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NEW PROVISIONS IN THE LABOUR CODE (REVISED) 2019

Dr. Vu Minh Tien
Director, Institute for Workers and Trade Union – Vietnam General Confederation of Labour

The Labour Code (Revised), comprising of 17 Chapters and 220 Articles, was adopted by the National Assembly on 20 November 2019 and will come into force on 1 January 2021. The Code, replacing the Labour Code (Revised) in 2012, has introduced many new provisions towards better protection of rights and responsibilities of target stakeholders, contributing to the building of stable, harmonious and progressive industrial relations in Viet Nam in its market economy and deeper international integration.

NEW PROVISIONS TARGETTING WORKERS

1. Trade Union rights and workers’ representative organizations (WROs) at the grassroots level (Article 170 – Article 177)
Trade Union rights and regulations on WROs at the grassroots level.
- Workers have the rights to establish, join and participate in activities by grassroots-level WROs, including:
  - Those affiliated to Viet Nam Trade Union, or
  - WROs at the enterprises (who shall, after due course of establishment, reserve the right to register into Viet Nam Trade Union).
- All WROs shall have equal rights and obligations in protection of workers’ legitimate rights and interests in industrial relations.

2. Probation (Article 24 – Article 27)
Provisions on probation offer flexible arrangements to be introduced in the contract:
- Probation can be stipulated either as a separate contract or as an integral part in the working contract. During the probation, either of the parties has the rights to unilaterally terminate the probation contract or the working contract without any prior notice and compensation.
- A provision on probationary period has been introduced, which stipulates that the probation shall not exceed 180 days for positions of enterprise executive prescribed in the Law on Enterprises and the Law on the Use and Management of state investment in the enterprises.
3. Working contract
Flexibility in contract arrangement, implementation and termination, in respect of the principles of contract in the market economy.

(1) Increasing capacity to identify practical forms of industrial relations (Article 3 – Point 1) by clarifying that any form of contract, irrespective of its title, shall be regarded as a working contract if it includes:
   • A work arranged on mutual agreements
   • Pay for the work done;
   • Supervision and management by employers

(2) Working contract allowed to be concluded electronically, with equal value as those concluded in written manner (Article 14 Point 1)

(3) Seasonal contract and piecework contract are now removed. There are 2 types of working contracts remained as stipulated in Article 20 Point 1:
   • Indefinite term contract
   • Defined term contract (not exceeding 36 months)

(4) Workers now have the right to unilaterally terminate working contract (without having to reason), provided that the workers notice the employers in advance, as stipulated in Article 35 Point 1, within
   • 45 days for those under indefinite term contract
   • 30 days for those under definite term contract from 12 months to 36 months
   • 3 days for those under definite term contract of under 12 months

(5) Clear stipulation of 7 cases when workers have the rights to unilaterally terminate working contract without prior notice, except for cases where other mutual agreements are made by the parties in Article 35.

(6) Reasonable regulations on period of time and responsibilities to settle termination of contract:
   • Period of settlement has increased from 7 to 14 days so that both parties shall make full payment for severance allowance
   • Regulations on new responsibility of employers to complete the period of social insurance contribution to workers, and to provide copies of documents related to the working duration of the workers upon workers’ request and willingness to pay for copy and postal services related.

4. Wage
Flexibility and ownership of industrial relations actors in determining wages increased through social dialogue and collective bargaining.

(1) Minimum wage: The State only regulates minimum wage level (stipulated in Article 90)

(2) Wage scale, payroll and labour productivity norms: employers are active and have the rights to determine wage scale, payroll and labour productivity norms upon discussions with worker representatives at the workplace, and shall publicize at the workplace before implementation (stipulated in Article 93)

(3) Protection of workers’ wage: in each of the pay, the employer shall provide the employee with a pay slip specifying the salary, overtime pay, nightshift pay and deductions (if any).

5. Working hours and rest periods
Flexibility and harmonization on working hours and rest periods

(1) Over time working hours:
   • Overtime working hour frame has extended from 30 hours to 40 hours per month
   • In certain circumstances, it is allowed that workers can work overtime from 200 hours to 300 hours.

(2) Holidays:
   • National Day Holiday is extended to 2 days off with one more day either preceding or following the Day as appropriate.
6. Retirement Age (Article 169)

- The rights to early retirements are applied, with a maximum of 5 years beforehand to the retirement age stipulated in Clause 2 of Article 169, for workers suffering from work capacity reduction, working in toxic and precarious environments or highly disadvantaged areas.
- The rights to extended retirement age by up to a maximum of 5 years are applied to skilled employees or employees in certain special cases.

7. Regulations related to female workers and gender equality (Article 135 to Article 142)

Regulations on protection for pregnant and nursing female workers, as well as facilitation and support mechanism for female worker to exercise their rights, are legalized with a minimization of limitations, specifically:

(1) Delegating the rights to decide whether they wish to work on job positions harmful to child-bearing and parenting functions for female workers

(2) Delegating the rights to decide whether they wish to work on night shifts, undertake out-of-site missions or overtime work when female workers are nursing less-than-12-month children.

(3) Female workers under maternity leave can negotiate with employers on resuming their work when satisfying the following 4 conditions (as stipulated in Point 4 Article 139):
- At least 4 months of leave has been taken
- A confirmation from a competent health facility with assurance that early resumption of work does not adversely affect the workers’ health
- Employers receiving a prior notice of the workers’ early resumption of work; and
- Employers agreeing thereupon

8. Increased protection towards certain types of employees/worker, including: those with disability, minors workers, Vietnamese workers overseas, domestics workers.

9. Old-aged workers (as stipulated in Article 148 and Article 149)

- Clear definition of old-aged workers: One will be considered an old-aged worker when one continues to work after the prescribed retirement age in normal working condition (thereby, those male workers aging higher than 62 and female higher than 60)
- Old-aged workers have the rights to sign multiple definite-term working contracts
- Old-aged workers have the rights to negotiate with employers on shortened daily working hours or on applications of part-time working hours.

10. Foreign workers working in Viet Nam

- Clear definition of old-aged workers: One will be considered an old-aged worker when one continues to work after the prescribed retirement age in normal working condition (thereby, those male workers aging higher than 62 and female higher than 60)
- Old-aged workers have the rights to sign multiple definite-term working contracts
- Old-aged workers have the rights to negotiate with employers on shortened daily working hours or on applications of part-time working hours.

11. Collective Bargaining

(1) The right to collective bargaining for workers’ representative organizations at the grassroots level (Article 68).
- At enterprises where there is one WRO: such organization has the right to negotiate when their membership coverage reaches the minimum number as prescribed in the Law.
II. REGULATIONS DIRECTLY RELATED TO EMPLOYERS

1. To translate into the law the representative and participatory role in law making by Vietnam Chamber of Commerce and Industry, Vietnam Cooperative Alliance, and other representative organizations (Article 7).

2. To make it more flexible for employers to unilaterally terminate working contracts in cases where:
   - Workers reach the retirement age, except for other certain agreement;
   - Workers unilaterally quit working for 5 days successively or longer;
   - Workers provide untruthful information when concluding the working contract which affects the recruitment process.

3. Employers have the right to sign multiple definite term contracts with old-aged workers and foreign workers in Vietnam (Article 36).

4. The Government shall not intervene in pay policies at the enterprises. Instead, these will be developed upon negotiation among the parties, with employers establishing their own pay scale, payroll and labour productivity norms as the basis for recruitment and use of labour, negotiation and payment of salaries.

5. Periodic social dialogue at the enterprise shall take place at an annual frequency, compared to the former regulations at a quarterly frequency.

6. Flexible regulations on registration of labour regulations (which can be decentralized to the district level) (Article 119).

7. Regulations on labour dispute settlement, creating enabling conditions for both workers and employers.

For Workers’ Rights and Interests
UNIONS IN THE LABOUR LAW REFORM

TRADE UNION LAW REVISION – PERSPECTIVES OF INDUSTRIAL RELATIONS SPECIALIST

Young-Mo Yoon
Senior ILO Specialist on Social Dialogue and Industrial Relations

The revision of Trade Union Law takes place in the context of Vietnam’s modernization of economy and its social institutions, and also deeper global integration. In particular, the revision of Trade Union has become necessary and imperative, as Vietnam has revised Labour Code (to come into effect from 1 January 2021), which brings significant changes to the ways trade unions (workers representative organisations) and industrial relations function in line with ILO core conventions, including Convention 87 and Convention 98 (C.87 and C.98).

Trade unions in Vietnam have highlighted various historic missions, responding to the call of the times and different challenges the country and workers face. Specific missions changed over the 90 years of VGCL history. But one mission remains unchanged: protection of workers’ right and interests.

With the dominance of private sector (both foreign and domestic), modernization and diversification of industries, and deeper global integration, building effective industrial relations has become ever more important and urgent for sustainable development and for social stability. At this historical moment of transformation and the challenge of moving into the upper middle income country status, trade unions (including workers’ representative

1 The views expressed here are views of ILO specialists, not the official views of the ILO.
UNIONS IN THE LABOUR LAW REFORM

organizations) should place their priorities on strengthening the representational and industrial relations roles – as these would be the primary channels for protecting and advancing the rights and interests of workers, and the most meaningful forms of caring for workers.

That is why revision of Trade Union Law is important. The current Trade Union Law in Viet Nam is a very unique legal document, which is based on 1990 Trade Union Law and was revised in 2012. Following the completion of the revision of the Labour Code, which sets out a comprehensive set of protection of rights of workers to establish and join workers representative organisation, including trade unions, and the rights of workers representative organisations (including trade unions) to engage with the employers and employers organisations on equal terms, including through collective bargaining, the Trade Union Law faces the challenge of clarifying its focus, to establish and regulate the rights and responsibility and operation of the trade unions as a socio-political organisation.

Therefore, the various stakeholders taking part in the (discussion on) revision of the Trade Union Law should bear in mind the following primary objectives in the current round of Trade Union Law revision:

• To make the revised Trade Union Law fully aligned with the 2013 Constitution of Viet Nam, the newly revised Labour Code 2019, and other relevant laws and regulations;

• To ensure the revised Trade Union Law is in conformity with Viet Nam’s obligations under the new generation of FTAs, such as CPTPP and EUVN FTA;

• To ensure the revised Trade Union Law helps strengthen trade unions as the representative organization of workers while performing its unique roles as socio-political mass organizations.

Key suggestions for the revision process

• Trade Union Law should avoid having provisions that apply to all workers organisations – especially if similar provisions already exist in the revised Labour Code.

• It will be important to distinguish between

(1) those provisions on the rights of trade unions as a a socio-political organisation (therefore, available ONLY to the VGCL and its trade unions, and NOT available to other “workers representative organisations” (being mindful that some rights which may be assumed to be the rights of a socio-political organisation may in fact be the legitimate rights of any workers representative organisation in a modern industrial relations system), and

(2) those provisions on the rights of trade unions which are also available to other “workers representative organisations”, because they are the basic rights of workers and their organisations in the context of industrial relations and employment relations.

• Develop clear provisions for Viet Nam Trade Union (VGCL) as a socio-political mass organization within the party-state system, while developing clear provisions for autonomy, flexibility, and capacity of Viet Nam Trade Union for effective operation in industrial relations

• Refer some provisions to the Labour Code, especially those which apply generally to all types of workers representative organisations (whether they are a part of the VGCL or not)

• Transfer some provisions to the Viet Nam Trade Union Statute or the Statute Guidance where appropriate and feasible, especially in view of ensuring and promoting flexibility and autonomy in organization and operation in industrial relations.

The revised Labour Code brings significant changes to the ways industrial relations would functions, especially with workers’ representative organizations coming into being. In longer term, it may be necessary to develop a comprehensive industrial relations law, which will absorb industrial relations chapters of the revised Labour Code (chapter 5, 13 and 14) and the Trade Union Law. But until such comprehensive industrial relations law is adopted in the future, Vietnam’s industrial relations system would have to operate under the Labour Code and Trade Union Law. In this context, the “IR” related provisions should be aligned with each other. In particular, the Labour Code should be seen as the “mother law” for the provisions on the guarantee and protection of general rights of workers and workers representative organisations (including trade unions) – which corresponds to the international standards set out in C.98 and C.87. These considerations provide the framework for the work in the current round of Trade Union Law revision.
A MULTI-EMPLOYER COLLECTIVE BARGAINING AGREEMENT (ME CBA) AMONG WOOD PROCESSING ENTERPRISES CONCLUDED IN TAM PHUOC INDUSTRIAL ZONE (IZ), BIEN HOA, DONG NAI

Dong Nai Provincial Federation of Labour

After a long negotiation and dialogue process, on 19 November 2019, Dong Nai Provincial Federation of Labour (FoL) has organized a signing ceremony for the conclusion of a ME CBA among 6 wood processing enterprises in Tam Phuoc Industrial Zone, Bien Hoa, Dong Nai.

This is also the very first MECBA to be concluded in Dong Nai, benefitting over twelve thousand workers in wood processing sector.

<table>
<thead>
<tr>
<th>Participating enterprises in the ME CBA</th>
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<tr>
<td>Enterprise</td>
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<tr>
<td>Wooden Chien Viet Nam Company</td>
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<tr>
<td>Johnson Wood JSC.,</td>
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<tr>
<td>Home Voyage Viet Nam Company</td>
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<tr>
<td>Timber Industries Company</td>
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<tr>
<td>Cariyan Wooden Viet Nam Company</td>
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<td>Wood Leefu Viet Nam Company</td>
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12,303 workers

48% Female

ILO/NIRF JAPAN
Pilot Activities

**11-step negotiation process towards the conclusion of the MECBA among wood processing sector in Tam Phuoc IZ, Bien Hoa**

1. Developing implementation plan
2. Identifying employers’ representative and meeting therewith
3. Meeting with 6 GTUs from the enterprises to agree on the implementation plan
4. Organization of training on social dialogue and collective bargaining for GTUs and workers
5. Supports to GTU to collect comments and concerns from workers on the content for dialogues and negotiation for incorporation and consolidation; organization of a final meeting with GTUs to conclude what will be negotiated
6. Coordination with Dong Nai IZ Administration; meeting and working with Taiwanese Business Sub-Association in Dong Nai to agree on the objectives and significance of the conclusion of the ME CBA
7. Supports to GTUs in developing a plan of action for dialogue and negotiation with each of the employers
8. Organization of meetings and exchange sessions with relevant stakeholders on the content for MECBA signing
9. Initiation of separate negotiation with each of the enterprises, basing on the content introduced in the plenary meeting
10. Collection of workers’ concerns and comment on negotiated content before concluding
11. Conclusion of the ME CBA

The content of the agreements covers provisions on wages, bonus and shift meals, according to which the enterprises will annually review and consider a pay rise for workers at at least 5 per cent for each job position and job title. Annual bonus shall equal to at least 1-month salary by job position and job title, with a prior notice of at least 15 days ahead of the Traditional Tet Holiday. Each shift meal will be prepared at the cost of at least VND 16,000 (VAT exclusively).

From all of these results, Dong Nai FoL Pilot Implementing Unit (PIU) has drawn some lessons learnt as follows:

**Firstly,** for the pilot activity to be successful, there is a need to reach a consensus on the importance of ME CBA conclusion for the benefits of both workers and employers, which helps the enterprise timely meet with the demand of integration trends in the new context.

**Secondly,** there is a need for effective tripartite coordination among unions, state labour agencies and employers’ representative organization at the localities from the beginning of the process to the end of having a MECBA concluded, as well as during the process of implementation and monitoring.

**Thirdly,** when assigned the pilot activity, it is the PIU that has clearly set out the plan of action, with a clear roadmap and assignment of tasks among its members.

**Fourthly,** when issues arise, it is crucial that persistence be maintained, while practically and appropriate solutions being sought.

**Fifthly,** there needs to be active engagement of executive committees from grassroots-level trade unions. These committee members needs training and instructions on dialogue and collective bargaining methodologically and skillfully. That aside, there needs to be workers’ involvement and approval during the process.

The conclusion of a MECBA among wood processing enterprises in Tam Phuoc IZ serves as an essential legal ground for harmonious and stable industrial relations between workers and employers in the new context. This is also a sign of positivity encouraging workers to stay attached to the enterprises, contributing to stabilization of production and assertion of enterprises’ stance when participating in the MECBA. Through the agreement, enterprises have closer links in caring for workers’ rights and benefits, while winning workers’ trust on employers and trade unions.
REINFORCING CYCLO SYNDICATE AND ESTABLISHING TOURIST BOAT SYNDICATE TO BETTER PROTECT BENEFITS OF INFORMAL WORKERS

Phung Huu
Vice President, Hoi An Federation of Labour, Quang Nam

Viet Nam now has over 18 million of informal workers who are characterized by unstable source of income, lengthened working hours with limited safety measures; little access to skill development opportunity and social security; voice of whom less mentioned in policy decisions. Specially, they lack official representative organization to protect their benefits at work. However, a recent study revealed that none of the respondent workers say they would seek help from social network and organization when in struggles. It may infer that informal workers have not seen the benefits and protection capacity of associations/unions or social organizations. Thus, the establishment of representative organization is both a crucial and a challenging task to Vietnam General Confederation of Labour. With a view to initiating new methodology in mobilizing workers in the informal sector, the NIRF/Japan Project is providing support to Hoi An Federation of Labour (FoL) in Quang Nam in establishing Tourist Boat Syndicate and reinforcing Cycle Syndicate.

Survey research on Informal workers by Institute for Workers and Trade Union, 2017
The Cyclo Syndicate has been established for nearly 20 years since 2000, gathering freelance workers who provide cycle transportation service. Currently, the syndicate has 7 executive committee members out of 102 syndicate members. The members are divided into 4 groups, each of which comprises of about 25 people, with a group leader and vice leader with clear assignments. Specially, since their entrance into the Culture Cyclo Syndicate in 2015, the syndicate members have opportunities to speak on their concerns during work, as well as the process of preservation of the ancient quarter culturally, while maintaining business order in providing transportation services to tourists via cyclos in Hoi An.

Aside the Cyclo Syndicate, the Management Team for tourist boats on Hoai River has also been established since June 2017 by People Committee of Minh An Ward. The team manages 140 vehicles, with their owners being divided into self-administered groups of 25 members each. Each of the boats is numerically registered, with sailors in uniforms and identity card to create trust to tourists and to emanate a sense of professionalism within the work community. When applying the model, these self-administered groups have contributed to the management work and maintenance of business order to this type of tourist activity on Hoai River.

It is a matter of fact in Hoi An that, alongside Cyclo Syndicate, so far there have been workers in informal sector who have not known of the forms of linkages so that their rights and benefits are legitimately protected. When either conflict arises between tourists and those workers, or new directions by the city government affect their lives, they have not any representative organization to help reflect the situation, seek support for resolution, and collect concerns to send to higher levels of management.

Alongside, the establishment of the Tourist Boat Syndicate in the city and reinforcement of Cyclo Syndicate have encountered difficulties as most of the member workers are ill-educated (some are even illiterate), making it hard for them to understand and comply to the city regulations in a high degree.

Basing on the experience and activity progress of Hoi An Cyclo Syndicate since 2000, Hoi An Federation of Labour (FoL) has conducted a survey to capture the concern of workers sailing tourist boats, so that the federation can develop a plan for encounter and communication activities towards these 140 worker. What is special about it is that all of the 140 workers have voluntarily requested for the establishment of the syndicate. This is a new achievement for Hoi An FoL in extending the target audience for membership development so that trade unions can better protect and represent workers while contributing to the maintenance of business order among workers in the informal sector and the building of a well-cultured living in the old quarter in accordance with existing regulations.

For Tourist Boat Syndicate, there have been 140 workers voluntarily registered as member of the Tourist Boat Syndicate of Minh An Ward. On the 4th of January 2020, Hoi An FoL has organized the establishment of the Tourist Boat Syndicate.

For Cyclo Syndicate, the city federation has selected appropriate topics for communications that directly relates to members rights and benefits. At the same time, speakers with communications skills have been invited to deliver the content to workers. A typical achievement is that there have been 200 out of 204 members of the syndicates participating in the two events organized by the city federation.

It is hoped that the reinforcement of Cyclo Syndicate and Tourist Boat Syndicate in Hoi An will provide better help to the protection and representation of workers and their rights and benefit in these types of business activities in Hoi An, as well as to preservation and sustainable development of Hoi An as the World Cultural Heritage. Experience in such processes shall prevail as valuable lessons for trade unions in experimenting new forms of membership development and protection in Viet Nam.
The pilot activity on establishing a multi-employer trade union and collective bargaining towards the signing of multi-employer collective bargaining agreement among small and micro enterprises in the ILO’s NIRF/Japan Project in collaboration with Viet Nam General Confederation of Labour is a new model being implemented in some provinces, including Quang Nam. Through this axis, the trade union in the home-based and private kindergartens in An My Ward has been established in 2018. First, the communications towards workers and employers of the kindergartens on workers’ benefits and employers’ obligations in compliance to labour law has been prioritized to this multi-employer union. Characterised by a total number of working hours from at least 8 hours per day, consecutive working days from Monday to Saturday, the union have not much time for union activities as well as other communication activities. Thus, communication sessions by the provincial federation of labour and city federation of labour are all organized on Sundays. Through these sessions, workers and employers have the opportunities to frankly share, exchange and grasp better understanding of their own benefits and responsibilities.

Next, Quang Nam Pilot Implementing Unit (PIU) has closely worked with Tam Ky City Federation of Labour (FoL) to initiate the negotiation towards a collective bargaining agreement for this group. During the implementation progress, all of the teachers from the kindergarten groups show active engagement and excitement for a trade union organization who will represent them. They are excited to be involved in the process of negotiation and dialogues with employers on their own benefits. The steps in negotiation have accurately and adequately reflected their concerns, the voluntary participations of stakeholders and specially, goodwill from the owners of the kindergartens.

The process of organizing dialogues, negotiation and concluding the CBA entails devoted support from Quang Nam PIU, close coordination and monitoring from Tam Ky City FoL, effective coordination with Tam Ky Department
**PROCESS OF NEGOTIATION**

**Step 1:** Survey conducted on the operation situation among kindergartens

**Step 2:** Workers’ concerns are collected with a proposal developed to the owners of the kindergartens, as well as the owners’ proposals towards the teachers

**Step 3:** Content for negotiation and request for collective bargaining informed to the owners

**Step 4:** A negotiation session held on 22 October 2019

**Step 5:** Minutes of the negotiation sessions disseminated to the teachers and the owners

**Step 6:** A collective bargaining agreement concluded and signed on 3 November 2019

**RESULTS**

- The Agreement has covered 39 kindergarten teachers across 10 private childcare groups and kindergartens in An My Ward, Tam Ky City
- The Agreement has 3 chapters and 17 articles with various higher-than-law provisions compared to the Labour Code.
- Duration: 3 years since the date of signing

**Summary of some main points in the Agreement**

1. Employers shall execute legal regulations on union rights, contribute to union funds adequately and create facilitating conditions for union activities (Article 4).
2. Employment and Job security (Article 6)
   - Employer shall secure job for workers during the time of force of the Agreement
   - Workers shall be paid in full at 100 per cent of the salary as prescribed in the working contract during time off due to the lack of pupils or other objective situation.
3. Wages, salary, bonuses and allowance (Article 8)
   - Workers are entitled to random bonuses, initiatives, 13th month salary and diligence allowance,
   - Workers are entitled to seniority allowance when having accumulated a 3-year working period with the kindergarten
   - Shift meals are at VND 15,000 per meal
4. Workers are entitled to additional allowance and welfare on birthdays, marriages, sickness and holidays (Article 9)
5. Other provisions are as stipulated by the existing law.

These aforementioned achievements are modest and at the initial stages in union activities of a newly-established union. It is hoped that this will lay a foundation for new initiative on renovating and improving the forms of union activities, and forms of gathering workers in Quang Nam FoL in particular and other localities in general.
The pilots on multi-employer bargaining, initiated in 2015, offer a new solution to create an united front of enterprise unions led by the immediate upper-level trade unions that is expected to have stronger bargaining power in negotiations with the employers. In particular, the first three multi-employer bargaining agreements including: (i) 06 Korean electronics companies in Trang Due industrial zone of Hai Phong; (ii) 04 Vietnamese tourism companies in Da Nang; and (iii) 04 garment companies in District 12 of Ho Chi Minh city discerned strong coordination between the local FOLs and the participating enterprise unions and genuine negotiations between unions and employers.

In 2017, the ILO’s New Industrial Relations Framework Project funded by Japanese Government (NIRF/Japan project) continued with these experiments by renewing and extending the agreements in Hai Phong and Da Nang while encouraging signing new ones. By June 2019, the MEBA in Hai Phong had been extended to 20 companies; the agreement in Da Nang had been renewed with 10 companies and a new agreement of 16 wood-processing firms in Binh Duong had also been concluded. The VGCL itself has also encouraged the FOLs to initiate MEBAs. So far, two MEBAs have been signed in Khanh Hoa and Quang Ninh. The VGCL has also set the target of initiating multi-employer bargaining in 32 provinces and cities. At the same time, provisions on MEBAs have been incorporated in the draft 2019 Labour Code Revision.

There are eleven effective MEBAs at the time of writing covering 279 companies and over 185,000 workers (see Table 1). Most of these agreements, except for the ones by VINATEX and the Rubber Corporation, emerged from groupings of companies in the same industry and geographical location. The pioneering companies in signing MEBAs come from both manufacturing (electronics, garment, wood processing, and rubber) and services (tourism, education and hospitality). Almost all of the participating companies are medium-sized and

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1 Summary from “Multi-employer Bargaining Agreements: Towards a High-road Approach” by Do Quynh Chi.
2 Both VINATEX and Rubber Corporation are state-owned general corporations, each of which consists of over 100 companies located in different provinces.
large ones, employing from 100 to several thousand workers. There is also a mixture of organised companies that have already got their firm-level collective bargaining agreements (CBAs) and companies that are unorganised or have not signed firm-level CBAs.

In face of increasing labour shortages and high labour turnover, the employers see the multi-employer bargaining agreements as a practical solution in improving labour-management relations and increasing workers’ commitment. According to our survey, 64.5% of the employers joined MEBAs as they wished to improve labour relations (Figure 1).

**Table 1: Mapping of the effective MEBAs**

<table>
<thead>
<tr>
<th>MEBAs</th>
<th>Sector</th>
<th>Province</th>
<th>No. of Enterprises covered</th>
<th>No. of Workers covered</th>
<th>Term</th>
<th>Signatories</th>
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<tbody>
<tr>
<td>ILO/NIRF and VGCL</td>
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<tr>
<td>Trang Due</td>
<td>Electronics</td>
<td>Hai Phong</td>
<td>19</td>
<td>7,415</td>
<td>2019-2022</td>
<td>Hai Phong IZ Union and 19 Companies</td>
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<tr>
<td>Da Nang Tourism</td>
<td>Tourism and hospitality</td>
<td>Da Nang</td>
<td>10</td>
<td>2,385</td>
<td>2018-2020</td>
<td>Da Nang FOL and Da Nang Tourism Association</td>
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<td>Binh Duong Wood Processing</td>
<td>Wood Processing</td>
<td>Binh Duong</td>
<td>16</td>
<td>9,886</td>
<td>2019-2020</td>
<td>BIFA and Binh Duong FOL</td>
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<td>12,303</td>
<td>2019-2020</td>
<td>Dong Nai IZ Union and 6 companies</td>
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<tr>
<td>Linh Trung IZ (to be signed by end of 2019)</td>
<td>Garment</td>
<td>HCMC</td>
<td>5</td>
<td>5,921</td>
<td>2019-2021</td>
<td>HCMC IZ Union and 5 companies</td>
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<td>Quang Nam private kindergartens</td>
<td>Education</td>
<td>Quang Nam</td>
<td>10</td>
<td>39</td>
<td>2019-2021</td>
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<td>CNV International and VGCL Project</td>
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<td>4,000</td>
<td>2019-2020</td>
<td>Van Lam FOL and 05 companies</td>
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<td>VGCL’s Initiatives</td>
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<td>Ha Long Tourism</td>
<td>Tourism and Hospitality</td>
<td>Quang Ninh</td>
<td>28</td>
<td>4,600</td>
<td>2018-2020</td>
<td>28 companies and Ha Long FOL</td>
</tr>
<tr>
<td>Rubber Corporation (Phase 2)</td>
<td>Rubber planting and processing</td>
<td>National</td>
<td>60</td>
<td>6,500</td>
<td>2019-2021</td>
<td>Rubber Corporation and Rubber sectoral union</td>
</tr>
<tr>
<td>VINATEX (Phase 4)</td>
<td>Garment</td>
<td>National</td>
<td>80</td>
<td>120,000</td>
<td>2017-2020</td>
<td>VITAS and National Garment Union</td>
</tr>
<tr>
<td>Binh Duong Garment (Phase 3)</td>
<td>Garment</td>
<td>Binh Duong</td>
<td>13</td>
<td>7,000</td>
<td>2017-2020</td>
<td>Binh Duong Garment Union and Binh Duong Garment Association</td>
</tr>
<tr>
<td>Hanoi Garment</td>
<td>Garment</td>
<td>Hanoi</td>
<td>27</td>
<td>5,000*</td>
<td>2017-2020</td>
<td>Hanoi Garment Union and Hanoi Garment Association</td>
</tr>
<tr>
<td><strong>Total coverage</strong></td>
<td></td>
<td></td>
<td>279 companies</td>
<td>185,000 workers</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Survey of 31 companies

**Figure 1: Motivations for employers to join MEBAs (%)**

- Improve public image: 64.5%
- Address labour issues: 12.9%
- Requested by authority: 16.1%
- Improve labour relations: 19.4%
Bargaining Process

Five steps of multi-employer bargaining

(i) Preparation: trade unions conduct surveys of the target companies and collect workers’ demands. The upper-level unions may also provide trainings for the enterprise unionists on bargaining skills.

(ii) Making bargaining proposals: after the surveys and collection of workers’ demands, the union negotiators go through a process of selecting the key provisions to be included in the proposed agreement.

(iii) Single-employer bargaining: the upper-level unions approach each of the targeted companies to persuade each company to join the agreement and discuss the draft agreement at the same time. In this step, the union negotiators have used a variety of strategies to bargain with the employers (see Figure 2).

(iv) Multi-employer bargaining: the union negotiators hold bargaining sessions with all employers or the business associations that represent them.

(v) Conclusion of the agreement: As soon as the upper-level unions finalise the negotiations with the employers/business associations, the agreement is shared with enterprise unions and workers for approval.

MEBAs’ Impacts on Workers

MEBAs have the most significant impact on worker satisfaction as 82.7% unions found improvement in this aspect after signing the MEBAs. The MEBAs also have positive impacts on lessening grievances and disputes in 58.6% of the surveyed companies. The lowest level of improvement is found in productivity with 55.2% having improvement and 20.6% seeing no impact. It seems the evaluation of the unions is close to what the employers view of the impacts of MEBAs with the biggest improvement found in worker satisfaction and the least in productivity. Generally, the MEBAs have the biggest impacts on workers in smaller companies that had not negotiated their firm-level CBAs or paid lower than the rates in the MEBAs. The MEBAs also provide an extra guarantee for the covered workers, which explains their increasing satisfaction.

Figure 2: Unions’ Views of Impacts of MEBAs

<table>
<thead>
<tr>
<th>Impact</th>
<th>Improvement</th>
<th>No Impact</th>
<th>Unknown</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grievances and disputes</td>
<td>24.10%</td>
<td>13.80%</td>
<td>58.60%</td>
</tr>
<tr>
<td>Worker satisfaction</td>
<td>13.80%</td>
<td>3.50%</td>
<td>82.70%</td>
</tr>
<tr>
<td>Productivity</td>
<td>24.10%</td>
<td>20.60%</td>
<td>55.20%</td>
</tr>
</tbody>
</table>

MEBAs’ Impacts on Employers

The fact that the trade unions tend to opt for a low-road approach to bargaining results in the minor impacts of the agreements on the employers’ budget. According to our survey, 38.7% of the employers experienced no financial impact as a result of joining the MEBAs while 58% witnessed minor budget increase. The biggest impact of the MEBAs has been improving worker satisfaction (Figure 3) which has resulted in labour force stability (Figure 4). The employers are less positive about the impacts of MEBAs on raising productivity and lessening grievances and disputes (Figure 3). As the MEBAs resulted in modest additional expenses for the employers while yielding positive

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3 This survey was conducted with 32 employers and 29 enterprise chairpeople participating in the MEBAs in Hai Phong, Da Nang and Binh Duong. The response rate to the survey was 67%.
impacts on their business performance and public image, the employers are generally satisfied with the MEBAs. As many as 74.2% of the surveyed companies expressed their willingness to join the next phase of the agreements.

**Between the low-road and high-road approach**

In developing the proposals for multi-employer bargaining, the union negotiators strategically choose between the low-road and high-road approach. In the low-road approach, the upper-level unions defined the proposed provisions close to the lowest rates currently applied by most, if not all, of the targeted companies. There are two main reasons for choosing the low-road approach: first, the unions in the pilots had a very short time for negotiation and if the proposed rates were set too high, the bargaining process might last much longer than planned; second, the unions wanted to engage as many employers as possible including both the high-paying companies and the less-affluent ones (the SMEs). As the MEBAs that were built upon the ‘low-road’ approach incurred minimum additional financial expenses for the employers, the employers were more willing to join the agreements. However, the benefits gained for the workers covered by the agreements were not substantially improved. In the ‘high-road’ approach, the trade unions’ proposals targeted the middle range of the selected companies. The high-road approach lifts up the floor rate of wages and conditions among the participating companies, especially the SMEs. However, whether or not a high-road approach can result in successful conclusion of the MEBAs depends largely on the bargaining power of the unions. The pilot MEBAs suggest 06 lessons to strengthen the unions’ bargaining power (Box 1).

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**Box 1: Strengthening Unions’ Bargaining Power**

**06 lessons learnt**

1. **Developing a strong alliance with grassroot unions:** The root of power for the unions in bargaining is the support of the grassroot unions and members. Hai Phong EZ Union, for instance, set up a network of core workers and grassroot unionists from all member enterprise unions via the social media (Zalo and Facebook) to share up-to-date information about union activities and collective bargaining.

2. **Engaging workers throughout the bargaining process:** workers should be engaged and consulted as much as possible during the bargaining process. A good practice from Van Lam FOL (Hung Yen) is to form the ‘core group’ of 03 representatives of the management, the union and rank-and-file workers from each company. The district FOL maintained constant contact with the core groups via Zalo to ensure that they were closely engaged in the whole bargaining process.

3. **Developing wage guidelines for unions:** An annual wage guidelines by the government or the national union that provides reliable data on average wage growth rate and productivity by industry and region will be a solid basis for the union negotiators to start pay bargaining.

4. **Maintaining regular dialogues with the employers/business associations:** The research found that the unions that have strong relationships with the local business associations tend to have higher bargaining power. The dialogues with employers not only enable the upper-level unions to build relationships with the employers but also demonstrate the positive impacts of healthy industrial relations and understand the characteristics of the local business community so as to prepare for the future bargaining.

5. **Understanding the structure of the local business community:** it is crucial that the trade unions acquire in-depth understanding of the target company groupings before starting the bargaining initiative. For instance: how the employers coordinate with one another, how they make decisions with regards to labour issues, what factors influence their approach to employment relations, among others.

6. **It is advisable that trade union be active in convincing and advocating, as well as utilizing collective strength of workers if needed,** to involve employers in multi-employer collective bargaining in a goodwill manner to meet with workers’ demands.
WELFARE FOR WORKERS AND RESPONSIBILITIES OF THE STATE AND TRADE UNIONS

Institute for Workers and Trade Unions - Vietnam General Confederation of Labour

On 18 December 2019 Vietnam General Confederation of labour cooperated with the Central Theoretical Council of the Communist Party organized a scientific seminar with the topic "Social welfare for workers, officials, employees and the role of Vietnam Trade Union". The seminar aims to clarify and to deepen a number of theoretical and practical issues on social welfare, social security for workers, officials and employees. This is associated with constantly building and developing a strong working class, strengthening the working class's nature of the Party in the new context and serving the development of political documents and political reports of the 13th Congress of the Communist Party.
In addition to the two co-chairing agencies, the seminar received participants from Communist Party departments, state government agencies, the National Assembly, ministries, departments, universities and international organizations. These include the Central Economic Committee, Ho Chi Minh National Political Academy, Vietnam Academy of Social Sciences, Social Affairs Committee of National Assembly, Ministry of Labour, Invalids and Social Affairs, Vietnam Social Insurance, Vietnam National University of Economics and International Labour Organization. Participants from Vietnam Fatherland Front, Central Vietnam’s Women Union, Vietnam Chamber of Commerce and Industry also attended.

The second session focused on analyzing the status quo, achievements and limitations in caring and ensuring social welfare for workers, officials and employees in all types of businesses and enterprises in Vietnam.

In particular, the seminar focused on clarifying the role of Vietnam Trade Union in taking care of social welfare for workers, officials and employees through the results, achievements, as well as some shortcomings and drawbacks.

On its first session, the seminar focused on clarifying the rationale, including some social welfare doctrines with emphasis on their role, characteristics and types of social benefits, as well as the views and policies of the Communist Party and the State on the welfare of workers, officials and workers in Vietnam. Especially, the seminar discussed towards ensuring a harmonious relationship between social welfare policies for officials and employees, and national socio-economic development policies.
Trade unions at all levels have introduced many new ideas in both activity content and methodology meeting the needs of the majority of workers and employees. The General Confederation has proposed, developed and implemented many new programs thereon like "Welfare program for union members", "Trade Union’s Cozy Homes", "Reunion in Lunar New Year", and "Workers Month". At the same time, proposals on the building of trade union’s housing complexes has contributed to solving urgent problems for workers in industrial zones. Activities to promote dialogue and collective bargaining contributed to ensuring policies and gradually improving welfare and benefits for workers, while promoting productivity and business development towards building harmonious, stable and progressive industrial relations. In addition to the resolutions and programs on "Quality of shift meals for workers", "Golden hearts in labour of Social Charity Fund" or the concern in female work ... also contributed to affirming the role of Vietnam Trade Union in caring social welfare for workers, officials and employees in the national social security system.

On its final session, the seminar posed recommendations and solutions for innovation, improving the quality and effectiveness of social welfare for workers, officials and employees, meeting the requirements of the new circumstances. Presentations and opinions concentrated on building a sustainable social welfare system for workers, officials, employees, with international experience and applicability in Vietnam. Solutions to enhance the role of Vietnam Trade Union in taking care of social welfare for workers, officials and employees are analyzed and recommended through the "welfare union" model and "trade union’s welfare bargaining" for union members.

In summary, the seminar "Social welfare for workers, officials, employees and the role of Vietnam Trade Union" has contributed to providing high-quality theoretical and practical bases to the Central Theoretical Council and Vietnam General Confederation of Labour in general assessment, determination of goals and directions for social welfare care for workers, officials, employees in Vietnam in the new era.
TRAINING ON METHODOLOGY FOR INDUSTRIAL RELATIONS RESEARCHES IN VIET NAM IN THE NEW SITUATION

MA. Nguyen Thanh Tung
Institute for Workers and Trade Unions - Vietnam General Confederation of labour

Approved by Standing Presidium of Vietnam General Confederation of labour, Institute of Workers and Trade Unions (IWTU) in collaboration with Friedrich Ebert Stiftung in Vietnam (FES Institute) organized a research method training course on labour relations in the new situation in Vietnam. The training was facilitated by Professor Mark Anner, Pennsylvania State University, Pennsylvania, USA.

The training course aims to equip knowledge and research methods on labour relations for staff of research institutes, universities, social organizations engaged in research activities on labour relations, union officials from central-level, provincial-level and centrally-affiliated sectoral unions. It is also a forum for trade union officials and researchers to discuss and share labour relations’ issues in the immediate and long-term period.

The training course focused on research methods in the field of labour relations such as, i.e: identifying research topics, developing research questions, collecting information from published research documents and works. It also entails developing survey toolkits, identifying survey subjects and sample sizes, implementing pilot survey (test survey toolkits, object approach and survey method), analyzing and synthesizing research results.

During the training session, many argued that the identification of research topics should consider typical issues, and the significance of the issues to be discussed in the study for the target group (workers,
Information on Research of the Institution of Workers and Trade Union, VGCL

Trade union officials, etc). Research topics can be a generic issue that either affect the whole labour force and trade unions at national level, or a small and specific groups of workers, or a number of specific occupations, or of a particular region.

Once the research topic has been identified, research questions will be developed. This is an important foundation for developing research contents, structure and research reports. The identification of research questions should clarify and reflect the research objectives. For example, a research on salaries and the impact of wages on the lives of workers in garment enterprises can explore questions like "What is the current pay scale in enterprises?", or "Obstacles to high pay for garment workers and the impact of wages on workers and their families".

Typically, researches are primarily conducted in two steps involving secondary research and primary research, in which:

- Secondary research is conducted by examining published documents and researches, clarifying arguments used by previous studies; data quality; whether progresses in the arguments and opinions expressed in the reports are agreed upon by the community yet or still in debate and issues/gaps have not been studied. Information sources for research are exploited from sources on the Internet (PDF files, with view on the latest contents, citation figures, most cited and most recent contents); documents from libraries, research institutes, universities and individual experts in the field of research topics.

- Primary research is conducted by field surveys to provide a realistic basis for research issues and to supplement missing and unclear information of previously published research works. The survey is conducted by the following steps: determining the content of the survey; identifying survey subjects and sample sizes (workers, trade union officials, employers, officials of labour management agencies, landlords, local administrations); identifying survey methods (quantitative and qualitative surveys); developing a survey toolkit (questionnaire, content/orientation for in-depth interviews, seminars, group discussions); conducting pilot survey to complete the toolkit; conducting official investigations and surveys; synthesizing, analyzing statistical softwares for processing specialized survey data on computers such as SPSS, SAS, STATA, NVIVO, ...) and writing survey reports.

A highlight during the survey process is the selection of the location and survey informants. Usually, for researches on labour relations, survey sites are within and outside enterprises (residential areas, motels), with each location having its certain advantages and disadvantages.

- For surveys to be conducted within enterprises, it is convenient to gather a large number of subjects participating in the survey (workers, union officials, employers). However, workers and trade union officials are heavily influenced by enterprises, so it will be difficult to obtain objective information because they are under pressure from businesses and often the time is inadequate to delve into relevant contents.

- For surveys to be conducted out of enterprises (workers’ dormitories, residential areas), meeting and gathering the survey subjects will face many difficulties. It is difficult to gather a large number of workers due to fact that they live dispersedly, feeling reserved to share or avoid strangers. However, when surveying
outside enterprises, information collected will be more accurate with a great deal of information unobtainable in the enterprise. The encounter time can be extended because workers are not under pressure from enterprises or employers.

Thus, it can be said that the selection of location may directly affect results of survey process, so each study needs to identify and select appropriate survey locations to achieve the highest efficiency. Based on the goals of each study to be achieved, report writing process have the survey objects divided into particular characteristics like by age, by gender, by seniority, or by type of business, etc. It is thereby emphasizing and highlighting the problems to be achieved.

Publication of research results depend on the purpose of the research. It can either be published in the media, conferences, seminars or merely disseminated among organizations and individuals for relevant directions and leadership.

NEW PUBLICATIONS

Working Paper 8: A comparative study on industrial relations and collective bargaining in East Asian countries
This paper is part of a series of studies on industrial relations developments in different countries and regions of the world. It examines the current state of industrial relations and collective bargaining, as well as the varied legal, political, economic and social changes leading to the realities of employment relations in East Asian countries today. Before the 1990s these countries enjoyed relative stability in industrial relations; however, as a result of globalization, they now face increasing competitive pressures and are experiencing a degree of turbulence as the actors attempt to settle into viable models of industrial relations.

Freedom of Association and Development
This publication aims to highlight the pivotal role of freedom of association in fostering and maintaining sustainable development. As such, it seeks to provide ideas for governments, trade unions and employers’ organisations on how to work together to achieve real and tangible results for development.

HIGHLIGHTS OF ACTIVITIES

• Consultation workshops on Revision of the Trade Union Law, Hai Phong 16 - 17 December 2019 and Binh Thuan 19 - 20 December 2019
• Preliminary summary workshop on Pilot of Democratic elections of Chairperson at the Trade Union Congress, 14-15 November 2019
• Preliminary summary workshop on Multi-employers Collective Bargaining Agreement, 11-13 November 2019
• Independent research on Multi-employers Collective Bargaining Agreement
• Independent research on Pilot of Democratic elections of Chairperson at the Trade Union Congress.
HAPPY NEW YEAR

Chúc Mừng Năm Mới

2020

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