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The EU-Viet Nam Free Trade Agreement: A catalyst of labour reform in Viet Nam?

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Summary

- This chapter traces the role of the EU-Viet Nam Free Trade Agreement (EVFTA) in the labour reforms initiated by Viet Nam since 2019.
- The European Union (EU) played an instrumental role as a catalyst of reform, but this can only be understood in interaction with domestic struggles in Viet Nam, where pro-labour reformers used external pressure to move forward long-standing reform processes.
- Nonetheless, implementation of the EVFTA labour-related commitments in Viet Nam has been challenging in the context of changing political dynamics.
- The chapter offers general lessons on the effectiveness of labour provisions in EU free trade agreements (FTAs), such as the importance of alignment with and support for pro-labour reformists in trading partners and trans-local actors in order to broker interaction.

Background and introduction

Since 2015 the EU has, as a standard feature of its FTAs, included trade and sustainable development (TSD) chapters, which commit trading partners to respect international labour and environmental standards. In order to monitor implementation, these chapters mandate the establishment of intergovernmental committees and a civil society mechanism comprising domestic advisory groups (DAGs) and a transnational civil society forum. This approach, however, has been criticized for relying too heavily on dialogue and cooperation, lacking teeth to enforce compliance, and hence having limited impact in practice.

In light of this criticism, the EVFTA, which came into force in August 2020, appears puzzling: ahead of ratification, the Vietnamese Government initiated a reform, including the ratification of two out of three outstanding fundamental ILO Conventions. This also involved a revised labour code that gave workers the right, for the first time, to establish independent representative organizations at the company level and outside the control of the Viet Nam General Confederation of Labour (VGCL), which is affiliated with the Communist Party of Viet Nam. Furthermore, the commitment to set up a DAG including independent civil society organizations (CSOs) is equally unprecedented in a one-party state with restricted civic space. However, the ultimate on-the-ground effects of these reforms crucially depend on their implementation. This takes place in the context

of broader changes in EU trade policy towards a more conditional TSD approach influenced by pressure from the European Parliament, some Member States and civil society.

Research questions and methodology

This chapter poses a number of questions, including:

- To what extent did the EU and EVFTA play a role as external catalysts of labour reform in Viet Nam, and what enabled them to play this role?
- How are the labour provisions being implemented in Viet Nam, and what role is the EU playing in this process?

These questions are analysed using a conceptual framework that highlights the importance of power dynamics and State-society relations within the EU and its trading partners, as well as between them. In terms of methodology, the chapter uses process tracing to unravel the causal processes underpinning the labour reforms in Viet Nam, with the aim of clarifying the role played by the EU and the EVFTA, as well as domestic struggles in Viet Nam and their interaction. To this end, the chapter is based on 54 interviews, conducted between 2019 and 2023, with actors involved in these processes both in the EU and in Viet Nam, as well as on legal and policy documents and parliamentary debates to track decision-making on both sides.

Findings and policy considerations

External pressure from the EU was found to be instrumental in the Vietnamese labour reforms, but it can only be understood in light of long ongoing domestic struggles around labour reform. In the context of a loss of momentum caused by the exit from the Trans-Pacific Partnership of the United States, whose labour-related commitments had until then acted as a reform driver, specific Members of the European Parliament, and some Member States, used their veto powers to bargain with Vietnamese decision-makers and pull the European Commission into a more assertive position. This unusual pre-ratification impact, however, can only be understood in the context of social struggles in both the EU and Viet Nam. In the EU, growing politicization of free trade made a veto of the EVFTA a credible risk, boosting the bargaining power of the European Parliament and individual Member States. In Viet Nam, the EU was encouraged to take up the role of catalyst by pro-labour reformers, who strategically used external leverage to move forward domestic struggles and a reform process that had long been under way. Furthermore, a key role was played by the ILO and other “trans-local” actors, who connected reformists on both sides, brokered access to decision-makers and helped to build mutual trust.

Nevertheless, the chapter shows that implementation in Viet Nam has been challenging, as the central reform elements have been contested at the domestic level. Although EU pressure was critical to its formation, the DAG still involves only one labour actor, which is the party-affiliated trade union VGCL, and an implementing decree on independent worker representative organizations has still not been issued. In the context of

shrinking civic space, it remains uncertain whether these organizations can become vehicles of pro-labour change. And while the labour reforms are likely to continue in some form, progress could be slow and incremental.

Although the impact of the EVFTA was context-specific, the chapter does offer lessons on the effectiveness of labour provisions in FTAs. It highlights the importance of pre-ratification leverage, coordination among institutions, alignment with and support for pro-labour reformists in trading partners, and the role of trans-local actors in brokering interaction. It also shows the potential of long-term support for capacity-building of trade unions and CSOs, and the importance of technical assistance via the ILO. The study shows how domestic actors can leverage external pressure to tip the power balance in domestic labour struggles and policymaking towards progressive change. But, equally important, the case also exposes that stronger instruments are needed to ensure that trading partners stay on the reform path post-ratification. The new TSD model proposed by the European Commission in June 2022 is a step in the right direction. However, it remains to be seen how far the European Commission is willing to go on labour provisions in future FTAs, and whether the European Parliament is ready to consolidate its expanded role.

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