



## **Labour Law Compliance and the Role of Labour Inspection in Viet Nam's Electronics Sector**

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Executive Summary

### **I. Introduction**

As part of the Japan-funded ILO project “More and Better Jobs through Socially Responsible Labour Practices in Vietnam”, a study was carried out to understand labour law compliance issues in the electronics sector towards ensuring decent working conditions. The study further considered the work of the labour inspectorate in the sector towards improving workplace compliance, both with regard to general working conditions and occupational safety and health issues. Also, the specific interactions between electronics firms and the labour inspectorate were analysed. The main findings show key challenges in the areas of discrimination, working hours, low wages and allowances, occupational health and safety risks, weak trade unions (TUs) and industrial relations, limited monitoring of labour compliance by the Ministry of Labour, Invalids and Social Affairs (MOLISA) and industrial zone authorities, as well as the use of private standards on working conditions. The study was based on semi-structured interviews with managers and workers in 17 foreign-owned electronics factories and seven domestic Vietnamese electronics enterprises. In addition brief information notes on Department of Labour Invalids and Social Affairs (DOLISA) inspections of 40 electronic firms from 2012 to 2015 across the country were taken into account.

### **II. Findings on working conditions and recommendations**

Amongst the firms interviewed, several similar characteristics were observed with regards to the composition of the workforce. First, the majority of workers were female. Second, the majority of workers were young and in their mid-20s. Third, minimum qualifications of workers were either secondary school (the majority) or high school. Fourth, the majority of firms hired workers directly and only a few reported using agency workers during production fluctuations. Our findings of key labour challenges were similar to those faced in other developing countries that are heavily embedded in the electronics industry global value chain. The key issues are working hours, wages, occupational health and safety, weak TUs, and limited governance structures monitoring and enforcing compliance with national labour laws.

### *Discrimination*

Some firms revealed discrimination in the hiring of female workers. There were also questionable discriminatory practices involved e.g. allowances for menstruating or non-pregnant workers.

It must be ensured that an increase in female employment does not occur for reasons of lower pay, harsher conditions of work, discriminatory allowances, and lack of opportunities for skill growth and development. There should be regular monitoring of these factors and conditions in the sector.

### *Working hours*

In Viet Nam, overtime (OT) is a regular practice across all industries. In our interviews, most managers of foreign firms reported OT hours to be around 200 to 300 per year, which is permitted by law, although some firms reported much higher annual OT hours, even averaging between 500 and 600 hours per year. Several foreign firms specifically spoke about the need for the OT laws to be revised upward to accommodate the production characteristics of the industry. Interviews with workers also revealed excessive OT to be a main complaint. In domestic firms OT appeared to be less of an issue with annual OT hours averaging around 110 hours.

Because the global mobile/smartphone industry is characterised by high volatility that leads to excessive working hours (and the use of temporary workers) it should be ensured, as a priority, that working hours in these firms are monitored regularly and policies and laws around excessive working hours are upheld.

### *Wages and allowances*

The average wage with OT and allowances amongst the interviewed foreign firms was 6.6 million VND in the North and 7.6 million VND in the South, which is more than double the minimum wage. This also illustrates the systemic use of OT by the firms. It is also notable that all five firms that reported worker stoppages said these were due to complaints over wage and allowance calculations, as well as excessive OT. This finding is supported by TU officials who stated that the most common labour violation in Hai Phong was excessive working hours, and the improper calculation of wages, and allowances. In contrast, the gap between remuneration before and after OT was less significant amongst domestic firms, particularly for state-owned enterprises. There were also notable differences between the range and amount of allowances amongst foreign firms in the North versus the South. In the South, several firms provided more allowances than in the North.

The gradual raising of wages in Viet Nam, through sound wage setting mechanisms in consultation with representative organisations of employers and workers concerned, is critical for ensuring decent jobs in the electronics industry. A gradual shift towards better remuneration

must be accompanied by a parallel rise in productivity which could be achieved by several mechanisms, including improvements of workers' skills and/or a technology upgrading fund (refer also to recommendation 20) that particularly targets local suppliers capabilities and promotes the creation of linkages between foreign and domestic firms.

#### *Employment contracts*

In our interviews all firms reported that workers had written employment contracts. The firm managers interviewed amongst the foreign firms did not reveal violations of labour contracts. In contrast, two domestic firms were found to lack the required wage information in their employment contracts.

There should remain continued support in law and enforcement against the overuse of temporary agency workers. This is particularly critical to ensure that the nascent electronics industry in Viet Nam grows and matures from its current concentration in relatively low value added production and low waged jobs into higher value activities entailing high waged and high skilled permanent jobs with decent working conditions.

#### *Occupational health and safety*

Interviewed firms reported a range of minor accidents at the workplace such as cuts to fingers. Several firms used chemicals, which are pervasive in the electronics industry. Only 6 foreign firms and 2 domestic firms reported OHS inspections by government agencies. Without access to accident reports sent to IZ authorities and DOLISA, however, it is not clear whether the findings provide an accurate picture of the level of OSH risks and incidences.

During factory visits, several observations were made of potentially questionable health and safety practices. These included a lack of ventilation against the fumes caused by cleaning solvents and soldering, very loud noise without ear protection, hot workstations, and repetitive movement and monotonous jobs without rotation in almost all firms.

All employees in a firm should be made aware of the OSH risks throughout their workplace regardless of where employees are situated. This is to ensure that anyone in a workplace is able to identify and report an OSH risk to management or DOLISA/MOLISA authorities for the safety of all workers. Because OSH incidences should be identifiable by everyone at a firm there should be no differences in the quality of OSH training received and awareness of OSH risks amongst different groups of workers. Employees responsible for monitoring and reporting on OSH risks and incidences must also include an operator or worker at the factory floor level and not only at the managerial level. Given the resource constraints of small and medium-sized enterprises and lower tier supplies when it comes to OSH training and monitoring, targeted assistance should be provided to SMEs.

#### *Trade unions and Industrial Relations*

Worker-management relations were fairly similar across firms. The majority of firms had TUs, which were established within 1 to 2 years of the start of operation, although the trade unions routinely comprised or were led by human resource officials. The majority of foreign firms and

fewer domestic firms reported to have collective bargaining agreements (CBAs) with additional provisions reportedly above the law. All firms had complaint/suggestion boxes in factories, meetings between workers and line managers or supervisors, or TU meetings. Worker complaints were reported to be focused on working hours/over-time, food quality, and salary increments.

According to an IZ TU leader, factory TUs focused more on organising social activities than bargaining for improved working conditions or resolving labour disputes. The composition of TUs, however, was often biased towards management. Three firms reported managers as TU Chairpersons and in some instances, chairpersons were not voted for but rather appointed directly by management.

A key challenge based on the study's findings is a complicated multi-tiered system of TUs in Viet Nam. TUs exist at the factory, IZ, district, and provincial levels. During worker disputes it is not always clear which TU should be called upon. An important finding from the IZ TU leader was that work stoppages, although not widespread, were spontaneous and not organised by TU leaders.

This and further challenges in industrial relations were echoed by the IZ TU leader who identified challenges for collective bargaining in the sector including: 1) TU leaders employed and paid by employers and therefore lacking bargaining power; and 2) TU leaders lacked knowledge of laws and experience in addressing worker complaints. Higher level/provincial TUs were said to provide support to factory TU leaders.

To improve the effectiveness of TUs in the electronics sector there should be greater coordination, clarity and emphasis on the different representational tasks within the multi-tiered TU system, particularly between the upper level TUs and GTUs.

Workers should be informed of their right to voluntarily establish, join and operate TUs at the plant level. Importantly this should include ensuring that workers independently elect their TU leaders free from interference by management. TU leaders must also be representative of workers at the factory floor levels and can be more effective at representation if they have the trust of workers.

In the current context of reforms to the industrial relations system in Viet Nam, there is a strong need for DOLISAs to be more attentive to the crucial enabling rights of TUs. Moreover, the labour inspectorate must be ready and willing to take appropriate action against acts of TU interference, misrepresentation, and discrimination.

The geographical concentration of the electronics industry into clusters in industrial zones, industrial parks, and high tech parks would appear to be conducive for establishing multi-employer collective bargaining within a particular industrial area.

*Monitoring labour compliance: Public Inspection and Industrial Zone Authorities*

Most of the foreign firms interviewed had minimal interaction with the Labour Inspectorate. This was in contrast to most of the domestic firms, which had received at least one labour inspection visit within the last two years. The IZ authorities have had more regular contact with foreign firms on labour issues, many of which were located in IZs. On average, each of these firms was visited at least once a year by an IZ authority. According to Circular No. 32/2014, however, IZs no longer have the authority to carry out labour inspections. Even so, a few firms reported still receiving checks on worker issues such as employment contracts, wages, and over-time hours. In the North, firms interviewed were registered with the IZ and were visited by them regularly to monitor compliance with regulations on wages, allowances, bonuses, worker contracts, occupational safety and health, and recruitment.

While IZ authorities can have a complementary role in ensuring decent working conditions among electronics firms, the responsibility of labour inspections must be maintained by the public labour inspectorate who has the legal mandate to apply national labour laws throughout the country.

Some firms reported instances of unprofessional behaviour by labour inspectors. Part of the issue is seen to result from an unclear chain of command among labour officers. This is further complicated by the fact that the People's Committees (PC) can override decisions and therefore holds ultimate power in decision-making on labour compliance matters at the local level. This can be seen as a challenge for ensuring rigorous labour law enforcement in the sector given that Regional PCs' interests may be more aligned with protecting local investment by companies and the benefits this brings in the form of jobs and tax revenues.

Based on the study's findings there are three different possible explanations emerging for the minimal interaction with the labour inspectorate: 1) the labour inspectorate is of the view that the electronics industry is largely compliant with labour regulations and is not prioritized for inspections; 2) there is significant economic and political interest to support FDI-led growth within the electronics industry leading to less regulatory "interference" in the labour field. Moreover; and 3) there is overlap between the roles assumed by IZ monitors and labour inspectors, which continues despite regulatory changes.

The central government should play a greater role in collecting, recording, and documenting data/information on the changing characteristics of the different industrial areas, e.g. firm composition, production, export and import data, etc. including information on working conditions. With greater understanding on specific industrial areas, the Vietnamese government should develop policies that are appropriate and specific to the different industrial areas. The tracking of information would also allow the government at different levels to prevent potential/foreseeable violations of labour laws and a weakening of working conditions.

#### *Private Standards*

Finally it should be noted that out of all of the firms interviewed, only 8 were implementing the Electronics Industry Code of Conduct and 10 had their own company code of conduct. 15 of these firms were audited against private codes on labour conditions either by customers or

headquarters. Thus, while labour inspection visits were absent in these firms, labour conditions were being assessed albeit through private measures.

Firms that conduct annual audits (particularly those conducted by credible third party auditors) on the implementation of private standards and codes of conduct over working conditions such as the EICC, or prepare similar reports for internal management, customers, and headquarters should be requested to submit those reports to the Labour Inspectorate as part of their regular assessment of working conditions in those firms. It is critical to emphasise that this would not replace the work that the labour inspectorate must continue through physical and thorough labour inspections on a regular basis. This recommendation is in line with the outcomes of the ILO Meeting of Experts on Labour Inspection and the Role of Private Compliance Initiatives in 2013. Instead, the receipt of audit and other monitoring reports from firms can provide additional information as well as alert impending challenges or violations of labour laws faced by electronic firms.

### **III. Conclusion**

While the current understanding of labour conditions in the electronics industry in Viet Nam remains limited in comparison for example to the garment/textiles sector, the report nevertheless identified and discussed some key challenges for working conditions amongst 17 foreign-owned electronics firms and 7 domestic Vietnamese electronics firms interviewed in different regions in Viet Nam. It has also analysed various possible contributing factors and made policy recommendations for improvements accordingly.

Particular challenges and characteristics of working conditions in the electronics industry, related to discrimination, working hours, low wages and allowances, weak TUs and industrial relations, limited monitoring and enforcement of labour laws, and absence of strong private standards are present in other developing countries. Thus, there are structural characteristics of the electronics industry GVC, such as FDI dominance, fierce price competition, significant peaks and troughs in production cycles, and the labour intensive nature of certain types of production activities, which have an impact on working conditions. Challenges facing employers, trade unions and labour inspectorates over compliance with, and the monitoring and enforcement of labour laws in Viet Nam are also challenges faced in other developing countries that have entered the electronics industry GVC at segments of low value added production.

It is hoped that this study will raise awareness and generate discussion about the working conditions found in the emerging electronics industry in Viet Nam. The intention is for the policy recommendations to provide ideas and inputs for short, medium, and long-term interventions to not only ensure working conditions are sustainably improved through the efforts of all constituents, but ultimately to ensure that Viet Nam does not fall into the trap of poor working conditions that has been observed elsewhere in the electronics industry's global value chain.