VIETNAM AND THE CPTPP:

Charting a Future of Growth and Adaptation

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Picture this: a landmark FTA, the CPTPP, which Vietnam inked in March 2018 alongside 10 other pioneering nations – Canada, Mexico, Peru, Chile, New Zealand, Australia, Japan, Singapore, Brunei, and Malaysia. This list has only grown, with the United Kingdom joining the pact in July 2023, and several others like China, Taiwan, Ecuador, Costa Rica, and Uruguay queuing up for membership.

However, the CPTPP's route to completion is one of resilience and adaptation. Born from the ashes of the Trans-Pacific Partnership (TPP) negotiations, which commenced in 2010, the CPTPP took a transformative turn following the United States' withdrawal. It finally emerged, phoenix-like, to take effect globally on December 30, 2018, and specifically in Vietnam on January 14, 2019.

As we approach the fifth anniversary of these significant milestones, it's time to turn the spotlight on how the CPTPP has transformed Vietnam's economic landscape. In the parts that follow, we will unpack a few key and basic considerations for Vietnam in this multilateral international treaty.

1. Navigating the 'Negative List' Principle

The 'negative list' approach, a guiding philosophy that spells opportunity for foreign investors, is at the heart of the CPTPP. This approach is refreshingly straightforward: unless a sector is explicitly listed under the restricted market access category, foreign investors can dive in without facing any barriers. It's like having an open invitation to most sectors of Vietnam's vibrant economy.

But what happens when an investor is juggling multiple international investment treaties, each with its own set of market access rules? This is when strategic decision-making comes into play. Investors have the freedom to choose the treaty that best serves their business interests across all sectors, as long as they adhere to the entire range of rights and obligations outlined in that treaty. It's a delicate balancing act between opportunity and duty.

2. Deciphering Tax Reduction Commitments

a. Tax Reduction

Tax reduction under the CPTPP Agreement in Vietnam isn't a one-size-fits-all affair. It's a complicated process that can be categorized into three distinct groups:

Immediate Tariff Elimination: Think of this as the express lane. Certain products and sectors are earmarked for immediate tariff elimination, resulting in faster market access.

Scheduled Tariff Elimination: This is the gradual path. Here, tariffs are phased out according to a predetermined timeline, offering a paced transition for both businesses and the economy.

Tariff-rate Quota System: This group operates on a quota-based system, blending elements of limited access and tariff reduction. It's a strategic approach, balancing market protection with competitive access.

In the dynamic arena of international trade, Vietnam has made a decisive leap with the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). This isn't just any agreement; it's a watershed moment in Vietnam's global integration journey. The CPTPP stands shoulder to shoulder with the EU-Vietnam FTA (EVFTA) as one of the two most comprehensive and ambitious Free Trade Agreements (FTAs) that Vietnam is a part of.

b. Vietnam's Tariff Transformation

Vietnam's commitment under the CPTPP is a bold stride towards economic openness. The country has pledged to reduce rates on nearly all (100%) of its tariff lines. The impact was immediate: with the CPTPP's enforcement in Vietnam, 66% of these lines dropped to a zero tariff. Fast forward three years, and this number climbs to an impressive 86.5%.

But the journey doesn't end there. Vietnam is expected to take another step forward on January 1, 2024. The country intends to eliminate tariffs on a broader range of imports, increasing the percentage of zero-tariff lines to 90. How's about the remaining goods? They're on a steady course towards reduced tariffs as per the agreed schedule. This tariff transformation is not just a policy shift; it's a magnet for foreign investment, setting the stage for 2024 and beyond.

c. The Reciprocal Commitment of CPTPP Members

The CPTPP isn't a one-way road. Its other members have pledged to reduce 97% to 100% of import taxes on Vietnamese goods, in response to Vietnam's commitment. The timeline for these tariff eliminations is detailed in the Tariff Commitment Schedule under the CPTPP, offering a clear roadmap for Vietnamese exporters.

This reciprocal tariff elimination has boosted Vietnam's exports, promoting growth in this sector and supporting the Vietnamese economy as a whole. It's a testament to the power of mutual commitment in international trade agreements.

d. Understanding the Rules of Origin

The CPTPP's tariff benefits aren't handed out indiscriminately. They come with a catch - the Rules of Origin. To enjoy these preferential tariffs, goods must be verifiably sourced from CPTPP member countries. This means goods must either be wholly obtained or produced within member countries, entirely produced from materials originating in these countries, or meet specific product rules.

Additionally, the agreement embraces the De Minimis rule, which allows a 10% threshold for non-originating elements in a product while still qualifying it as 'originating.' Moreover, the CPTPP introduces a novel aspect in certifying the origin of goods; unlike other FTAs, this responsibility can fall on importers, producers, or exporters, offering a new layer of flexibility in trade.

3. Unpacking the Commitmen to Greater Openness

The CPTPP Agreement's powerhouses are its chapters on Investment (Chapter 9), Cross-Border Trade in Services (Chapter 10) and Financial Services (Chapter 11), along with the detailed stipulations in Annexes I and II addressing Non-Conforming Measures for these sectors. These sections form the backbone of the agreement, outlining key policies that shape the landscape of trade and investment services.

a. Obligations of Member Countries

Member countries of the CPTPP have pledged specific obligations, ensuring a balanced and fair environment for cross-border service providers and foreign investors, such as:

- **National Treatment (NT): Ensuring cross-border service providers and foreign investors are treated on par with domestic ones.**
- **Most Favoured Nation Treatment (MFN): Granting cross-border service providers and foreign investors the most favourable treatment given to ones from other nations.**
- **Minimum Standard of Treatment (MST): A baseline of fairness and equity.**
- **Expropriation: Safeguarding against unfair nationalization or property seizure**
- **Market Access: Unrestricted entry into various service sectors.**
- **Transfer of Funds: Facilitating smooth cross-border financial transactions.**

And the list goes on.

b. Vietnam's Market Access Commitments:

With the 5-year mark of the CPTPP's enforcement approaching, Vietnam is set to modify its market access restrictions, signal a shift towards greater openness, such as: Non-infrastructure-based Telecommunications: The foreign investment cap below 70% will be lifted; Infrastructure-based Telecommunications: The foreign investment cap will rise from 51% to 65%; or Entertainment, Culture, and Sports: The existing 51% cap on foreign investment will be removed; and so on.

While these reforms may not significantly affect foreign investors' rights, they do strengthen their strategic capacity to obtain management rights. More importantly, the changes to capital contribution limitations are expected to attract greater foreign investment into Vietnam's booming service sectors.

c. Non-Conforming Measures

In simple terms, the concept of "non-conforming measures" addresses the exceptions and conditions under which certain regulations of CPTPP member countries (including Vietnam) do not have to fully comply with the standard rules set out in the agreement. For instance, it may include special rules a country has for foreign banks operating within its borders or specific regulations for financial products like credit cards or electronic payment services. These non-conforming measures are listed in schedules attached to the agreement, detailing the specific exceptions each country has maintained.

4. Conclusion

The period between 2021 and 2022 stands as a testament to Vietnam's burgeoning trade prowess. The nation's trade turnover with other CPTPP countries soared to $104.5 billion in 2022, marking a substantial 14.3% increase from the previous year. These figures are more than simply statistics; they represent Vietnam's growing worldwide footprint in international trade.

The CPTPP has unquestionably accelerated Vietnam's trade and investment landscape. It's not just the tax incentives and stringent investment regulations that have spurred this growth; it's the opening up of markets that has paved the way for innovation and potential economic expansion. As Vietnam stands on the cusp of a new era of reduced tariffs and relaxed foreign investment restrictions, the country's economic prospects look brighter than ever.