



COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2008)¹: VIET NAM

FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)

REPORTING	Fulfillment of Government's reporting obligations	YES , except for the 2003 and 2004 Annual Reviews (ARs).
	Involvement of Employers' and Workers' organizations in the reporting process	YES , according to the Government: Involvement of the Viet Nam Chamber of Commerce and Industry (VCCI), the Viet Nam Cooperatives Alliance (VCA) and the Viet Nam General Confederation of Labour (VGCL), by means of consultations and communication of government's reports and tripartite meeting on reporting issues
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2008 AR: Observations by the VCCI.
	Workers' organizations	2008 AR: Observations by the VGCL. Observations by the International Trade Union Confederation (ITUC). 2007 AR: Observations by the International Confederation of Free Trade Unions (ICFTU). 2006 AR: Observations by the Viet Nam General Confederation of Labour (VGCL). Observations by the ICFTU. 2005 AR: Observations by the ICFTU. 2004 AR: Observations by the ICFTU. 2003 AR: Observations by the ICFTU. 2002 AR: Observations by the ICFTU. 2001 AR: Observations by the ICFTU. 2000 AR: Observations by the ICFTU.

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the Government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>

EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Viet Nam has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).
		Ratification intention	<p>Under consideration since 2006, for C.87 and C.98.</p> <p>2008 AR: The VGCL expressed its support to the ratification of C.87 and C.98.</p> <p>2007 AR: According to the Government: The ratification of C.87 and C.98 is still under consideration in cooperation with employers' and workers' organizations.</p> <p>2006 AR: The Government indicated that is studying ratification of C.87 and C.98 in consultation with the social partners. The VGCL hopes that C.87 and C.98 will be ratified by Viet Nam in due course.</p>
	Recognition of the principle and right (prospect(s), means of action, main legal provisions)	Constitution	<p>YES</p> <p>According to the Government: The principle of freedom of association and the effective recognition of the right to collective bargaining (PR) is recognized in the Constitution of Viet Nam, 1992.</p>
		Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Policy 2006 AR: According to the VGCL: Participation in the elaboration of State policies regarding the labour legislation system, for example amending labour law, elaborating social insurance law, improving wage policy and handling housing issues for workers in industrial zones. In response, the Government supports VGCL observations. • Legislation The Labour Code and the Law on Trade Unions relate to the principle and right (PR). 2006 AR: According to the Government: Drafting of an Ordinance on strike action, which is listed as an item on the agenda of the National Assembly in 2005 – 2006. • Regulations Decree No. 102 of 20 May 1957, Decree No. 8/1998 ND-CP, Ordinance on labour dispute resolution of 20 April 1996, the Constitution of Viet Nam Trade Unions of 12 November 1993 relate to the principle and right.
		Main legal provisions	(i) Constitution, 1992; (ii) Labour Code, 1994 (articles 7 and 173-179) (iii) Law on Trade Unions of 30 June 1990, (iv) Law No. 102/SL/L004 of 20 may 1957 (articles 1, 2 and 7 concern the right to organize); (v) Decree No. 102 of 20 May 1957; (vi) Decree No. 8/1998 ND-CP, (vii) Decree No. 88/2003/ND-CP (article 16); (viii) Ordinance on labour dispute resolution of 20 April 1996, (ix) Constitution of Viet Nam Trade Unions of 12 November 1993, (x) Circular No. 196/CP of 31 December 1992; and (xi) Circular No.

EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT			133/HDBT of 20 April.		
		Judicial decisions	NIL		
	Exercise of the principle and right	At national level (enterprise, sector/industry, national)	For Employers	2000-2005 ARs: Prior government authorization or approval may be required before or after the establishment of an employer's organization, depending on its size and purpose. Employers can exercise freedom of association (FOA) at all levels.	
			For Workers	2000-2005 ARs: Government authorization/approval is not required to establish a worker' organization or to conclude collective agreements. Only workers in the public service can exercise FOA and the right to collective bargaining (CB). Workers can exercise FOA at sector, industry, and national level; and the right to CB can be exercised at enterprise, sector or industry levels.	
			Special attention to particular situations	NIL	
			Information, data collection and dissemination	According to the Government: There is a lack of information and data.	
		At international level	According to the Government: Workers can exercise FOA at the international level.		
	Monitoring, enforcement and sanctions mechanisms	2006 AR: The VGCL stated that it has carried out many activities in the following areas: providing information on labour legislation; assistance to workers in legal matters; and supervising the implementation of labour policies and legislation on workers.			
		2005 AR: According to the Government: In instances where the PR has not been respected, in accordance with Section 44 of the Labour Code, a labour agreement should be concluded in a voluntary, fair, and transparent manner. Therefore, the conclusion of a collective agreement is not compulsory and does not involve the intervention of the State. If a concluded agreement violates the law, the competent labour body at the provincial level has the right to declare the whole or a part of the agreement void.			
		2000 AR: According to the Government: Any offences in relation to CB will be imposed with penalties by the Labour Inspectorate. Workers' organizations are administered by governmental agencies through CB. The collective bargaining agreement must be registered at the provincial Department of Labour, Invalids and Social Affairs. Moreover, the Government promotes and recognizes the PR through issuance of legal instruments and supervision of the implementation of those instruments at various levels.			
Involvement of the social partners	2008 AR: According to the Government: pursuant to the national law, The VGCL is the sole representative organization of workers, the VCCI and VCA are representatives organizations of employers and a law on association will be promulgated by the National Assembly XII legislature.				
	2005 AR: According to the Government: Tripartite discussions have been held on specific measures to respect, promote and realize the PR. Moreover, national laws have been revised in relation to the PR in consultation with the social partners.				
Promotional activities	2008 AR: According to the VGCL: Training activities on collective bargaining for workers have been organized in order to improve the content of collective agreements and relations between workers and employers.				

		<p>2007 AR: According to the Government: Workshops have been organised in cooperation with the ILO for awareness-raising activities in relation to the PR.</p> <p>2005 AR: According to the Government: Revision of national laws; awareness raising/advocacy activities and vocational and skills training for young workers.</p>	
	Special initiatives/Progress	<p>2006 AR: According to the Government: The VGCL stated that it is carrying out a five-year programme (2003-2008) for the recruitment of a million more members.</p> <p>2005 AR: According to the Government: Successful examples: (1) the establishment of several trade unions; (ii) the 2002 Amendment to the Labour Code on the right to CB and the facilitation of establishment of associations; and (iii) the Amendment to the Labour Code (section 47, Paragraph 2) to enable a collective agreement to be acknowledged immediately after the signature of the agreement by the two parties or as of the date of effect indicated in the agreement.</p>	
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	NIL
		Workers' organizations	<p>2008 AR: The VGCL indicated the following challenges: (i) employers still violate the rights of workers; (ii) enforcement and monitoring of the law are still weak and (iii) there is a lack of training of the workers moving from the rural to the urban areas.</p> <p>2007-2008 ARs: The ICFTU raised the following challenges: (i) there are still no independent unions; (ii) workers are not free to organise or join unions of their choosing; (ii) the right to strike is recognized by law but there are several restrictions: very heavy pre-strike procedures and prohibition of strikes in the public sector; (iii) the VGCL does not defend workers' rights in practice; (iv) lack of collective bargaining agreements in the private sector.</p> <p>2000-2006 ARs: Observations of the ICTFU: (i) there are no independent trade unions; (ii) the law requires a trade union to receive prior authorization from the authorities before it can be set up; (iii) collective agreements are limited in scope and content; (iv) the right to strike is restricted for workers; (v) although export processing zones are covered by the same laws as the rest of the country, employers in these zones tend to ignore workers' rights.</p>
	According to the Government	<p>2006 AR: In response to ICFTU observations', the Government stated that the law and practice in the country show that workers have the right and are not constrained to join or form unions. They also freely bargain collectively, and agreements are concluded in accordance with the provisions of the Labour Code. The right to strike must comply with certain rules. In this respect, a new Ordinance on strike is being discussed and should be adopted by the National Assembly Standing Committee in 2005. In practice, the number of union members in the private sector has been steadily increasing and is expected to continue to increase, which reflects the confidence of union members in the representative trade union. There is also a union representing agricultural workers.</p> <p>2005 AR: According to the Government: The main difficulties encountered in Viet Nam in the realization of the PR are as follows: (i) lack of public awareness and/or support; (ii) lack of information and data; (iii) lack of capacity of responsible government institutions; (iv) lack of capacity of employers' and workers' organizations; and (v) lack of social dialogue on this PR.</p>	

TECHNICAL COOPERATION	Request	<p>2008 AR: The Government requested support for studying C.87 and C.98 for the drafting of the Law on Associations. According to the VGCL: ILO technical assistance is needed for the capacity building of trade unions in local areas and awareness raising activities. It also requested that a country assessment be undertaken on the Declaration Follow-up.</p> <p>2006 AR: According to the Government: There is a need for ILO technical cooperation in particular in assessing the impact of Viet Nam's entry in the World Trade Organization on labour and employment issues. The Government hopes that ILO technical cooperation will be extended in this respect. The VGCL commends the ILO for its valued support and requests strengthened ILO technical cooperation in order to provide better life for all workers.</p> <p>2005 AR: According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in particular in the following areas in order of priority: (i) strengthening data collection and capacity for statistical analysis; (ii) sharing of experiences across countries/regions; (iii) legal reform (labour law and other relevant legislation); (iv) strengthening capacity of employers' and workers' organizations; and (v) strengthening tripartite social dialogue.</p>
	Offer	ILO, WTO
EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS	<p>2008 AR: The ILO Declaration Expert-Advisers (IDEAs) encouraged Viet Nam (and few other governments) to complete the legal review process to remove the obstacles to ratification of C.87 and C.98. They also acknowledged the high number of promotional activities concerning the PR in Viet Nam (and some other countries), and encouraged the Office to maintain its efforts to support these activities (Cf. Paragraphs 32 and 35 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2007 AR: The IDEAs listed Viet Nam among the countries that had been indicating their intention to ratify C.87 and C.98 for several years, with no indication that progress had been made (Cf. Paragraph 33 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p>2005 AR: The IDEAs looked forward to positive changes emerging with regard to legislation on freedom of association and collective bargaining, in cooperation with the ILO. In this respect, they were glad to receive concrete information on the activities carried out in Viet Nam (Cf. Paragraph 146 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>	
GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	NIL	