

ALERT ON TRADE AND CUSTOMS

European Union-Vietnam Free Trade Agreement – EVFTA

09 June 2020



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CURRENT STATUS OF THE EVFTA ADOPTION



12 Feb 2020



The European Parliament ratified the European Union - Vietnam Free Trade Agreement ("EVFTA").



30 Mar 2020



The EVFTA was ratified by the European Council



08 Jun 2020



The National Assembly of Vietnam was formally approved the adoption of the EVFTA.



June 2020



Vietnam is expected to formally notify the European Union ("EU") that the EVFTA has been adopted; and

The Vietnam Government will legalize to domestically enforce the commitments under the EVFTA, including those of trade in goods or tariff elimination schedules (e.g. the Government Decree issuing EVFTA tariff schedule) and rules of origin ("ROO") (Circular on the EVFTA's ROO by the Ministry of Industry and Trade).



01 Aug 2020



The EVFTA is expected to come into effect.



OVERVIEW OF TARIFF REDUCTION COMMITMENTS

Import

- The **EU** commits, after EVFTA comes into force (Day 01) to immediately eliminating customs duties on **85.6%** of tariff lines - accounting for about 70.3% of Vietnam's exports volume to the EU;
- The **EU** commits, within 07 years of the EVFTA coming into force, to eliminating customs duties on **99.2%** of tariff lines - accounting for 99.7% of Vietnam's exports volume to the EU;
- **Vietnam** commits to eliminating customs duties immediately after the EVFTA takes effect of 48.5% of tariff lines, equivalent to 64.5% of EU exports volume to Vietnam;
- **Vietnam** commits, within 10 years of the EVFTA coming into force, import duties on about 98.3% of tariff lines - equivalent to 99.8% of imports volume from the EU will be eliminated.
- **Vietnam** commits, for remaining tariff lines, to provide over a 10-year period, preferential treatment to the EU through application of tariff quotas.



Export

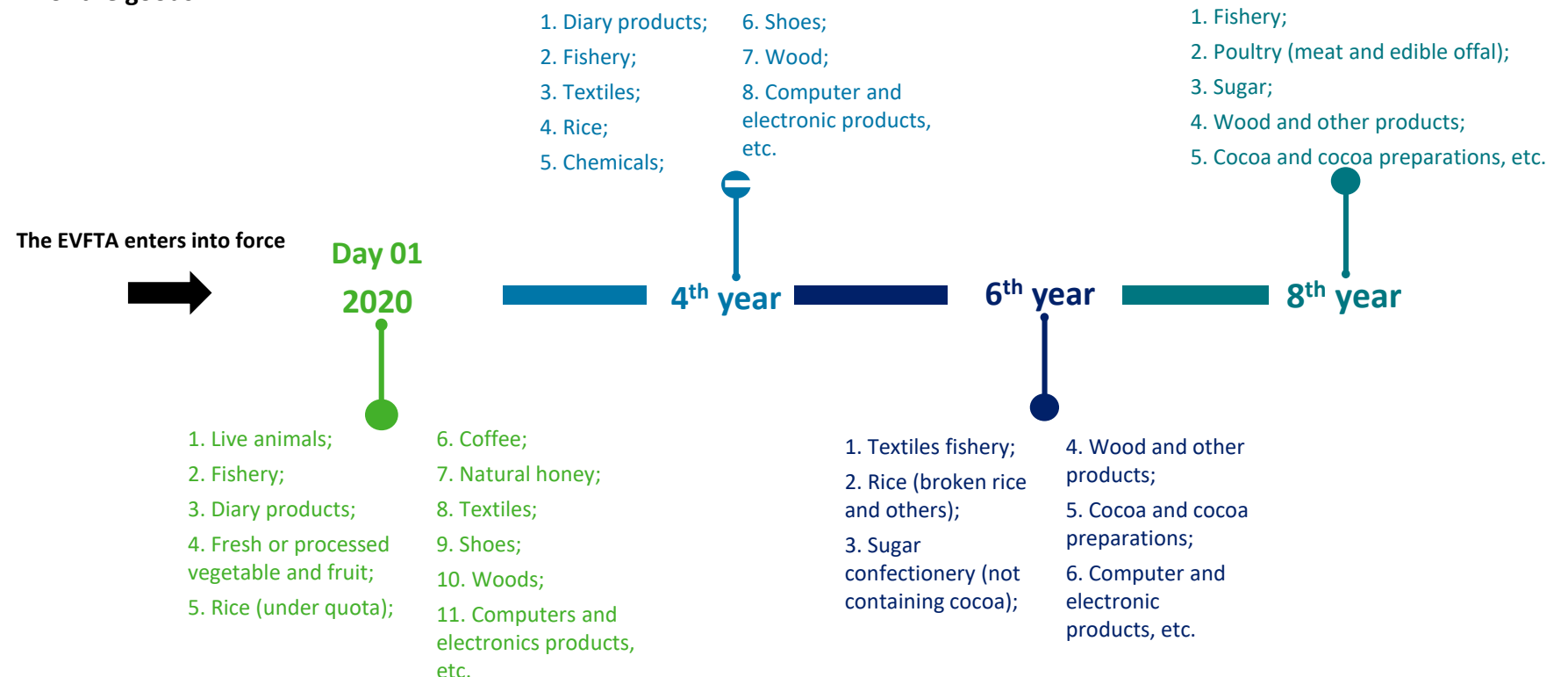
- The **EU** commits to not applying any taxes and fees on exports;
- **Vietnam** commits to abolishing export duties on products sold to the EU within 15 years - except for certain protected commodities, **which shall be (i) reduced to 20 % after 05 or 06 years (e.g., silicon sand, zinc ore, lead, etc.) or (ii) remained at base rate (e.g., crude oil, coal, etc.).**

TARIFF REDUCTION TIMETABLE FOR CATEGORIES OF GOODS

EU TIMETABLE FOR IMPORT DUTIES REDUCTION

Import duties will be eliminated **over an 08-year schedule** of the EU, but

- For “sensitive” products, duty exemption will be granted under quota arrangements;
- For many “product sectors” (e.g. textiles) the duty reductions will be staggered – some duties eliminated **immediately on adoption of the EVFTA**, others **after 04 years**, and the balance at the **06 to 08 year milestones**;
- The timetable below summarizes the EU reduction schedule;
- **Key to identifying when the duty reduction benefits can be enjoyed is determining the HS classification code accepted in the EU for the goods.**

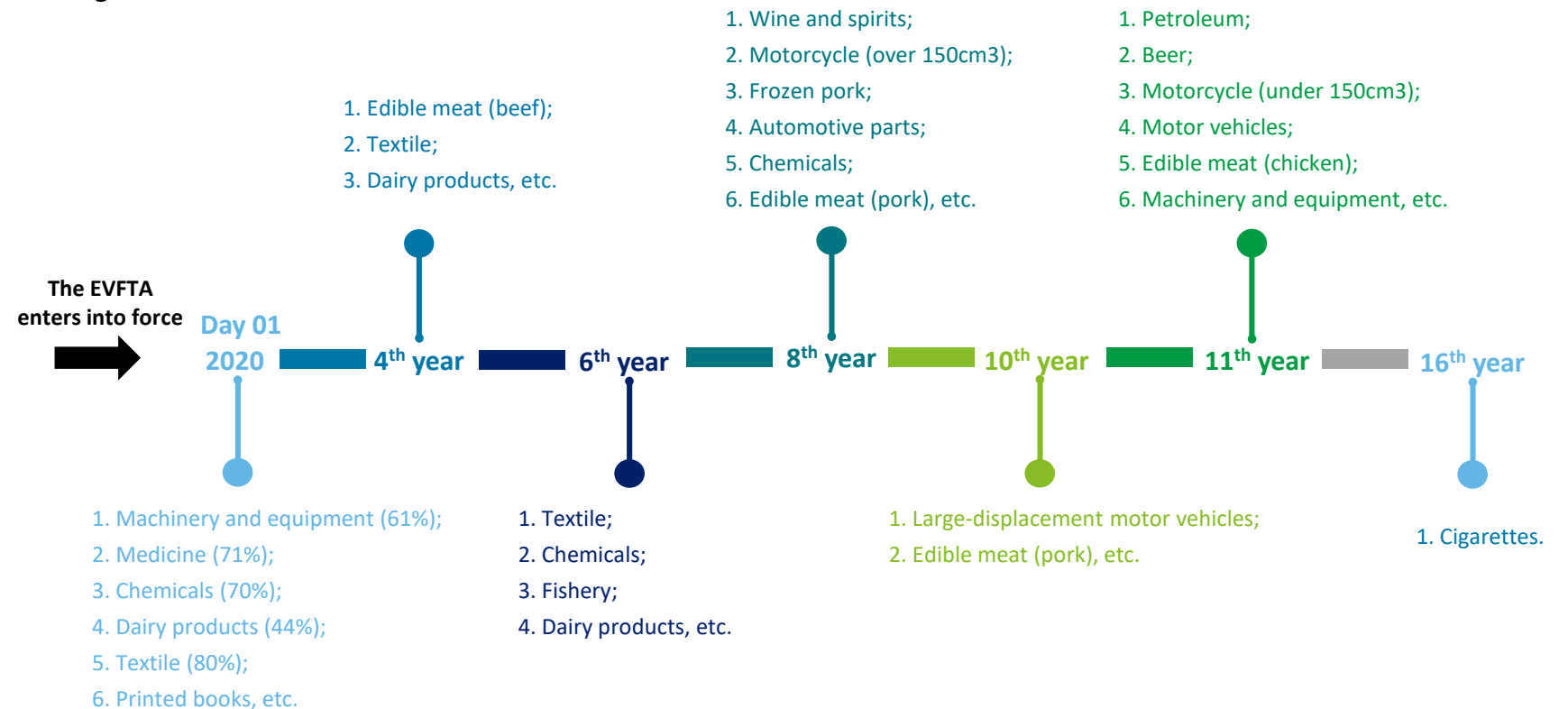


TARIFF REDUCTION TIMETABLE FOR CATEGORIES OF GOODS

VIETNAM TIMETABLE FOR IMPORT DUTIES REDUCTION

Import duties will be eliminated **over 16-year** schedule;

- For many “product sectors” (e.g. textiles) the duty reductions will be staggered – some duties eliminated **immediately on the adoption of the EVFTA, after 04 years**, and the balance at the **06 to 16-year milestones**;
- The timetable below summarizes the Vietnam reduction schedule;
- Key to identifying when the duty reduction benefits can be enjoyed is determining the HS classification code accepted in Vietnam for the goods.





DRAFT CIRCULAR PROVIDING GUIDANCE ON RULES OF ORIGIN

Notable points in the **Draft Circular** issued by the Ministry of Industry and Trade guiding on the application of the ROO under the EVFTA are as follows:

Cumulation of Origin	Minimal operations and processes	Approved exporter for issuance of certificate of origin (“C/O”)
<p>Materials originating from a country in the Association of Southeast Asian Nations (“ASEAN”) that has already signed a free trade agreement (“FTA”) with the EU (e.g. Singapore) will be considered as “Vietnamese originating materials” - provided those ASEAN originating materials are used in the processing or manufacturing of products, and;</p> <p>The processing and manufacturing activities in Vietnam are more than “minimal operations and processes”.</p> <p>Fabrics of Korean origin shall be considered as “Vietnamese originating fabrics” when subject to further processing, or manufacturing activity in Vietnam, provided;</p> <p>The processing and manufacturing activities in Vietnam are more than “minimal operations and processes”.</p>	<p>The Draft Circular has a provision on minimal operations and processes with stricter and more illustrating than the similar regulations of Decree No. 31/2018/ND-CP as well as Circulars on ROO in other FTAs such as the ASEAN-China Free Trade Agreement, The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (“CPTPP”) and so on, particularly focusing on certain goods including textiles, agriculture products, etc.</p> <p>However, the Draft Circular also has a “more opened” look than previous regulations that the operations/ processes are considered as minimal when conducted without the assistance of machinery, technical equipments and other specialized skills.</p>	<p>An exporter that self-issues C/O has to submit the proof of origin when being requested by authorities.</p> <p>Self-issuing C/O: The exporter conducts self-issuance of C/O by processing on computers, verifying by seal or printing the origin declaration content in the document.</p> <p>Self certification of origin can be made out after exportation provided that it is presented in the importing party no later than 02 years or the period specified in the legislation of the importing party.</p> <p>Supporting documents for goods origin (C/O and self certification of origin) will be valid in a period of 12 months since the issuance date in the exporting member country and they are required to be submitted to Customs authority of imported member country during validity period.</p>



OTHER AREAS OF COMMITMENT UNDER THE EVFTA

Non-tariff barriers

Technical Barriers to Trade (“TBT”) and Sanitary and Phytosanitary Measure (“SPS”): under the EVFTA, Vietnam commits to improving the application of international standards in issuing its TBT and SPS regulations. The EVFTA simultaneously requires both parties to alleviate other non-tariff barriers on licensing, customs procedures, etc. to enhance trade facilitation.

Service trade and investment

The EU’s commitments to Vietnamese investors are better than those of the EU in the World Trade Organization (“WTO”) and equivalent to the highest level of liberalization in recent FTAs of the EU. Vietnam's commitments to the EU is more liberalized than those committed to the WTO and at least equal to the highest level of market access that Vietnam provides to other partners in Vietnam's signed FTAs (including CPTPP); mainly focused on sectors/sub-sectors such as business services, environment, banking, insurance, etc.

Intellectual property

Commitment to copyright, patents, geographical indications, etc. at high level of protection.

Labor, environment and sustainable development

The EVFTA includes commitments to effectively join and implement basic standards and conventions of the International Labor Organization (“ILO”); not to attract trade and investment but to reduce the requirements/detriment to the effectiveness of domestic labor and environmental laws; commitment on climate change and conservation, sustainable management of biodiversity; increase transparency and accountability; etc.



RECOMMENDED KEY ACTIONS TO BE TAKEN

IMPACTS OF THE EVFTA ON ENTERPRISES AND BUSINESS ENVIRONMENT

1

Export advantages

Although the EU is currently one of the largest markets in terms of export turnover of Vietnam, Vietnam's market share of goods in the market is of opportunity for further development, partially due to competition in prices. With EU's elimination of import duty of over 99% tariff lines under the EVFTA with the aforementioned roadmap, businesses will have more opportunities to participate and improve their market share in this potential market. In particular, some sectors expected to benefit greatly are textiles, footwear and aquaculture products, automobiles, as well as electronic equipment and components.

2

Import advantages

Vietnamese enterprises can take advantage of goods and raw materials imported from the EU with high quality and more reasonable prices. Moreover, businesses will have access to high-tech machinery from the EU to improve productivity and enhance product quality.

3

Adding new framework of preferential treatment for goods

Currently about 42% of Vietnam's tariff lines are enjoying the EU's Generalized System of Preferences ("GSP") regime, much lower than that in the EVFTA and the structure is also different. In addition, the GSP is a unilateral concession and expected to end after the EVFTA takes effect.

4

Requirements for the development of domestic and regional supply chain

The EVFTA provides stringent commitments on ROO of goods, raw materials and supplies used to manufacture products. Businesses need to build and create their own domestic and regional supply chain, especially with countries having already signed FTAs with both the EU and Vietnam to take advantage of ROO from the EVFTA.

5

Business and investment environment improvement

Commitments on institutional issues, legal policies, business environment, labor, infrastructure, etc. are anticipated to generate development, improvement towards more transparency, convenience and appropriate support for production and business activities.



RECOMMENDED KEY ACTIONS TO BE TAKEN

05 KEY ACTIONS TO BE TAKEN

1

Determine the appropriate HS code for the goods being exported or imported:

Tariff reduction benefits are directly linked to the HS classification of the goods. To determine, the duty saving benefits under the EVFTA, and when under the tariff reduction schedules, those benefits can be enjoyed, exporters from Vietnam need to identify the HS code for their goods that will be accepted by Customs authorities in the EU. Conversely importers into Vietnam need to identify the HS code that will be accepted by Vietnam Customs, and notify that HS code to their suppliers to ensure that this is stated on C/O.

2

Determine, based on the HS code, the ROO that must be satisfied:

Exporters need to understand which ROO can be satisfied in order to claim “originating status” under the EVFTA and enjoy the duty reduction benefits. For many manufactured goods, a combination of rules may need to be satisfied e.g. In the textile sector – “originating status” requires specific manufacturing/processing activities to be performed, and that the local value added must meet a specified percentage.

3

Critically examine material and production costs:

Exporters, and particularly those who manufacture goods using materials sourced from many countries, need to determine whether their production activities and local value add meets the requirements under the ROO that applies to their goods. In this context it is important to note that under the EVFTA materials sourced from the EU, and other countries that both the EU and Vietnam have signed FTAs with (ASEAN countries and Korea), can count towards Vietnam “originating” content – provided certain conditions are met. It is important that exporters regularly monitor their sourcing and costs, to ensure they can continue to qualify under the ROO.

4

Generate the proof of origin that will be used to claim preferential duty treatment:

Vietnam exporters can either apply for C/O form EUR.1, or self certify origin status on commercial documents. The latter requires pre-registration with Vietnam Certifying Authority. In both cases, the exporters need to prepare a dossier, containing evidence that the ROO has been satisfied. For Vietnam importers, they will need to obtain proof of origin from their EU suppliers – again on form EUR.1 or on commercial documents.

5

Declaration of claim to EVFTA preferential duty rates:

Importers need to ensure that their customs declaration states that preferential duty rate under the EVFTA is being claimed, and that the proof of origin is submitted as supporting evidence. It is critical that there is consistency of information on the customs declaration, C/O or commercial documents. If not there is a risk that EVFTA benefits would not be granted. Vietnam exporters will need to ensure that the proof of origin form EUR.1 or self-certified on commercial documents is provided to the EU importer. Again it is critical that there is consistency of information on the documents provided.

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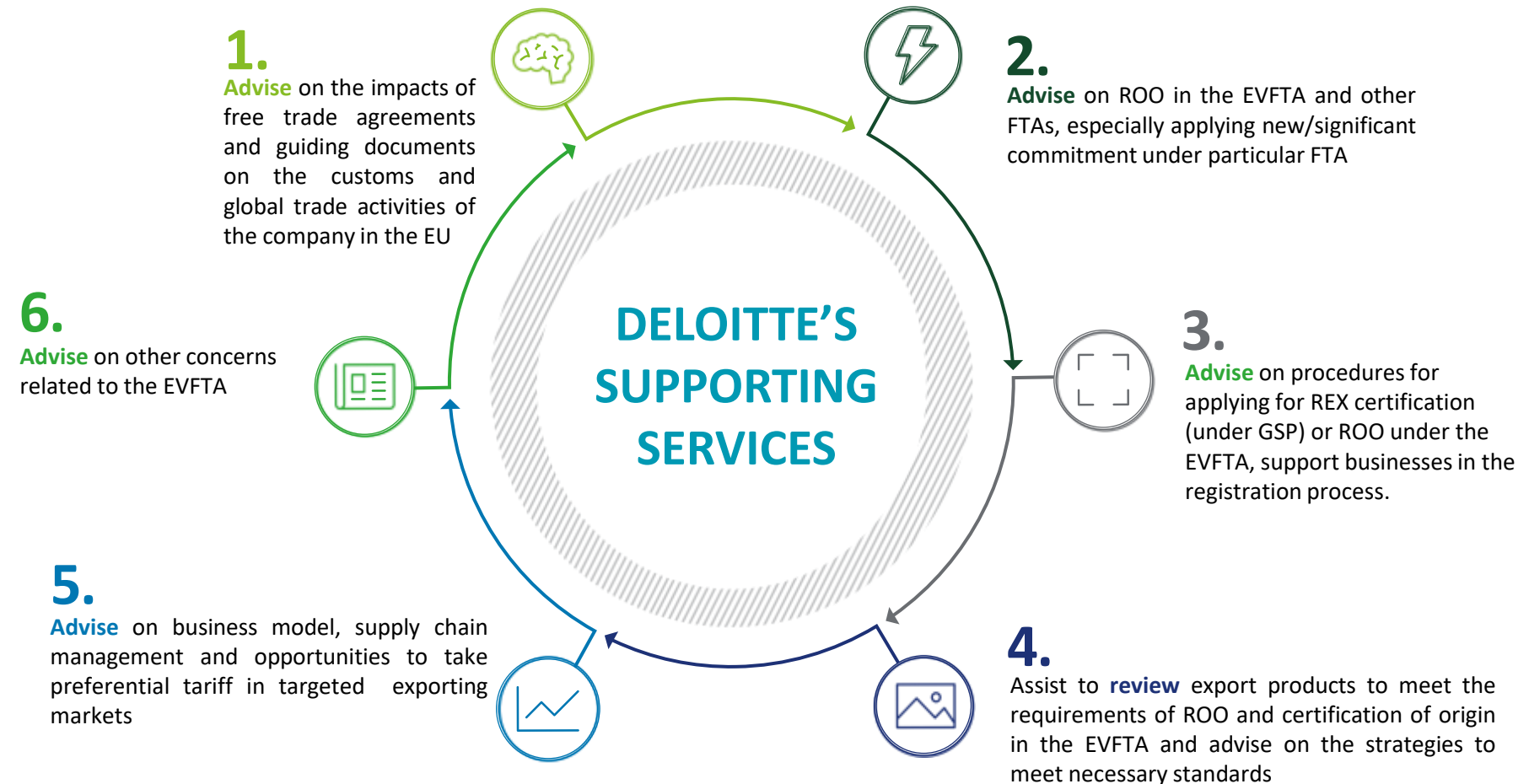


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PROFESSIONAL SERVICES FROM DELOITTE VIETNAM

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Deloitte Vietnam's Global Trade and Customs professionals have extensive experience in supporting companies about ROO to enjoy preferential treatment as well as the application of FTAs including the EVFTA. In particular, our consulting team can provide practical experience and support exporters and importers in the following areas:





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