions about formulation of legislative documents or draft legislative documents are responsible for the contents and punctuality of their opinions.</p> <p>4. The appraising agency/person is responsible to the submitting agency/person or promulgating agency/person for the appraisal result with regard to the request for formulation of legislative documents or the project/draft.</p> <p>The inspecting agency/person is responsible to the promulgating agency for result of inspection of project/draft of</p>	<p>to publicize on their websites the contents of the description and revision reports of the draft law, ordinance and decree.</p> <p>-However, the shortcoming lies in the implementation (many drafters fail to comply with such obligations)</p> <p>Recommendations:</p> <ol style="list-style-type: none"> 1. Regarding the publication of the objectives and rationale of the proposal: <ul style="list-style-type: none"> Introducing the provisions of publicizing the objectives and rationale of the drafts into the Decree guiding the Law on promulgation of legal documents 2015 (this Decree is being drafted) 2. Take notice of the enforcement matter to ensure the agreement under EVFTA on: <ul style="list-style-type: none"> - Early publication - Enough time for commenting - Taking into account comments

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>legislative documents.</p> <p>5. The National Assembly, the People's Councils, other agencies and persons competent to promulgate legislative documents are responsible for the quality of documents they promulgate.</p> <p>6. Competent agencies and persons are responsible for late promulgation of document elaborating implementation of laws, resolutions of the National Assembly, ordinances, resolutions of Standing Committee of the National Assembly, orders and decisions of the President.</p> <p>7. Competent agencies and persons are responsible for promulgation of legislative documents that contravene the Constitution, laws, resolutions of the National Assembly, ordinances, resolutions of Standing Committee of the National Assembly, orders and decisions of the President, decrees of the government, decisions of the Prime</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>Minister, legislative documents of superior regulatory agencies, or that exceed their given tasks.</p> <p>8. Heads of drafting agency, appraising agency, submitting agency, and inspecting agency, within their competence, are responsible for their unfulfilled duties and shall be dealt with according to regulations of law on public officials and other relevant regulations of law if quality of draft documents is not satisfactory, schedule is not met, or constitutionality, legitimacy, and uniformity of the legislative documents are not ensured.</p> <p>Article 34 Law on the promulgation of legislative documents 2015: Responsibilities of agencies, organizations, and deputies of the National Assembly for making request for law/ordinance formulation</p> <p>1. Before requesting law/ordinance formulation, the agency, organization, or</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>deputy of the National Assembly must perform the following tasks or request a competent agency to perform the following tasks:</p> <p>a) Summarize the implementation of regulations of law related to the request for law/ordinance formulation; survey, assess social relationships relevant to the request for law/ordinance formulation;</p> <p>b) Conduct scientific research into relevant issues to assist the request for law/ordinance formulation; study information, materials, international agreements to which the Socialist Republic of Vietnam is a signatory relevant to the request for law/ordinance formulation. Request relevant organizations and individuals to provide documents and information related to the request for law/ordinance formulation where necessary;</p> <p>c) Formulate proposed policies in the request for law/ordinance formulation;</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>assess the impact of such policies;</p> <p>d) Estimate resources and conditions for assurance of implementation of the law or ordinance after it is ratified by the National Assembly or Standing Committee of the National Assembly.</p> <p>2. Prepare documents to request law, ordinance formulation as prescribed in Article 37 of this Law.</p> <p>3. Seek opinions from relevant organizations and individuals about the request for law/ordinance formulation; consider and respond to the opinions offered.</p> <p>4. With regard to request for law/ordinance formulation that is not made by the Government, the agency, organization, or deputy of the National Assembly who requests the law/ordinance formulation also has the responsibility to obtain and consider opinions given by the government.</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>Article 36 Law on the promulgation of legislative documents 2015: Seeking opinions about request for law/ordinance formulation</p> <p>1. Agencies, organizations, and deputies of the National Assembly who make requests for law, ordinance formulation have the responsibility to:</p> <p>a) Post the summary report, report on impacts of proposed policies on the information portal of the National Assembly if the request is made by Standing Committee of the National Assembly, Ethnic Council, Committees of the National Assembly, deputies of the National Assembly, or the information portal of the Government if the request is made by the government, and the information portal or the requesting agency/organization for at least 30 days.</p> <p>b) Seek opinions from the Ministry of</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>Finance, the Ministry of Home Affairs, the Ministry of Foreign Affairs, the Ministry of Justice, relevant organizations, entities under the direct impacts of proposed policies, and solution for implementation of such policies in the request for law/ordinance formulation. Hold a meeting to seek opinions about basic policies in the request for law/ordinance formulation where necessary;</p> <p>c) Consider, explain, aggregate opinions; post the report on receipt of opinions (hereinafter referred to as feedback report) on the information portal as prescribed in this Clause.</p> <p>Article 55 Law on the promulgation of legislative documents 2015: Duties of the drafting agency</p> <p>3. Seek opinions about the project or draft document from relevant agencies, organizations, and individuals; post the project or draft document on the</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>information portal prescribed in Point a Clause 1 Article 36 of this Law and that of the drafting agency; receive, consider, explain, aggregate opinions; post the explanatory report and the revised draft document on the information portal prescribed in Point a Clause 1 Article 36 of this Law and that of the drafting agency</p> <p>Article 57 Law on the promulgation of legislative documents 2015: Seeking opinions about law/ordinance project or draft resolution</p> <p>1. During the drafting process, the agency or deputy of the National Assembly in charge of drafting must seek opinions from the entities under the direct impact of the document and relevant organizations; specify the issues that need opinions and address for receipt of opinions; post the entire draft document and description on the information portal of the drafting agency mentioned</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>in Point a Clause 1 Article 36 of this Law for at least 60 days in order to receive opinions, except for those promulgated under simplified procedures. If the drafting agency revises the draft document while it is open for comments, the revised one must be posted.</p> <p>In case of seeking opinions in writing, the enquired organizations must give written responses within 20 days from the receipt of the request.</p> <p>2. Apart from posting the draft document as prescribed in Clause 1 of this Article, opinions may be obtained by asking directly, sending the draft document, holding discussions, or using the media.</p> <p>3. The drafting agency shall receive, consider the opinions, publish the explanation and feedbacks on the information portal of the Government and of themselves.</p> <p>4. If the project or draft document is prepared by a deputy of the National</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>Assembly the Office of the National Assembly, Office of National Assembly Delegation, Legislative Research Institute shall conduct the enquiry as prescribed in this Article.</p> <p>Article 81 Law on the promulgation of legislative documents 2015: Formulation and promulgation of orders and decisions of the President</p> <p>4. Based on the contents of the draft order or decision, the President shall decide whether to post the whole document on the information portal of the drafting agency. The draft order or decision must be posted for at least 60 days, unless it is promulgated under simplified procedures.</p> <p>Article 85 Law on the promulgation of legislative documents 2015: Responsibilities of agencies requesting decree formulation</p> <p>1. Reckon up the implementation of regulations of law, assess applicable</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>legislative documents related to the request for decree formulation; survey, assess social relationships relevant to the request for decree formulation.</p> <p>Request relevant agencies to assess the implementation of legislative documents under their management that are related to the request for decree formulation.</p> <p>2. Conduct study into information, materials, relevant international agreements to which the Socialist Republic of Vietnam is a signatory relevant to the request for decree formulation. Request relevant organizations and individuals to provide documents and information related to the request for decree formulation where necessary.</p> <p>3. Develop policies proposed in the request for decree formulation; assess the impact of such policies; anticipate necessary resources and conditions for ensuring the implementation of the</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>Decree after it is ratified by the Government.</p> <p>4. Prepare documents to request decree formulation as prescribed in Article 87 of this Law.</p> <p>5. Seek opinions from relevant organizations and individuals about the request for decree formulation; receive, consider, explain, and summarize the opinions offered.</p> <p>Article 86 Law on the promulgation of legislative documents 2015: Seeking opinions about request for decree formulation</p> <p>The agency requesting decree formulation has the following responsibilities:</p> <p>1. The agency that makes the request for decree formulation shall seek opinions from the entities under the direct impact of the proposed policies in the request for decree formulation and relevant</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>organizations; specify the issues that need opinions and address for receipt of opinions; post the entire request for decree formulation on the information portal of the Government and the agency requesting decree formulation for at least 30 days.</p> <p>In case of seeking opinions in writing, depending on the characteristics and contents of the request for decree formulation, the requesting agency shall send enquiry sheets.</p> <p>The Ministry of Finance shall offer opinions about financial resources, the Ministry of Home Affairs shall offer opinions about human resources, the Ministry of Foreign Affairs shall offer opinions about compatibility of relevant international agreements to which Socialist Republic of Vietnam is a signatory; the Ministry of Justice shall offer opinions about constitutionality, legitimacy, and uniformity of the request</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>for decree formulation with the legal system;</p> <p>2. The agency that makes the request for decree formulation shall seek opinions directly, hold conferences and discussions to seek opinions about intended policies in the request for decree formulation;</p> <p>3. The agency requesting decree formulation shall receive, consider, explain, aggregate opinions; post the explanatory report on the information portal of the Government and the agency requesting decree formulation.</p> <p>Article 91 Law on the promulgation of legislative documents 2015: Seeking opinions about the draft decree</p> <p>While drafting the decree, the drafting agency must seek opinions from the entities under the direct impact of the decree, Ministries, ministerial agencies, and Governmental agencies as prescribed in Clauses 1, 2, 3 Article 57 of</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>this Law.</p> <p>Article 9 Law on the promulgation of legislative documents 2015: Duties of drafting agency</p> <p>1. A Ministry or ministerial agency shall be in charge of drafting the decision of the Prime Minister as assigned by the Prime Minister (hereinafter referred to as drafting agency).</p> <p>2. Duties of the drafting agency:</p> <p>a) Reckon up the implementation of law; survey, assess social relationships; study information, materials, and relevant International Agreements to which Socialist Republic of Vietnam is a signatory;</p> <p>b) Assess impact of each policy in the draft decision which specifies issues to be solved; targets of the policies; solutions for implementation the policies; positive and negative impacts of the policies; costs, benefits of solutions;</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>comparison of costs and benefits of solutions; selected solution and reason for such selection; assess impact of administrative procedures and gender-related impact (if any);</p> <p>c) Organize the drafting of the decision which is participated by representatives of the Ministry of Justice, Government Office, and relevant organizations; qualified experts and scientists may be invited to participate in the drafting process;</p> <p>d) Seek opinions from the entities under the direct impact of the policies in draft decision and relevant organizations; specify the issues that need opinions and address for receipt of opinions; post the entire draft decision on the information portal of the Government and the drafting agency for at least 60 days.</p> <p>In case of seeking opinions in writing, depending on the characteristics and contents of the draft decision, the</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>drafting agency shall send enquiry sheets to Ministries, ministerial agencies, and Governmental agencies. Enquired agencies shall give written responses within 20 days from the receipt of the enquiry sheets.</p> <p>The Ministry of Finance shall offer opinions about financial resources, the Ministry of Home Affairs shall offer opinions about human resources, the Ministry of Foreign Affairs shall offer opinions about compatibility of relevant international agreements to which Socialist Republic of Vietnam is a signatory; the Ministry of Justice shall offer opinions about constitutionality, legitimacy, and uniformity of the draft decision with the legal system;</p> <p>dd) Receive, consider the opinions; post the report on revision of the draft decision on the information portal of the Government and of the drafting agency.</p> <p>Article 101 Law on the promulgation</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>of legislative documents 2015: Drafting circulars</p> <p>2. During the drafting process, the Ministry or ministerial agency must seek opinions from the entities under the direct impact of the circular; specify the issues that need opinions and address for receipt of opinions; post the entire draft circular on the information portal of the Government and Ministry or ministerial agency for at least 60 days.</p> <p>Article 105 Law on the promulgation of legislative documents 2015: Formulation and promulgation of resolutions of Judge Council of the People's Supreme Court</p> <p>2. The draft resolution shall be posted on the information portals of the Government and the People's Supreme Court for at least 60 days</p> <p>To draft resolution must be sent to the People's Supreme Procuracy, the Ministry of Justice, relevant ministries</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>and ministerial agencies, Vietnam Lawyers Association and the Vietnam Bar Federation for enquiry.</p> <p>Article 106 Law on the promulgation of legislative documents 2015: Formulation and promulgation of circulars of executive judge of the People’s Supreme Court</p> <p>1. The drafting of circulars of Executive judge of the People’s Supreme Court is organized and directed by Executive judge of the People’s Supreme Court.</p> <p>2. The drafting unit shall reckon up the implementation of laws related to the draft circular; study relevant information and materials; prepare an outline, make and revise the draft circular; prepare a description and relevant documents.</p> <p>The draft circular shall be posted on the information portals of the People’s Supreme Court for at least 60 days.</p> <p>Depending on the characteristics and</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>contents of the draft circular, Executive judge of the People’s Supreme Court shall decide whether to send the draft circular to local courts, military courts, and relevant organizations for enquiry.</p> <p>3. Judge Council of the People’s Supreme Court shall discuss and offer opinions about the draft circular of Executive judge of the People’s Supreme Court.</p> <p>4. Executive judge of the People’s Supreme Court shall direct the enquiry into the draft resolution and consider signing, promulgating the Circular.</p> <p>Article 107 Law on the promulgation of legislative documents 2015: Formulation and promulgation of Circulars of Chief Procurator of the Supreme People’s Procuracy</p> <p>1. The drafting of circulars of the Chief Procurator of the Supreme People’s Procuracy is organized and directed by the Chief Procurator of the Supreme People’s Procuracy.</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>2. The drafting unit shall reckon up the implementation of laws related to the draft circular; study relevant information and materials; prepare an outline, make and revise the draft circular; prepare a description and relevant documents.</p> <p>The draft circular shall be posted on the information portals of the People’s Supreme Procuracy for at least 60 days.</p> <p>Depending on the characteristics and contents of the draft circular, the Chief Procurator of the Supreme People’s Procuracy shall decide whether to send the draft circular to local Procuracies, military Procuracies, and relevant organizations for enquiry.</p> <p>3. Control Committee of the People’s Supreme Procuracy shall discuss and offer opinions about the draft circular.</p> <p>4. The Chief Procurator of the Supreme People’s Procuracy shall direct the enquiry into the draft resolution and</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>consider signing, promulgating the Circular.</p> <p>Article 109 Law on the promulgation of legislative documents 2015: Formulation and promulgation of joint resolutions</p> <ol style="list-style-type: none"> 1. The agency in charge of drafting of a joint resolution between Standing Committee of the National Assembly or the Government and Management Board of Central Committee of Vietnamese Fatherland Front is appointed by Standing Committee of the National Assembly or the Government. 2. The drafting agency shall draft the joint resolution. 3. While drafting the joint resolution, the drafting agency must seek opinions from other organizations and individuals as prescribed in Clauses 1, 2, 3 Article 57 of this Law. 4. Before being promulgated, the draft 	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>joint resolution between Standing Committee of the National Assembly and Management Board of Central Committee Vietnamese Fatherland Front must be inspected by Ethnic Council and Committees of the National Assembly; the draft joint resolution between the Government and Governing Commission of Central Committee of Vietnamese Fatherland Front must be appraised by the Ministry of Justice.</p> <p>Appraisal documents and contents are the same as those in Clause 2 and Clause 3 Article 58; inspection documents and contents are the same as those in Clause 1 Article 64 and Article 65 of this Law.</p> <p>5. The drafting agency shall consider opinions to revise the draft resolution.</p> <p>6. The draft resolution shall be ratified if the agencies competent to promulgate joint resolutions reach a consensus.</p> <p>President of the National Assembly or the Prime Minister and President of</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>Central Committee Vietnamese Fatherland Front shall sign the joint resolution together.</p> <p>Article 110 Law on the promulgation of legislative documents 2015: Formulation and promulgation of joint circulars</p> <p>1. The agencies in charge of drafting joint circulars between executive judge of the People’s Supreme Court and the Chief Procurator of the Supreme People’s Procuracy; joint circulars between Ministers, Heads of ministerial agencies and Executive Judge of the People’s Supreme Court, the Chief Procurator of the Supreme People’s Procuracy are appointed by Ministers and Heads of ministerial agencies.</p> <p>2. The drafting agency shall draft the joint circular.</p> <p>3. The draft shall be posted on the information portal of the drafting agency for at least 60 days.</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>The drafts of joint circulars between executive judge of the People’s Supreme Court and the Chief Procurator of the Supreme People’s Procuracy; joint circulars between Ministers, Heads of ministerial agencies and Executive Judge of the People’s Supreme Court, the Chief Procurator of the Supreme People’s Procuracy are subject to enquiry by members of Judge Council of the People’s Supreme Court and members of Standing Committee of the People’s Supreme Procuracy.</p> <p>4. The drafting agency shall consider opinions to revise the draft.</p> <p>5. The draft of a joint Circular shall be ratified if the agencies competent to promulgate joint circulars reach a consensus.</p> <p>Executive judge of the People’s Supreme Court, the Chief Procurator of the Supreme People’s Procuracy, Minister, and Head of ministerial agency shall sign</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>the joint circular together.</p> <p>Article 113 Law on the promulgation of legislative documents 2015: Seeking opinions about request for resolution formulation</p> <p>1. The agency that makes the request for resolution formulation shall seek opinions from the entities under the direct impact of the proposed policies and relevant organizations; specify the issues that need opinions and address for receipt of opinions; post the entire request for resolution formulation on the information portal of the provincial government for at least 30 days.</p> <p>Apart from posting the request as prescribed in this Clause, opinions may be obtained by asking directly, sending the draft resolution, holding conferences, or using the media.</p> <p>2. The agency that seeks opinions from entities under the direct impact of the proposed policies must specify the issues</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>that need opinions and give them at least 10 days to provide their opinions. The agency that makes the request for resolution formulation may hold direct discussion about the proposed policies with entities under the direct impact of the draft resolution if necessary.</p> <p>3. The enquired organizations shall give written responses within 10 days from the receipt of the request.</p> <p>Article 120 Law on the promulgation of legislative documents 2015: Seeking opinions about the draft resolution</p> <p>1. The draft resolution of the People’s Council of the province must be posted in full on the information portal of the provincial government for at least 30 days.</p> <p>2. The drafting agency shall seek opinions form relevant organizations.</p> <p>In case of seeking opinions form entities under the direct impact of the proposed</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>polices, the drafting agency must specify the issues that need opinions and give them at least 30 days to provide their opinions.</p> <p>3. The enquired organizations must give written responses within 10 days from the receipt of the request.</p> <p>Article 133 Law on the promulgation of legislative documents 2015: Drafting resolutions of the People’s Councils of districts</p> <p>1. Draft resolutions of the People’s Council of a district are submitted by the People’s Committee of the same district. Depending on the characteristics and contents of the resolution, the People’s Committee of the district shall appoint a drafting agency. The drafting agency shall draft the document and description thereof.</p> <p>2. Depending on the characteristics and contents of the draft resolution, the drafting agency shall seek opinions from</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>the entities under the direct impact of the resolution and relevant organizations.</p> <p>The enquired organizations must give written responses within 07 days from the receipt of the draft resolution.</p> <p>In case of seeking opinions from entities under the direct impact of the proposed policies, the drafting agency must specify the issues that need opinions, the emailing address, and give them at least 07 days to provide their opinions.</p> <p>Article 142 Law on the promulgation of legislative documents 2015: Drafting resolutions of the People's Councils of communes</p> <ol style="list-style-type: none"> 1. Draft resolutions of the People's Council of a commune are drafted and submitted by the People's Committee of the same commune to the People's Council. 2. Depending on the characteristics and 	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>contents of the draft resolution, the President of the People’s Committee shall seek opinions from relevant agencies, the people in local neighborhoods, villages, hamlets, etc. about the draft resolution in appropriate manners.</p> <p>Article 146 Law on the promulgation of legislative documents 2015: Cases of formulation, promulgation of legislative documents under simplified procedures</p> <ol style="list-style-type: none"> 1. State of emergency according to regulations of law on state of emergency; urgent response to natural disasters, epidemics, conflagration; urgent situations for solving practical problems under decisions of the National Assembly. 2. Suspension of a legislative document in part or in full for a certain period of time. 3. Necessary revisions to conform to new legislative documents. 	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>Article 148 Law on the promulgation of legislative documents 2015: Simplified procedures for formulation, promulgation of legislative documents</p> <p>Formulation, promulgation of laws and resolutions of the National Assembly, ordinances and resolutions of Standing Committee of the National Assembly, orders and decisions of the President, decrees of the Government, decisions of the Prime Minister, resolutions of the People’s Councils of provinces, and decisions of the People’s Committees of provinces shall be carried out as follows:</p> <ol style="list-style-type: none"> 1. The drafting agency organizes the drafting process; 2. The drafting agency may seek opinions from relevant organizations about the draft document. The time limit for seeking opinions is 20 days; 3. The appraising agency shall appraise the draft document, the inspecting 	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>agency shall inspect the draft document within 07 days from the day on which it is received.</p> <p>Documents include the description, the draft document, appraisal report, and report on receipt of opinions.</p>	
<p>ARTICLE 4</p> <p>ENQUIRIES AND CONTACT POINTS</p>		
<p>1. Each Party shall, upon the entry into force of this Agreement, designate a contact point in order to ensure the effective implementation of this Agreement and to facilitate communications between the Parties on any matter covered by this Agreement.</p>	<p>Vietnam legislation does not set any rules on the corresponding matter.</p>	<p>Assessment:</p> <p>Vietnam legislation does not set any rules on the contact point to implement EVFTA Agreement.</p> <p>Recommendation:</p> <p>Op1: In case the agreement is understood as a “contact point” to ensure the effective implementation of EVFTA: Vietnam need to establish and build an operating mechanism for this Contact point (if necessary, a legislative document should be issued – such as the Decision of the Prime Minister);</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
		<p>Opt2: In case the agreement is understood as a “contact point” to serve only to two governments (VN-EU): This is not a matter of domestic law, therefore no recommendation from the legal perspective.</p> <p>Read this Article together with Article 4(3) of this Chapter, the understanding under Opt1 should prevail. Specifically, it is recommended that a Legal Text on the EVFTA’s Contact Point is built</p>
<p>2. Upon request of the other Party, the contact points shall identify the office or official responsible for the matter and assist, as necessary, in facilitating communication with the requesting Party.</p>	<p>Vietnam legislation does not set any rules on the corresponding matter.</p>	<p>Assessment:</p> <p>This is a matter which is not within the scope of regulation of domestic law</p> <p>Recommendation:</p> <ul style="list-style-type: none"> - No revision to current legal framework recommended. -Take notice of ensuring the performance of this obligation in the implementation process
<p>3. Each Party shall, within its available resources, establish or maintain appropriate</p>	<p>Vietnam legislation does not set any rules on the corresponding matter.</p>	<p>Assessment:</p> <p>Vietnam legislation does not set any rules on the contact point to ensure the</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>mechanisms, including those provided in other chapters, for responding to enquiries from any interested person regarding any measures of general application which are proposed or in force, and how they would be applied. Enquiries may be addressed through contact points established under paragraph 1 or any other mechanism as appropriate, unless a specific mechanism is established in this Agreement.</p>		<p>implementation of EVFTA Agreement, hence there are no provisions about:</p> <ul style="list-style-type: none"> - Responding to enquiries from any interested person regarding any measures of general application to implement EVFTA; - Specific mechanism to respond to enquiries <p>Recommendation:</p> <p>it is recommended that a Legal Text on the EVFTA's Contact Point is built</p>
<p>4. Each Party shall provide for mechanisms available for interested persons seeking a solution to problems that have arisen from the application of measure of general application under this Agreement.</p>	<ul style="list-style-type: none"> - Law on Complaints, Law on Administrative Procedures - A large number of Vietnam legislative documents impose regulations on the settlement of problems arising out of the implementation of the normative provisions including which are within the scope of regulation of EVFTA. - Vietnam legislation does not set any rules on the settlement of problems 	<p>Assessment:</p> <ul style="list-style-type: none"> - From the perspective of solving problems arising during the implementation legal laws and regulations in general: Vietnam legislation is in compliance with EVFTA - From the perspective of solving problems in implementing EVFTA's agreements: Vietnam legislation has no relevant regulations. <p>Recommendation:</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	arising out of the implementation of the normative provisions while performing EVFTA's agreements.	Introduce this commitment into the suggested Legal Text on the EVFTA's Contact Point
5. The Parties recognise that responses provided for in this Article may not be definitive or legally binding but for information purposes only.	Vietnam legislation does not set any rules on the corresponding matter.	<p>Assessment: Vietnam: no regulations</p> <p>Recommendation: Introduce this commitment into the suggested Legal Text on the EVFTA's Contact Point</p>
6. Each Party shall provide, upon request, an explanation of the objective of, and rationale for measures of general application.	No direct regulations	<p>Assessment: Vietnam legislations does not meet EVFTA requirements.</p> <p>Recommendation Although this commitment could create remarks in improving transparency of Vietnam legal framework, the implementation of this commitment at general scale could put a great burden on enforcement authorities.</p> <p>The most feasible solution is to include this commitment into the Decree guiding Law on Promulgation of legislative documents (i.e a</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
		provision requiring promulgating authority promulgate the legal Text along with a formal Explanation of the rationale and objective of concerned Text.
7. Upon request of a Party, the other Party shall promptly provide information and respond to questions pertaining to any actual or proposed measure of general application that the requesting Party considers might materially affect the operation of this Agreement, regardless of whether the requesting Party has been previously notified of that measure.	No regulations	<p>Assessment:</p> <p>Out of scope of domestic regulations</p> <p>Recommendation</p> <ul style="list-style-type: none"> - No revision to current legal framework recommended - If possible, consider to include commitments under Article 4.7 of this Chapter in the enforcement legislative documents of EVFTA.
ARTICLE 5 ADMINISTRATION OF MEASURES OF GENERAL APPLICATION		
Each Party shall administer in a uniform, objective, impartial and reasonable manner all measures	- Decree No. 59/2012/ND-CP on monitoring law execution situation	<p>Assessment</p> <p>Vietnam has no direct provisions on the issue</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>of general application.</p>	<p>Article 10 Decree No. 59/2012/ND-CP: Contents of considering and assessing law execution situation</p> <ol style="list-style-type: none"> 1. Timeliness and sufficiency in law execution of state agencies and competent persons. 2. Accuracy and consistency in guidance on law application and in law application of state agencies and competent persons. 3. Extent of law observance of agencies, organizations and individuals. <p>Article 14 Decree No. 59/2012/ND-CP: Handling of law execution situation monitoring results</p> <ol style="list-style-type: none"> 1. Based on result of information collection and results of law execution situation inspection, investigation and survey, ministries, ministerial-level agencies, government-attached agencies and People's Committees at all levels shall handle according to their competence or shall propose competent 	<p>but has provision that indirectly regulating the objective, impartial and uniform implementation of legal texts. However, there is no provision on 'reasonable manner'.</p> <p>Recommendation</p> <p>These principles of implementation management under EVFTA are reasonable and useful, thus should be put in texts of general application.</p> <p>Therefore, recommend to add this principle into Article 20 of Decree 59/2012/ND-CP.</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>agencies or persons to handle results of law execution situation monitoring according to the following contents:</p> <p>a/ To promptly and fully promulgate legal documents detailing implementation of law;</p> <p>b/ To take measures to raise the effectiveness of law training and dissemination; to ensure the organizational apparatus, personnel, funds and other conditions for law execution;</p> <p>c/ To promptly organize the execution of effective legal documents;</p> <p>d/ To take measures to ensure accuracy and consistency in guidance on law application and in law application;</p> <p>dd/ To amend, supplement and promulgate newly legal documents;</p> <p>e/ To take other measures to raise the effectiveness of law execution situation and improve the legal system.</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>Each Party, in applying such measures to particular persons, goods or services of the other Party in specific cases, shall</p> <p>(a) Endeavour to provide interested persons, that are directly affected by a proceeding, with reasonable notice, in accordance with its domestic procedures, when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated and a general description of any issues in controversy;</p>	<ul style="list-style-type: none"> - Law on handling administrative violations 2012 - Draft Law on the issuance of administrative Decision² - Other legislative documents regulate on administrative procedures and administrative decisions - Law on Civil Procedures 2015³ (specifically Article 4.2, Article 4.3, Article 196, Article 464.1 and Part 8 – Procedures of the settlement of civil case involving foreign elements (from Article 464 to Article 481) - Law on Criminal Procedures 2015 (Article 3.2) - Law on Administrative Procedures 2015⁴ (Chapter XVIII) 	<p>Assessment:</p> <ol style="list-style-type: none"> 1. With regard to administrative procedures and proceedings initiated on request of interested persons: In principle, Vietnam legislations meet EVFTA requirements. 2. With regard to administrative procedures, proceedings initiated by competent authorities: <ul style="list-style-type: none"> - Criminal proceedings and civil proceedings, Vietnam legislations meet EVFTA requirements; - Administrative proceedings: no provision of notifying some information to interested parties. <p>However, this requirements are not compulsory due to 'in accordance with its</p>

² The Draft is brought to the 41th Session of the Standing Committee of the National Assembly XIII, 9/2015

³ Law No. 92/2015/QH13 of the National Assembly dated 25th November 2015 on Civil Procedure (“Civil Procedures Code 2015”)(take effect from 1st July 2016)

⁴ Law No. 93/2015/QH13 of the National Assembly dated 25th November on Administrative Procedures (“Law on Administrative Procedures 2015”) (take effect from 1st July 2016)

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>- Law on Commercial Arbitration 2010</p>	<p>domestic procedures’</p> <p>Recommendation:</p> <p>Recommend to include a provision on notifying interested parties of the administrative procedures and proceedings to be taken into the Law on promulgation of administrative decision (which is actually under drafting process).</p>
<p>(b) afford such interested persons a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, when time, the nature of the proceeding and the public interest permit; and</p>	<p>- Law on handling administrative violations 2012</p> <p>Article 61 Law on handling administrative violations 2012:</p> <p>Explanation</p> <p>1. For acts of administrative violations which regulated by the law provisions to apply the sanctioning forms of depriving the rights of using licenses, professional practice certificates in definite time or suspension of operation in definite time or apply the maximum fines of the fine frame for those acts from VND 15,000,000 or more than for individuals,</p>	<p>Assessment</p> <p>Vietnam legislations have provisions regulating that interests persons are given opportunities to present facts and arguments in support of their position prior to any final administrative action, although they are not applied to all cases.</p> <p>Because EVFTA provides that ‘when time, the nature of the proceeding and the public interest permit’, Vietnam legislations meet EVFTA’s commitments.</p> <p>Recommendation</p> <p>- No revision to current legal framework recommended</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>from VND 30,000,000 or more than for organizations, the violating individuals, organizations have right to explain directly or in writing for persons with competence to sanction administrative violations. The persons with sanctioning competence are responsible for consider explanation of violating individuals, organizations before making sanctioning decisions, except for those cases that individuals, organizations do not have requirements of explanation within the term specified in Clause 2 and Clause 3 of this Article.</p> <p>2. For cases of explanation in writing, violating individuals, organizations must send written explanations to persons with competence to sanction administrative violations within 05 days, since the date of taking records of administrative violations.</p> <p>In case of complicated circumstances, the competent persons can extend with the</p>	<ul style="list-style-type: none"> - Pay attention to keep Article 26 and Article 28 of the draft of Law on promulgation of administrative decision.

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>maximum of 5 days at the request of the violating individuals, organizations.</p> <p>The violating individuals, organizations must perform explanations in writing by themselves or by their legal representatives.</p> <p>3. For the cases of direct explanation, the violating individuals, organizations must send their written request for direct explanation to the persons with sanctioning competence within 02 working days, since the date of taking record of administrative violations.</p> <p>The persons with sanctioning competence must send written notices to violators about the time and venue of direct explanation session within 05 days, from the date of receiving request of violators.</p> <p>The persons with sanctioning competence hold the direct explanation session and are responsible for defining legal foundations and details, evidences</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>related to the acts of administrative violations, sanctioning forms, remedial measures scheduled to apply for violating acts. The violating individuals, organizations, their legal representatives have rights to participate in the direct explanation session and giving opinions, evidences to protect their legal rights and benefits.</p> <p>The direct explanation must be made in the records, and signed by the related parties. If the record consists of many pages, the parties must sign on each page. This record must be stored in the dossier of administrative violation sanction and assigned to the violating individuals, organizations or their legal representatives 01 copy for each respective one.</p> <p>- Draft Law on the issuance of administrative Decision⁵: Article 26, Article 28</p>	

⁵ The Draft is brought to the 41th Session of the Standing Committee of the National Assembly XIII, 9/2015

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	- Other legislative documents regulate on administrative procedures and administrative decisions	
(c) ensure that its procedures are based on and in accordance with its domestic law.	Vietnam legislations	<p>Assessment</p> <p>In principle, administrative procedures and all proceedings are provided for in relevant law. Therefore, Vietnam legislations meet EVFTA requirements.</p> <p>However, the enforcement of legal document under EVFTA is emphasized.</p> <p>Recommendation</p> <ul style="list-style-type: none"> - No revision to current legal framework recommended - Pay attention to ensure the legal compliance of the procedures and proceedings under domestic law.
ARTICLE 6 REVIEW AND APPEAL		
1. Each Party shall establish or	- Law on Complaints 2011 (Article 3,	Assessment

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>maintain, in accordance with its domestic law, judicial, arbitral or administrative tribunals or procedures for the purpose of the prompt review and, where warranted, correction of administrative action relating to matters covered by this Agreement. Such tribunals and its procedures shall be impartial and independent of the office or authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter</p>	<p>Article 7)</p> <p>- Law on administrative procedures 2010</p> <p>Article 28 Law on administrative procedures 2010: Lawsuits under jurisdiction of courts</p> <p>1. Lawsuits over administrative decisions or acts, except those pertaining to state secrets in the fields of national defense, security and foreign affairs as classified by the Government and those of internal nature of agencies and organizations.</p> <p>Article 163 Law on administrative procedures 2010: Jurisdiction of trial panels</p> <p>1. Trial panels shall examine the legality of administrative decisions, administrative acts, disciplinary decisions on dismissal, decisions on settlement of complaints on decisions on handling of competition cases, voter lists over which lawsuits are instituted, and</p>	<p>Vietnam legislations meet this EVFTA commitment:</p> <ul style="list-style-type: none"> - The mechanism to maintain judicial, arbitral or administrative tribunals or procedures for the purpose of the prompt review - Impartial and independent <p>Recommendation</p> <p>No revision to current legal framework recommended</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>decisions on settlement of relevant complaints.</p> <p>2. Trial panels may decide to:</p> <p>a/ Reject lawsuit claims which are not legally grounded;</p> <p>b/ Accept part or whole of lawsuit petitions, pronounce cancellation of part or whole of unlawful administrative decisions; order state agencies or competent persons in these state agencies to perform tasks or public duties under law;</p> <p>c/ Accept part or whole of lawsuit petitions, declare some or all administrative acts unlawful; order state agencies or competent persons in these state agencies to terminate their unlawful acts;</p> <p>d/ Accept lawsuit petitions, pronounce cancellation of unlawful disciplinary decisions on dismissal; order heads of agencies or organizations to perform</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>tasks or public duties under law;</p> <p>e/ Accept part or whole of lawsuit petitions, pronounce cancellation of part or whole of unlawful decisions on settlement of complaints about decisions on handling of competition cases; order competent agencies or persons that have issued decisions on settlement of complaints about decisions on handling of competition cases to resettle these cases under the Law on Competition;</p> <p>f/ Accept part or whole of lawsuit petitions; order agencies making voter lists to modify or supplement these lists under law;</p> <p>g/ Order agencies or organizations to pay compensations for damage, restore the rights and legitimate interests of individuals, agencies and organizations which are infringed upon by unlawful administrative decisions, administrative acts, disciplinary decisions on dismissal or decisions on settlement of complaints</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>about decisions on handling of competition cases;</p> <p>h/ Recommend competent state agencies or their heads to examine responsibilities of state agencies or competent persons of these agencies.</p>	
<p>2. Each Party shall ensure that, in any such tribunals or procedures, the parties to the proceeding are provided with the right to:</p> <p>(a) a reasonable opportunity to support or defend their respective positions; and</p> <p>(b) a decision based on the evidence and submissions of record or, where required by its domestic law, the record compiled by the administrative authority.</p>	<p>- Law on administrative procedures 2015 (specifically Article 18, Article 19, Article 78, Article 80, Article 81, Article 82, Article 194, Article 242)</p> <p>Article 10 Law on administrative procedures 2015: Obligation of competent agencies, organizations and individuals to provide documents and evidences</p> <p>Agencies, organizations and individuals shall, within the ambit of their tasks and powers, sufficiently and promptly provide involved parties, the court and the people’s procuracy (below referred to as the procuracy) with documents and evidences they are keeping or managing in accordance with this Law when so</p>	<p>Assessment:</p> <p>Vietnam legislations meet this EVFTA commitment</p> <p>Recommendation:</p> <p>No revision to current legal framework recommended</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>requested and take responsibility before law for such provision. If they cannot do so, they shall notify such in writing to involved parties, the court and the procuracy, clearly stating the reason.</p> <p>Article 18 Law on administrative procedures 2015: Assurance of adversarial process in trial</p> <p>1. The court shall guarantee the exercise by involved parties and defense counsels of lawful rights and interests of involved parties of the right to adversarial process in first-instance, appellate, cassation and reopening trial in accordance with this Law.</p> <p>2. Involved parties and defense counsels of lawful rights and interests of involved parties may collect, submit and provide documents and evidences after the court accepts the administrative case and shall notify one another of submitted documents and evidences; may present their arguments, counter-arguments and</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>viewpoints on the assessment of evidences and laws applied to defend their claims and lawful rights and interests or to reject claims of others in accordance with this Law.</p> <p>3. In the course of trial, all documents and evidences shall be examined in an adequate, objective, comprehensive and public manner, except where such documents and evidences may not be publicized in accordance with this Law. The court shall administer the adversarial process, give questions about unclear matters and base itself on adversarial results to make judgments and rulings.</p> <p>Article 19 Law on administrative procedures 2015: Assurance of the right of involved parties to protect their lawful rights and interests</p> <p>1. Involved parties may protect their lawful rights and interests by themselves or ask lawyers or others who are</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>qualified in accordance with this Law to do so.</p> <p>2. The court shall assure involved parties of the right to protect their lawful rights and interests.</p> <p>3. The State shall ensure legal aid for persons eligible for legal aid as defined in the Law on Legal Aid so that they can exercise their right to protect their lawful rights and interests before the court.</p> <p>4. No one can restrict the right to protect lawful rights and interests of involved parties in administrative procedures.</p> <p>Article 78. Burden of proof in administrative procedures</p> <p>1. Plaintiffs are obliged to provide copies of administrative decisions, disciplinary decisions on dismissal, decisions on settlement of complaints about decisions on handling of competition cases, or complaint settlement decisions (if any) and furnish other evidences to defend</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>their lawful rights and interests. In case of failure to do so, they shall clearly state the reason.</p> <p>2. Defendants are obliged to provide courts with complaint settlement dossiers (if any) and copies of documents based on which administrative decisions, disciplinary decisions on dismissal or decisions on settlement of complaints about decisions on handling of competition cases have been issued or administrative acts have been taken.</p> <p>3. Persons with related interests and obligations are obliged to provide evidences to defend their lawful rights and interests.</p> <p>Article 80 Law on administrative procedures 2015: Evidences</p> <p>Evidences in an administrative case include factual things which are handed or produced to the court by involved parties or other agencies, organizations or individuals in the process of</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>conducting procedures or collected by the court according to the order and procedures prescribed in this Law and used by the court as grounds for determining whether factual circumstances of the case as well as claims or objections of involved parties are grounded and lawful.</p> <p>Article 81 Law on administrative procedures 2015: Evidence sources</p> <p>Evidences are collected from the following sources:</p> <ol style="list-style-type: none"> 1. Readable, audible or visible materials, or electronic data; 2. Exhibits; 3. Testimonies of involved parties; 4. Testimonies of witnesses; 5. Expert examination conclusions; 6. Written records of on-site appraisal results; 7. Asset valuation and price appraisal 	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>results;</p> <p>8. Written certifications of legal facts or acts made by responsible persons;</p> <p>9. Notarized or authenticated documents;</p> <p>10. Other sources specified by law.</p> <p>Article 82 Law on administrative procedures 2015: Identification of evidences</p> <p>1. Readable materials shall be regarded as evidences if they are originals or lawfully notarized or authenticated copies or provided and certified by competent agencies or organizations.</p> <p>2. Audible or visible materials shall be regarded as evidences if they are presented by persons possessing them together with documents certifying their origins if such persons have made audio or visual recordings themselves, or written certifications by those that have provided them to presenters of their origins, or documents on events related</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>to such audio or visual recording.</p> <p>3. Electronic data messages expressed in the form of exchange of e-data, e-documents, emails, telegrams, facsimiles and other similar forms prescribed by the law on e-transactions.</p> <p>4. Exhibits regarded as evidences must be the original and related to cases or matters being settled.</p> <p>5. Testimonies of involved parties or witnesses shall be regarded as evidences if they are recorded in writing or in audio or video tapes or disks or other sound or image storage media as prescribed in Clause 2 of this Article or are orally made at court hearings.</p> <p>6. Expert examination conclusions shall be regarded as evidences if the expert examination is conducted according to procedures prescribed by law.</p> <p>7. Written records of on-site appraisal results shall be regarded as evidences if</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>the appraisal is conducted according to procedures prescribed by law.</p> <p>8. Asset valuation and price appraisal results shall be regarded as evidences if the valuation or appraisal is conducted according to procedures prescribed by law.</p> <p>9. Documents certifying legal events or acts made on the spot by responsible persons shall be regarded as evidences if they have been made according to procedures prescribed by law.</p> <p>10. Other sources identified as evidence sources in accordance with law.</p> <p>Article 84 Law on administrative procedures 2015: Verification and collection of documents and evidences</p> <p>1. Involved parties may collect evidences by themselves with the following measures:</p> <p>a/ Collecting readable, audible or visible materials, or electronic data messages;</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>b/ Collecting exhibits;</p> <p>c/ Identifying witnesses and taking certifications by witnesses;</p> <p>d/ Requesting agencies, organizations or individuals to permit copying of or provide documents related to the settlement of the case which are currently kept or managed by the latter;</p> <p>dd/ Requesting commune-level People's Committees to authenticate signatures of witnesses;</p> <p>e/ Requesting the court to collect documents and evidences if they are unable to do so;</p> <p>g/ Requesting the court to issue decisions to solicit expert examination or valuation of assets;</p> <p>h/ Requesting agencies, organizations or individuals to perform other jobs in accordance with law.</p> <p>2. In the cases specified by this Law, a</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>judge may take one or several of the following measures to collect documents and evidences:</p> <p>a/ Taking testimonies of involved parties and witnesses;</p> <p>b/ Holding confrontations between involved parties and between involved parties and witnesses;</p> <p>c/ Conducting on-site inspection and appraisal; d/ Soliciting expert examination;</p> <p>dd/ Deciding on asset valuation;</p> <p>e/ Entrusting the collection and verification of documents and evidences;</p> <p>g/ Requesting agencies, organizations or individuals to provide readable, audible or visible documents or other exhibits related to the settlement of the case.</p> <p>h/ Other measures prescribed by this Law.</p> <p>3. When taking a measure specified at</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>Point c, d, dd, e or g, Clause 2 of this Article, a judge shall issue a decision thereon, clearly stating the reason for application of the measure and requirement of the court.</p> <p>4. At the stage of trial according to cassation or reopening procedures, verifiers may take the measures to collect evidences specified at Points a and g, Clause 2 of this Article.</p> <p>When a verifier applies a measure specified at Point g, Clause 2 of this Article, the court shall issue a decision, clearly stating the reason for application of the measure and its requirement.</p> <p>5. Within 3 working days after collecting documents and evidences, the court shall notify such documents to involved parties so that they can exercise their rights and perform their obligations.</p> <p>6. The procuracy may request the court to verify and collect documents and evidences in the course of settlement of a</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>case. In case of filing a protest against a court judgment or ruling according to appellate, cassation or reopening procedures, the procuracy may verily and collect documents and evidences to assure the protest filing.</p> <p>Article 194 Law on administrative procedures 2015: First-instance judgments</p> <p>1. The court shall make judgments in the name of the Socialist Republic of Vietnam.</p> <p>2. A judgment consists of an introductory part, a part on the contents of the case and reasoning of the court, and a part on the court ruling, specifically as follows:</p> <p>a/ The introductory part must indicate the name of the first-instance court; serial number of the case and date of case acceptance; serial number of the judgment and date of judgment pronouncement; full names of members of the trial panel, court clerk, procurator,</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>expert witness and interpreter; names and addresses of the plaintiff, defendant, persons with related interests and obligations; agency or organization being the plaintiff; lawful representatives, defense counsels of lawful rights and interests of involved parties; subject matter of the lawsuit; serial number and date of the decision to bring to case to public or behind-closed-door trial; and time and venue of trial.</p> <p>b/ The part on the contents of the case and reasoning of the court must state the lawsuit claim of the plaintiff; lawsuit petition of the agency or organization; and requests and independent claims of persons with related interests and obligations.</p> <p>The court shall base itself on results of the adversary process and evidences examined at the court hearing to fully and objectively analyze, assess and judge circumstances of the case, legal grounds</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>and court precedents (if any) which it applies to accept or reject claims and requests of involved parties and defense counsels of the lawful rights and interests of involved parties, and settle other related matters;</p> <p>c/ The part on the court ruling must clearly state legal grounds, rulings of the trial panel on each specific matter which needs to be settled in the case, application of provisional urgent measures, legal costs, procedural expenses and the right to appeal against the judgment. If there is a decision which must be executed without delay, such decision must be clearly stated.</p> <p>3. When retrying a case on which the judgment or ruling has been partially or wholly quashed under a cassation or reopening ruling, the court shall settle the matters of property and obligations which have been performed under the legally effective judgment or ruling</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>which is quashed, and clearly state such in the judgment.</p> <p>Article 242 Law on administrative procedures 2015: Appellate judgments</p> <p>1. The appellate trial panel shall render an appellate judgment in the name of the Socialist Republic of Vietnam.</p> <p>2. An appellate judgment must contain:</p> <p>a/ An introductory part;</p> <p>b/ A part on the case's content, appeal, protest, and reasoning of the court;</p> <p>c/ A part on the ruling.</p> <p>3. The introductory part must clearly state the name of the appellate court; the serial number and date of acceptance of the case; the serial number of the judgment and the date of judgment pronouncement; full names of the members of the trial panel, court clerk, procurator, expert witness and interpreter; full names and addresses of the plaintiff, defendant, person with</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>related interests and obligations, and agency or organization instituting the lawsuit; lawful representatives or defense counsels of their lawful rights and interests; the appellant or protesting procuracy; public or behind-closed-door trial; and time and venue of trial.</p> <p>4. The part on the case's content, the appeal or protest, and reasoning of the court must summarize the content of the case and ruling of the first-instance court; and content of the appeal or protest.</p> <p>The court shall base itself on the adversarial process result and evidences examined at the court hearing to analyze, assess and reason the appeal, protest, circumstances of the case, settlement and trial by the first-instance court, and legal grounds and court precedents (if any) which the court has applied, to accept or reject the appeal or protest and settle other relevant issues.</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>5. The part on the ruling must state legal grounds and the trial panel's ruling on each matter to be settled in the case, application of provisional urgent measures, first-instance and appellate legal costs, and procedural expenses (if any).</p> <p>6. When conducting retrial of the case with part or the whole of the legally effective judgment or ruling annulled under the cassation or reopening ruling, the court shall settle the issues on assets and obligations already executed under the annulled judgment or ruling.</p> <p>7. The appellate judgment takes legal effect on the date it is pronounced.</p> <p>- Law on complaints 2011 and documents guiding the implementation</p> <p>Article 12 Law on complaints 2011: Rights and obligations of the complainants</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>1. The complainant has the following rights:</p> <p>g) Giving evidence about the complaints and explain the opinion of such evidence</p> <p>Article 30. Dialogue and Article 39. 2nd round Dialogue</p>	
<p>3. Each Party shall ensure, subject to appeal or further review as provided for in its domestic law, that such decision shall be implemented by, and shall govern the practice of, the office or authority with respect to the administrative action at issue.</p>	<p>- Chapter XIX - Procedures for execution of court judgments or rulings on administrative case</p> <p>- Part 1 and Part 4, Chapter III Complaints Settlement of Law on Complaints 2011</p>	<p>Assessment:</p> <p>Vietnam legislations meet this EVFTA commitments</p> <p>However, the enforcement of legal document under EVFTA is emphasized.</p> <p>Recommendation:</p> <p>No revision to current legal framework recommended</p>
<p>ARTICLE 7</p> <p>GOOD REGULATORY PRACTICE AND ADMINISTRATIVE BEHAVIOUR</p>		
<p>1. The Parties agree to co-operate</p>	<p>- Law on promulgation of legislative</p>	<p>Assessment</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>in promoting regulatory quality and performance, including through exchange of information and best practices on their respective regulatory reform processes and regulatory impact assessments.</p>	<p>documents</p>	<p>Out of the scope of domestic legislations</p> <p>Recommendation</p> <ul style="list-style-type: none"> - No revision to current legal framework recommended - Pay attention to the enforcement among relevant authorities.
<p>2. The Parties subscribe to the principles of good administrative behaviour and agree to co-operate in promoting such principles, including through exchange of information and best practices.</p>	<p>- Draft Law on the issuance of administrative decision</p> <p><i>Article 3.</i> Definition of administrative decision</p>	<p>Assessment</p> <ul style="list-style-type: none"> - Vietnam legislations have no direct provision providing the principle of good administrative behaviour. However, this commitment is not compulsory. - With regard to cooperation, out of the scope of domestic legislations. <p>Recommendation:</p> <ul style="list-style-type: none"> - No revision to current legal framework recommended - Pay attention to cooperate with EU.
<p>ARTICLE 8 SPECIFIC RULES</p>	<p>See Part II – Transparency provisions in other chapters of EVFTA</p>	<p>See Part II – Transparency provisions in other chapters of EVFTA</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>The provisions of this Chapter shall apply without prejudice to any specific rules established in other Chapters of this Agreement.</p>		
II – COMMITMENT ON TRANSPARENCY IN OTHER CHAPTERS OF EVFTA		
<p>CHAPTER NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS</p> <p>ARTICLE 13: IMPORT AND EXPORT RESTRICTIONS</p> <p>1. Except as otherwise provided in this Agreement, neither Party may adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, in accordance with Article XI of the GATT 1994, including its Notes and Supplementary Provisions. To this</p>	<p>- Article 3, Article 5, Article 10 Decree No. 187/2013/ND-CP of the Government dated 20th November 2013 detailing the implementation of the commercial law regarding international goods sale and purchase and goods sale, purchase, processing and transit agency activities with foreign countries</p> <p>Article 3 Decree No. 187/2013/ND-CP: The right to conduct import and export business</p> <p>1. For Vietnamese traders having no foreign direct investment capital (below referred to as traders):</p> <p>Traders may import and export goods regardless of their registered business lines, except goods on the List of goods</p>	<p>Assessment:</p> <p>In principle, full compliance</p> <p>Recommendation:</p> <p>No revision to current legal framework recommended</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>end, Article XI of the GATT 1994, its Notes and Supplementary Provisions are incorporated into and made a part of this Agreement.</p> <p>5. Each Party shall ensure the transparency of any import and export restrictions not prohibited in paragraph 1.</p>	<p>banned from export or suspended from export and goods on the List of goods banned from import or suspended from import provided in this Decree and other legal documents.</p> <p>Traders' branches may import and export goods as authorized by traders.</p> <p>2. For traders with foreign investment capital, foreign companies and branches of foreign companies in Vietnam:</p> <p>Traders, companies and branches, when carrying out commercial activities falling within the scope of regulation of this Decree shall, apart from complying with this Decree, implement other relevant laws, commitments of the Socialist Republic of Vietnam in treaties which it has signed or acceded to, and the roadmap announced by the Ministry of Industry and Trade.</p> <p>3. When importing or exporting goods subject to conditional import or export, traders shall, apart from complying with</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>this Decree, implement regulations on conditions for import or export of such goods.</p> <p>Article 5 Decree No. 187/2013/ND-CP: Goods banned from import, banned from export</p> <p>1. Goods banned from import and those banned from export are specified in current legal documents and the Lists of goods banned from import and export provided in Appendix I to this Decree.</p> <p>2. The Prime Minister may decide to permit the import or export of goods on the List of goods banned from import or export provided in Appendix I to this Decree, except the cases specified in Clause 3 of this Article.</p> <p>3. Goods on the List of goods banned from import may be considered for import permission on a case-by-case basis pursuant to the following principles and provisions:</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>a/ Import of goods for scientific research: Ministries and ministerial-level agencies shall consider permitting the import according to their assigned responsibilities and Appendix I to this Decree;</p> <p>b/ Import of humanitarian aid goods: The Ministry of Industry and Trade shall consider permitting the import based on requests of competent agencies in accordance with law;</p> <p>c/ Goods specified at Points a and b of this Clause are those not likely to cause environmental pollution, spread epidemics and diseases, impact human health, traffic safety, security, national defense and social order and badly affect morality and fine traditions and custom of Vietnam;</p> <p>d/ Based on the responsibility assignment in Appendix I to this Decree and relevant laws, ministries and ministerial-level agencies shall</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>promulgate regulations on and specific lists of goods with HS codes in the Import and Export Tariffs.</p> <p>Article 10 Decree No. 187/2013/ND-CP: Suspension of import or export of goods</p> <p>1. In case of necessity, the Prime Minister shall decide to suspend the import from or export to particular markets or import or export of some particular goods items in order to protect security and national interests in accordance with the laws of Vietnam and treaties to which the Socialist Republic of Vietnam is a contracting party.</p> <p>These decisions of the Prime Minister must be publicly announced.</p> <p>2. When the Prime Minister makes a decision on the suspension of the import or export of goods specified in Clause 1 of this Article, the Ministry of Industry and Trade shall notify such decision to concerned international economic</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>organizations and countries according to the agreed procedures.</p> <p>- Circular No. 04/2014/TT-BTC of the Ministry of Industry and Trade detailing and guiding the implementation of Decree No. 187/2013/ND-CP</p> <p>- Law on the promulgation of legislative documents (Provisions relating to the publication of legislative documents)</p>	
<p>CHAPTER NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS</p> <p>ARTICLE 18: STATE TRADING ENTERPRISES</p> <p>1. The Parties affirm their existing rights and obligations under GATT Article XVII, its Notes and Supplementary Provisions and the WTO Understanding on the Interpretation of Article XVII of</p>		<p>Assessment:</p> <p>Out of the scope of domestic legislations</p> <p>Recommendation:</p> <p>No revision to current legal framework recommended</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>the GATT 1994, which are hereby incorporated into and made part of this Agreement.</p> <p>2. Insofar as one of the Parties requests information of the other Party on individual cases of state trading enterprises and on their operations, including information on their bilateral trade, the requested Party shall ensure transparency in line with the rules set out in GATT Article XVII.4 (d) on confidential information.</p>		
<p>CHAPTER TRADE REMEDIES</p> <p>Article 2: Transparency</p> <p>1. Both Parties agree that trade remedies should be used in full compliance with the relevant WTO requirements and should be based on a fair and transparent system.</p> <p>2. Both Parties shall ensure, immediately after any imposition</p>	<p>- Ordinance No. 20/2004/PI-UBTVQH11 of the Standing Committee of the National Assembly dated 29th April 2004 on anti-dumping of imports into Vietnam (guided by Decree No. 90/2005/ND-CP)</p> <p>Article 17 Ordinance on anti-dumping of imports into Vietnam: Preliminary conclusions</p> <p>1. Within ninety days as from the date of</p>	<p>Assessment:</p> <ul style="list-style-type: none"> - In principle, Vietnam legislations meet this EVFTA commitments, except for the full and meaningful disclosure of all essential facts and considerations which form the basis for the decision to apply trade remedies. - In reality, the enforcement of the investigation authorities of Vietnam (Vietnam Competition Authority of the

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>of provisional measures and in any case before final determination is made, full and meaningful disclosure of all essential facts and considerations which form the basis for the decision to apply measures. This is without prejudice to Article 6.5 of the WTO Agreement on Implementation of Article VI of GATT 1994 and Article 12.4 of the WTO Agreement on Subsidies and Countervailing Measures. Disclosures shall be made in writing, and allow interested parties sufficient time to make their comments.</p> <p>3. Provided it does not unnecessarily delay the conduct of the investigation, each interested party shall be granted the possibility to be heard in order to express their views during trade remedies investigations.</p>	<p>issuance of investigation decisions, the investigation agency shall publicize the preliminary conclusions on the contents related to the investigation process prescribed in Article 12 of this Ordinance; in special cases, the time limit for publicization of preliminary conclusions may be extended for no more than sixty days.</p> <p>2. Preliminary conclusions and major grounds for making such preliminary conclusions must be publicized by appropriate modes to the parties involved in the investigation process.</p> <p>Article 18 Ordinance on anti-dumping of imports into Vietnam: Final conclusions</p> <p>1. After completing the investigation process, the investigation agency shall publicize its final conclusions on the contents related to the investigation process prescribed in Article 12 of this Ordinance,</p>	<p>Ministry of Industry and Trade) meet this EVFTA commitment.</p> <p>Recommendation:</p> <p>Revise the decrees guiding three Ordinance of trade remedies to add a provision on this commitment.</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>2. The final conclusions and major grounds for making such final conclusions must be publicized by appropriate modes to the parties involved in the investigation process.</p> <ul style="list-style-type: none"> - Ordinance No. 22/2004/PL-UBTVQH11 of the Standing Committee of the National Assembly dated 20th August 2004 on anti-subsidy for imports in to Vietnam (guided by Decree No. 89/2005/ND-CP) - Ordinance No. 42/2002/PL-UBTVQH10 of the Standing Committee of the National Assembly dated 25th May 2002 on safeguards in the import of foreign goods into Vietnam (guided by Decree No. 150/2003/ND-CP) - Decree No. 90/2005/ND-CP of the Government detailing the implementation of the Ordinance on anti-dumping <p>Article 31 Decree No. 90/2005/ND-CP:</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>Preliminary conclusions</p> <p>1. Within 90 days after a decision on investigation for the application of anti-dumping measures is issued, the Investigation Agency must announce preliminary conclusions on the contents related to the investigation process under the provisions of Article 12 of the Anti-Dumping Ordinance; in special cases, this time limit may be extended but for not more than 60 days.</p> <p>2. Preliminary conclusions must be announced publicly by appropriate manners and include the following contents:</p> <p>f/ The information and evidence proving the dumping of the imports described at Point b of this Clause causes or threatens to cause material injury to a domestic manufacturing industry; or information, evidence proving that the delayed temporary imposition of anti-dumping tax threatens to cause material injury to</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>a domestic manufacturing industry, which is hardly overcome.</p> <p>Article 33 Decree No. 90/2005/ND-CP: Final conclusions</p> <p>2. Final conclusions and their main bases must be announced publicly by appropriate manners and include the following contents:</p> <p>e) The information and evidence proving that the dumping of the imports described at Point b of this Clause causes or threatens to cause material injury to a domestic manufacturing industry.</p> <p>Article 29 Decree No. 90/2005/ND-CP: Consultations during investigation</p> <p>1. Based on the time for organizing a consultation meeting as mentioned in a decision on investigation for the application of anti-dumping measures, the Investigation Agency shall organize a public consultation meeting with the involved parties and assign at least three</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>investigators, including one investigator as chairman, to run the consultation meeting.</p> <p>2. Within 30 days before the consultation meeting, the involved parties must send written registrations of their participation in the meeting to the Investigation Agency, clearly stating issues to be consulted and their arguments.</p> <p>3. Consultation order:</p> <p>b/ The requester(s) and the requested person(s), one after another, personally or through their authorized representatives make oral presentation of the evidence to defend their viewpoints on the anti-dumping case. The time for each party to make presentation shall not exceed 90 minutes;</p> <p>c/ The requester(s) and the requested person(s) hand over their presentations mentioned at Point b of this Clause to the</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>chairman;</p> <p>d/ The involved parties other than those stipulated at Point b of this Clause have the right to hand over documents on their perspectives on the anti-dumping case to the chairman;</p> <p>e/ The chairman and investigators ask questions and listen to answers of the requester(s), the requested person(s) or their lawful representatives. The question- and answer-time for each party must not exceed 60 minutes. The whole contents of questions and answers shall be inscribed in the records of the consultation meeting;</p> <p>4. Within seven working days after the consultation meeting, the involved parties have the right to send documents explaining their perspectives on the anti-dumping case to the Investigation Agency.</p> <p>5. All contents of the consultation meeting, including written presentations</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>of the involved parties and records of the consultation, shall be publicized by the Investigation Agency.</p> <p>6. When necessary, the Investigation Agency may organize closed-door consultation meetings if so requested by requester(s) or requested person(s). Participants in closed consultation meetings shall be considered and decided by the Investigation Agency, based on the request of the persons requesting such meetings.</p>	
<p>CHAPTER CUSTOM AND TRADE FACILITATION</p> <p>Article 8 - Transparency</p> <p>Article 14 - Review and Appeal</p> <p>Article 15 - Relation with Business Community</p> <p>Other Articles containing provision on publication</p>		<p>See the Review of Customs and Trade Facilitation</p>
<p>CHAPTER TECHNICAL BARIERS TO TRADE</p>	<p>Law on the promulgation of legislative documents 2008</p>	<p>Assessment:</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>ARTICLE 7: TRANSPARENCY</p> <p>The Parties acknowledge the importance of transparency with regard to the preparation, adoption and application of standards, technical regulations and conformity assessment procedures. In this regard, the Parties reaffirm their transparency obligations under the TBT Agreement, and agree:</p> <p>(a) to take the other Party's views into account where a part of the process of developing a technical regulation is open to public consultation, and on request to provide written responses in a timely manner to the comments made by the other Party;</p>	<p>Article 16. Circulars of Ministers and Heads of Ministry-equivalent Agencies</p> <p>Circulars of Ministers and Heads of Ministry-equivalent Agencies shall provide:</p> <ol style="list-style-type: none"> 1. Detailed guidelines on the implementation of laws and resolutions of the National Assembly, ordinances and resolutions of the Standing Committee of the National Assembly, orders and decisions of the State President, decrees of the Government and decisions of the Prime Minister; 2. Regulations on technical processes and standards as well as techno-economic norms of the sector/area covered by each Ministry or Ministry-equivalent Agency; 3. Ways to exercise management of the sector/area covered by each Ministry or Ministry-equivalent Agency and other issues upon instruction by the 	<ul style="list-style-type: none"> - With regard to public consultation of the draft of technical regulation under TBT Agreement. <p>Vietnam: technical provision must be provided in Circular, of which the draft are to be publicized on the website for 60 days. Thus Vietnam law is in full compliance.</p> <ul style="list-style-type: none"> - With regard to providing written responses in the timely manner to the comments made by the other Party: Out of the scope of the domestic regulations. <p>Recommendation:</p> <ul style="list-style-type: none"> - No revision to current legal framework recommended; - Pay attention to the responses of EU's comments o TBT draft in an internal rule of relevant authorities.

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>Government.</p> <p>Law on the promulgation of legislative documents 2015</p> <p>Article 11. Elaborating documents</p> <p>1. Legislative documents must be specific in order that they can be promptly applied when they are effective. In case there is an article, clause, paragraph that relates to some specific procedures, technical regulations, and other contents that need elaborating, a regulatory agency may be assigned to elaborate such article, clause, paragraph right within its contents. The elaborating document may only prescribe the contents assigned and must not repeat contents of the elaborated document.</p> <p>2. The agency assigned to promulgate the elaborating document must not assign a third agency to perform this task.</p> <p>The draft of the elaborating documents must be prepared and submitted</p>	

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
	<p>together with the law project or ordinance project, and must be so promulgated that it comes into force at the same time with the document, article, clause, or paragraph being elaborated.</p> <p>3. In case an agency is assigned to elaborate multiple parts of a legislative document, it may promulgate a single document to elaborate all the parts, unless they must be elaborated in different documents.</p> <p>In case an agency is assigned to elaborate contents of various legislative documents, it may promulgate a single document to elaborate all of them.</p>	
<p>(b) to ensure that economic operators and other interested persons of the other Party are allowed to participate in any formal public consultation process concerning the development of technical regulations, on terms no</p>	<p>Law on promulgation of legislative documents</p>	<p>Assessment:</p> <p>Vietnam: technical provision must be provided in Circular, of which the making-process are required to put under consultation with the public. Thus Vietnam law is in full compliance.</p> <p>Recommendation:</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
less favourable than those accorded to its own legal or natural persons;		No revision to current legal framework recommended
(c) further to Article 4.1(a), in cases where impact assessments are carried out, to inform the other Party, upon request, of the outcome of the impact assessment of the proposed technical regulation;	<p>- Law on promulgation of legislative documents</p> <p>- Decision No. 114/2005/QĐ-TTg dated 26th May 2005 of the Prime Minister</p> <p>- No regulations on notifying the results of impact assessment to TBT under EU's request.</p>	<p>Assessment:</p> <ul style="list-style-type: none"> - With regard to impact assessment, <ul style="list-style-type: none"> + Vietnam legislations meet this requirements except technical regulation is not directly provided in the legislation documents. It is provided in the guiding documents (eg., decisions of ministers). The procedure of promulgation of technical regulation does not require RIA. However, it is not compulsory, Vietnam meet these EVFTA commitments. - With regard to inform EU, upon request, of the outcome of the impact assessment of the proposed technical regulations: out of the scope of domestic legislations. <p>Recommendation:</p> <ul style="list-style-type: none"> - No revision to current legal framework

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
		<p>recommended</p> <ul style="list-style-type: none"> - Add provisions on these issues to Decision No.114/2005/QĐ-TTg or other internal rule of TBT office of Vietnam.
<p>(d) when making notifications in accordance with Article 2.9.2 or 5.6.2 of the TBT Agreement, to:</p> <p>(i) allow in principle at least 60 days following the notification for the other Party to provide comments in writing to the proposal; where practicable, to give appropriate consideration to reasonable requests for extending the comment period;</p> <p>(ii) provide the electronic version of the notified text with the notification;</p> <p>(iii) provide, in case the notified text is not in one of the official WTO languages, a detailed and comprehensive description of the</p>	<ul style="list-style-type: none"> - Law on promulgation of legislative documents - Law No. 68/2006/QH11 dated 29th June 2006 of the National Assembly on standards and technical regulations and guiding legislation documents - Article 2 Decision No. 114/2005/QĐ-TTg dated 26th May 2005 of the Prime Minister 	<p>Assessment:</p> <p>In principle, Vietnam legislations meet these EVFTA requirements but not in details as EVFTA.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> - No revision to current legal framework recommended - Consider to add a provision on this issue to Decision No.114/2005/QĐ-TTg or other internal rule of TBT office of Vietnam.

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>content of the measure in the notification format;</p> <p>(iv) reply in writing to written comments received from the other Party on the proposal, no later than the date of publication of the final technical regulation or conformity assessment procedure;</p> <p>(v) provide information on the adoption and the entry into force of the notified measure and the adopted final text through an addendum to the original notification.</p>		
<p>(e) allow sufficient time between the publication of technical regulations and their entry into force for economic operators of the other Party to adapt, except where urgent problems of safety, health, environmental protection or national security arise or threaten to arise;</p>	<p>- Law on promulgation of legislative documents</p>	<p>Assessment:</p> <p>In principle, full compliance</p> <p>Recommendation:</p> <p>No revision to current legal framework recommended</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>(f) ensure that all technical regulations and mandatory conformity assessment procedures adopted and in force are publicly available on official websites, and free of charge;</p>	<p>- Law on promulgation of legislative documents</p>	<p>Assessment: Vietnam legislations meet this EVFTA requirements. In reality, TBT measures are made public free of charge on the website of the Ministry of Science and Technology, local departments of science and technology and TBT Office.</p> <p>Recommendation: No revision to current legal framework recommended</p>
<p>(g) ensure that the TBT Enquiry Point provides information and answers in one of the official WTO languages to reasonable enquiries from the other Party or from interested parties of the other Party on adopted technical regulations, conformity assessment procedures and standards</p>	<p>- Article 2 Decision No. 114/2005/QĐ-TTg dated 26th May 2005 of Prime Minister</p>	<p>Assessment: In principle, full compliance</p> <p>Recommendation: No revision to current legal framework recommended</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>CHAPTER SANITARY AND PHYTOSANITARY MEASURES</p> <p>Article</p> <p>Transparency and Exchange of Information</p> <p>1. The Parties shall:</p> <p>(a) pursue transparency as regards SPS measures applicable to trade;</p> <p>(b) enhance mutual understanding of each Party's SPS measures and their application;</p> <p>(c) exchange information on matters related to the development and application of SPS measures, including the progress on new available scientific evidence, that affect, or may affect, trade between the Parties with a view to minimizing their negative trade effects;</p>	<p>- Article 4 Decision No. 04/2008/QĐ-BNNPTNT of the Ministry of agriculture and rural development</p>	<p>Assessment:</p> <p>Vietnam legislations have no provisions regulating the exchange of information on matters related to the development and application of SPS measures</p> <p>However, this is out of the scope of domestic legislations.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> - No revision to current legal framework recommended - Add the required provisions to Decision No. 04/2008/QĐ-BNNPTNT or other internal rules of SPS Office.

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>(d) upon request of a Party, communicate the import requirements that apply for the import of specific products within fifteen working days ; and</p> <p>(e) upon request of a Party, communicate progress on the application for the authorization of specific products within fifteen working days.</p> <p>2. When the information pursuant to paragraph 1 has been made available by notification to the WTO in accordance with its relevant rules and procedures or when the above information has been made available on the official, publicly accessible and fee free web-sites of the Parties, the information exchange shall be considered to have taken place.</p> <p>3. All notifications under this Chapter shall be made to the</p>		

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>contact points referred to under Article (Competent authorities and contact points).</p>		
<p>CHAPTER GOVERNMENT PROCUREMENT</p> <p>Article XVIII Domestic Review</p> <p>Other Articles containing provision on Publication, Notice, Timelines, etc.</p>		<p>See Review of Vietnamese legal framework against EVFTA commitment on Government Procurement</p>
<p>SECTION III: STATE OWNED ENTERPRISES, ENTERPRISES GRANTED SPECIAL RIGHTS OR PRIVILEGES AND MONOPOLIES</p> <p>Article 6 Transparency</p> <p>1. A Party which has reasonable reason to believe that its interests under this Section are being adversely affected by the commercial activities of an enterprise or enterprises defined in Article 1 of the other Party and</p>	<p>No regulations</p>	<p>Assessment:</p> <p>Out of the scope of domestic legislations.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> - No revision to current legal framework recommended - Add the required provisions to enforcement legislative documents of EVFTA commitments on state owned enterprises.

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>subject to the scope of this Section as defined in Article 2 may request in written form that Party to supply information about the operations of that enterprise related to the carrying out of the provisions of this Section. Requests for such information shall indicate the enterprise, the products/services and markets concerned, and include indications that the enterprise is engaging in practices that hinder trade or investment between the Parties. For the EU, the provisions of Paragraph 1(a) to (e) do not apply to enterprises which qualify as small or medium-sized enterprises as defined in the European Union law.</p> <p>This information includes the following:</p> <p>(a) the ownership and the voting</p>		

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>structure of the enterprise, indicating the percentage of shares and the percentage of voting rights that a Party and/or an enterprise defined in Article 1 cumulatively own;</p> <p>(b) a description of any special shares or special voting or other rights that a Party and/or an enterprise defined in Article 1 hold, where such rights differ from the rights attached to the general common shares of such entity;</p> <p>(c) the organizational structure of the enterprise, the composition of its board of directors or of an equivalent body exercising direct or indirect control in such an enterprise; and cross-holdings and other links with different enterprises or groups of enterprises, as defined in Article 1;</p> <p>(d) a description of which</p>		

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>government departments or public bodies regulate and/or monitor the enterprise, a description of the reporting lines⁶, and the rights and practices of the government or any public bodies in the appointment, dismissal or remuneration of managers;</p> <p>(e) annual revenue or total assets, or both;</p> <p>(f) exemptions, non-conforming measures, immunities and any other measures, including more favourable treatment, applicable in the territory of the requested Party to any enterprise defined in Article 1.</p> <p>2. A Party has the right to ask the other Party additional information regarding the calculations on the revenue threshold in Article 2(4).</p>		

⁶ For greater certainty, a Party is not obliged to divulge reports or the contents of any reports.

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>3. The provisions of paragraphs 1 and 2 shall not require any Party to disclose confidential information which would be inconsistent with its laws and regulations, impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises.</p>		
<p>Competition Policy Chapter SECTION II: SUBSIDIES Article x.4 Transparency (1) Each Party shall ensure transparency in the area of specific subsidies. To this end, each Party shall notify every four years the legal basis, form, amount or budget and where possible the recipient of the specific subsidy. (2) Such notification is deemed to</p>	<p>No regulations</p>	<p>Assessment: Out of the scope of domestic legislations. Recommendation: No revision to current legal framework recommended</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>have been fulfilled if the relevant information is made available by the Parties or on their behalf on a publicly accessible website, as from 31 December of the subsequent calendar year. The first notification shall be made available no later than 4 years after the entry into force of this agreement.</p>		
<p>CHAPTER INTELLECTUAL PROPERTY</p> <p>Article 6.10 - Co-operation and transparency</p> <p>1. The Parties shall, either directly or through the {Joint Committee} established pursuant to Article 6.11, maintain contact on all matters relating to the implementation and the functioning of this Article. In particular, a Party may request from the other Party information</p>	<p>No regulations</p>	<p>Assessment:</p> <p>Out of the scope of domestic legislations.</p> <p>Recommendation:</p> <p>No revision to current legal framework recommended</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
<p>relating to product specifications and their amendment and relevant contact points for control or management.</p> <p>2. Each Party may make publicly available the specifications or a summary thereof and relevant contact points for control or management corresponding to geographical indications of the other Party protected pursuant to this Article.</p>		
<p>TRADE AND SUSTAINABLE DEVELOPMENT</p> <p>Article 12</p> <p>Transparency</p> <p>Each Party, in accordance with its domestic laws and Chapter [...] [Transparency], shall ensure that any measures aimed at protecting the environment and labour conditions that may affect trade or</p>	<p>- Law on promulgation of legislative documents</p>	<p>Assessment:</p> <p>In principle, full compliance</p> <p>Recommendation:</p> <p>No revision to current legal framework recommended</p>

EVFTA commitments	Vietnam legislation	Assessment - Recommendation
investment are developed, introduced and implemented in a transparent manner, with due notice and giving the opportunity to interested persons to provide their views.		