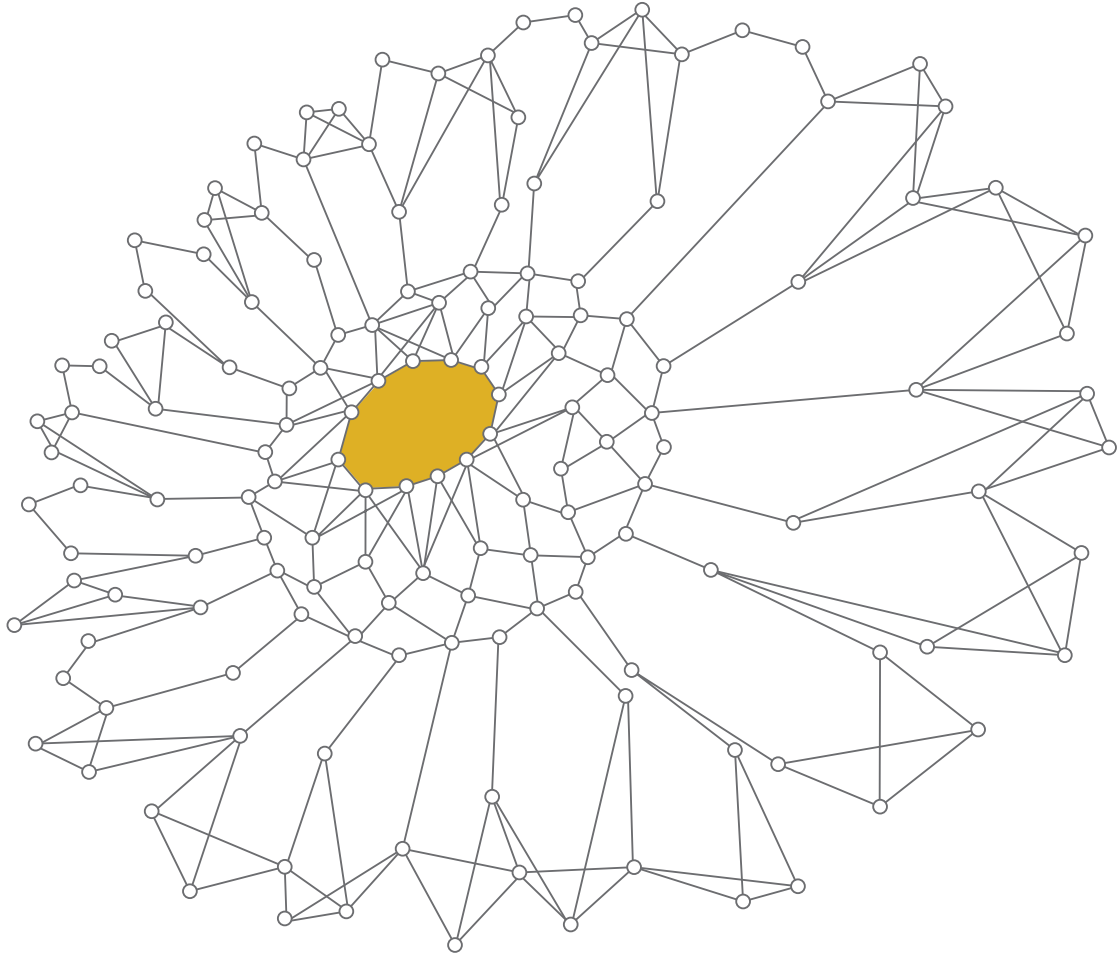




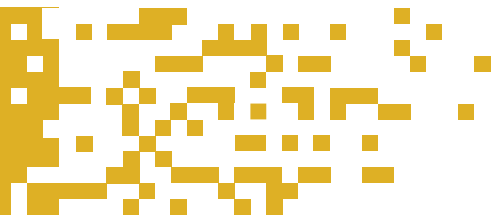
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Vietnam Chamber of  
Commerce and Industry



The review of Vietnam legal framework against  
commitments under Trans-Pacific Partnership (TPP)  
on **Intellectual property**





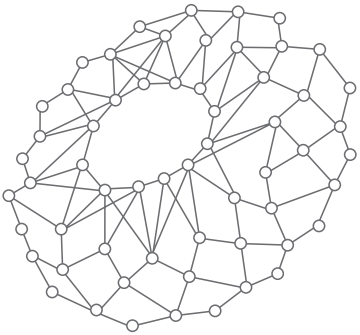
VIETNAM CHAMBER OF COMMERCE AND INDUSTRY  
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Hanoi 2017



# Introduction

The Trans-Pacific Partnership (TPP) is a new generation free trade agreement signed by twelve of the Pacific Rim countries, including the United States. It is among the biggest free trade agreements Vietnam negotiated and signed in recent years.

Although there is a unfavourable progress in the TPP ratification of the United States, the largest member of the TPP (with the decision of the President Donald Trumps related to withdrawal of the United States from TPP in January 2017), this Agreement is still expected by other member countries in order to continue somehow, in different scenarios, with all twelve members or less. Until now, although the future scenario of TPP is in question, the assessment and preparation of TPP commitments is still significant. In some positive scenarios, the preparation will take full economic opportunities expected from the TPP when it becomes effective. In some negative scenarios such as the failure of TPP, the review and assessment on Vietnam economic legal and policy system based on modern standards of TPP is meaningful in purpose of reforming Vietnam economic institution, and impulsing effective investment capital flow, building the trust and foundation for Vietnam economic sustainable developments.

One of the most controversial institutions in TPP negotiation process and the largest institution in the official document published after the conclusion of TPP negotiations is intellectual property. In general, the intellectual property standards under TPP are higher level compared to that of Vietnam legal framework, and tend to protect the right holder (the owner of intellectual property right). Meanwhile, the Vietnam enterprises and resident communities mainly belong to the group of intellectual property product users, and their interests are opposite to that of right holders. So from a logical perspective, Vietnam should not voluntarily implement TPP commitments on intellectual property unless it is compulsory.

However, in most realizable scenarios, TPP is still partly or totally effective somehow, so the preparation of TPP commitments is necessary, especially on intellectual property because of its complicated characteristics, and the long changing time in implementation.

Moreover, there are many similar commitments on intellectual property under TPP and European Union – Vietnam Free Trade Agreement (EVFTA). So even if TPP is ineffective to Vietnam, Vietnam still has to implement many intellectual property standards under TPP through EVFTA implementation.

*The review of Vietnam legal framework against TPP commitments on intellectual property* is prepared by the Vietnam Chamber of Commerce and Industry (VCCI) with the analysis of the compatibility of the Vietnam legal framework and commitments from the perspective of Vietnam enterprise. Therefore, this review is able to propose solutions to ensure compliance with the Agreement in a most beneficial way for Vietnam enterprises. The recommendations in review are provided in assumption of the validity of TPP and only are applied after 'effective date' of TPP. However, in some situations, if the implementation of a particular commitment brings benefits to Vietnamese holders, the recommendation with detailed notes will be clearly specified in order to apply in the near future. In addition, this review was made after the legal review Vietnam against EVFTA commitments on intellectual property prepared by VCCI, therefore, this review also has the comparison between TPP and EVFTA commitments on intellectual property issues to determine the difference and similarities on specific aspects.

This review is in the chain of 09 Review Vietnam legal framework against TPP and EVFTA commitments in the critical institutional areas (including Investment, Government procurement, Intellectual property, Customs and Trade facilitation, Transparency, Service market access) prepared by the Vietnam Chamber of Commerce and Industry (VCCI) within the framework of 02 stages of the Programme of Reviewing Vietnam legal framework with institutional commitments under new generation free trade agreement with the support of the Embassy of the United Kingdom of Great Britain and North Ireland.

Hopefully this report will be a useful information source for the legal review process for TPP and EVFTA approval's preparation and the Vietnam business investment environment reform efforts of the Government, the National Assembly and relevant authorities.

Vietnam Chamber of Commerce and Industry expresses its thanks to the Embassy of the United Kingdom of Great Britain and North Ireland in Vietnam for their supports in the implementation of this meaningful program./.

**The Vietnam Chamber of Commerce and Industry**

**Center of WTO and Economic integration**

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## List of abbreviations

EVFTA: European Union – Vietnam Free Trade Agreement

FTA: Free Trade Agreement

RMI: Rights Management Information

TPP: Trans-Pacific Partnership framework

TPMs: Technological protection measures

WTO: World Trade Organization

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