Viet Nam country brief: Overview

Viet Nam is among the fastest developing nations in South East Asia...

- two decades of sustained high growth
- one-party State structure
- One of the most open economies (measured by trade as percentage of GDP: 202)
  - 12 FTAs in effect and 5 FTAs being negotiated
- Increasingly diversified economic structure

... but faces emerging concerns...

- demographic challenge
- climate change
- Weak domestic industries, and upgrading them in the global supply chains
  - Samsung
- And human and labour rights challenges
Viet Nam: interesting test case for two (or three) new generation of FTA: TPP (US-VN side letter), CPTPP and EU-Vietnam FTA

- Vietnam fought wars with France, US and China, and won. Negotiated or negotiating FTAs with all three (EUVN FTA, TPP and RCEP)

- TPP is dead, but still ‘alive’
  - Labour law and IR reform was precondition for TPP coming into force for Viet Nam

- Triggered by side letter (Consistency Plan) between US and Viet Nam, but no longer valid after US withdrawal

- CPTPP came into force in Viet Nam (January 2019)
  - Who takes a lead in monitoring and evaluation?

- EU-VN FTA yet to be signed and ratified
Labour chapter of CPTPP

• Labour chapter, without US-Vietnam ‘side letter’ (Consistency Plan)

• “Each Party shall adopt and maintain in its statutes and regulations, and practices thereunder, the following rights as stated in the ILO Declaration:
  a) freedom of association and the effective recognition of the right to collective bargaining;
  b) the elimination of all forms of forced or compulsory labour;
  c) the effective abolition of child labour and, for the purposes of this Agreement, a prohibition on the worst forms of child labour; and
  d) the elimination of discrimination in respect of employment and occupation”

• Side letters signed with 10 countries on Vietnam requires Vietnam to complete
  – reforms related to b, c & d in 3 years after the CPTPP comes into effect
  – reforms related to a in 5 years after the CPTPP comes into effect
Sustainable Development and Trade Chapter of EU-Viet Nam FTA

- Negotiation concluded in December 2015. Ratification by EU Parliament would take place only after EP election (sometime in 2020)

- “Each Party will make continued and sustained efforts towards ratifying, to the extent it has not yet done so, the fundamental ILO conventions, and the Parties will regularly exchange information in this regard” (provision 3 of article 3 of TSD chapter).

- 5 out of 8 core conventions are ratified

- MOLISA plans to ratify C. 98 in 2019, C. 105 by 2020 and C. 87 before the end of 2023
  - Ratification of C. 98 is certain: earliest in May 2019, latest in Oct 2020
  - Ratification of C. 105 is reasonably certain in 2020 – issue of political prisoner
  - Ratification of C. 87 on freedom of association depends on implementation of the revised labour code (underway)
What has been effects, so far, of (CP)TPP and EUVN FTA?

- Allowed to talk about ‘freedom of association’: 2015 onward

- As it is presented as a *must* by a tiny group of champions of changes who were involved in the negotiation, as it is endorsed by the Party Resolutions, policy-makers and IR actors at lower level begin to accept the change as a destiny in the process of global integration and modernization.
Progresses and plan for implementation of labour rights obligations of CPTPP and EUVN FTA 1

• Political commitment:
  – Party Resolution No 6 (Nov 2016) on international integration, directly reference to ILO and workers’ organization
  – Prime Minister Decision 2528 (2015) on ratification of ILO Convention
  – Party Resolution No 27 (May 2018) on wage, direct reference to roles of trade unions and collective bargaining
  – Prime Minister Decision No 121 (Jan 2019) on implementation of CPTPP
Progresses and plan for implementation of labour rights obligations of CPTPP and EUVN FTA 2

• **Ratification of core conventions (87, 98 and 105)**
  – C. 98 in 2019, C.105 in 2020 and 87...

• **Revision of Labour Code (first adopted in 1994, revised in 2002, 2006 and 2012) underway:**
  – to align it with 2013 Constitution, align with new labour market situation, and to align with ILO FPRW Declaration in the context of CPTPP and EUVN FTA
  – Will be published in March 2019, and submitted to October 2019 National Assembly session, with the aim of adopting in May 2020 session
  – Languages improved on gender equality, forced labour and child labour, and key principles of freedom of association are put into draft text.
    • Devils are in details

  – Trade union law (first adopted in 1990, revised in 2012) will go through a partial revision in 2020
Vietnam: One Party, competing voices, slow process and weak capacity

- Multiple channels of policy-making and influencing within and between various organs of the Party, government and legislature
  - No monolithic decision-making and executing machinery (cf. China)
  - Importance of regular mechanism of monitoring and review under CPTPP (and EUVN FTA)

- VGCL is in the (slow) process of reform of its representational functions (bottom-up organizing, multi-employers bargaining etc), on their anticipation of new IR environment where new workers’ organizations would emerge after the revision of labour code.
  - Wildcat strikes: since 1995, there are almost 7,000 strikes, all of them were wildcat strikes

- Twin problems: 1) traditional notion and attitude on IR prevailing – awareness raising, 2) weak and fragmented capacity of the IR actors
  - Importance of technical assistance
Monitoring and implementation mechanism under CPTPP and EUVN FTA

- TPP US-VN bilateral side letter (Consistency Plan)
  - Labour law and IR reform as recondition for TPP to come into force for Vietnam
  - Senior Officials Committee (SOC); Technical Assistance Program (TAP); Labour Experts Committee (may be chaired by ILO)
- CPTPP chapter 19 on labour
  - *Cooperation as a mechanism for effective implementation* (bilateral or multi-lateral, involving perhaps ILO)
  - Cooperative Labour Dialogue
  - *Labour Council* (shall meet within a year of the date of entry of CPTPP; thereafter shall meet every two years; during the fifth year of the date of the entry, shall review the implementation of this Chapter;
  - *Contact point* to be designated within 90 days of the date of the entry
  - *Public engagement and labour consultations*

- EUVN FTA:
  - Specialized Committee on Trade and Sustainable Development
  - *Domestic Advisory Groups*
A few points of joint reflections

- Coordinated monitoring, ‘signaling’ and ‘actions’
  - CPTPP without US – who leads
  - CPTPP and EU coordination
  - Roles of ILO

- Activation to bring benefits for real beneficiaries
  - Better Work: compliance approach
    • Empowerment: PICC and freedom of association
  - Empowerment through legal and institutional reform
Thank you