New generation free trade agreements as a driver of institutional change: A case of Vietnam [version 2; peer review: 2 not approved]

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Abstract

According to new institutional economics, institutional change is a precondition to economic change and is caused by multiple forces. In addition to path dependence, and strategic policy direction of the country, there are external forces which might have a path-breaking effect. This paper investigates the role of new generation free trade agreements (NGFTAs) in the process of institutional change using the case of Vietnam. It focuses on the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the EU-Vietnam Free Trade Agreement (EVFTA) as the most advanced trade agreements ever concluded between developed and developing economies. The findings are based on selected new generation provisions of the CPTPP and EVFTA that confirmed limited success in formal institutional change, no visible impact on the informal part of the institutional setting, and a lack of enforcement incentives. However, institutional change might be achieved by market shifts that activate businesses. These entities, for example, enforce intellectual property rights, modern corporate governance standards or labor rights protection that might cause the spill-over effect into a broader spectrum of economic actors. Thus, they might cause a shift in informal norms triggering incremental changes leading to successful institutional change. NGFTAs might be considered indirect facilitators of this process because they promote a friendly business environment and increase Vietnam's investment attractiveness.

Keywords

Vietnam, institutional change, New Generation Free Trade Agreements (NGFTAs), EU-Vietnam FTA (EVFTA), Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)
Amendments from Version 1

The revised version of this article contains substantial changes, including a deeper analytical look at the findings that led to revised conclusions.

The significant changes in the structure of the article include an almost complete redesign of the literature review section. The introduction and methods parts have been partially rewritten. The results section has been enriched by deepening previous findings and including more facts. The discussion part that contained a comparison of Vietnam to the Association of Southeast Asian Nations (ASEAN) members and China has been removed and replaced by a summary of the findings. More focused sources are used, including secondary (literature) and primary (interviews) ones, as the scope of the research was redirected and in some aspects, broadened.

As in the first version, NGFTAs' limited impact on formal institutions was confirmed. However, the author has supplemented this finding by reference to informal institutions and enforcement power, which the NGFTAs did not influence. Thus, no profound institutional change is detected because of NGFTA provisions. This does not mean that this effect cannot be achieved. Another update points out that NGFTAs have the potential to trigger institutional change by strengthening enforcement monitoring. Moreover, it can be achieved indirectly by improving the business environment and investment attractiveness of Vietnam. Foreign-invested companies, by effectively enforcing the formal NGFTA requirements (e.g., intellectual property rights, modern corporate governance standards, or labor rights protection), might cause a spill-over effect that activates incremental changes in other economic entities, leading to profound institutional change.

Any further responses from the reviewers can be found at the end of the article.

Introduction

Evaluation of the impact of free trade agreements (FTAs) during the past two decades has focused primarily on tariff reduction or, at best, on trade facilitation elements. As other reviewers of FTAs' impact in the literature, e.g., Stevens et al. (2015), and the current author have observed, the conventional belief was that this impact was positive for the FTA signatories. However, most publications do not provide convincing arguments to prove this assertion. One widespread problem is that of attributing causality to the ex-post evaluations. Since no convincing evidence supports the direct, positive impact of FTAs, researchers suggest indirect effects through other channels, often without proper analysis of the whole economy or the country’s institutional setting. A common mistake in the analyses of FTAs is a narrow approach focusing solely on trade-related issues. However, according to more advanced studies, FTAs might have an impact on various aspects of the economy (e.g., ADB, 2019; Barkin, 2015; Herr et al., 2016; Tröster et al., 2019). Social or environmental impact is often indirectly connected with economic performance and developmental output. Moreover, more complex FTAs might have an impact on the institutional setting of the country and, through this channel, on economic performance and development. Vietnam serves as the case study for this paper.

The research question “What are the forces that can drive the institutional change in Vietnam?” investigates the role of selected FTAs in an institutional environment and argues that they might under certain conditions influence the power and direction of institutional change.

Theoretical framework

This paper follows the new institutional economics (NIE) approach, which emphasises the importance of institutions and institutional change in economic performance (North, 1990). Explaining change in economic performance requires integrating the theories on change into the demographic, stock of knowledge or institutional setting. As the key to improving economic performance is humans’ control over their environment, thus the latter element needs to be examined (North, 2005).

Placing institutions at the center of attention needs more elaboration. According to North (2003), institutions are a mix of “formal rules, informal norms and the enforcement characteristics” (p. 25). Thus, effective institutional change must contain changes in a formal and informal institutional setting with the enforcement ability of the organizations (certain actors involved in the process). The essential fact to understand institutional change is the recognition that formal rules might be changed in one day. Informal norms need a long time to adjust, sometimes a generation. Moreover, the same formal rules applied in the environment of different informal norms might produce utterly different outputs.

It is commonly agreed (e.g., Campbell, 2004; North, 1990; Pierson, 2000) that institutional change is largely path-dependent, which is the consequence of the informal constraints mentioned above, although it might be redirected by endogenous or exogenous forces. The former might be driven by strategic and goal oriented stakeholders (North, 1990; North, 1993). The latter is more complex and includes reactions to political or economic factors, e.g., changes in price and transaction costs. Radical changes, however, have a lower chance to persist, as Vietnam’s example proves. A stable force causing incremental changes in an institutional setting, adequately managed by the stakeholders who try to fit the changes into the existing pattern, is more likely to succeed (Hall, 1989; Lieberman, 2002). International agreements, including FTAs, are examples of forces that might be used to initiate institutional change.

To sum up, several concepts classify drivers of institutional change from which the conclusion is that the process is led by path dependence, strategic choice, that is, the set of policies and directions a country has chosen, and external forces which, depending on their power, might redirect the development path (Abrami, 2014). In this paper, NGFTAs are considered potential pathbreakers for Vietnam.

Historical drivers of Vietnam’s institutional change

Without a doubt, over the past 30 years, Vietnam has earned recognition as one of the most successful developing economies, becoming elevated from one of the poorest in the world to a middle-income level. It can be argued that the initial success was achieved not thanks to the state’s policy direction but despite it; this view is consistent with Malesky and London (2014).
The communist experiment in Vietnam and the changes in the formal institutions connected with it were too revolutionary for local informal institutional arrangement (e.g., norms and values) and extremely hard to implement, e.g., collectivization. Thus, effective resistance to the state direction, known as “fence-breaking” (a term translated and popularized by Adam Fforde) emerged in the 1970s, breaking the rules aimed at improving economic output. Successful attempts were implemented in the formal system (Fforde, 2018; Fforde, 2007; Fforde, 2009b). Thus, in contrast to common belief (e.g., Stark, 1986), the informal part of the institutional setting started to change the formal one. This change brought institutions closer to their historical path, practiced for generations before. Adopted elements were initially beneficial for the country and its development, surpassing the shortcomings of the communist system. In the later stages, this method exhausted its reformist power.

In the next stage, in the late 1980s, Vietnam introduced a much more pragmatic approach to its strategic policy direction and changed its ideological propaganda under the slogan of đổi mới (English: ‘renovation’). The move was forced by the deteriorating economic situation, mostly caused by external shocks, e.g., the sharp reduction in Soviet aid. Adam Fforde (1993) claims that the SOEs managers played a role in adopting this approach as one of the leading “fence-breakers” putting pressure on the authorities. As a result, the institutional change was more profound and led to a substantial improvement in economic performance.

One of the next impulses for institutional change came from outside and was a result of adopted policies of economic openness and liberalisation. Foreign policy switched to being more pragmatic and oriented on economic cooperation, which enabled the economic integration and development of trade agreements.

Vietnam’s economic integration and FTAs
Trade liberalisation was preceded by selective import-substitution policies to develop its industrial capacity. Lifting the sanctions imposed during the turmoil of war and normalization of relations with the USA opened new trade opportunities and gradually changed the development strategy to an export-oriented one. Signing the Bilateral Trade Agreement with their former enemy cemented the new direction of Vietnam’s economic policy and allowed Vietnam to begin accession negotiations with the World Trade Organization (WTO), which were completed in 2007. However, the lack of a WTO integration progress after the Doha Round in 2008, disappointment with the ASEAN integration pace, and the quest to attract more foreign investors initiated a new chapter in Vietnam’s reform agenda that was oriented towards greater involvement in the separately negotiated trade agreements. As such, Vietnam joined the first-generation FTAs in Asia. However, their chaotic approach was driven by political factors without carefully managed assessment and preparation processes. One of the arguments supporting this assumption is the fact that the strategy of international integration issued by the government (Decision No. 40/QD-TTG) was formulated in 2016 after Vietnam had initiated or concluded FTA negotiations with its vital economic partners (e.g., the European Union (EU), Japan, South Korea, China, and the USA through multilateral agreements) and other non-essential partners (e.g., Chile, Israel, the Eurasian Economic Community, or European Free Trade Area).

The diversity of traditional free trade agreements (FTAs) in the region is the most probable cause of the so-called ‘noodle bowl effect’, in which overcrowded FTAs divert or neutralize the expected benefits of the agreements (Bhagwati, 2008). Asian Development Bank researchers Kawai & Wignaraja (2009) noticed that the usage level of the FTAs by the ASEAN business sector is just 25%. Another quantitative model shows the low utilisation of the first-generation FTAs in Asia, at around 30% (Pangestu & Armstrong, 2018). Other studies confirmed no sufficient economic benefits from the agreements in many cases. Their effects vary depending on the FTA and the country’s range of influence (Nawrot, 2022). Moreover, these agreements mostly covered only trade-related issues, without broader consideration of development incentives.

More profound and comprehensive free trade deals appeared at the end of the 2000s when the EU proposed ASEAN and South Korea economic cooperation that was broader than ever. At the same time, the Trans-Pacific Strategic Economic Partnership Agreement expanded as the Trans-Pacific Partnership (TPP) into twelve negotiating parties, with the most developed economies like the USA, Canada, Japan, and Australia, and developing ones like Vietnam among them. TPP contained the most advanced commitments beyond the WTO agenda and traditional trade and investment agreements. After the withdrawal of the USA in January 2017, the new generation provisions were narrowed down and the deal was renamed the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). The second such bottomless trade deal with a developed economy was the EU-Vietnam Free Trade Agreement (EVFTA). Both agreements are considered new-generation free trade agreements (NGFTAs).

New generation free trade agreements (NGFTA)
In general, the NGFTA is the EU’s concept of new economic relations with other countries; it was mentioned in an EU policy document for the first time in 2006 (Commission of the European Communities, 2006). However, other developed countries such as the USA proposed more comprehensive trade deals with their potential partners. In short, new generation FTAs cover a much broader scope than other regular trade deals, including so-called “behind-the-border” rules, e.g., domestic laws, procedures, and administrative tools (Kim, 2015). The reasons for widening the scope of FTAs include:

- technological progress and widening the scope of economic activities,
- more attention to public goods with global importance like environmental issues and sustainable development,
- soft power to promote human rights, including labor rights.

The first partners selected by the EU for the NGFTA, were ASEAN, Mercosur, and South Korea (Guerin, 2008). The inability
of some ASEAN members to meet EU expectations encouraged the European Commission (EC) to start bilateral negotiations with the ASEAN members who declared their readiness. Among them, only Singapore and Vietnam concluded NGFTAs with the EU.

**Literature review**

**Vietnam and institutional change**

Institutional explanation of economic changes became more popular after two events from economic history. The first was the collapse of the communist system in Europe and the transition of Central-Eastern European and post-Soviet economies into the free market (Lissowska, 2006). The second was the Asian financial crisis of 1997-98 (World Bank, 1998). Consequently, this approach expanded into overall transition issues of developing countries (e.g., Aulakh & Kotabe, 2008; Harriss et al., 2003; North, 2003), including comparative studies gathering Central-Eastern Europe and Asia (e.g., Chavance, 2002; Hoen, 2014).

The institutional approach was used in Vietnam’s context, as it can be classified as both, post-communist and developing economy. For example, institutional change was mentioned as a crucial element in sustaining growth and development in Vietnam (Gates, 1995; Irvin, 1995), and as necessary in allowing the market to play the biggest role in the economy (Knutsen & Khanh, 2020). Informal institutions complemented formal ones where the latter were still emerging. For example, social networks guaranteed the flow of information and trust between business partners (Steer & Sen, 2010). In the same manner, the lack of a well-functioning legal system, contract enforcement and financial market produced incentives for informal relationships between companies based on mutual trust. Trust was built over time based on companies’ business networks, personal meetings and geographical location (McMillan & Woodruff, 1999).

Another example shows the successful development of Vietnam’s export-oriented garment industry based on a joint venture with the unreformed state sector. Macroeconomic policy direction ensuring a stable macroeconomic environment, and a reasonable exchange rate regime with a relatively friendly approach to foreign investments were the keys to success (Hill, 2000). The above proves that at the beginning of the economic boom the formal institutional change did not keep pace with rapidly expanding business opportunities. In terms of economic integration’s impact on institutions, Dang Duc Anh (2010) found a correlation between trade liberalisation and the quality of institutions, especially in the Northern provinces.

Another local case study in the Central and Northern Highlands showed that the transfer of legal property rights to local communities did not result in the transfer of actual rights and practices used by local actors, so the intended institutional change did not follow the formal change because of the informal constraints and stakeholders’ conflicting interests (Clement & Amezaga, 2013; Thanh & Sikor, 2006). Similarly, collectivization failed in Vietnam, as new formal rules were rejected by the rural population (Dang, 2018). As a result, de-collectivization started before the departure from central planning was initiated (Kerkvliet, 2005; Kim, 2012).

Although the first stage of Vietnam’s reforms was mainly driven by internal forces (e.g., Fforde, 2009a), some publications examine the impact of external forces, of which the WTO accession is the most prominent. Early assessments show the positive effect of economic liberalisation triggered by the WTO requirements on the socioeconomic development of Vietnam (Thanh, 2005; Thanh & Duong, 2009). Others point out that WTO increases Vietnam’s investment attractiveness and might help to upgrade its position in the global value chains (Chaponnière & Cling, 2009; Cling et al., 2009).

However, skeptical voices about WTO accession point out its failure to improve the corporate governance of the state sector. Moreover, the overall productivity and competitiveness of the economy improved only thanks to the private sector. State-owned enterprises (SOEs) remained stagnant (Baccini et al., 2019). The lack of effectiveness of external forces such as the WTO to implement their SOE reform agenda is, according to Martin Painter (2003), the result of the power-sharing system in Vietnam with certain pluralism within the ruling elite.

Similarly, the lack of an external force effect in the form of the WTO was detected by Vu Thanh Tu Anh (2014); Vu Thanh Tu Anh (2015); Vu Thanh Tu Anh (2017) in the example of the state sector. Tu Anh argues that external observers underestimated the decision-makers’ political agenda. From the outset, their intentions did not converge with the expectations of foreign partners, who overlooked this possibility.

The few examples mentioned here do not exhaust the institutional approach to Vietnam’s development. Nevertheless, as was often indicated (e.g., Minh et al., 2014), the gap is still significant in the proper understanding of the process of institutional change in Vietnam, the role of formal rules and informal norms and complex organizations’ constellations. Moreover, institutional explanations left untouched the question of the FTAs’ domestic consequences.

**Vietnam and FTAs effect**

Trade liberalisation, FTAs and customs unions’ impact on the economy and welfare have been widely investigated and discussed in the literature. However, this is not the case for NGFTAs, a relatively new phenomenon, partly because they are much more complex. Moreover, the assessment of FTAs between developed and developing economies is rare, mainly because of the scarcity of such agreements. Hence, examination of the CPTPP and EVFTA, the NGFTAs between developed and developing economies, fills the existing knowledge gap. In the Asia-Pacific region, the existing NGFTAs are less than five years old (as of 2022), which does not allow us to construct an ex-post evaluation. Thus, all the reviewed literature from this area includes ex-ante analyses.
Academics whose research can be taken into consideration include Nguyen Binh Duong and Nguyen Thu Trang (2015) and Nguyen Binh Duong (2016). By using a gravity model, they confirmed the positive impact of the EVFTA on Vietnam’s exports to the EU and EU investments in Vietnam. Similar to most publications assessing Vietnam’s participation in mega-regional FTAs, Kikuchi, Yanagida, and Vo Huong (2018) estimate a robust positive effect on gross domestic product (GDP) caused by the EVFTA and CPTPP, equal to 8.1% and 6.5% respectively. Moreover, the effect of other agreements such as the Regional Comprehensive Economic Partnership (RCEP) appears to be positive, adding substantial value to Vietnam’s GDP (9.2%). Another computable general equilibrium (CGE) approach, by Le Trung Ngoc Phat and Nguyen Kim Hanh (2019), shows a positive overall impact of the EVFTA on GDP, household consumption (9.13%), production in all sectors, agriculture (9.61%), industry (9.74%), and services (8.21%). The Vietnamese Ministry of Industry and Trade Think Tank confirmed the beneficial role of NGFTAs for the economy but noted that these might cause institutional change (Minh et al., 2018). In summary, the papers mentioned above follow the mainstream trend of mathematical calculations taking into consideration one element of the EVFTA or CPTPP (tariffs) and drawing general conclusions regarding the positive impact on the whole economy and people’s welfare.

As publications proved, economic liberalisation and the growing number of trade agreements did not solve the problem of economic structure with the dominant state sector and the uncompetitive private sector (Busch, 2017). Moreover, traditional methods of researching the FTAs impact such as econometric modelling proved inconclusive. Thus, in the search for new assessment methods, economists turned to institutionalism, especially NIE.

**Methods and data**

This political economy analysis is based on NIE, thus it seeks an institutional explanation of the NGFTAs’ impact on the economy. According to the framework, this impact might be found through the process of institutional change, which might be caused by the NGFTAs’ provisions. Hence this study seeks the link between NGFTAs and institutional settings.

**Ethical approval**

The Human Research Ethics Committee of the Education University of Hong Kong gave ethical approval for this study (approval number 2019-2020-0441). Data are restricted due to data protection issues and required as part of the ethical approval. Written informed consent was obtained from participants before the study.

**Data collection**

The analysis is understood as primary and secondary data research with elements of the meta-analysis, which involves existing books, articles, reports, and other publications connected to FTAs impact evaluation. Journal articles and other scientific publications were selected through search machines such as Google Scholar, ResearchGate, and JSTOR, where the main keywords used were “Vietnam development”, “Vietnam FTA”, “EVFTA”, “Vietnam CPTPP”, “Vietnam economic reforms”, “Vietnam institutions”, “Vietnam policy”, “Vietnam trade and investment”, and a range of related terms. Publications were selected based on the frequency of their citations and the reputation of the journal in which they were published.

The primary data used in this paper are legal documents, especially texts of FTAs, and semi-structured, in-depth interviews with representatives of the stakeholders involved in the process of FTA implementation and affected by the implemented FTAs (Plummer et al., 2010). They are from the government and private sectors, both local Vietnamese and foreigners. The interviews have the character of elite or expert, which limits the available pool of potential participants. However, this interview character allows us to conclude despite the small number of interviewees (Herzog & Ali, 2015). These interviews aim to collect information about stakeholders’ interests and approaches to the FTAs. The interviews reveal how organizations function in the institutional setting of Vietnam, what their opinion is about institutions, their facilitating or hindering role in economic development, and economic liberalisation in line with FTAs adjustment.

The number of interviewers and their choice were limited by the resources and the coronavirus pandemic and the consequent inability to travel between Hong Kong (where the author resides) and Vietnam. Thus, the interviews were conducted online, using internet communicators: Zoom, WhatsApp, and Zalo. Interviews took place in 2021, on May 20, May 26, May 28, June 3, July 22, and October 29. They lasted 37, 31, 88, 33, and 45 minutes respectively (confidential interviews with the former Senior Diplomat at the EU Delegation to Vietnam; the Vietnamese entrepreneur trading with the EU; the Senior Officer of the United Nations (UN) Office in Vietnam; a researcher from the Vietnamese Government Think Tank, 2021; and the Senior Management of the EU Investor in Vietnam). No additional software was used to analyse the collected data. Interviews were recorded and then transcribed into English. Any non-English interviews were translated into English by the author when transcribed. According to guidelines (e.g., Davies, 2001; Griffie, 2005), all interviews were triangulated with the knowledge derived from literature and the author’s experience. A list of questions was prepared for each interview as a guide, but this was not strictly followed as each interview developed during the discussion (Attachment).

Finally, the author’s personal experience as one of the EU member state diplomats responsible for economic affairs serving in Hanoi from 2008 to 2011 and from 2015 to 2017 is a valuable source of data used in this research. During the author’s second term, one of the main topics in the working agenda was the EVFTA consultation and preparation processes. The wide range of fields covered by the author when serving in Hanoi allowed him to become familiar with Vietnamese political and business elites and their methods of dealing with various problems.

The key research question is exploratory, indicating a qualitative approach to the problem (Shareia, 2016;
Skovdal & Cornish, 2015). A case study approach was chosen as the most relevant to undertake this research (Stake, 1995). Nevertheless, quantitative data are used for comparison in the discussion and a better understanding of the processes in the findings part concerning institutional assessment (Bryman, 2012; Shareia, 2016). These data include widely used World Bank’s Worldwide Governance Indicators (WGI), available on https://databank.worldbank.org/source/worldwide-governance-indicators (World Bank, 2021) and the World Economic Forum’s Global Competitiveness Index (GCI), last full edition available on https://www3.weforum.org/docs/WEF_TheGlobalCompetitivenessReport2019.pdf (Schwab, 2019).

**Data analysis**

Data analysis contains the application of deductive and inductive logic to the data. Content analysis is used for secondary sources and narrative analysis for the interviews, all based on the grounded theory of NIE. Finding the patterns that connect institutions with FTAs provisions helps to separate changes in an institutional setting largely triggered by FTAs. Triangulation between collected secondary sources, interviews and the author’s experience is used to minimize bias.

Desk study of collected data is divided into stages:

1. Review of literature and existing analysis of the impact of NGFTAs on Vietnam and other traditional trade agreements. Analyses of texts of NGFTAs. Preparation and summary of statistical data and indexes collected from publicly available sources (literature review and Vietnam’s institutional setting sections).

2. Brief assessment of the institutional setting of Vietnam and its background (Vietnam’s institutional setting section).


4. Discussion of the role of NGFTAs in pushing forward reforms initiating institutional change (summary section).

**Results**

**Vietnam’s institutional setting**

This section provides a review and assessment of Vietnam’s institutions that are mostly formed by path-dependent internal factors and major policy direction, with little influence from outside and before the country engaged in preparation for the NGFTAs. It begins by selecting formal institutions’ classifications and applying them in the Vietnamese context. Quantitative data including WGI and GCI indexes are used to illustrate the quality of Vietnam’s institutional setting.

Many approaches can be used to select a set of good institutions. This paper is based on the classification proposed by the World Bank’s economists in the aftermath of the Asian financial crisis of 1997–98. Following this approach, the set includes (1) democracy, (2) efficient bureaucracy and judiciary, (3) property rights protection, (4) efficient corporate governance, (5) the financial market, (6) well-managed public finances, and (7) social welfare and labor rights protection (Kaufmann et al., 1999a and Kaufmann et al., 1999b). Except for democracy, all the mentioned elements are referred to in the NGFTA provisions Vietnam signed in the 2010s.

Following the World Bank’s approach and its WGI, constructed by the authors mentioned above, the quality of Vietnam’s institutions might be seen as low and improvement as insignificant. However, improvement in the quality of the regulations (blue diagram in Figure 1), which is closely related to an institutional setting, was significant in 2017 and 2020. This might relate to reforms undertaken due to the pressure of enforcing the NGFTAs. The rule of law (green diagram in Figure 1) improved in 2017, similar to the improvement of the previously described indicator. Last, the 2020 deterioration is undoubtedly connected with COVID-19 restrictions, when decisions violated existing domestic laws and even international agreements Vietnam had voluntarily signed.

Constructing using similar standards by neo-classical economists Sala-i-Martin and Artadi (2004), the World Economic Forum (WEF) GCI shows the low quality of Vietnam’s institutions, which continued to deteriorate even after joining the WTO. Regaining institutional quality, according to the GCI, started in 2015, as it is visible in Figure 2. At the same time, Vietnam concluded both NGFTA negotiations and made promises of increased commitments to deep reforms. Unfortunately, in 2018, the WEF changed its ranking methodology. Hence the later results are not comparable with the former ones. However, the improvement between the 2018 and 2019 rankings (not shown in the graph of Figure 2) is noticeable, suggesting that the country is still undergoing institutional change.

In general, before the NGFTA negotiations in 2008, all the previously mentioned elements of institutional setting defined by the World Bank’s standards represented a low level of adjustment to the international level. The exercise mentioned is presented for reference, as no convincing argument exists that might prove the assumption presented and because the author is aware of the biases and limitations that can burden listed rankings.

**New generation provisions in free trade agreements (FTAs)**

This section presents findings from an in-depth analysis of selected new-generation provisions: intellectual property rights, SOEs, and labor rights protection. Three selected elements, according to the author’s communication (2015–2018) and his interviewees (e.g., the Senior Diplomat at the EU Delegation to Vietnam, 2021), posed a considerable challenge for the Vietnamese FTA negotiators, lawmakers and enforcing bodies.

**Intellectual property rights (IPR).** As a part of property rights, IPRs are considered critical drivers of progress and economic development. This view is presented by most economic historians,
the neo-classical school, and NIE (e.g., North & Thomas, 1973). Vietnam’s NGFTAs, the CPTPP, and EVFTA (Chapters 18 and 12, respectively), contain some of the most sophisticated IPR protection regulations from any FTAs ever signed (CPTPP, 2018; EVFTA, 2016).


Vietnam is a production base, transit and target market for counterfeit products, for which a range of factors are...
responsible. The size of the grey market and weak control over corruption, slow updating of the legislation, and weak enforcement of existing laws all demonstrate a weakness in the institutional setting. Growing purchasing power, overall demand, general social consent, and low awareness of the harmfulness of this phenomenon are all significant. Another aspect of weak IPR protection in Vietnam and other Asian countries observed by researchers (e.g., De Meyer, 2014) links it with cultural traits embedded in an informal institutional setting, for example, the lack of a sense of the value of intangible things such as a brand or design.

Vietnam adopted its first law on IPR in 2005, and this law was further amended and supplemented in 2009. The sanctions for IPR violations were tightened in 2010 to adjust to the TRIPS rules. However, these changes were still insufficient to meet NGFTA requirements. To fulfil Vietnam’s obligations, 2018 Decree No 22/2018/ND-CP updated articles connected to copyrights in the Civil Code. In 2019, Vietnam introduced other amendments to the law on IPR, followed by Official Letter No 5360/SHTT-NDHT on patent application guidelines. Consequently, formal IPR protection has new features and dimensions in Vietnam. New regulations provide an opportunity to complete applications for establishing IPR online, which significantly simplifies and speeds up the process. The new law introduced the advanced concept of geographical indicators (GI) with all its outputs in protecting holders’ rights regarding GI certificates. This may help Vietnamese producers gain recognition for their unique products, especially in the agricultural sector. Changes based on CPTPP and EVFTA provisions gave the IPR holder unlimited options to formulate the claim if they can prove the claim in law, and the grace period for a utility patent has been more precisely defined (Barbour-Lacey, 2020; Law on Intellectual Property No. 50/2005/QH11, 2005).

How did the formal changes mentioned influence the execution of IPR protection? For example, GCI assessed IPR protection in Vietnam in 2007 with a score of 2.7 and ranked it 100th among 125 economies. In 2012, the score was even lower (2.5), and Vietnam was positioned 127th on a list of 142 countries. In 2015, when Vietnam pledged to tighten IPR protection following the conclusion of CPTPP and EVFTA, the country’s score jumped to 3.1, and its ranking rose to 105th out of 144. In 2018 and 2019, the score continued to rise, reaching 3.6 and 3.7 respectively, indicating slow progress (Schwab & Porter 2007; Schwab, 2012; Schwab, 2015; Schwab, 2018; Schwab, 2019).

This reflects other findings indicating that formal institutional change, although relatively substantial, did not cause deeper changes in institutional arrangement. IP is still an alien concept for most Vietnamese. This perception is substantially
better among entrepreneurs, especially the younger generation and the educated middle class. However, the bureaucratic matrix of IPR enforcement entities (e.g., the National Office of Intellectual Property under the Ministry of Science and Technology, the Market Management Bureau of the Ministry of Industry and Trade, and the Economic Police) and their overlapping competences make the process of dispute resolution ineffective. Moreover, the procedures are lengthy and costly (confidential interview with the Senior Management of the EU Investor in Vietnam, 2021).

However, two elements might help to change IPR perception and enforcement. One is the growing number of companies with considerable IP value (innovations, brand name). The second relates to foreign-invested companies and their local suppliers. Foreign companies bring both their IP the IPR protection standards to Vietnam. Enforcement power on the company or industry level is usually more effective than on the national scale. A supportive regulatory framework may accelerate incremental changes in an institutional setting. The second process, connected to foreign investments, is surely enhanced by the NGFTAs participation.

State-owned enterprises (SOEs). The ideological position occupied by SOEs and their accorded special status and protection by the government have been among the most challenging negotiation points in the CPTPP and EVFTA. The leading role of SOEs is confirmed in Article 51 of Vietnam’s Constitution (2013). The privileged position of SOEs in Vietnam distorted important formal institutions considered essential by the mentioned World Bank economists for maintaining economic development, for example, property rights (preferential access to land), the financial market (preferential access to credit), efficient bureaucracy, and especially corporate governance.

The mentioned elements did not reach the form expected by the foreign donor community and FTA partners, despite constant SOE reforms dating back to the 1970s. These reforms were driven by internal factors without broader macro-level consideration. Many of them were formalized after informal attempts carried out by SOEs managers, known as “fence-breaking”, proved successful. As such, SOEs and their managers had a considerable impact on the state’s economic policies and secured the protective umbrella of the Party. At the same time, many Communist Party of Vietnam (CPV) officials were keen to keep state ownership of these entities, despite growing external pressure for privatization and restructuration (in Vietnam called equitization). The explanations include fear of losing control over state resources, growing unemployment as a result of changing managerial patterns, and national security concerns. Yet another reason played a significant role: SOEs were treated as a pool of jobs that could be traded and offered to extended family members and other cronies (e.g., confidential interview with a Vietnamese entrepreneur trading with the EU, 2021; Gainsborough, 2010; Lan, 2009; Tu Anh, 2014; Tu Anh, 2017).

Vietnam’s FTA partners made the SOE issue quite clear, refusing to accept any unequal treatment of companies. Hence, NGFTAs contain detailed chapters (CPTPP – Chapter 17, EVFTA – Chapter 11) ensuring fair competition among all economic entities in agreements. The above applies to equal rules for foreign (members of FTA) and Vietnamese companies and means the same rules apply to Vietnamese companies, thus giving a huge incentive to the development of private small and medium-sized enterprises (SMEs) in Vietnam, which at best had previously been treated as an untrustworthy or suspicious element of the Vietnamese economy. However, studies have demonstrated the dynamism and profit-making abilities of these economic entities (e.g., CPTPP, 2018; EVFTA, 2016; Herr & Nettekoven, 2017; OECD, 2017).

For example, both agreements require their members to adjust to specific corporate governance rules similar to those defined by the OECD Principles of Corporate Governance that function in developed countries. They secure fair competition among economic entities and include transparency rules (OECD, 2015). Although Vietnamese legislators fulfilled these formal expectations, the reality turned out to be more complicated. Local businesses continued to operate according to old rules or informal norms. Shareholders seldom used their statutory rights, e.g., participation in the decision-making process, and the Control Board was often treated as something which was only on paper (Hai & Numoi, 2008; Lan, 2009; Toan & Walker, 2008). Similarly, Martin Gainsborough’s (2010) study on equitized SOEs shows that most managers continued to report to government authorities, despite being formally outside their control.

The sources mentioned refer to the response to the WTO requirements. In terms of NGFTAs, this record is slightly better, as a new generation of managers entered the labor market but is still far from what is expected (confidential interview with the Senior Management of the EU Investor in Vietnam, 2021). As is visible in the GCI, Vietnam was classified at the bottom of the scale, 104th out of 141 economies in 2019 in overall corporate governance standards. In previous editions, the ranking had no such category but various elements of corporate governance, e.g., ‘strength of auditing and reporting standards’, ‘efficacy of corporate boards’ and ‘protection of minority shareholders’ interests’ were assessed. In the years from 2012 to 2018, Vietnam was usually ranked outside the top hundred, with exceptions, especially in the protection of minority shareholders, where scores were higher. Moreover, the trend was quite stable, with slight improvement in the last edition (Schwab, 2012; Schwab, 2013; Schwab, 2014; Schwab, 2015; Schwab, 2016; Schwab, 2017; Schwab, 2018; Schwab, 2019).

A relatively poor record of reform implementation is paired with exemptions concerning SOEs, which Vietnamese negotiators were able to gain in the CPTPP and EVFTA. For example, sectors excluded from the general rules of the agreements include developmental activities (building infrastructure), public services (electricity, waterworks), and strategic
importance (energy, security, including financial security). The Airport Corporation of Vietnam and all mass transport, publishing, printing, and audio-visual sectors are included (CPTPP, 2018; EVFTA, 2016; Miner, 2016). Moreover, Vietnam gained a transitional period in both NGFTAs to adjust to modern corporate governance rules, such as those defined by the OECD.

Though efforts have been made to bring the Vietnamese state sector closer to international standards, the process is still far from over. NGFTAs put additional pressure on the CPV to make the SOEs’ operation transparent and market based. Successes have been achieved, for example in reducing state protection of the sector, allowing more SMEs to develop. Equitization, although slow, reduced the number of SOEs, and their power has shifted to private business empires, with VinGroup as the most infamous example (confidential interviews with the Leader of the Vietnamese Government Think Tank and the Vietnamese Entrepreneur trading with the EU, 2021; Sakata, 2020).

**Labor rights.** Labor rights were not included in the scope of traditional FTAs, and absorption of this element is one of the main achievements of NGFTAs. Labor matters are present in the CPTPP Chapter 19 and EVFTA Chapter 13.4 as part of sustainable development (CPTPP, 2018; EVFTA, 2016).

In general, labor rights standards have a long history in developed countries. They were included in the Treaty of Versailles in 1919, which set the new world order after the First World War, including establishing the International Labour Organization (ILO), which later became the first specialised agency of the UN. The ILO administered the Declaration on Fundamental Principles and Rights at Work (1998), which set the core labor standards: 1) freedom of association, 2) the right to collective bargaining, 3) the abolition of forced labor in any form, 4) the elimination of child labor, and 5) no discrimination policy in terms of employment and occupation (ILO, 1998).

However, labor rights have been largely neglected in the developing world, despite many countries having ILO membership. Industrial development started to change this approach. Nevertheless, governments and the private sector were not prone to adopt them without external incentives. This is the case even for countries with ideologies that professed equality and adopted a socialist economic model, as observed in Vietnam. Reported incidents of forced labor camps are examples (Marshall, 2011).

One of the critical issues in terms of labor protection is the unofficial sector of the economy. Without formal employment, the workforce is not covered by the legal protection of labor rights. Most developing countries, including Vietnam, have a fairly large part of the economy without formal recognition. According to various data, nearly half of the working population does not have formal employment. It is widespread in such professions as housekeeping – 98.7%, construction – 90.2%, and hotels and restaurants staff – 80.7% (Demenet et al., 2016; GSO, 2020; Hoa, 2019; ILO, 2016; Thang et al., 2011).

Vietnam does not offer sufficient incentives to legalize employment, and external mechanisms to help achieve this goal are lacking. Consequently, in the 2019 GCI ‘workers’ rights’ category, Vietnam was ranked 93rd out of 141 economies (Schwab, 2019). The most effective way of increasing the share of formal employment in Vietnam seems to be an expansion of foreign-invested companies, many of which obey the law.

Social welfare, including labor rights protection, is one of the institutions that most institutional economists consider to be a core element of a good institutional setting, as confirmed by the World Bank. The importance of labor rights made them included in NGFTAs, creating an equal playground for all economic entities in the free trade area by eliminating market distortion and securing social order. The other reason for including labor rights chapters is that the EU and the USA are democratically controlled, which makes the politicians subject to the vagaries of public opinion and the public vote in their constituencies (confidential interview with the Senior Officer of the UN Office in Vietnam, 2021).

Despite the lack of a democratic mandate, Vietnamese politicians are judged by other CPV members, as bringing prosperity has become the central element of its legitimacy in the exercise of power. Thus, Vietnam has joined most ILO conventions, and it was not a controversial issue during the NGFTAs negotiations (confidential interview with the Senior Officer of the UN Office in Vietnam, 2021; Marshall, 2011). No decisive proof exists of what role, if any, introducing these conventions was played by the international pressure or NGFTAs. The important exception, however, is the Convention 87 on Freedom of Association and Protection of the Right to Organise. The CPV strongly opposed adopting the law allowing independent unions and freedom of assembly (Buckley, 2022). Even though ratification of Convention 87 is announced to take place in 2023 (MOLISA, 2021), the true intention of the CPV may be misleading, judging by the information noise that this topic causes.

In the Vietnamese system, the only workers’ representation has been affiliated with the CPV Vietnam General Confederation of Labor (VGCL) so far. This did not change, despite the Vietnam News Agency English-language announcement that the new Vietnamese Labor Code would allow the formation of independent unions. Nor was any change observed when a pro-government English-speaking vlogger confirmed this statement in November 2021 (Buckley, 2021). At the same time, the Vietnamese-language media are silent about this issue. Moreover, Công an Nhân dân, a Ministry of Public Security newspaper, published several articles in Vietnamese in April 2021 claiming that the VGLC was the only legal representative of workers. In addition, anyone who denied this or suggested that an independent union could be set up was to be considered an enemy of the government, intending to overthrow it. The new Labor Code indeed permits the establishment of so-called Workers’ Organizations (WO) not affiliated with the CPV, but these are not independent unions. They can be formed at an individual company level with extremely limited rights. Moreover, authorities do not specify the formal
requirements for WO to be created. At the same time, the new Labor Code confirmed the position of the unions as entities affiliated with the CPV and as part of the nationwide structures of the VGCL (Buckley, 2022).

It is clear that the Vietnamese authorities aimed to fulfil the CPTPP/EVFTA requirements by allowing WO to be formed (announcement in English only) but at the same time did not change the status quo, meaning that independent associations were not allowed to operate. Thus, Vietnam still has this task to fulfill, and the solution is relatively simple to achieve, for example, by issuing a decree clarifying the requirements of WO establishment and allowing them to be genuinely independent. However, all of this is dependent on the CPV’s real intentions. The genuine implementation of Convention 87 might be a big step forward in the institutional change of labor union standards in Vietnam, associated with the external pressure of NGFTAs.

Findings summary
The three examples above of FTA new generation provisions certainly do not exhaust the topic but give an initial idea about the role of NGFTAs in the process of institutional change and their long-term economic impact. They illustrate Vietnam’s specificity, where informal arrangements are more respected and persistent than formal rules. The power of informal institutions in Vietnam has already been observed in the earlier stages of reforms. The examples above confirm their path dependence.

NGFTAs seem to be a powerful force because of their scope. They indeed influence formal changes in Vietnam’s institutional setting. For example, the IPR has never had such firm formal protection in Vietnam as recently. The amendments that go beyond the TRIPS rules might be credited to NGFTAs impact. However, the enforcement of this protection is still questionable. The incentive to invest resources in this element is not strong enough. Similarly, SOE reforms were not properly enforced, and existing informal arrangements still prevail. Nevertheless, NGFTAs contributed to the foreign donors’ pressure on equitization, which resulted in limiting the number of SOEs and weakening their government protection. It did not solve all the problems, but changes have been initiated that improved the business climate for SMEs. NGFTAs have not possessed direct power to push for the implementation of adopted labor rights regulations. Informal employment is still persistent in Vietnam, which excludes workers from the formal labor rights umbrella. On the other hand, parts of regulations protecting labor rights met resistance from the CPV, despite NGFTAs commitments. It is linked with loosening the power grip of CPV over unions, and as such, it has a political connotation that showed the real intention of the CPV when initiating the reforms requested by the NGFTAs.

Thus, all three examples show limited success in formal institutional change. The impact on the informal part of the institutional setting is not visible, and enforcement incentives are lacking. However, while the state fails in proper implementation, this might be achieved by market shift which activates other actors such as businesses, including foreign-invested companies. Those that possess physical resources and can attract high-quality human resources are free from the state’s shortcomings. These entities, by enforcing, for example, IPR, modern corporate governance standards or labor rights protection, might cause a spillover effect into the broader spectrum of economic actors. Thus, they might cause a shift in informal norms causing incremental changes leading to successful institutional change (Hamilton-Hart & Yeung, 2021). NGFTAs might be considered indirect facilitators of this process because they promote a friendly business environment and increase Vietnam’s investment attractiveness.

Conclusion
Vietnam started its rapid development with little influence from the outside. Formal changes introduced by authorities were often in response to internal demands from various stakeholders, e.g., SOE managers or sanctioning existing informal practices. A limited institutional change occurred that contributed to outstanding economic performance. This formula, however, empowered interest groups, especially at the interface between politics and business, encouraged opportunistic behaviors and hindered further reforms. A new impulse was needed to discipline CPV members and push for more profound institutional change.

In the search for further credibility, the CPV switched to performance-based power legitimacy (Hiep, 2012). Moreover, partly in the quest for international recognition and partly to increase Vietnam’s investment attractiveness, the CPV pushed for more trade agreements, especially with the developed world, at the same time binding the reforms with international obligations. This move, however, came at the expense of accepting external forces pushing for internal reforms, which brings Vietnam closer to global standards in economic activities and relations. As such, NGFTAs became a potentially powerful external force in Vietnam’s institutional change agenda.

The potential of NGFTAs as an external force causing institutional change has been examined in this paper with mixed results. Informal institutional change does not keep pace with formal change, and empowerment in the enforcement ability is lacking. Thus, profound institutional change, although potentially possible, has still not been achieved. However, as previously indicated, informal institutions need more time to adjust to formal changes. As such, the power of the NGFTAs as a path-breaking external force should not be underestimated, especially in the case of the EVFTA, which has a greater potential to impose effective enforcement monitoring. Thus, NGFTAs might continue to put pressure on authorities to improve the provisions’ implementation and trigger more profound institutional change. At the same time, foreign companies present in Vietnam largely function in an institutional environment convergent with the one promoted by the NGFTAs. As such, their standard might influence other economic actors, initiating broader institutional change.

To conclude this discussion, it should be noted that Japan, Singapore, and Vietnam are the only countries in the region
that are engaged in two NGFTAs (FTA with the EU and CPTPP). Malaysia and Brunei joined CPTPP but did not ratify their membership. South Korea has an NGFTA with the EU. Hence, Vietnam has found itself a member of this elite club of successful Asian economies (Japan, South Korea, and Singapore), which are at the same time members of the NGFTAs. Will Vietnam be the next equally successful economy? Time will tell. It is not an exaggeration to say that Vietnam is on the right track.

**List of abbreviations**

*ADB*  Asian Development Bank

*ASEAN*  Association of Southeast Asian Nations

*CGE*  Computable general equilibrium

*CPTPP*  Comprehensive and Progressive Agreement for Trans-Pacific Partnership

*CPV*  Communist Part of Vietnam

*EC*  European Commission

*EU*  European Union

*EVFTA*  EU-Vietnam Free Trade Agreement

*FTA*  Free trade agreements

*GCI*  Global Competitiveness Index

*GDP*  Gross domestic product

*GI*  Geographical indicators

*ILO*  International Labour Organization

*IP*  Intellectual property

*IPR*  Intellectual property rights

*NGFTA*  New generation free trade agreements

*NIE*  New institutional economics

*RCEP*  Regional Comprehensive Economic Partnership

*SME*  Small and medium-sized enterprises

*SOE*  State-owned enterprises

*TPP*  Trans-Pacific Partnership

*TRIPS*  Trade-Related Aspects of Intellectual Property

*UN*  United Nations

*VGCL*  Vietnam General Confederation of Labor

*WEF*  World Economic Forum

*WGI*  Worldwide Governance Indicators

*WO*  Workers’ Organizations

*WTO*  World Trade Organization

**Data availability**

The underlying data of the interviews is restricted due to data protection issues. The participants reserved anonymity and confidentiality as the interview data contains politically sensitive and identifying information. This data consists of the English transcripts of the interviews, as the recordings were destroyed once translated and transcribed. Hence, the data cannot be published or publicly shared. Data might be shared with relevant Institutional Review Board (IRB) or equivalent under the condition that the data is not cited nor published. Requests for access to the underlying data are to be sent the author at s1129845@s.eduhk.hk with the details on the intended use of the data and the approval from the relevant Institutional Review Board (IRB) or equivalent.

**References**


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Katarzyna Anna Nawrot
Polish Academy of Sciences, Warsaw, Poland

In my view, the topic of the paper is relevant for the journal and might be a valuable contribution in the field of international relations, new institutional economics and political economy. The very choice of the subject of the work should be considered by all means justified. It deserves attention for at least several reasons, namely (i) it is timely, regarding the character and evolution of cooperation and integration and trade regionalism in the contemporary world economy Nawrot (2021, 2022); (ii) refers to very important region of East Asia and considers both developed and developing economies; (iii) might be of importance taking into account implications and possible direction in the evolution of new generation of trade agreements, especially as drivers of institutional change.¹ ²

In this respect, the reviewed paper provides a significant study, and is needed in international relations, and fills the cognitive gap in the scientific literature. It can be a valuable reading for researchers as well as for practitioners, especially dealing with the political implications and application side of the free trade agreements.

The goal of the paper and its intention are clearly stated in the introduction and the research question is formulated as follows: “What are the decisive forces that triggered the institutional change in Vietnam?” Consequently, the author intended to investigate the role of selected FTAs in an institutional environment and argued that their power influences the direction of institutional change. As such, I want to stress that it is indeed significant to examine the decisive forces behind institutional change of a country in order to understand the processes that can be instrumental for economic growth and development.

As specified, the aim of the contribution is to assess the impact of new generation free trade agreements on institutional change in case of Vietnam, I feel the analysis lacks the specification in that respect and tangible explanations, especially discussing and demonstrating clear influence and channels of influence between free trade agreements and institutional change. In other words, it is not clear from the paper how the new generation of free trade agreements identified by the Author influenced institutional change. Despite the Author referring to the effects of free
trade agreements i.e., growth of GDP, it is also not well-defined how the Author understands the impact and what are the Author’s expectations from that positive influence other than the rise in trade what is considered the main goal of free trade agreements.

The introduction is not concise in my view. The Author distinct within the introduction two additional sections, namely “Vietnam’s economy and economic liberalization” and “New Generation Free Trade Agreements (NGFTA)”, and also added some reference to the literature. In my view, it should be rewritten and sorted out so the introduction is more to the point and reference to the literature shifted to the Literature review section; as well as the passage about the Vietnamese economy and the character of new generation free trade agreements should be placed differently. More discussion on the related literature and studies should be added, as it is not obvious, as stated in the introduction that FTAs’ impact is generally positive (p. 3). As observed by numerous researchers, including myself (2022), the effects of trading agreements vary greatly depending on the agreement and on the particular country’s range of influence, showing in particular cases no sufficient economic benefits. More discussion on literature would enrich the paper. Furthermore, also regarding new generation free trade agreements Author emphasizes the positive influence of FTAs (p. 4), but it is not clear what this positive impact means, as well as there are just a few references to that. Only later in the paper Author refers to the increase in GDP. I also lack the explanation of the choice of new generation free trade agreements by the Author. Besides, I wonder why Regional Comprehensive Economic Partnership (RCEP) is not included in the study?

In the section “Methods” the Author distinct three other section, namely “Theoretical framework”, “Ethical approval” and “Data collection”, therefore I think the section should be named “Methods and Data”. The theoretical framework does not sufficiently present applied methods. There are also no explanations on the choice of the conducted interviews, not to mention a sufficient number of them to draw relevant conclusions.

Assuming the correctness of the research method and not discussing the choice of interviews, both the results and discussion need much more description.

Also, explanation would be of value added on what basis Author selected elements for the analysis on the impact of NGFTAs on the institutional setting, namely intellectual property rights (IPR), state-owned enterprises (SOEs) and labour rights. I feel there is no tangible justification and explanation in the results and discussion on the impact of NGFTA on institutional setting. Therefore, I think it is not insufficient and needs more elaboration. Furthermore, in the discussion section it is not understood why the Author chose ASEAN and China to support his arguments on the decisive force of NGFTAs for progressive reforms in Vietnam.

If the paper is considered for further review, I would suggest copy editing and proofreading to correct the different typos in the paper.

When assessing unequivocally positively the research intention of the reviewed work, one cannot ignore the method of implementing this idea, as well as the content contained therein. Saying this, by all means the paper cannot be indexed in the current shape. It needs substantial improvements in numerous dimensions including editing, rewriting, elaborating on the introduction, methods and data, description of results and discussion, and reconsidering and rethinking some conclusions after more in-depth analysis of the research results. To sum up, in
my opinion, the paper needs major revision to meet the standard of the journal.

References

Is the work clearly and accurately presented and does it engage with the current literature?
Partly

Is the study design appropriate and does the work have academic merit?
Partly

Are sufficient details of methods and analysis provided to allow replication by others?
No

Are all the source data and materials underlying the results available?
Yes

If applicable, is the statistical analysis and its interpretation appropriate?
Partly

Are the conclusions drawn adequately supported by the results?
Partly

**Competing Interests:** No competing interests were disclosed.

**Reviewer Expertise:** international relations, International economics, development economics, trade regionalism, integration, developing countries, East Asia

I confirm that I have read this submission and believe that I have an appropriate level of expertise to state that I do not consider it to be of an acceptable scientific standard, for reasons outlined above.

Author Response 30 Aug 2022

**Mariusz Boguszewski**, Education University of Hong Kong, Tai Po, Hong Kong

Dear Professor,

Thank you for the constructive review. I would like to rewrite the article addressing your comments and concerns. Before that, I would like to use the opportunity to reply to some of the critical points briefly.

As I understand, the first shortcoming of my article is the lack of explanation of the mechanism of institutional change which I refer to? In other words, the mechanism
understood as “the process that accounts for casual relationship among variables” (Campbell, 2004, p. 63). In short, “new generation” FTAs, cover a much broader scope than other regular trade deals, including so-called “behind-the-border” rules, e.g., domestic laws, procedures, and administrative tools (Kim, 2015). As such, they challenge and, in consequence, influence institutional setting.

Concerning the growth of GDP as a consequence of FTAs, I have not expressed such a view. It was only presented in the reviewed literature, which mainly stated that certain trade agreements might increase overall GDP compared with the baseline. Instead, as I articulated, I do not focus on a quantitative increase in trade or GDP but change in the institutional setting. I might make it clearer to avoid confusion.

The following comment concerned the structure of the introduction and literature review. I understand that it should be more integrated and sharpen its general finding that most of the publications on the NGFTAs effects show a positive impact on various aspects of the Vietnamese economy, including poverty reduction. On the contrary, traditional FTAs are assessed as ineffective, e.g., “low utilization of the first-generation FTAs in Asia” (p. 3), which is in line with the Reviewer’s finding (Nawrot, 2022). I will make this point clearer for the reader.

Concerning the choice of the NGFTAs, there are only two such agreements that Vietnam introduced: CPTPP and EVFTA. Mentioned RCEP, although grouping the most prominent trade partners of Vietnam does not have the character of “new generation” deal. It is a copy of CPTPP, excluding 22 provisions characteristic of NGFTAs (please refer to EVFTA, 2016; CPTPP, 2018; RCEP, 2020). Hence, RCEP can be classified as a standard trade agreement with its traditional scope. It means that there is a lack of issues covered previously in the so-called “WTO-Plus”: technical barriers to trade, investment, and IPR protection. There is also a lack of strict non-economic provisions included, for example, concerning environmental protection, preventing climate change, or protecting human rights (see for example, Petri & Plummer, 2018; Urata & Petri, 2017 and Wilson, 2015).

The comment on the methods section refers to a lack of clarity which I will try to improve. The interviews have the character of “elite” or “expert”, which limit the available pool of potential participants. However, this interview character allows us to draw some conclusions despite the small number of interviewees (Herzog & Ali, 2015). Moreover, according to guidelines (e.g., Davies, 2001 and Griffee, 2005), all interviews were triangulated with the knowledge derived from literature and my experience. Interviewers’ number and their choice was limited by the resources and coronavirus pandemic which forced me to conduct them online only. As it was stated (p. 5-6), interviewers represent key players involved in the NGFTAs implementation and affected by the implemented provisions.

Selected three provisions as part of “new generation” elements of the NGFTAs are justified in two ways. First, as it was indicated (p. 6) they refer to a set of “good” institutions supporting economic development, which the World Bank’s economists proposed in the aftermath of the Asian financial crisis of 1997 (Kaufmann et al., 1999a and Kaufmann et al., 1999b). The other reason is that they were the most difficult topics in the negotiations on
the EVFTA and CPTPP, as Vietnam was initially very reluctant to accept the rules imposed by the EU and US. Consequently, Vietnam got some transitional periods and exceptions, especially in terms of the SOEs.

The choice of China and ASEAN was explained (p. 11-12). However, if it is not convincing, it can be added that such comparisons, both to China, and other ASEAN members, are often exploited in the literature (e.g., Painter, 2008; Malesky & London, 2014; London, 2014; Minh N. & Chen, 2017; Carney & Witt, 2014; Fforde, 2009a; Khan, 2013; Hill & Menon, 2018 and Aba, 2021).

To sum up, I read and analyzed all comments with significant attention. I understood some inaccuracies and imperfections in my text. Therefore, I commit myself to rewriting the article in more understandable and clear way, eliminating all mistakes and inaccuracies.

References


**Competing Interests:** No competing interests were disclosed.

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Adam Fforde

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New generation free trade agreements as a driver of institutional change: A case of Vietnam

Better – I think – to change the title to – New generation free trade agreements as a driver of
formal institutional change: the Vietnam Case Study

Comments:
The paper seeks to demonstrate that “selected ‘new generation’ provisions of the CPTPP and EVFTA, confirming the ‘switchmen’ role of the agreement in institutional change and the new institutional arrangement of Vietnam. Thus, despite the political constellations and stakeholders’ interests, NGFTAs are the decisive impulse for profound institutional change in Vietnam, which would not be possible without NGFTA commitments.” (1). This is a clear target, expressed as a simple empirical challenge to the proposition, as stated – a rather quaint approach that I personally welcome. How will the author cope with ‘degrees of proof’ of their proposition? I read on.

The Introduction places upfront the issue of causality to ‘prove’ assertions. (2) “the research question: “What are the decisive forces that triggered the institutional change in Vietnam?” investigates the role of selected FTAs in an institutional environment and argues that their power influences the direction of institutional change.” (2)

My own question – will the author discuss alternative explanations, or simply produce a plausible explanation of their own?

And – what do they mean by ‘prove’?

P.2 sees the author assert that an external force is needed to explain the large institutional changes that have happened.

Trouble starts on p.2 with “It is commonly agreed ... that the economic success is a result of the extensive reform agenda initiated in December 1986, at the Sixth National Congress of the Communist Party, named as Đổi Mới (English: ‘renovation’).” It is not commonly agreed, as any examination of the literature will show. The three dot points on the ‘main elements of the reforms’ are not sourced; there is abundant evidence that the SOEs started to change institutionally well before 1986. The author is therefore constructing their core argument on contentious grounds without appearing to be aware that these issues exist in the literature. New trade opportunities arguably started with the opening of the economy in the late 1980s as part of anti-inflationary measures (see the article by Adrian Wood, which is well-known), not dateable to the end of the US trade restrictions; there is a good article by Hal Hill pointing out that EU and other countries opened their markets before the end of the US restrictions (to my memory Italy was a very early participant in this). (p 2).¹,²

The empirical basis, and the knowledge of the relevant literatures, is absent from the core arguments in the para on p.2 starting “Trade liberalisation ...”, which has no sources whatsoever.

The paper’s argument, therefore, places undue emphasis on the assertions made on p.2 which are both empirically challengeable (my way of saying that I think they are wrong) and contentious in the literature.

The remainder of the paper must therefore be expected to be constructed on these foundations, and so rely upon assertion. Does it? I read on.

On p.3 the section ‘literature review does not mention wider discussions of change processes; its
citations are mainly from not disinterested insiders - official bodies and their satellites. It is therefore not really a literature review that matches the overall aims of the paper – to prove that institutional change is caused by external factors, specifically these trade agreements.

There is a striking sentence on p. 5 – “Progress is achieved through institutional change.” This seems to me to be a proposition that scholars like North would shy away from – economic growth can continue without institutional change (perhaps because the changes are ‘steps’ but their effects continue whilst the institutions remain unchanged). It is striking that the author ignores the rather large literature on Vietnam and elsewhere that is interested in endogenous institutional change (the article by McMillan and Woodruff is a good example – on markets). The author here is tied into the consequences of their initial characterisation of change and the 1986 VIth Congress as of great causal importance, which means that their argument will, logically, devolve into considering the relative effects of external and internal policy changes (the former incorporated in/as trade agreements ...). They therefore risk tautology – their worldview asserts what they are trying, they say, to prove.

Thus, when I read on p. 6 that the first part of the first section of data analysis is “Review of existing analysis of the impact of NGFTAs on Vietnam and other traditional trade agreements.”, given what I have read already, I must expect a selective reading of texts that excludes texts that downplay the role of policy as a source of change. And, in the Results section, I must expect that the analysis stresses formal institutions, rather than those which are also reported extensively in the literature, either as deviations from formal norms or things quite outside them (such as Angie Tran’s work on informal labour organisations). And, when I look at the interviews, and the questions, these would seem designed to follow these assertions and assumptions. The logic of the paper would then seem to be to contrast alleged issues with these formal institutions with the improvements embodied in new ones, of which the Trade Agreements are part, or rather causally important (and which can be linked to the ‘changes on paper’ which, it is to be asserted, are improvements). The argument is therefore situated within a somewhat airtight box, excluded (by the author’s choices) from other analyses that threaten that logic (which could be called the ‘official’ argument).

I recall a paper by John Kleinen about the ‘theatre’ of Vietnamese politics and government; after all, the Party is Leninist, says it has elections, and that law matters. The last two statements are challengeable – a recent PhD by Vu Dao reports on a Politburo decree (# 15, I think 2006) that orders state bodies responsible for investigating corruption to secure Party permission to act, if there is a Party member involved; therefore, law matters only if the Party says it does. This suggests that when the author reports: “How do we know that NGFTAs were a decisive force pushing progressive reforms in Vietnam? There are some possible answers. Vietnamese politicians officially justified amendments of the laws and regulations by alignment with TPP/CPTPP and EVFTA. The same was previously observed when Vietnam was preparing for WTO accession” (11) – my sense is that this conflates formal, legal change with institutional change (which ‘begs the question’), and that, well, officials being paid to engage with the theatre of Trade Agreements would say that, wouldn’t they?

And this leads us to the author’s argument in the paragraphs following the one that starts with “To support this argument” on p. 11. This is crucial, as the author tries here, through a discussion of apparent historied in China and some other South East Asian countries, and this is I think incoherent in terms of the stated aims of the paper: it does not conclude clearly with anything
relevant to the question of the impact of these agreements on Vietnamese institutions. And the conclusions fudge the issue – “In general, all ‘new generation’ provisions can be translated into drivers of institutional change. The selected three examples given in this paper do not exhaust the topic, and there is room for further research. However, they have allowed the formation of firm arguments supporting the ‘switchmen’ role of NGFTAs in institutional change. All the examples presented in the paper show a substantial impact on the formal aspects of the institutional setting. Also, in all cases, Vietnam has made some initial adjustments without commitment to the EVFTA or TPP. These were triggered by the WTO accession requirements – a previous external force. However, these initial reforms were relatively shallow.” (14).

I think that the author has enough in their argument to suggest that the agreements appear to have had various consequences for official Vietnamese policies – on paper, and no more. I would suggest they rewrite to ‘turn the argument around’ by:

- Contrasting the arguments in the literature that de-emphasise policy with those that take the alternative position.

- Attacking the former by pointing out that formal policy may matter, and that these agreements need to be assessed in terms of their impact upon formal policy, and then doing so.

- Looking at their interviews for evidence of officials' views that are sceptical about the impacts of policy ‘in reality’, and those that are not. For example, the panel of State-Owned Enterprise managers interviewed in Fforde's book on SOEs reported that policy (before 1986) was at times very important ‘or we would have gone to prison’, and at others, not, with reference to the context of policy – the ‘reality' of institutional change. Sometimes, officials may have welcomed the effects of the agreements as ‘pushing' context, others not. They likely have other ways of contributing to this.

- This involves moving from the ‘I will prove X’ stance, to ‘some say this, some say that, I will contribute to this discussion’.

I would recommend a major rewrite in line with the points outlined above before this paper can pass peer review.

References

Is the work clearly and accurately presented and does it engage with the current literature?
Partly

**Is the study design appropriate and does the work have academic merit?**

Partly

**Are sufficient details of methods and analysis provided to allow replication by others?**

Not applicable

**Are all the source data and materials underlying the results available?**

No source data required

**If applicable, is the statistical analysis and its interpretation appropriate?**

Not applicable

**Are the conclusions drawn adequately supported by the results?**

Partly

**Competing Interests:** No competing interests were disclosed.

**Reviewer Expertise:** Vietnam, methodology, economics

I confirm that I have read this submission and believe that I have an appropriate level of expertise to state that I do not consider it to be of an acceptable scientific standard, for reasons outlined above.

Author Response 15 Jun 2022

**Mariusz Boguszewski,** Education University of Hong Kong, Tai Po, Hong Kong

Dear Professor,

Thank you for the constructive review. I would like to rewrite the article addressing your comments and concerns. Before that, I would like to use the opportunity to reply to some of the critical points briefly.

The first is a discussion on the importance of *Doi Moi* in the overall “strategic choice” of reforms. I agree that I was not precise enough. I am aware that SOEs started to change before 1986. For example, they were partly commercialized in 1981. A similar process occurred in agriculture, where the collectivization failed and created the threat of massive hunger. Another example cited by Regina Abrami (2014) shows that in the early 1980s, over half of the volume of retail sales was handled by private individuals. I am also aware of the famous “fence breaking” or policy selection experimentation, which was possible due to a decent degree of decentralization in Vietnam (Van Arkadie, et al., 2010; Vasavakul, 2014). Successful policies could be leveraged at the central state level (Glewwe, Agrawal & Dollar, 2004). In this context, *Doi Moi* turning point might have more ideological context than factual, as the Reviewer argues in his publication (Fforde, 2018). I am aware that the “consensus” around *Doi Moi*’s importance is driven at first by CPV propaganda, underlining the decisive role of the Party and its correct policy approach. It is also strengthened by the
World Bank rhetoric, which, although it did not play any role at the beginning of the reforms and marked just a modest contribution in the midst of them, attempted to get involved and promote the Vietnamese “miracle” as its own or at least as a joint effort (World Bank, 2012; State Bank of Vietnam, 2012; Cling, Razafindrakoto & Roubaud, 2013). However, *Doi Moi* is commonly used as a turning point for researchers, which, although simplifying, marks the intensification of changes in the CPV approach to economic policy and gives the common sense of Vietnam's transformation. To give just few examples (Piei & Khalifah, 1996; Le, Nguyen, & Bandara, 1996; Nguyen & Haughton, 2002; Van de Walle & Cratty, 2004; Vo, 2005; London, 2009; Dang, 2010; To & Lee, 2015; Nguyen, Luu, & Trinh, 2016). It is perhaps the problem with terminology. In my research, I try to find reference points that allow me to systemize the knowledge and the conduct analysis which includes "strategic choice" of policies - let's say, without indicating 1986 as a starting point. “Strategic choice” is understood as switching from communist central planning - although never expressed in any CPV official documents (Fforde, 2018) - in favor of a freer market and economic liberalization.

Another simplification that distorts the understanding of my expression is institutional change. I am aware of Douglass North's (1990, 2005) concept where institutional change is one of the proposed causes of economic change – while the others are demographic change and change in the stock of knowledge (North, 2005). It will be corrected in the updated version of the article.

In terms of literature review, I would like to stress that I have checked all publicly available publications on NGFTAs and Vietnam – literally, TPP/CPTPP and EVFTA from the Vietnamese perspective. There was no premeditated process of selecting the sources which fit my conclusion. I did not rule out any publication for a reason given by the Reviewer. Moreover, all interviewees are well-established experts in their field with a firm stand on their opinions, making it impossible to influence their answers by “wrong” construction of questions even if someone might consider that the questions are not perfectly neutral. Despite my best intention to make them neutral.

Another mistake that the Reviewer pointed out is that formal, legal changes are conflated with institutional change. I would like to defend that formal change, according to North (2005), might cause institutional change: “Institutional change can result from change in the formal rules, the informal norms or enforcement of either of them” (North, 2005, p. 6).

In the end, I agree that my conclusion was too far-reaching. I should concentrate on the FTA provisions analysed in the paper, not going beyond them in conclusion. To sum up, I read and analysed all comments with significant attention. I understood some inaccuracies and imperfections in my text. Therefore, I commit myself to rewrite the article in more understandable and clear way, eliminating all errors and inaccuracies.

**References**


**Competing Interests:** No competing interests were disclosed.