

Environmental Commitments Under the Evfta: Vietnam's Efforts to Incorporate them into Domestic Law and Challenges in Improving its Legal Framework

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ABSTRACT: The European Vietnam Free Trade Agreement (EVFTA) contains numerous commitments on environmental protection and sustainable development, requiring trade and investment activities to be aligned with economic, social, and environmental objectives. This article provides an overview of the environmental commitments under the EVFTA, thereby highlighting the need for Vietnam to place greater emphasis on compliance with environmental protection and sustainable development requirements, as well as the measures that the State should undertake to address existing difficulties. Based on a review of the current legal framework, the author finds that the EVFTA's environmental commitments are generally consistent with Vietnam's efforts and policy orientations concerning environmental protection and climate change response. However, given the broad scope and demanding nature of these commitments, Vietnam is unlikely to achieve full compliance within a short period. The article therefore proposes that Vietnam continue improving its legal framework to ensure coherence, transparency, feasibility, and compatibility with international obligations, while strengthening institutional and implementation capacity to ensure the effective implementation of the EVFTA.

KEYWORDS: Environmental commitments; EVFTA; Environmental protection; Incorporation into domestic law.

1. INTRODUCTION

Environmental protection is a major challenge not only for Vietnam but for the world as a whole. This issue has drawn the attention of international organizations, states, enterprises, and the public alike, because rapid changes in climate, the environment, and the natural world are causing serious impacts on human life. Consequently, the goal of sustainable development, which links economic growth, social stability, and environmental protection, has consistently been a matter of concern in the negotiation of Free Trade Agreements (FTAs), particularly new generation FTAs, in which environmental protection is regarded as a core element of sustainable trade relations.

On 8 June 2020, the National Assembly issued Resolution No. 102/2020/QH14, officially ratifying the European Vietnam Free Trade Agreement (EVFTA). This is one of the new generation FTAs with the broadest and most comprehensive scope of commitments that Vietnam has ever entered into, including numerous commitments on the environment. Specifically, under Chapter 13 on Trade and Sustainable Development, Vietnam and the European Union (EU) have agreed on a range of obligations aimed at promoting sustainable trade and limiting adverse impacts on the environment.

Faced with the opportunities and challenges arising from the EVFTA, Vietnam has in recent years made considerable efforts to develop and improve its legal framework on the environment, as reflected in the promulgation of numerous important legal instruments aimed at ensuring compatibility with international commitments. However, because the commitments under the EVFTA are highly specific and set demanding standards, Vietnam is unlikely to fully satisfy them within a short period. Therefore, continuing to incorporate the EVFTA's environmental commitments into domestic law remains a key task that carries significant importance for Vietnam's implementation of the Agreement in the coming period.

2. RESEARCH FINDINGS

2.1. Overview of the environmental provisions and commitments under the EVFTA

The EVFTA officially entered into force on 1 August 2020, becoming the first FTA between the EU and Vietnam, often likened to an expressway connecting the Vietnamese economy with the 27 EU member states (Vietnam Chamber of Commerce and Industry [VCCI], 2022, p. 3). At the same time, given its high standards, broad scope, and objective of trade liberalization aligned with sustainable development, the EVFTA is regarded as a comprehensive, balanced, and high quality FTA that makes an important

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contribution to further deepening the cooperative development relationship between the parties during the period of international economic integration (Government Summary Report No. 193/BC-CP, Part I).

The EVFTA is considered one of the most representative new generation FTAs, with the broadest scope of commitments Vietnam has ever undertaken. In addition to traditional matters concerning trade in goods, services, and tariff reduction, the EVFTA also regulates various non traditional issues such as the environment and sustainable development. Chapter 13 of the EVFTA, spanning Articles 13.1 to 13.17, provides relatively comprehensive regulation of these matters. Compared with traditional FTAs, in which environmental issues are generally addressed only in general terms, the EVFTA establishes a broader and more detailed framework of commitments. Article 13.1 of the EVFTA affirms that the objective of the Chapter is to promote sustainable development, recognized through promoting the contribution of trade and investment related aspects to labour and environmental issues. Specifically, the environmental commitments under the EVFTA are reflected in the following main areas:

First, guaranteeing the right to regulate and to maintain levels of environmental protection

Article 13.2 of the EVFTA recognizes each party's autonomy in developing, adopting, and implementing environmental policies and laws suited to its own conditions and development orientations. At the same time, the parties also retain the right to determine the level of environmental protection they consider appropriate, provided that the exercise of this right remains consistent with the obligations undertaken under the Agreement.

Autonomy in policy making does not, however, mean that the parties may lower their level of environmental protection. Under Article 13.3 of the EVFTA, the parties shall not weaken environmental laws to encourage trade or investment, shall not waive or otherwise derogate from, or fail to effectively enforce, environmental laws to gain a trade advantage, and shall not apply their laws in a manner constituting arbitrary or unjustifiable discrimination or a disguised restriction on trade. These provisions affirm the principle that environmental protection must not be sacrificed for trade development, while also preventing competition based on lowering environmental protection standards. In this way, the EVFTA has established an environmental standards framework with a higher degree of commitment and binding force than traditional international environmental treaties (Nguyen Huu Khanh Linh & Mac Thi Hoai Thuong, 2026).

Second, commitments on climate change and the development of carbon markets

Under Article 13.6 of the EVFTA, Vietnam and the EU reaffirm their commitment to implementing the international treaties on climate change to which each party is a member, in particular the 1992 United Nations Framework Convention on Climate Change (UNFCCC), the Paris Agreement, and the Kyoto Protocol. The parties acknowledge that climate change is a global issue requiring cooperation from the international community and a transition toward a low greenhouse gas emission economy.

Within the framework of the UNFCCC, the EVFTA encourages the parties to strengthen consultation, and to share information and experience on developing and operating carbon pricing mechanisms. It also promotes carbon markets through emissions trading schemes, forest protection, and deforestation reduction programmes, and encourages the development of renewable energy, low emission technologies, and energy efficiency (EVFTA, Article 13.6(2)). These provisions are chiefly oriented toward cooperation on climate policy, while also laying the groundwork for Vietnam to develop and progressively connect with international carbon markets.

Third, conservation and sustainable use of biodiversity

The protection of nature and wildlife is a matter of particular concern to the international community, Vietnam, and the EU, as recognized under the Convention on Biological Diversity (CBD). This is an important component of green environmental law, linked to the protection and development of natural resources (Nguyen Thi Thanh Huyen, 2023). Article 13.7 of the EVFTA recognizes the role of biodiversity in sustainable development and reaffirms the importance of implementing relevant international treaties, in particular the CBD and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The EVFTA also emphasizes that Vietnam and the EU shall endeavour to facilitate access to genetic resources, while refraining from adopting trade restrictive measures or laws contrary to the objectives of the CBD (EVFTA, Article 13.7(2)). Accordingly, each party encourages domestic trade linked to biodiversity conservation, the sustainable use of genetic resources, and the restriction of illegal wildlife trade (EVFTA, Article 13.7(3)). These commitments indicate that trade activities must be carried out on the basis of not undermining biodiversity and not facilitating the illegal exploitation of biological resources.

Fourth, conservation and sustainable management of forest resources

Article 13.8 of the EVFTA recognizes the importance of forest resource conservation and sustainable management for economic, social, and environmental development objectives. Accordingly, the parties shall develop policies to encourage trade in forest products while combating illegal logging and timber trade in order to conserve and sustainably manage forests. This matter is particularly important for Vietnam, since wood and wood products are a key export commodity to the EU, while requirements concerning legal origin and sustainability are becoming increasingly stringent.

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Fifth, sustainable development of marine biological resources and fishery products

Article 13.9 of the EVFTA provides that Vietnam and the EU jointly recognize the importance of conserving and managing marine biological resources and of developing the aquaculture industry on the basis of compliance with multilateral international treaties, ensuring sustainability, efficiency, and responsibility. Article 13.9(2) further promotes cooperation and mutual support between the parties in combating illegal, unreported, and unregulated (IUU) fishing. At the same time, the parties are oriented toward developing aquaculture that is economically, socially, and environmentally sustainable, together with strengthened information exchange.

From the above commitments, it can be seen that Vietnam needs to place greater emphasis on complying with requirements concerning environmental protection and sustainable development. Participation in the EVFTA helps Vietnam address multinational environmental disputes and ensures that trade activities are linked to the environmental obligations it has undertaken (Bui Hai Thiem & Tran Thi Quang Hong, 2022). At the same time, these commitments also open new opportunities for Vietnamese enterprises to reconcile socio economic development objectives with environmental protection and sustainable development.

2.2. Efforts to incorporate the EVFTA's environmental commitments into Vietnamese law and the challenges arising

According to the VCCI Report Assessing the Effectiveness of Legislative Work to Implement the EVFTA (VCCI, 2022, pp. 68 to 103), most legal provisions on trade and investment in general, and on the environment in particular, already cover the commitments requiring incorporation under the EVFTA. These provisions generally ensure consistency with Vietnamese law while meeting requirements of transparency, reasonableness, and feasibility. In terms of substance, the commitments under the EVFTA are also fairly similar to those under the Comprehensive and Progressive Agreement for Trans Pacific Partnership (CPTPP), another representative new generation FTA that officially entered into force in Vietnam on 14 January 2019. Accordingly, some commitments under the EVFTA had already been implemented by Vietnam earlier, in accordance with the CPTPP implementation roadmap (VCCI, 2022, p. 72). Nevertheless, a number of provisions still do not closely follow the commitments or remain insufficiently clear for practical implementation, which creates difficulties for enterprises and citizens in the process of implementing the EVFTA.

Faced with the opportunities and challenges of international integration, Vietnam has made considerable efforts to transform the EVFTA's environmental commitments into its national legal system, including in legislative instruments such as the 2020 Law on Environmental Protection and the 2023 Law on Water Resources, together with numerous detailed implementing regulations and guiding documents. These instruments have gradually formed a legal framework governing the key issues under the EVFTA, such as sustainable development, climate change response, greenhouse gas emission reduction, carbon market development, biodiversity conservation, and sustainable management of natural resources. Among these, the 2020 Law on Environmental Protection, which was subsequently amended on several occasions, most substantially by the 2025 Law Amending 15 Laws in the Field of Agriculture and the Environment, plays an important role in the process of incorporation into domestic law. The 2020 Law on Environmental Protection took effect on 1 January 2022, replacing the 2014 Law on Environmental Protection, and comprises 16 chapters and 171 articles. This is an instrument with numerous progressive amendments that both keep pace with global trends in environmental law and remain suited to Vietnam's economic, political, and social conditions (Nguyen Lam Tram Anh, 2021). This is specifically reflected in several notable respects, as follows:

First, Article 4(2) and (5) of the 2020 Law on Environmental Protection identify environmental protection as a condition, foundation, and central, prerequisite factor for the objective of sustainable socio economic development. It also requires that environmental protection activities be linked to economic development and consistent with natural laws and characteristics, culture, history, market mechanisms, and the level of socio economic development. This content can thus be seen as consistent with the EVFTA's commitments on building a low emission economy that ensures harmony among the three objectives of economic, social, and environmental development.

Second, the 2020 Law on Environmental Protection devotes an entire chapter, Chapter VII, to climate change response, building on the 2014 Law on Environmental Protection. In this chapter, the 2020 Law addresses climate change adaptation under Article 90, responsibility for greenhouse gas emission mitigation under Article 91, and measures to control the trading, production, and consumption of substances affecting or altering the ozone layer under Article 92. These provisions can thus be seen as consistent with Article 13.6(2) of the EVFTA.

Third, in order to promote the carbon market through an effective pricing mechanism, Article 139 of the 2020 Law on Environmental Protection sets out management measures to control the volume of carbon emissions. Article 139(7) further provides for forms of participation in the carbon market, such as auctioning, trading, borrowing, and transferring quotas and carbon credits, as well as implementing domestic and international carbon credit exchange and offset mechanisms. Notably, on 1 April 2026, the Government issued Decree No. 112/2026/ND-CP regulating the international exchange of greenhouse gas emission mitigation results and carbon credits. These provisions can thus be seen as consistent with Article 13.6 of the EVFTA.

In addition to the principled provisions recognized under the 2020 Law on Environmental Protection, the laws on forestry, fisheries, and biodiversity have also established numerous mechanisms for the conservation and sustainable use of natural resources, the

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control of timber origin, the protection of wildlife, and the prevention and combating of illegal, unreported, and unregulated fishing. These constitute important legal bases for Vietnam to implement its commitments on biodiversity, forest resources, and marine biological resources under the EVFTA.

Despite these considerable efforts at incorporation into domestic law, the 2020 Law on Environmental Protection still exhibits certain shortcomings in meeting the EVFTA's commitments. First, the provisions on preventing, controlling, and remedying environmental pollution incidents do not clearly specify the types, nature, and responsibilities of the relevant subjects. Second, the provisions on biodiversity conservation remain inconsistent and overlap with the 2008 Law on Biodiversity, the 2017 Law on Forestry, and the 2023 Law on Water Resources, which creates difficulties in application. Third, although Article 5(11) refers to the objective of transitioning to a low emission economy through the green economy and circular economy, the Law mainly treats these as economic instruments without translating them into concrete action measures as required by the EVFTA. Fourth, the Law does not adequately provide for environmental consultation mechanisms, such as government to government consultations or panels of experts. Vietnam therefore needs to continue incorporating the environmental dispute settlement mechanism under Articles 13.16 and 13.17 of the EVFTA into domestic law.

An assessment of implementation practice in Vietnam shows that the legal framework still contains numerous shortcomings and gaps, and does not yet ensure smooth management and implementation. Specifically, Vietnam has not yet issued a comprehensive inter sectoral instrument among ministries and agencies to provide guidance, clearly assign responsibilities, and effectively coordinate the implementation of environmental obligations under Chapter 13 of the EVFTA. The commitments are mainly incorporated in a scattered manner across specialized legislation, which leaves the mechanisms for implementation, monitoring, and evaluation fragmented and lacking linkage and consistency among the competent authorities (Nguyen Huu Khanh Linh & Mac Thi Hoai Thuong, 2026).

In sum, the environmental commitments under Chapter 13 of the EVFTA are, to a certain extent, consistent with Vietnam's efforts and orientations in addressing environmental protection and climate change response issues (Nguyen Dinh Dap, 2022). However, because the commitments under the EVFTA are highly specific and set demanding standards, Vietnam is unlikely to fully satisfy them within a short period. Therefore, continuing to incorporate international environmental commitments into domestic law remains an important task for ensuring the effective implementation of the EVFTA and other new generation FTAs.

2.3. Recommendations for improving environmental law

In recent years, Vietnam has made considerable efforts to develop and improve its environmental law, with a relatively comprehensive body of regulations on environmental protection, climate change, and natural resource management, together with technical regulations and standards. Nevertheless, the law remains fragmented and lacking in coherence, certain provisions are not sufficiently specific, and the coordination mechanisms for implementation remain unclear. Environmental law should therefore continue to be improved along the following directions.

First, Vietnam should ensure consistency and coherence with domestic law and compatibility with international environmental obligations. Environmental law must be both consistent and coherent with the national legal system and compatible with international obligations and commitments, not only under the EVFTA but also under the Multilateral Environmental Agreements (MEAs) to which Vietnam has acceded, is acceding, or will accede. This review should not be limited to the Law on Environmental Protection alone but should be carried out together with the laws on biodiversity, forestry, fisheries, energy, and related fields, with a focus on resolving overlapping or contradictory provisions and unclear allocation of authority, responsibility, and coordination mechanisms.

Second, improvements to the law must be consistent with the Communist Party's and the State's guidelines and orientations for sustainable development. Accordingly, legal improvement must thoroughly grasp the Party's directions and viewpoints and the State's policy and law making strategy. This orientation is reflected in Resolution No. 41-NQ/TW dated 15 November 2004 on environmental protection during the period of accelerated industrialization and modernization of the country, and Resolution No. 24-NQ/TW dated 3 June 2013 on proactive response to climate change, enhanced management of natural resources, and environmental protection. In addition, the Party's views on environmental protection and sustainable development have consistently been reflected throughout the 9th, 10th, 11th, 12th, 13th, and 14th National Party Congresses.

Third, the law must be consistent with the actual conditions and requirements of environmental protection in Vietnam. Accordingly, the enactment and amendment of legal instruments should meet the following requirements: they should be oriented toward the goal of sustainable development, guarantee the public's right to live in a healthy environment, place emphasis on the prevention and remediation of environmental incidents and risk management, ensure transparency, clarity, comprehensibility, and feasibility, and uphold the principle that the polluter bears the cost of remediation (Le Kim Nguyet, 2019). In addition, legal improvement should be grounded in impact assessments and practical data, and should be tailored to the implementation capacity of regulatory authorities, enterprises, and other relevant stakeholders.

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Fourth, Vietnam should improve the inter sectoral coordination mechanism for implementing Chapter 13 of the EVFTA. It should study the promulgation of an inter sectoral instrument to serve as the basis for the unified coordination of environmental obligations. This instrument should clearly designate a focal point agency, specify the responsibilities of each ministry and sector, and set out procedures for exchanging, compiling, and providing information, as well as for monitoring and evaluating implementation outcomes. At the same time, it should provide for coordination mechanisms when Vietnam engages in government consultations, expert panels, and the implementation of recommendations under the EVFTA. This would help address the current fragmentation of commitments across multiple sectors, which lack linkage and unified coordination.

Overall, incorporating the EVFTA's environmental commitments into domestic law is of great significance for the process of improving national legislation and enhancing the effectiveness of international integration. This task requires not only the addition of new provisions but also ensuring the coherence of the legal system, improving coordination mechanisms, and enhancing implementation effectiveness. The synchronized rollout of these solutions will help bring Vietnam's environmental standards closer to international trends, promoting the transition toward a green, low emission, and sustainable economy.

3. CONCLUSION

The environmental commitments under Chapter 13 of the EVFTA reflect a trend of closely linking trade liberalization, environmental protection, and sustainable development. In recent years, Vietnam has made considerable efforts to incorporate these commitments into domestic law through the 2020 Law on Environmental Protection and regulations on climate change, greenhouse gas emission reduction, carbon markets, biodiversity, forestry, and fisheries. However, the legal system remains fragmented, certain provisions are not sufficiently specific, inter sectoral coordination mechanisms remain unclear, and implementation effectiveness is still limited.

Vietnam therefore needs to continue improving its legal framework to be more coherent, transparent, feasible, and compatible with international commitments, while enhancing implementation capacity, strengthening coordination among agencies, and promoting the transition toward a green, low emission economy. The synchronized implementation of these solutions will help improve the effectiveness of EVFTA implementation, protect the environment, and ensure sustainable development in the process of international integration.

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