



The Fair Wear Foundation in Cooperation with ETI- Norway

Background Study Viet Nam

April 2007

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1. Introduction

This is a background study on labour standards in the textile and garment industry in Viet Nam.

This report is based on several sources. A team from the Institute for Family & Gender Studies (Viet Nameese Academy of Social Sciences), Tran Han Giang, PhD, Le Ngoc Van, PhD and Le thi Thu Huong, PhD, provided the first drafts based on desk research and interviews with Viet Nam Trade Union, Ministry of Labour, Invalid and Social Affairs and other related authorizations and organizations.

FWF added information from other documents, discussions with local stakeholders held in 2005-2006, press clippings and its own audit experiences.

The sections 'guidance for auditors' in 3.3 are largely based on an introduction by Carey Zesinger (Global Standards) for the FWF audit training in August 2006.

A background study is a living document and will be regularly updated.

2. Background study Viet Nam

Some general impressions of the socio-economic situation of the country, can be taken form the UNDP Human Development Report.

Table 1: Human Development Index and other Human Development Indicators:

	HDI rank 2004	Population (millions) 2004	GDP per capita (PPP US\$) 2004	Life expectancy at birth	Infant mortality rate (per 1000 life births) 2004	Adult literacy rate (% ages 15 and older) 2004		Combined gross enrolment ratio for primary, secondary and tertiary schools (%)		Ratio of estimated female to male earned income	Human poverty index value (HPI-1) (%)*
						Female	Male	Female	Male		
Netherlands	10	16.2	31,789	78.5	5	99	99	98	99	0.63	-
Poland	37	38.6	12,974	74.6	7	99	99	90	82	0.59	-
Bulgaria	54	7.8	8,078	72.4	12	97.7	98.7	81	81	0.65	-
Romania	60	21.8	8,480	71.5	17	96.3	98.4	77	73	0.65	-
Macedonia	66	2.0	6,610	73.9	13	94.1	98.2	71	69	0.48	-
Thailand	74	63.7	8,090	70.3	18	90.5	94.9	74	73	0.59	9.3
Ukraine	77	47.0	6,394	66.1	14	99.2	99.7	87	83	0.53	-
China	81	1,308.0	5,896	71.9	26	86.5	95.1	70	71	0.64	11.7
Tunisia	87	10.0	4,688	73.5	21	65.3	83.4	77	74	0.28	17.9
Turkey	92	72.2	7,753	68.9	28	79.6	95.3	63	75	0.35	9.8
Viet Nam	109	83.1	2,745	70.8	17	86.9	93.9	61	65	0.71	15.7
India	126	1,087.1	3,139	63.6	62	47.8	73.4	58	66	0.31	31.3
Lao People's Dem. Rep	133	5.8	1,954	55.1	65	60.9	77.0	55	66	0.52	36.0
Bangladesh	137	139.2	1,870	63.3	56	n.a.	n.a.	44	50	0.46	44.2

Source: Human Development Report 2006 (<http://hdr.undp.org/hdr2006/pdfs/report/HDR06-complete.pdf>)

*This indicator was established for developing countries only

While Viet Nam ranks relatively low on the Human development index as table 1 shows, it is interesting to note that while for instance the gap in GDP per capita between Turkey and Viet Nam is wide with Viet Nam scoring much lower, the Human Development gap is considerably lower. Likewise, whereas India, has a much higher GDP per capita than Viet Nam, relatively speaking, it scores considerably worse on the Human Development index. It is interesting to note that Viet Nam scores disproportional well on certain human development indexes. With an infant mortality of 17 per 1000, infant mortality in Viet Nam is substantially lower than in many other developing countries. Likewise, female literacy is relatively high with 86.9%. Most remarkably however, is Viet Nam's ratio of estimated female to male earned income. With a score of 0.71 Viet Nam indeed has the smallest gender gap

in terms of income by far of all countries listed, including the Netherlands.

2.1. The garment industry

“The textile and garment industry has existed in Viet Nam for at least a century, while traditional handicraft activities such as embroidery, silk weaving have existed for much longer.

In 1954 after liberation in the North, Nam Dinh Factory and Nam Dinh Silk textile factory have been restored and reconstructed and some factories have been newly established. After reunification of Viet Nam (April 1975), the government took over a number of factories in the South.

After the collapse of the Former Soviet Union and the East European countries, the textile and garment industry has faced a crisis in its products sale as well as in material and equipment supply for production. It could be said that the period of 1990 - 1992 is the most difficult period the textile and garment industry has witnessed. Many enterprises had to reduce production levels or to face being broken up. Under these circumstances, Viet Nam's textile and garment industry faced great challenges.

By the mid 1980s, Viet Nam's macroeconomics fundamentals were rather imbalanced. Domestic production fell into inertia and inefficiency. The state sector incurred chronic losses. Most of the planned targets were not achieved. Given the challenges of the country's economic development, the only way to get out of this situation as concluded in the 6th Communist Party Conference in 1986, was to entirely reform and innovate the economy. Since 1987 the Viet Nameese leadership has abandoned central bureaucratic management and subsidy systems. As a consequence of the economic reform into a market economy, the structure of the textiles and garment industry has changed. There are many products that have never been produced before which now have become popular in most of enterprises.” (Excerpt from an official government document).

As a result of the reforms, the enterprise sector now comprises of three different types of companies: State Owned Enterprises, Foreign Invested Enterprises and Private Enterprise. ETI (2006)¹ gives the following figures:

According to the Viet Nam General Statistics Office, by the end of 2002 there were approximately 1,200 registered textile and garment firms, of which 70% were privately owned, 25% foreign invested and 5% state owned.

The footwear sector is comprised of around 380 enterprises, 50% of which are privately owned, 35% foreign invested and 15% state owned (2004 figures from the Viet Nam Trade Office in the USA).

A more detailed overview of textile and garment enterprises in Viet Nam:

- 187 state-owned enterprises (of which 70 textile and 117 garment enterprises) and 180 foreign investment enterprises.
- 800 limited liability companies, joint stock companies, private companies (of which 600 are garment and 200 are textile companies).
- More than 180 investment projects, joint ventures, and 100% foreign equity firms are in operation with a total investment of more than 1.8 billion USD.
- Thousands of textile factories and traditional silk-textile craft villages are scattered all over the country.

Currently, many state-owned enterprises (SOEs) are being privatized or turned into joint stock companies, with Vinatex, being the number one company. Vinatex is Viet Nam's

¹ ETI (2006) *The ETI code of labour practice: do workers really benefit?* Retrievable at: <http://www.ethicaltrade.org/Z/lib/2006/09/impact-report/part1.shtml>

largest textile and garment (T&G) company and ranks 10th among T&G groups worldwide. The value of Vinatex export makes up for 20% of Viet Nam's total T&G export (*Hanoimoi*, 10-03-2006). Vinatex plans to privatize all enterprises and companies that belong to their group by 2008 (*Laodong* 26-01-2007). Currently two-thirds of the companies which belong to Vinatex have been privatized.

In recent years, a considerable number of foreign manufactures have invested in technology and new establishments. The domestic sector's share of investments both in garments and textiles has declined considerably, while foreign investors' share has risen.

So far a significant number of foreign T&G firms have invested in Viet Nam. For instance, Malaysia's Pamatex Berhad has invested 100 million USD in the open economic zone Chu Lai (Quang Nam province), Korea's Daewon Company has invested 8 million USD in an export-oriented garment factory in Hoa Khanh industrial zone (Da Nang city), a 100% foreign capital garment factory in Vinh Loc industrial zone (Ho Chi Minh city) and a garment factory in Nhon Trach 1 industrial zone (Dong Nai province) which is producing fabrics and garment items. Korea's Nobland International has built four garment factories, which are processing and producing garment items for export to the US.

The strong presence of foreign investors in the textile sector reflects the importance of joint ventures between foreign investors and textile SOEs, producing clothing from their own textiles, and the entry of investors from Taiwan and Korea as independent textile producers. The role of international capital and expertise in upgrading the Viet Nameese T&G industry and improving its competitiveness in the global economic arena is widely recognized indeed. Several 100% foreign owned firms are cooperating with international organizations which are interested to build up the institutional capacity of the sector; to train workers, technicians and engineers and combine efforts to increase cooperation between the state, its institutions and the business community in general.

Viet Nam's membership of the World Trade Organisation (WTO) as accredited in January 2007, has increased Viet Nameese T&G enterprises' opportunities to access capital, high technology as well as advanced management skills from countries such as the USA, Japan and the EU countries. Vinatex for example has over the past months expanded its cooperation with large foreign garment groups such as Japan's Mitsui group in producing trimmings (*Laodong*, 03-01-2007).

3.1.1

3.1.2 Areas where garments are produced

In the early years, garments for export were mainly produced in the South of Viet Nam; the area around Ho Chi Minh City. Nowadays Saigon and many other large towns and their surroundings see large numbers of garment factories. Garments are also produced in export producing zones (EPZ's).

3.1.3 Statistical data on garment production and markets

The textile and garment (T&G) industry plays a crucial role in the Viet Nameese economy and Viet Nam's export led growth policy. ETI (2006) quote's figures from Viet Nam's General Statistics Office which indicate that in 2002 the textile and garment sector employed around 1.43 million workers, of whom around 800,000 were in the formal economy. In the same year around 430,000 workers were employed in the formal footwear sector, with an unknown number employed informally. Others have estimated that by 2006 the T&G sector employs more than 2 million people which is 22% of the total number of employees in the industrial sector.

Viet Nam's clothing exports have witnessed a quantum jump over the last 5 years; export

rates have increased by 21% per annum (see table 2).

The T&G sector, which primarily consists of garment production, is Viet Nam's largest manufacturing export sector. It currently accounts for over half of the country's manufactured exports. The total T&G export value increased from 1.87 billion USD in 2001 to 2.75 billion USD in 2002 and 5.8 billion USD in 2006. T&G exports are expected to rise to 7 billion in 2007.

In the early three months of 2007, T&G export turnover has earned 1.6 billion USD, which constitutes an increase of more than 30% compared with the same period last year (*Hanoimoi*, 06-04-2007).

In 2005, The T&G sector generated 18 percent of total export earnings and only ranked second after the petroleum industry. Other major manufacturing export sectors include the seafood and footwear industry.

Table 2: Garment export 2000-2005



Source: website of Yarns and Fibers Exchange (YnFx):
<http://www.yarnsandfibers.com/inPerspective/index.php3>

The EU and Japan have until a few years ago been the main export markets. However, exports to the US have increased rapidly since the introduction of a Textile and Garment Bilateral Trade Agreement (BTA) in 2003. At present, the US is the biggest export market for Viet Nameese garments production followed by the EU and Japan. In 2006, T&G export to the US accounted for nearly 2.95 billion USD which was 51% of Viet Nameese total T&G export (*VnEconomy*, 23-12-2006). In 2006, Viet Nam was the 4th largest garment exporter to the US. Growth rates were reported to be particularly high in 2006 for certain sensitive categories after, US importers and retailers shifted sourcing from China to Viet Nam (*EmergingTextiles.com* 05-01-2007).

The US, Japan and EU together are absorbing 86 percent of the garments exported from Viet Nam (*Ven online*, -6-07-2006). New export markets for Viet Nam's T&G industry include Russia, Turkey and the Middle East.

Viet Nam has been granted Most Favoured Nation (MFN) status with the EU. Additionally, Viet Nam also benefits from EU GSP scheme, which grants Viet Nam access to the EU market at tariff rates which are below standard MFN rates. Currently, the rate of export growth of T&G products to the EU market is 20% with 1.2 billion USD. By 2006, a total of 600 textile and garment firms in Viet Nam were engaged in exporting to the EU; in 2005 this were about 500 (*Xinhua*, 28-04-2007). In 2005, T&G exports to Japan were US \$620 million, a growth rate of 17 per cent (*Business-in-Asia 2005*). Viet Nam now ranks 2nd of Japan's garment importer immediately after China; last year Viet Nam still ranked 4th (*Laodong* 10-03-2007). As for the Netherlands, Viet Nam ranked 13th of all garment export countries in 2005. It ranked third for all imports in the Netherlands of anoraks and women's coats, second for men's coats and 3rd for working clothes.²

Among ASEAN countries, Viet Nam ranked third in terms of T&G exports in 2006, following

Indonesia with 7-8 billion USD and Thailand with 6.5 billion USD. However, as for growth rates of T&G exports are concerned Viet Nam ranked first in 2006 ("*Lao dong*" 10-03-2007).

Viet Nam's T&G products are currently put under pressure of surveillance by the US' anti-dumping rules. The immediate reason behind this strict control is the subsidy policies of the Viet Nameese government's towards the T&G industry of many years, which meanwhile has however been abolished (*Hanoimoi*, 13-06- 2006). Also, when Viet Nam became a member of the US, many American congressmen protested against granting permanent normal trade relations (PNTR) status to Viet Nam s they feared that Viet Nam's garment industry would be a treat to the American garment industry (VnExpress 12-04-2007). In March 2007, Viet Nam's government has decided to impose minimum prices to domestic apparel exporters in order to limit a growing risk of US anti-dumping duties (Emerging Textiles.com 13-03-2007). At this point in time, mid-April 2007, the debacle has not been settled as yet.

In practice, it means the US can at any time apply devaluation taxes on Viet Nam's T&G products. As a result of the heightened insecurity, rising costs, bureaucracy and longer delivery times involved, T&G enterprises in Viet Nam try to increase their exports to other countries such as Japan and the EU countries. It is planned to export only 30-40% of total garment exports to the US, as compared to over 50% last year, 40% to the EU and 20% to Japan. Apart from adjusting the proportion of exports to different markets, T&G enterprises are also planning to produce high quality garment products, and products with special features. Several T&G enterprises have newly opened sales offices in the EU, US, China and Japan to promote commercial relations with partners in these countries' partners (*Laodong* 10-03- 2007).

Also the EU has imposed anti dumping measures; on leather shoes from Viet Nam. Viet Nam produces 9 pairs of shoes from every 100 pairs bought by Europeans. It is interesting to note that the EU states that there is clear evidence that although leather footwear import prices to the EU over the last five years have fallen by more than 20% consumer prices have remained stable and even risen slightly. A duty would merely add a little over 1.5 Euro on average to wholesale prices of 8.5 Euro for leather shoes that retail between 30-100 euros. In practice, there is a margin within the supply chain to absorb a small duty on import costs by spreading it across product ranges and the distribution chain.

The garment industry also progressively produces fashion and garments for the growing domestic market which increasingly replace imported garments. Experts said that there will be big changes in the market share in the ready-made apparel segment. China-made products will dominate the market for the majority of people. Up to now, Chinese products have come to Viet Nam through the across-border channel, but now they can be imported through the official way. These products are always very cheap, and will dominate rural and remote areas. Viet Nameese garment companies are believed to be unable to compete with Chinese enterprises in this market segment.

Meanwhile, ASEAN-sourced products, especially those made in Thailand, will dominate the medium-class market. With an average price of garment items between VND255,000 and VND499,000, Thailand-made products will be available at traditional markets and small shops.

Experts said that Thai products will not be competitive in Viet Nam's market as they are expensive, while the quality of products is not superior to Viet Nam-made ones. Meanwhile, Indonesian and Malaysian products will not be favoured by Viet Nameese people.

Some said that Viet Nameese products can be competitive in this segment of products, provided that Viet Nameese companies improve product quality and diversify designs.

² Modint (2007) *Handelsstromen-analyse*: Modint: Zeist

3.1.4 Raw material

As will be seen in the following section, Viet Nam's T&G industry has to import almost all raw materials. Taiwan is the largest export country from which Viet Nam sources fabric.

3.1.5 Description of types of garment production

A broad range of different garment items are being produced. Apart from fashion, other items such as bags, backpacks and stuffed toys are made depending on the demand of the buyers.

Over the last ten years, the export of silk & brocade products, such as traditional gowns, sheets and pillows covers have increased substantially.

3.1.6 Description of the supply chain/production network

Whereas the garment industry in Viet Nam is highly export-oriented, Viet Nameese textile products are mainly sold on the domestic market.

Textile production catering the Viet Nameese garment industry is relatively low. Fabrics, clothing, dye, cotton fibre, and trimmings are mostly imported. The majority of private firms produce garments on a Cut-Make-Trim (CMT) basis. In some cases firms deal directly with buyers, while others rely on sub-contracts from state-owned enterprises. The CMT process adds as little as 20% to the value of the final product.

Because the main textile and apparel export performance in 2006 was made on a processing (CMT) base or free on board (FOB) goods' production which utilized imported material and accessories, imports for the textile and apparel industry are almost as large as the exports (about 5.65 billion USD) In 2006, the import of fabric accounted for 52% of total textile import, material and accessories for 34%, yarn 10%, and cotton fibre for 4%. Some joint stock enterprises have changed from FOB to CMT due to shortages of capital as was said. They were hesitant to take the risks which FOB is perceived to entail. Consequently, import of material and accessories increased (Viet Namtextile.org, 07-02-2007).

The garment sector in Viet Nam has indeed grown and improved much more quickly than the textile sector. The domestic textile industry has been identified as a bottleneck which is limiting the overall sector's development.

Industry experts attribute the low rate of Viet Nameese-made content in exported garments to the unacceptably low quality of Viet Nameese-made fabric. The limited use of modern technology, a poorly trained workforce and particularly the effects of industrialization on the environment are seen as hindering the growth of Viet Nam's textile and garment industry (Ven online, -6-07-2006). For example, the Viet Nameese textile sector has only been able to produce 14 percent of the export-standard shuttle-woven fabric needed for export garment production. Also, only about 20 percent of the equipment used in spinning operations is of high quality and has been purchased over the last five years. While a huge amount of money has been spent on improving dyeing operations, its efficiency remains limited.

Another serious problem lies in poor employee performance (*VEN-online, 06-07-2006*).

The absence of a vibrant textile industry negatively affects Viet Nam's competitiveness compared to China, India and other ASEAN countries. Producing garments based on FOB arrangements would generate significantly higher margins. For now, FOB business is still considered too risky by most private and state-owned Viet Nameese producers.

The quality of human resources is considered very low. Enterprises' managers' management skills are considered weak. Managers' expertise in technology and commerce is often

insufficient which negatively affects their performance in the highly competitive international market. Shortage of skilled workers and workers job-hopping tendencies are other serious problems in the T&G enterprises. Therefore training of and education for the workforce in the textile and garment industry has recently received increasing attention. There is an increasing demand for professional fashion designers, technicians, line leaders, and merchandising staff. The existing institutions and training facilities have insufficient capacity in terms of equipment, expertise, an adequate curriculum, qualified teachers and teaching materials to carry out training courses.

The advantage of abundant and cheap labour will become less important and attractive over time, as demand for technical skills is increasing.

On the other hand, due to its low labour costs, high worker productivity, and workers' attention to detail, Viet Nam is generally considered to be highly competitive in garment manufacturing; on a par with or slightly below China. Viet Nameese labour costs are often regarded to be considerably lower, i.e. over 50%, than in China depending on location and specific circumstances. But productivity is often lower in Viet Nameese garment factories and there are a number of additional costs and problems facing garment manufacturers in Viet Nam. Certain costs such as custom fees, tax, transportation fee, storage fees and petroleum prices are very high. Also poor telecommunication, transportation and infrastructure considerably increases the total cost of production and has an adverse effect on Viet Nam's T&G competitiveness compared to other T&G exporters.

Another weakness of Viet Nam's T&G products in the international markets is the lack of a good system of standards (social, environmental and quality standards), technical, social and environment requirements, in line with international standards and as required by foreign buyers. Environmental protection is a very topical issue in this respect, particularly with regards to wastewater treatment. Foreign customers are liable to environmental standards in their own countries and hence demand wastewater treatment in Viet Nam as well. Local enterprises have stated that they have to consider investing in environmental protection if they wish to see growth in the textile and dyeing industry. It is hoped that the State will support them in building the wastewater treatment facilities needed as to assist them in keeping production costs low (*VEN-online, 06-07-2006*).

Taking the current state of the textile and garment industry into account, the Viet Nameese government has set forth a grand development plan under which the domestic textile and garment industry will be able to make 1,230 million square meters of fabric and export around 500 million square meters by 2010. The Viet Nam National Textile and Garment Group (Vinatex) has drawn-up solid export-quality fabric development plans which have received the consent of the T&G business community.

It is claimed that the efforts of the last few years show that the domestic textile industry will be able to make quality fabric within the next five years. Investments in up-to-date equipment and technology are however a premise. For example, Vinatex, which hopes to produce 408 million square meters of fabric by 2010 of which 262 million square meters will be exported, acknowledges that it needs to replace 40 percent of its current equipment and machinery (*VEN-online, 06-07-2006*).

3.2 General description of the industrial relations and labour conditions in the garment industry

3.2.1 General background

Viet Nam ratified 17 ILO conventions. (Source: ILOLEX - 18. 4. 2007). Those relevant to the FWF Labour Code are listed in table 3.

Table 3: Ratified ILO conventions

Convention	Ratification date	Status
<u>C5 Minimum Age (Industry) Convention, 1919</u>	03:10:1994	denounced on 24:06:2003
<u>C6 Night Work of Young Persons (Industry) Convention, 1919</u>	03:10:1994	ratified
<u>C14 Weekly Rest (Industry) Convention, 1921</u>	03:10:1994	ratified
<u>C29 Forced Labour Convention, 1930</u>	05:03:2007	ratified
<u>C80 Final Articles Revision Convention, 1946</u>	03:10:1994	ratified
<u>C81 Labour Inspection Convention, 1947</u>	03:10:1994	ratified
<u>C100 Equal Remuneration Convention, 1951</u>	07:10:1997	ratified
<u>C111 Discrimination (Employment and Occupation) Convention, 1958</u>	07:10:1997	ratified
<u>C116 Final Articles Revision Convention, 1961</u>	03:10:1994	ratified
<u>C138 Minimum Age Convention, 1973</u>	24:06:2003	ratified
<u>C155 Occupational Safety and Health Convention, 1981</u>	03:10:1994	ratified
<u>C182 Worst Forms of Child Labour Convention, 1999</u>	19:12:2000	ratified

Pursuant to fundamental principles of the Constitutions (1946, 1959, 1980, 1992), the State of Viet Nam has issued important legal documents such as (Laws, Ordinances) to regulate Labour relationship and enterprise activities such as Law on Labour (1995), Law on Environment (1994), Law on Enterprise (2000), Law on Trade Union (1990) as well as many under-law documents such as government decisions and decrees, circulars and implementation guidances issued by Ministries on relevant provisions.

Generally, Viet Nam Law on Labour (1995) was developed in line with the Constitution spirit, in compliance with ILO core conventions as well as with the law making experiences from many advanced countries all over the world. Law on Labour, as amended (2002), was supplemented with some clauses in accordance with new conditions on the background of socialist-oriented market economy development.

Besides the general provisions on basic rights and obligations of workers and employers, the Law refers to the special rights of women workers (Chapter 10, Law on Labour).

The Labour Laws also apply to the EPZ's: there are no exceptions.

“ Viet Nam has ratified three of the eight fundamental conventions of the International Labour Organization, namely the Equal Remuneration Convention (No. 100), Discrimination (Employment and Occupation) Convention (No. 111), and the Worst Forms of Child Labour Convention (No. 182). Viet Nam has not ratified either of the two fundamental ILO conventions concerning freedom of association: the Freedom of Association and Protection

of the Right to Organize Convention (No. 87) and the Right to Organize Convention (No. 98). Nevertheless, its membership in the ILO requires the government to respect, promote, and realize the right to freedom of association and the right to collective bargaining, which are included among the ILO's fundamental rights.

The Viet Nameese Law on Trade Unions of 1990 defines a trade union as a large political and social organization of the working class, voluntarily established under the leadership of the Viet Nameese Communist Party which represents Viet Nameese workers.

The Labour Code of 1994 stipulates that all workers are entitled to establish and join trade unions, within the framework of the trade union laws of Viet Nam. Employers may not prejudice a worker because he/she has formed, joined, or participated in the activities of a trade union organization, and may not apply economic pressure or other measures to interfere with the organization and activities of trade unions." (FLA report 2003).

"Different enterprise ownership arrangements seem to result in differences in the performance of unions. A study prepared by the World Bank in 2002, which analyzed unions in different footwear factories, found that there were higher degrees of accountability to workers in the foreign-invested firms, less in the domestic private enterprises, and considerably less in state-owned enterprises. It also highlighted that there was considerable variance in the skills of enterprise-level union leaders to represent workers and bargain with management. The study also determined that communication between workers and management in Viet Nameese shoe factories ranged from non-existent to highly-adversarial." (FLA Report 2003)

According to the 2004 IMF survey, the poverty standards of the National Poverty Reduction Program are: 80,000 VND per person/month on islands and in rural mountainous areas; 100,000 VND per person/month in rural delta areas; 150,000 VND per person/month in urban areas.

The poverty reduction movement is propagandised widely and acquires the participation of the whole society. According to the national poverty standard, by the end of 2004, there will be 14 million poor households in the country and the rate of poor households will be reduced to about 8.3% (compared with 1.7 million poor households and a poverty rate of approximately 11% in 2003). The reduction therefore is more than 2% each year.

Out of 64 provinces, 36 provinces have a poverty rate of less than 10%, of which 12 provinces have the poverty rate below 5% (namely Ho Chi Minh city, Hanoi, Binh Duong, Da Nang, Khanh Hoa, Tay Ninh, Can Tho, Long An, An Giang, Hung Yen, Quang Ninh); 4 other provinces have a poverty rate of more than 20% (Bac Kan, Dien Bien, Lai Chau, Soc Trang).

As for the International poverty standard - which is USD 2, depending on money buying value - the proportion of the poor is more than 26% in urban areas; in rural areas this proportion is more than 30% and in ethnic minority areas and mountainous areas this rate is much higher.

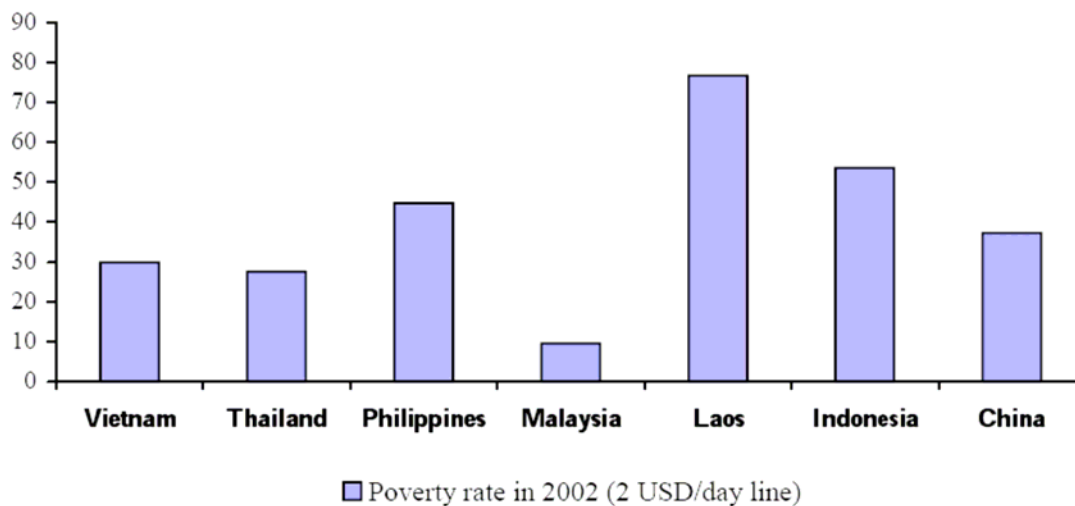
One survey conducted recently shows that the increase of workers' wages is much slower than the increase of enterprises' profits. Mr. Pham Minh Huan, the Head of Salary and Wage Department of the MoLiSa said that according to the report of the survey on salary/wages, Labour productivity in 500 production units of all types of enterprises, the highest salary (till 2005) is the one of managers in enterprises with foreign direct investment with an average monthly salary of 12 million VND/person. Also in FDI enterprises, the average salary for specialized and professional workers is 2.2 million VND/ person; the one for direct workers is 1.3 million VND/ person. The lowest salaries are to be found in non-state enterprises; the average monthly salaries for managers, specialized and professional workers and direct workers are 3 million VND, 1.4 million VND and 1.1 million VND/ person respectively.

The results of the survey also show that the increase in salary and wages does not correspond to that of productivity and profits. In FDI enterprises, when the productivity (in 2004) increased over 18%, the profits increased over 41% (in comparison with that of 2003), the salaries/wages increased only 13%.

In State-owned enterprises, when the productivity increased by 10% in 2004, and the profits increased by over 54%, the salaries /wages increased by less than 3% (The Labourer newspaper, March 7th 2006).

Table 4: Poverty rates of several Asian countries compared

Figure 16: Poverty rate of some regional countries in 2002



In July 1999, the Government issued a minimum salary to be applied in FDI enterprises; salaries ranged from about 500,000 - 700,000 VND/month. These did not change until the series of strikes at the end of 2005. At that time the price of all kinds of goods had increased by 100%, and some kinds of goods had increased by even 150%. The consumption index had increased by 28%; the price of food and food stuff had increased by 40% and the exchange rate between VND and USD had increased by 14%. Consequently real salaries decreased considerably. Although the law stipulates that if the consumption index increases by over 10%, the minimum salary must be readjusted.

For the most recent figures available, please see paragraph 3.3.5.

The industrial regions experience severe labour shortages that will improve the wage situation. In July 2006 it was reported;

“Country’s garment companies are facing severe manpower shortage and to come out of this situation garment producers are planning to start training centres in distant area.

According to Association of Garment – Textile & Embroidery – Knitting (Agtek), shortage of manpower in first quarter is usual but this year it lasted till July. “

And in March 2007:

”Though every Lunar New Year sees an increase in demands for workers in industrial zones (IZ) and export processing zones (EPZ), this year only a few workers are looking for jobs.

Experts said that after Tet, the Viet Nameese festival, enterprises lose around 15-20 percent of their workers. So after Tet, many enterprises required to recruit workers to fulfil their needs. Recruitment agencies urgently require 10,000 workers for garment and footwear industries, along with other industries. In Go Vap district in HCM City, several companies have announced their requirement to recruit garment workers in large quantities.

In 2007, the province is likely to give employment to 50,000 labourers, including 40,000 workers for IZs, mainly for the garment industry. Binh Duong province needs 20,000 labourers in 2007, but only a half of the requirement can be provided, and the remaining labourers have to be sourced from other cities and provinces.”

(<http://www.fibre2fashion.com>)

It would be a mistake to think of Viet Nameese industrial relations as akin to the Chinese. As Chang-Hee Lee, ILO, Thailand, observes: "Industrial relations in China and Viet Nam are on the way to divergence. The official industrial relations actors in China have attempted 'institutional cloning' of key elements of modern industrial relations such as tripartite consultation and collective bargaining within the political limit imposed by the Party-state. (...) Industrial relations in Viet Nam are characterized by more vibrant associational dynamism at national and provincial levels, which is obvious in the co-existence of cooperation and competition between and within the industrial relations actors. Workers in Viet Nam display greater degree of spontaneous solidarity in the form of well coordinated 'wildcat strikes', which are accommodated by the government and the official trade unions at higher level."³

3.2.2 What do the unions do in this region/industry?

The Viet Nam General Confederation of Labour is a united organization composed of the following fundamental levels:

- The Viet Nam General Confederation of Labour.
- The Labour Federations of provinces or centrally administered cities (hereinafter referred to as "provincial or city labour federations") and national sectoral TUs.
- Intermediate TUs.
- Grassroots TUs and labour unions.

All trade union's have the right to decide to which affiliation they want to belong, private garment unions do not have to join the G&T Trade Union.

In general trade unions are not very strong in FIE and private enterprises. In the former state conglomerate for garments and textiles, Vinatex, the unions are very strong. 90% of the 120.000 workers in Vinatex are organized. Turnover of labour is 15%. Because of the equitisation of Vinatex, the company becomes a group and the union will become a general garment and textile TU.

In recent times there have been many strikes with the participation of a great number of workers. There have been several strikes with over 10,000 to 18,000 workers involved. On December 27th 2005, Ho Chi Minh City's Trade Unions Confederation reported that in 2005 there were 46 strikes in the city. 20 of which occurred in non-state owned enterprises, 26 strikes happened in enterprises with foreign direct investment (FDI enterprises). 33/46 cases of collective Labour disputes took place in leather shoes and garment enterprises, accounting for 71.73%.

According to the reports of the Minister of the Ministry of Labour, Invalid and Social Affairs, from 1995 to January 2006, there were 1,056 strikes, and in January 2006 respectively, there were 78 strikes. According to the Viet Nam's Confederation of Trade Unions, there are, on average, 100 strikes every year through out the country. Strikes mainly occur in export and processing zones and industrial zones and are found to have chain reaction effects from Ho Chi Minh City to many other big industrial zones in Binh Duong and Dong Nai.

Nearly 90% of strikes are instigated by the following issues: salary demands, bonuses,

³ Recent Industrial Relations Developments in China and Viet Nam: The Transformation of Industrial Relations in East Asian Transition Economies.

working hours, and break time; social insurance; labour norms; and signing labour contracts. Most strikes occurred because of the violations of Labour laws. Trade union organizations have never waged and lead any strikes and the Court has never settled any strike at all. According to the Minister, the Head of the Committee on Social Issues of the National Assembly, trade union organizations have not put into full play their roles; the representatives of trade union organizations at grass root levels depend on employees.

Nearly 90% strikes of workers occurred in the private sector and among FDI companies. These are the sectors with enterprises without trade union organizations or their trade union organizations are weak. Strikes, which are not waged by the trade unions are considered to be illegal.

The former Chairman of the National Assembly, Nguyen Van An, said that it was impossible to simply think that "going on strikes was considered unorganized and undisciplined" and that it was necessary to thoroughly study the causes so as to have suitable solutions. To him, "it is not the viewpoint of the working class when the officials simply say that strikes are illegal". He clearly pointed out: "the biggest shortcoming is not to look after and not to take care of workers. The Labour Law was passed in 1994, for over 10 years; there have not been guiding decrees for some issues. 60% of non-state owned enterprises have no grass root trade unions." (Viet Nam net, 29th March 2006).

The right to strike and the role of the unions is currently heavily debated in the country. VNS (18-07-2005) reported on a seminar on the new ordinance on strikes held jointly by the Viet Nam Confederation of Labour and Germany's Friedrich Ebert Foundation: "The new ordinance rules that employees must inform employers about planned strikes 15 days in advance, and that they must pay compensation to their employer for material losses occurred during labour stoppages if they do not follow this procedure. Many attendees disagreed with the current ordinance that calls for a 15-day advance notice of a strike. They said that employers would try to stall the process during the 15-day period, and that three days was sufficient. Also, they said, a 15-day period is unreasonable because it limits the workers' right to strike even if their employer is violating their legitimate interests. Instead of the new draft ordinance, a law cementing the right to strike must be enacted as soon as possible to protect the legitimate interests of workers, said participants at a seminar in Ha Noi last.

According to the Labour Code, any labour strike must be organised by the trade union and the employer must be informed three days in advance. Employees are only able to go on strike after their trade union fails to reconcile the problems with their employer. In many cases, employees were said to have had legitimate labour grievances, but their strikes were regarded as unofficial because they failed to follow the official rules.

Speaking at the meeting, Cu Thi Hau, president of the Viet Nam Confederation of Labour, said that workers have the right to strike, but that strikes should be carried out in a legal and orderly way. She questioned union leaders' roles in unofficial strikes, saying they should not only act as a go-between in labour disputes. Many participants of the seminar said labour union leaders should be able to call a strike on condition that they are protected from retaliation or dismissal by their employer. Some participants said that labourers should be entitled to their salary and other benefits during a strike, and said high-level trade union officials should actively organise and direct the strikes."

Also National Assembly delegates debated the issue of labour disputes according to a report of VNS (11-08-2006). "Delegates said the draft of the Labour Law amendment needs to do a better job of defining who is responsible for organising strikes and worker actions at enterprises where there is no trade union. The current amendment asserts that only trade unions are legally capable of organising a strike. Some delegates agreed with the amendment but expressed concern that 85 per cent of private sector enterprises and 65 per cent of foreign-invested businesses do not have trade unions. Delegate Nguyen Duc Dung added that a number of sanctioned trade unions work for the benefit of employers as opposed to employees, and thus would not be objective in dealing with trade disputes. Other delegates proposed that trade unions at higher levels, including district trade unions,

be made eligible to call a strike for workers at enterprises which do not have trade unions. However, delegate Nguyen Van Tri disagreed and said that high-level trade unions don't have regular access to smaller companies and wouldn't be able to advocate for their employees.

Most lawmakers agreed that workers should have the right to elect their own representatives if their enterprise does not have a trade union. The workers' representatives should then have to report to high-level trade unions about any labour dispute."

The Economist (Jan 26th 2006) speculated about the backgrounds of the strike wave: "Since late December 2005, wildcat strikes have swept through the industrial zones surrounding Ho Chi Minh City. Tens of thousands of workers joined the protests over wages and conditions. Some of these turned violent, and machines were wrecked at one Taiwanese-owned plant. Bosses claim that outside agitators stoked the protests, distributing notes at factory gates while police stood idly by.

(...) The European Chamber of Commerce has gone so far as to write a tart letter to the prime minister, Phan Van Khai, reminding him that investors set up shop in Viet Nam precisely because "the workforce is not prone to industrial action".

Workers in Viet Nam have staged walkouts before, particularly over alleged mistreatment by foreign managers. (...) Most of the affected factories are owned by East Asian companies, the biggest investors in Viet Nam. They grumble that higher wages will drive away foreign investment, running at \$5.8 billion last year, and give warning that Viet Nam needs to stay competitive. "Chinese wages are higher. But the quality and efficiency are also higher" (...) So why didn't Viet Nam crush the illegal strikes? One reason, say observers, may be internal jockeying ahead of the party congress in April, a five-yearly affair. The aim could have been to embarrass the provincial officials where the unrest began, or to burnish the leadership's credentials, or both. The factories most affected may also be a clue: Viet Nam and Taiwan both claim ownership of the Spratly Islands, along with several other countries. On December 15th, Taiwan said it was building a landing strip on one of the islands. Or perhaps the workers were simply fed up with low pay and stingy bosses, and were too numerous to repress.

March 2007 again saw a series of wildcat strikes, without union approval, hitting factories near Ho Chi Minh City involving up to 30,000 workers. They are demanding wage hikes, but also better treatment from management.

Nguyen Minh Quang, the government-sponsored labour union representative at Pou Chen Corporation, says the workers used some unusual tactics.

Quang says the strikers threw fermented shrimp paste on company security guards. The paste is foul smelling and hard to wash out.

The demands at Pou Chen Corporation included higher salaries, but workers there also demanded the removal of one of the Taiwanese managers. They said he had insulted their country by boasting that while Viet Nam had defeated America, it would never have defeated Taiwan. Regardless of the workers' patriotic motives, union Vice Chairwoman Ha makes it clear that the strikes are not condoned (<http://voanews.com/english/2007-03-18-voa7.cfm>).

3.2.3 Are there other groups to defend the interest of workers (especially women workers and unregistered workers)?

In general, Viet Nameese workers are said to have a much better awareness of their rights than in many other Asian countries.

"A Taiwanese manager noted about Viet Nameese workers: Their human rights awareness is very high. They easily stage mass protests. Their labour and democratic consciousness is very high. This is not just a problem only at my factory, this is a problem of the entire

society. In Viet Nam their protection of labour rights is too stringent.”⁴The same study also reports that the two serious problems of very long work hours and widespread non-payment of wages that seem common in China do not appear to be as serious in Ho Chi Minh City.

The study states “There are several underlying institutional reasons that contribute to this difference between countries.” To summarise their arguments:

1. The Household Registration System

In both Viet Nam and China, most of the workers in the export-product factories are migrants from the countryside. Both Viet Nam and China have a household registration system (the *ho khau* system in Viet Nameese and *hukou* system in Chinese) that requires rural people who move into the cities to register with the police. In Viet Nam, though, enforcement of this regulation is lax, and many peasants have moved into the cities to get a job without registering (Hardy, 2001: 187, 206-7). When they ignore the rules they do not get into trouble with the police.

2. Living arrangements

Foreign factories in Viet Nam do not normally have dormitories for workers. Almost all workers (local and migrants alike) live in private housing.⁵ One explanation provided to us is that Viet Nameese workers do not like the restrictions of dormitory regulations.. Another explanation offered by some Viet Nameese trade union officials was that the government does not favor the building of dormitories. One staff person from a brand-name shoe company confirmed this explanation, in that she knew Pou Chen Corporation had repeatedly applied to the government to build dormitories but had been denied permission. Both explanations account for the absence of dormitories. We are more inclined to think that the Viet Nameese government does not want dormitories because it does not want to let workers be subject to round-the-clock control by foreign management. There are now plans by local governments to invite real-estate developers to build workers’ dorms, but these dorms are to be located off factory sites, and are not just for the workers of one factory.

3. Trade Unions

There are similarities and differences between the two countries’ trade unions. In many ways they share features in common, due to their Communist roots and to the fact that they continue to be bureaucracies of one-party states. When both countries began to open up to foreign investors, both the Viet Nam General Confederation of Labour (VGCL) and the All-China Confederation of Trade Unions (ACFTU) tried to establish branches in foreign enterprises, for a number of reasons. At the workplace level, in both Viet Nam and China the unions are likely to be in the pockets of management, or are even part of management. But at the levels above the workplace, we find differences between the VGCL and the ACFTU. Generally the Ho Chi Minh City municipal trade union is more aggressive in protecting the rights of its workers in Taiwanese-funded factories.

ETI (2006) also reports: “The media provides some safeguard of workers’ rights, with the public and government officials sensitive to stories in the press about management abuse. In case of conflicts between workers and employers, factory management often finds a way to resolve the problem to avoid it getting into the media, and tends to respond quickly to any negative coverage that occurs.”

The state and the communist party are well presented at every level of society and workers may turn to the local People’s Committee or Community leaders that may include: the

⁴ Cited in Raising Labour Standards, Corporate Social Responsibility And Missing Links – Viet Nam And China Compared (Draft); Anita Chan and Hong-zen Wang. Paper presented at the conference “The Labour of Reform: Employment, Workers’ Rights, and Labour Law in China,” organized by the Center for Chinese Studies, the Institute of Labour and Industrial Relations, the International Institute (Advanced Study Center), University of Michigan, March 21-22, 2000

⁵ For example, among the 42 factories where the Taiwanese sociologists conducted interviews with management only one factory had dormitories.

chairperson, deputy chairperson, party secretary, chief or deputy chief of police,, health worker, women's union cadre, union cadre, fatherland front cadre.

The Labour Code provides that labour disputes may be resolved via an internal labour dispute resolution panel formed by the trade union and representatives of the employer or via the courts. The courts are empowered to resolve all disputes that cannot be dealt with internally.

3.2.4 Employers

Lee⁶ (2006) gives a clear overview of the main players: "Initially the government had planned to establish tripartite bodies not only at national level, but also at provincial level. But in the end the government had to set up a national consultation body due to competition and conflict between the VCA (Viet Nam Cooperative Alliance) which had its membership base in cooperative and small enterprises, and the VCCI (Viet Nam Chamber of Commerce and Industries) which represented relatively large size enterprises of various ownerships. The problem was that the VCCI had its branches only in a number of the most industrialized provinces, while its political and economic importance surpassed the VCA. (...)
VCCI encompasses both SOEs and all types of non-public enterprises (local private, joint ventures and foreign ventures), and has close organizational links with foreign investors' associations as well as various sectoral business associations. The VCCI combines the function of the Chamber of Commerce and Industry with the function of employers' organization: the function of employers' organization is carried out by the Employers' Activities Bureau within the VCCI. This gives an organizational advantage to the VCCI in representing various interests of businesses and employers in tripartite consultation. In addition to its competition with the VCA, there is both competition and cooperation between the VCCI and sectoral associations of businesses. This is more prominent in Southern Viet Nam where a number of semi-autonomous associations representing sectoral interests of local, private businesses are quite active (Nguyen and Stromseth, 2002). These sectoral associations sometimes compete with the VCCI for their political influence at local level. This is evident in the tripartite arbitration council in the Ho Chi Minh City (HCMC) where it is the HCMC association of industries which sit on the council, while it is usually either the VCCI or VCA which represents employers in the arbitration council of all other provinces. However, the competitive relations between the different associations also co-exist with cooperative relations. For example, the president of the textile and garment manufacturer association is also the chair of the VCCI's industrial relations committee. During the lobby for the exemption of the textile and garment sector regarding the overtime regulation, the VCCI worked closely with the textile and garment manufacturer's association. This pattern of competition and cooperation between VCCI and other associations offers greater institutional opportunities for Viet Nam to channel and articulate the interests of employers through the official industrial relations process at supra enterprise level. "

⁶ Transformation of Industrial Relations in East Asian Transition Economies: Review of Industrial relations changes in China and Viet Nam; Chang-Hee Lee. ILO Sub-regional Office for East Asia. In Journal of Industrial Relations, Vol. 48, No. 3, 415-429 (2006)

3.3 The labour standards

3.3.1 Employment is freely chosen

The FWF Labour Standard:

"There shall be no use of forced, including bonded or prison, labour" (ILO Conventions 29 and 105)

3.3.1.1 Laws and Regulations

Article 5

1. Every person shall have the right to work, to choose freely the type of work or trade, ()

Article 43

Within seven days from the date of termination of a labour contract, each party shall be responsible for full payment of all sums outstanding to the other party. In special cases, this period may be extended, but shall not exceed thirty (30) days.

3.3.1.2 Compliance situation

In all textile and garment enterprises as well as other ones in Viet Nam, no forced Labourers, such as the Labour of prisoners or forced Labourers for debts, are employed.

The recruitment of workers for enterprises in general and in textile and garment ones in particular is carried out basically in line with the Labour principles and standards. Workers employed to work in factories do not also have to pay any money for the recruitment. Employers do not keep any personal papers or property as well. Workers are free to choose their working places in accordance with their aspirations. They are also free to move to new working places with better salary and working conditions than those of the old working places.

It may occur that severance pay, pay of holidays which are still due, bonus pay and other forms of benefits are not paid to the worker if he/she leaves the factory.

According to the reports of Ho Chi Minh Trade Union Federation, the arrears of salaries/wages are reoccurring more and more seriously. Workers are not paid wages/salaries on schedule. There are several enterprises that owe 3 even 4 months ' wages to their employees. Specifically, some enterprises are always late to pay wages for their employees, only when the workers go on strike, their wages will be paid, and therefore strikes have become "the usual run of things". Many production units even apply the measure of paying annual salary/wages only, but no monthly salary/wages. Mrs. Nguyen Thi Minh Hien, the Vice-Manager of the Office of Labour, Invalids and Social Affairs of Tan Binh District, Ho Chi Minh City said that many business owners taking full advantages of native village relationship employed Labourers from their native villages to work and to provide food and accommodation at home; the salary was only 2-3 million VND/year and was paid as a lump sum at the end of the year. Within this system, the owners managed to force employees to work days and nights without holidays and Tet holidays. If an employee cannot withstand such coercion and asks to quit the job, the business owner will take the fact the employee has not worked for a year as an excuse, implying that according to the signed Labour contract the employee must pay an indemnity (The Labourer newspaper, December 28th 2005).

In 7 factories that FWF members audited in 2007, five did not give workers who resigned or were dismissed the severance allowance as stipulated by Viet Namese labour law. In three

of these companies workers were not paid the balance of their annual leave in case they had left the company before the end of the year. In two of these factories workers who were dismissed due to being absent for more than five days in one month, did not receive severance payment. In two factories severance payment did not include the time they were in training. Moreover, severance was not paid for the time worked on temporal or seasonal contracts. In one company it was found that severance pay was not paid within the stipulated 30 days after the contract was terminated. (see Labour Code art. 42, 43, 76, 85).

Migrant workers need to hand over some documents to their employer. Even notarised copies can be considered as being original IDs since they cost much time and money to obtain.

3.3.1.1 Guidance for auditors

Check documents:

- Employment contract
- List of / agreements with reliable recruitment agents;
- Policies on Freedom of Movement in & out the factory
- Overtime work form (record of voluntary work)
- Payroll records – are workers paid on a timely basis? Any exceptional deductions from the salary?
- Personnel files – are any original ID documents kept by the factory?
- Personnel forms (ie. annual leave applications)
- Contract and job description for security guards;
- Termination/Resignation documentation.
- Workers all signed contracts? On file? Also the Probation & Temp workers?
- Hiring & firing procedures comply with code/ law ?
- Documented?
- Personnel files adequate & complete ?

Other elements to check :

Hiring:

- Does recruitment involve heavy fees, debts or commissions?
- Workers voluntarily apply to work? Documented?

Salary:

- Salary paid to worker, not to agent or 3rd party?
- Workers are not in debt to the factory, agents, recruiters?

Resignation:

- Workers are not penalized or punished for terminating employment ?
- No withholding of wages or paying back wages?

Freedom of Movement:

- Gates not locked? Workers can leave w/o undue restriction?
- Can workers leave for family or medical emergencies?
- Are exit procedures unreasonably long, burdensome or difficult ?
- Workers can access drinking water and toilet facilities without restriction?

Security:

- What are contractual jobs, duties, responsibilities of Security guards?
- Security guards are aware and informed about Code & FoM ?

3.3.2 Discrimination in employment

The FWF Labour Standard:

"In recruitment, wage policy, admittance to training programs, employee promotion policy, policies of employment termination, retirement, and any other aspect of the employment relationship shall be based on the principle of equal opportunities, regardless of race, colour, sex, religion, political affiliation, union membership, nationality, social origin, deficiencies, or handicaps" (ILO Conventions 100 and 111)

3.3.2.1 Laws and Regulations

Article 5

1. Every person shall have the right to work, to choose freely the type of work or trade, to learn a trade, and to improve his professional skill without being discriminated against on the basis of his gender, race, social class, beliefs, or religion.

Article 109

1. The State shall ensure that the right to work of women is equal in all aspects to that of men. It shall establish policies to encourage employers to create conditions for women to work on a regular basis and apply widely the regime of flexible working time, part-time and casual employment and working from home.

2. The State shall establish policies on preferential treatment and reduction of taxes for enterprises which employ a high number of female employees.

Article 111

1. Employers are strictly prohibited from conduct which is discriminatory towards a female employee or conduct which degrades the dignity and honour of a female employee.

An employer must implement the principle of equality of males and females in respect of recruitment, utilization, wage increases, and wages.

2. An employer must give preference to a female who satisfies all recruitment criteria for a vacant position which is suitable to both males and females in an enterprise.

3. An employer is prohibited from dismissing a female employee or unilaterally terminating the labour contract of a female employee for reason of marriage, pregnancy, taking maternity leave, or raising a child under twelve (12) months old, except where the enterprise ceases its operation.

During pregnancy, maternity leave, or raising a child under twelve (12) months old, a female employee shall be entitled to postponement of unilateral termination of her labour contract or to extension of the period of consideration for labour discipline, except where the enterprise ceases its operation.

As for a rise in salary, should a woman worker satisfy conditions and standards as a man worker, salary raising should be preferentially made for her" (Clause 16 Decree 195/ CP, 1994).

3.3.2.2 Compliance situation

In general, there is no discrimination with regards to nationalities, races, religions, political viewpoints. In enterprises in general and in the textile and garment firms in particular. There is however discrimination among people of various social strata. For example, there is discrimination between managers and workers in the same factory. This phenomenon is manifested in treatment regimes, in eating regimes and in the salary adjustment, for instance, while the salary of group leaders, of managers is increased, there is slow increase or little increase to the salary of workers. There is a clear difference between the lunch allowance and the quality of lunches of managers and those of workers. This further increases the real wage gaps between management and workers.

The discrimination is also clearly and very profoundly reflected in the behaviour of managers towards workers. In several factories, workers are only allowed to go to the toilet twice a day, in some cases it is stipulated that workers must have cards to go to toilets and if they go "too many" times, they will be fined from 20,000 VND to 40,000 VND/time. According to stipulations, the lunch break will last one hour, but in fact workers can only have a 20 - 30 minute break. In addition, there have been cases in which the entrepreneurs beat workers. There have been certain cases of gender discrimination, but this is not a big problem. There is no sex discrimination in recruitment. Labourers are publicly informed and directly recruited on the basis of professional skills, voluntary application with clear registered records, curriculum vitae and with the confirmation of the local governments. However, as for textile and garment branch particularly, due to its specific features, female workers are generally preferred. Corresponding to the number of female Labourers, the percentage of female employees at managerial and supervising positions like heads of production lines, group leaders, heads of departments and offices also outweigh the male ones. In some cases, women are also appointed as the enterprise entrepreneurs. The criteria of people appointed for managerial posts mainly depend on workmanship, working experience, professional skills and on service seniority.

Some companies have forced women to sign papers that they will not become pregnant.

According to a study of Brassard (2004)⁷ based on 1998 Living Standards Survey data, the gender gap in rural T&G industries is much lower than in other industries; men earn about 5% more in average, in other industries this is about 21-27%.

There is not difference between the North and the South for those figures.

However there is more to the gender gap, as a study from Liu (2003) shows⁸. The female-male wages ratio rises from 0.77 in 1993 to 0.82 in 1998: the gender gap has declined. Compared with most transitional economies, Viet Nam had more equality in pay between gender groups in 1998. The mean position of females in the male wage distribution is calculated to be at the 44th percentile of the male wage distribution for 1992-93, compared with 40th percentile in 1997-98. This indicates either that women's labour market skills have deteriorated slightly relative to men's, or that discrimination has risen, or both.

Women have shorter potential experience than men. The average education for females has fallen overtime, and was lower than that of males in 1998.

The results indicate that the convergence of the Viet Nameese gender gap during the 1990s has been masked by an adverse change in discrimination. The positive gap effect largely offsets the observed skill effect and observed and unobserved price effects.

The experience of Viet Nam, echoing that of China, illustrates the role of discrimination as an obstacle to gender wage gap convergence. Viet Nam's underlying cultural beliefs and traditions emanate from Confucianism. Traditional culture tends to discriminate against women. As gender wage discrimination is heavily affected by employers' taste and the degree of market competitiveness, it is important to improve education about equity in the workplace in order to combat discriminatory attitudes.

3.3.2.3 Guidance for auditors

⁷ Wage And Labour Regulation In Viet Nam Within The Poverty Reduction Agenda. Caroline Brassard; National University of Singapore; Revised Draft: July 10, 2004

⁸ The Gender wage gap in Viet Nam, 1993-1998. Amy Y. C. Liu. Asia Pacific School of Economics and Governmen. <http://apseg.anu.edu.au>

Hiring, promotion & termination:

- Does the factory have a policy on non-discrimination? Provide training?
- Are decisions to hire, fire or promote based on skills & ability?
- Does the factory practice discrimination based on age, gender, race, religion or other characteristics?
- Are individuals given preferential job assignments for reasons other than ability?
- Is there a pattern of systematic discrimination?
- Pregnancy:
 - Does the factory refuse to hire or otherwise discriminate against married or pregnant women?
 - Does the factory test for pregnancy?
- Are women and/or pregnant women engaged in work hazardous to their health/ reproductive health?
- The Law is very strict on termination; only for things like stealing can a worker be fired directly.

Documentation and management systems:

- Non-discriminatory employment advertisements and notices – which conform with factory policy; Check texts of job advertisement to see discrimination in hiring (only young girls for example)
- Employment applications and forms – which do not make unlawful requests for information
- Interview & skill test forms – which should be kept on record even if a candidate is rejected
- Employment contracts – recruits should review & sign contracts before starting work
- Performance evaluations – signed by employee
- Termination notices
- Disciplinary procedure
- Factory rules

3.3.3 No Exploitation of Child Labour

The FWF Labour Standard:

"There shall be no use of child labour. The age for admission to employment shall not be less than the age of completion of compulsory schooling and, in any case, not less than 15 years." (ILO Convention 138) "There shall be no forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour. [...] Children [under the age of 18] shall not perform work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals." (ILO Convention 182)

3.3.3.1 Laws and regulations

Article 6

An employee shall be a person of at least fifteen (15) years of age who is able to work and has entered into a labour contract.

Article 119

1. Junior workers are workers under the age of eighteen (18) years.

Enterprises which employ junior workers must establish separate records containing the full names, dates of birth, current employment positions, and regular health reports of the junior workers, and must produce these records upon request by a labour inspector.

2. Any abuse of junior workers is strictly prohibited.

Article 120

Employment of persons under the age of fifteen (15) years is prohibited, except in a number of trades and occupations stipulated by the MoLiSa .

Article 121

An employer shall only be permitted to employ a junior worker in jobs which are suitable to the health of the junior worker to ensure the development and growth of the worker's body, mind, and personality. An employer shall have the responsibility of looking after the interests of the junior worker in respect of labour, wages, health, and training during the working process.

It is prohibited to employ junior workers in heavy or dangerous work, or work requiring contact with toxic substances, or work or workplaces which have adverse effects on their personality as stipulated in a list issued by the Ministry of Labour, War Invalids and Social Affairs and the Ministry of Health.

Article 122

1. The normal working hours of a junior worker shall not exceed seven (7) hours per day or forty two (42) hours per week.

2. An employer shall only be permitted to employ junior workers for overtime or nightshift work in a number of trades and occupations stipulated by MoLiSa.

3.3.3.2 Compliance situation

Generally speaking, in big enterprises and in FDI ones in Viet Nam, there seem to be no child Labour. In several big enterprises, there were some cases in which workers under 18 years (legal working age) used the records and papers of other people in order to be employed. Some years later, when they have the needs to pay in social insurance, they told enterprise leaders the truth so as to enjoy social insurance. Until then the enterprise leaders would know the truth. However, such cases are not so popular.

3.3.3.3 Guidance for auditors

- No factory wants to hire child labourers, since they know this is unacceptable with their clients, but young workers might borrow ID's from older persons to get a job.
- You may find young workers in canteens or packaging.
- Check fingerprints on the original IDs and do thorough interviews to discover real ages. E.g. Ask for Zodiac signs to discover age.
- Traditionally Tet is everybody's birthday and many persons may be '17.5' years of age.

Hiring:

- Does factory have a policy on minimum hiring age?
- Effective policies, procedures & documents for checking age ID ?
- Interview process & cross check to uncover false documents?
- Appropriate policies, procedures & documents for Juvenile Workers?

Operations:

- Do juvenile workers perform hazardous jobs ?
- Effective system, communication & training to prevent juvenile violations ?

Wages & Benefits Resignation:

- Do young/ juvenile workers receive adequate pay & benefits ?
- Do they receive adequate protection & benefits required by law ?
- Do they work OT?

Subcontracting:

- Does the factory subcontract with users of Child Labour?
- Are subcontractors informed of code and legal requirements? Receive training? Inspected?
- Canteen subcontractors?

Procedures and documentation to carefully check ID are critical.

Policies:

- Policy on minimum working age
- Policy for juvenile workers

Procedures:

- Verify age through documents and interview questions, cross check for false documents.
- Prepare plan/procedures for how to handle Child or Juvenile Workers if found.

Documentation:

- Record of checking Original ID, dated, countersigned
- Periodic ID checks, updates and monitoring.

Common issues:

- Juvenile workers hired due to failure to check month and year.
- Juvenile workers hired as seasonal workers or subcontract workers ie. canteen.
- Juvenile/child workers due to home-work.

3.3.4 Freedom of Association and the Right to Collective Bargaining

The FWF Labour Standard:

"The right of all workers to form and join trade unions and bargain collectively shall be recognised." (ILO Conventions 87 and 98) "Workers' representatives shall not be the subject of discrimination and shall have access to all workplaces necessary to carry out their representation functions". (ILO Convention 135 and Recommendation 143)

3.3.4.1 Laws and Regulations

According to the Law of Trade Union, the workers have the rights to establish and to join the Trade Unions in the work places. The committees should be elected by the workers, who are its members. All members have the right to be involved in all activities of the factory level union such as professional training, employment services, welfare and relief activities, legal assistance, etc. The workers have the right to freely choose if they want to become union member. Even the worker, who has not been became a member of the Trade Union has the right to require the Trade Union defend for his statutory rights and benefits (Article 11-4-Law).

Regarding the rights to participate in trade union's activities and to collective bargaining, enterprises and workers shall implement the provisions in Law on Trade Unions (1990) and some other ones in Labour Law (Clause 153 to 156).

Article 153

1. In the case of enterprises which are currently operating without a trade union organization, (...) the local trade union and industry trade union shall be responsible for establishing trade union organizations at such enterprises (...).

The employer shall be responsible for facilitating the early establishment of trade union organizations. Pending establishment, the local trade union or industry trade union shall appoint a provisional executive committee of the trade union.(...) Any act which obstructs the establishment and activities of the trade union at an enterprise is strictly prohibited.

Article 154

1. When a trade union organization is established in accordance with the *Law on Trade Unions* and the charter of the trade union, the employer must acknowledge such organization.

2. The employer must co-operate closely with trade unions and create favourable conditions for trade union activities in accordance with the provisions of the *Labour Code* and the *Law on Trade Unions*.

3. The employer must not prejudice an employee because he has formed, joined, or participated in the activities of a trade union organization. The employer must not apply economic pressures or other measures to interfere with the organization and activities of trade unions.

Article 155

1. The employer shall be responsible for provision of the necessary working conditions and facilities to enable the trade union to carry out its activities.

2. An employee who carries out trade union activities on a part-time basis shall be given certain free time during working hours to carry out such activities, and still be entitled to his full wage. The amount of time allowed shall depend on the size of the enterprise and the agreement reached between the employer and the executive committee of the trade union of the enterprise, but shall not be less than three working days in one month.

Article 57

Upon formulation of a wage scale, wage table and labour rates, the employer must consult the executive committee of the trade union of the enterprise

Collective bargaining:

Article 46

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3. A collective agreement shall only be signed if the negotiated content of such agreement is approved by more than fifty (50) per cent of the members of the labour collective in the enterprise.

Article 46

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2. The principal provisions of the collective agreement shall include undertakings of the parties in respect of employment and guarantee of employment; working hours and rest breaks; salaries, bonuses, and allowances; work limits; occupational safety and hygiene; and social insurance for the employees.

Article 49

1. After the collective agreement becomes effective, the employer must notify all employees of the enterprise thereof. All employees, including new employees who are employed after the signing of the agreement, shall be responsible for full implementation of the collective agreement.

Factory regulations:

Labour Rules and Responsibility for Damage

Article 82

1. Labour rules are regulations governing compliance with time, technology, and business and production management in the form of internal labour regulations.

(..) Enterprises which employ ten (10) or more employees must have internal labour regulations in writing.

2. Prior to proclaiming the internal labour regulations, the employer must consult the executive committee of the trade union of the enterprise.

3. An employer must register the internal labour regulations document with the body in charge of State administration of labour of the province or city under central authority. (...)

Article 83

1. The internal labour regulations must include the following main contents:

(a) Working hours and rest breaks;

(b) Rules and order in the enterprise;

(c) Occupational safety and hygiene in the work place;

(d) Protection of assets and confidentiality of technology and business secrets of the enterprise;

(dd) Conduct which is in breach of labour rules and penalties imposed for those breaches, and responsibility for damage.

2. The internal labour regulations must be notified to each employee and the main rules must be posted at necessary locations within the enterprise.

Article 84

1. A person who breaches labour rules shall, depending on the seriousness of the breach, be dealt with in one of the following manners:

(a) Reprimand;

(b) Extension of the period for wage increase to no more than six months or transfer to another position with a lower wage for a maximum period of six months, or removal from office;

(c) Dismissal.

2. The internal labour regulations must be notified to each employee and the main rules must be posted at necessary locations within the enterprise.

Article 87

1. When dealing with breaches of labour rules, the employer must be able to prove the employee's fault.

2. An employee shall have the right to represent himself or employ the service of a lawyer, a public defence counsellor, or a representative.

3. When examining and dealing with a breach of labour rules, the concerned party and a representative of the executive committee of the trade union of the enterprise must be present for participation.

4. Minutes must be prepared of hearings which examine and deal with breaches of labour rules.

Decree No. 114/2002/ND-CP dated December 31, 2002:

Article 5, point 3: "The employers shall have to formulate wage scales, payrolls and Labour norms according to the above-mentioned principles, after consulting the grassroots Trade Union Executive Committees, and must announce them publicly in their respective enterprises or agencies".

The Law on Trade Unions clearly requires a Trade Union to be active in relating to workers and management:

Article 6.

3. Each trade union shall monitor the observance of labour protection laws. In the event that any sign of danger which might threaten the life of a workers is discovered within a work place, the trade union shall be entitled to request that the person responsible carry out immediately all measures necessary in order to ensure occupational safety, including where required, the suspension of operations.

Article 9.

1. Each trade union shall, within its function, monitor the observance of the laws on labour contracts, employment, retrenchment, wages, bonuses, labour protection, social insurance and policies in relation to the rights, obligations and interests of workers.

Article 10

1. Each trade union shall, as the representative of the workers, request that the head of any bodies, units, and organizations concerned meet and answer all questions raised by the workers.

2. Where necessary the trade union shall organize a discussion to be held between the workers and the head of the body, unit or organization concerned in order that any matters relating to the rights obligations, and interests of the workers may be resolved.

Article 11.

1. Trade unions at local levels shall represent workers in signing collective labour agreements with directors of enterprises belonging to economic sectors and shall control the signing and performance of labour contracts.

2. Trade unions shall, with State bodies, resolves the complaints and accusations made by workers in accordance with the law.

3. Trade unions shall represent workers in negotiations with the head of bodies, units and organizations in order to resolve labour disputes within those bodies, units, and organizations. A representative of the trade union shall attend and state his opinion at the hearing of labour disputes by an authorized organization or court.

Article 12.

1. State bodies, heads of units and organizations shall have discussions with their counterpart trade union before making any decisions'in relation to the rights, obligations, and interests of workers.

2. Before making any decisions in relation to salary, bonuses or housing, or applying and disciplinary measures to force a worker to resign or to terminate a labour contract prior to its expiry, the director of a State run enterprise, or head of a State body or work unit shall discuss and agree upon the matter with the executive committee of the trade union.

Article 14.

The heads of bodies, units, and organizations shall create favourable conditions and provide information to the trade union necessary for the performance of its functions, rights, and obligations

3.3.4.2 Compliance situation

“ In Viet Nam, it is fairly common to find that union representatives are directly appointed by management or that union officers hold management positions in the factory. Most labour

experts believe that such intersection of duties compromises the independence of unions from management. In these situations, many workers may not even be aware that the union exist, or may not be familiar with the union's functions or duties. "" (FLA Report 2003)
In 9 out of 10 cases one may see the HR or Personnel manager being the chair of the union. Most workers tend to be not very interested. There is a top-down management style. The law states that staff has to be informed about the policy and targets of the company but this is often not happening.
The role of the trade union is to inform the workers of the production, deadlines, quality demands etc.
Other role of TU is to organize welfare, sport activities etc.

"The Viet Nameese Labour Code provides for union recognition and collective bargaining. It is reported, however, that these agreements are often drafted without a negotiation process or consultation with workers and their union representatives." (FLA Report 2003)

In principle, workers are free to found associations, but in fact, apart from the trade unions, workers in all enterprises do not take part in any other organization or association. Only the trade union organizations are the legitimate representative protecting the workers ' interests.

The law states that companies with over 5 employees (with at least a 6 month contract) must have a trade union. The employer has to ask the workers to elect trade union leaders. But most Joint stock and private owned companies do not have t.u's, the large Korean/Taiwanese and other foreign employers are firmly opposed to trade union's. Most of the privately owned Viet Nameese companies are too small to have a trade union. According to NA delegates, 85% of private sector and 65% of foreign invested enterprises do not have trade unions (VNN, 11-8-2006) Consequently there is no collective Labour bargaining. In accordance with the reports from the trade unions in export and processing zones and industrial zones in Ho Chi Minh City, out of 1,082 enterprises in export and processing zones and industrial zones, only 804 enterprises have had sufficient conditions to found their trade union organizations, but in fact, there are trade unions organizations in only 364 enterprises. And even in the enterprises with trade union organization, not all workers join the organizations.

Piece rate is decided by owners, but according to a regulation, the trade union has to be involved. Wage rates need to be transparent and discussed with workers.

The strikes that have taken place for over the past years, point at the weak role of trade unions in enterprises. In many enterprises, the trade unions, as the bridge between the employers and employees, have not fulfilled their roles objectively. There are some cases in which the trade unions at grass root level still "fence the trees they eat". The trade unions are not really the representative of workers ' interests. They do not want to offend enterprise leaders in order to keep their own living.

In non-state owned enterprises, the leaders of trade unions are not really elected by workers. Even the members of the trade unions executive committees are the workers who are employed by employers and who sign the Labour contracts and who are paid by employers, and therefore, they are completely dependent on the employers and they are not able to protect the interests of workers.

Of seven factories that FWF members audited in 2006 it was found that; in three factories audited, workers were not aware of the content of the CBA. They were not consulted or asked to approve the CBA. In three factories all workers were automatically members of the union; they were not free to choose.

In five of the seven companies, the union committee was chaired by a member of the management team. In two factories no or only 1 or 2 members of the union commission were workers. In another factory, workers were elected but per line only 10 workers had the right

to vote.

In three factories no announcements of trade union activities were found on any of the notice boards. In one factory, meetings between management and the union were said to only deal with production problems. In another company workers stated they were unaware of the union's role in piece rate setting. In yet another company, workers expressed to be confused about the union's role in general. Indeed, in five out of seven factories workers stated that the trade union was established by the company and had limited function to them other than organising socio-cultural activities and support when someone fell ill or was getting married (see also table 1).

In another factory there is a CBA but it is very basic and in one company the CBA needs to be renewed as it has expired two years ago. Also, in this factory re-elections for the TU committee are due since two years. The chair of the TU, who is also a staff member, stated that his time to work on TU issues is 'very limited'.

3.3.4.3 Guidance for auditors

Union

- Union membership must be a free choice. There must be documents that they applied.
- Workers must be informed by the union and factory floor workers must be represented in the trade union committee.
- Unions must play a role in labour issues and OHS not just in welfare and planning.
- Even if the law does not strictly require it. You may refer to, ILO principles of Social Dialogue, best practice and common sense (Whenever the trade unions at grass root levels cannot play their roles of being the bridge between enterprises leaders and workers, there is a risk of strikes or disturbances.
- Employer does not interfere with workers FOA ? Trade Union ?
- Employer does not discriminate or retaliate against Union members?

CBA

- CBA must be agreed, union CIE must be elected
- Check if the CBA has really been negotiated. E.g. :
 - Have there been different drafts?
 - Have there been a meeting with the workers to agree on the CBA?
 - Is the CBA consistent with the personal contracts.
 - Is the committee re-elected after end of term of office?
- Check if the CBA has been properly negotiated (can they show different drafts? Minutes or schedules of meetings?) and is the CBA is properly approved by more than fifty (50) per cent of the members?
- Employer negotiated CBA in good faith with Union? Does Management honor the agreement?

Communication

- Do communications channels exist for workers to raise issues with top Mgt?
- Systems to respond to anonymous complaints? Non-retaliation policy?
- Working & documented grievance systems?

Committees:

- Are workers involved in company planning through committees?
- Health & Safety? Canteen? Other?

Documentation & Management system:

- Copies of all written requests and demands received from the union or worker reps, together with the factory management responses to these requests or demands

- Centrally filed copies of all minutes of meetings showing informal and formal discussions with the union or worker representatives
- CBA in compliance with laws & code standards;
- Documented election of Trade Union representatives to assure democratic procedures are followed.

3.3.5 Payment of a Living Wage

The FWF Labour Standard:

"Wages and benefits paid for a standard working week shall meet at least legal or industry minimum standards and always be sufficient to meet basic needs of workers and their families and to provide some discretionary income" (ILO Conventions 26 and 131, the Universal Declaration of Human Rights, art 23(3) and art 25(1)). "Deductions from wages for disciplinary measures shall not be permitted nor shall any deductions from wages not provided for by national law be permitted. Deductions shall never constitute an amount that will lead the employee to receive less than the minimum wage. Employees shall be adequately and clearly informed about the specifications of their wages including wage rates and pay period."

3.3.5.1 Laws and Regulations

Article 55

The wage of an employee shall be agreed by the two parties in the labour contract and shall be paid in consideration of rate of production, and the quality and result of the work performed. The wage of an employee must not be lower than the minimum wage stipulated by the State.

Article 56

The minimum wage is set on the basis of the cost of living of an employee who is employed in the most basic job with normal working conditions, and includes remuneration for the work performed and an additional amount for contribution towards savings. The minimum wage shall be used as a basis for calculation of the wages for other types of jobs.

Article 57

Upon formulation of a wage scale, wage table and labour rates, the employer must consult the executive committee of the trade union of the enterprise; the wage scale and wage table must be registered with the body in charge of State administration of labour of the province or city under central authority where the head office of the enterprise is located and must be publicized within the enterprise.

Article 58

1. An employer shall have the right to select the method of payment of wages: calculated by reference to time (hours, days, weeks, or months), or on the basis of a product produced () provided that () the employee is notified of the method.
2. An employee whose wage is calculated by reference to hours, days, or weeks shall be paid at the end of the hour, day, or week, or such period as agreed by the parties, provided that at least one payment of wage is made every fifteen (15) days.
3. An employee whose wage is calculated by reference to months shall be paid monthly or half-monthly.
4. An employee whose wage is calculated on the basis of a product produced or a completed piece of work shall be paid in accordance with the agreement reached between the two parties

Article 59

1. An employee shall be entitled to receive his wage directly, in full, in a timely manner, and at the place of work.

Article 74:

An employee who has been employed in an enterprise or by an employer for twelve (12) months shall be entitled to fully paid annual leave as follows:

Twelve (12) working days shall apply to employees working in normal working conditions; Fourteen (14) working days shall apply to persons working in heavy, dangerous, or toxic jobs, or in places with harsh living conditions, and to persons under the age of eighteen (18) years:

The following jobs are classified as heavy, dangerous and toxic:

Decision No. 1629/LDTBXH-QD dated December 26, 1996:

Point XII – Textile & Garment industry:

16. Industrial sewing;

Decision No. 1152/2003/QD-BLDTBXH dated September 18th, 2003:

Point E – Textile & Garment industry:

22. Sew buttonhole;

24. Cut fabric.

Article 85:

Dismissal shall only be applied as a means of penalty in the following circumstances: Where an employee commits an act of theft, embezzlement, disclosure of business or technology secrets, or other conduct which is seriously detrimental to the assets or well-being of the enterprise;

Where an employee who is disciplined by extension of the period for wage increase or transfer to another position re-commits an offence during the period when he is on trial or re-commits an offence after he is disciplined in the form of removal from office;

Where an employee takes an aggregate of five (5) days off in one month or an aggregate of twenty (20) days off in one year on his own will without proper reasons

Article 42 (related to 85):

Where a labour contract is terminated in accordance with the provisions of sub-clauses (a) and (b) of clause 1 of article 85 of this Code, the employee shall not be entitled to a severance allowance.

Article 43:

Within seven days from the date of termination of a labour contract, each party shall be responsible for full payment of all sums outstanding to the other party. In special cases, this period may be extended, but shall not exceed thirty (30) days.

Article 76:

An employee of an enterprise who, due to employment termination or for some other reason, fails to take his annual leave or has not used up all his annual leave shall be paid

Deductions and Fines

Article 60

1. An employee shall have the right to be aware of the reasons for any deductions made from his wages. Prior to making any deduction, the employer must discuss with the executive committee of the trade union of the enterprise. Where there are deductions, the aggregate amount deducted must not exceed thirty (30) per cent of the monthly wage.

2. An employer is prohibited from imposing fines and penalties by way of deductions from wages of employees.

Article 89

An employee who damages tools and equipment or whose conduct causes damage to the assets of the enterprise shall be liable for payment of compensation in accordance with the provisions of the law for the damage caused.

Article 62

In cases where the employee has to cease working, he shall be paid as follows:

1. If due to the fault of the employer, the employee shall be entitled to payment of the full wage;
2. If due to the fault of the employee, that employee shall not be entitled to payment of wage; other employees in the same unit who have to also cease work shall be paid wages agreed on by the two parties provided that those wages are not less than the minimum wage;
3. If there is a breakdown in electricity or water through no fault of the employer, or due to reasons of force majeure, the level of wages shall be agreed on by the two parties but shall not be less than the minimum wage.

Article 63

Allowances, bonuses, movements up on the wage scale, and other incentives may be agreed in the labour contract, collective agreement, or the regulations of the enterprise.

Article 64

Based on the annual production and business results of an enterprise and the performance of employees, the employer shall pay bonuses to employees working for the enterprise. The regulations on bonuses shall be decided by the employer after consulting the executive committee of the trade union of the enterprise.

Legal minimum wage levels.

As per the current regulation, the general minimum salary of a worker is VND350,000 (US\$22) per month (*based on a 6 days working week of 8 hours*) in State-owned enterprises and those functioning under the Enterprises Law. The cabinet has agreed to increase this to 450.000 per October 2006, a third rise in 5 years and an increase of 29% that outpaces the average increase in labour costs of 10% in 2006, the CPI increase of 7.5% and 8% GDP increase. (VND 7-9-2006).

On January 6 2006, the Government had already issued Decree 03/2006/ND-CP (Decree 03) setting a new minimum wage for Viet Nameese employees who work for foreign-invested enterprises Viet Nam (collectively, FIEs). Decree 03 took effect on February 1 2006 and is further detailed by Official Letters No 120 and 190 subsequently issued by the MoLiSa (MoLISA). Under Decree 03, the minimum wage applicable to FIEs will be increased from the current VND626,000 per month to VND870,000 (US\$55) for FIEs located in urban districts of Ha Noi and HCM City. It will increase from VND556,000 per month to VND790,000 (\$50) for FIEs located in suburban districts of Ha Noi and HCM City; urban districts of Hai Phong, Ha Long, Bien Hoa and Vung Tau; Thu Dau Mot town; and suburban districts of Thuan An, Di An, Ben Cat and Tan Uyen in Binh Duong Province.

For the rest of the country, the minimum wage will go from the present VND487,000 to VND710,000 (\$45).

Under the decree, the new minimum wages are payable to Viet Nameese employees who carry out the "simplest work in normal working environments and conditions." With respect to employees who have passed "vocational training (including vocational training conducted by the relevant FIE itself)," FIEs are required to pay a salary at least 7 per cent above the statutory minimum wage. Decree 03 also expressly encourages FIEs to pay their employees salaries higher than the statutory minimum level.

The Decree explicitly stipulates that the lowest salary for the Labourers after apprenticeship, including the Labourers working for vocational training enterprises, must be at least 7% higher than the minimum salary. The Decision 53 issued by the Government clearly writes:

"The minimum salary is only the floor level that employers and employees (or representing trade unions) can make agreements, but must not be lower"

Official Letters 120 and 190 flesh out the definition by requiring the wage premium be paid to employees who received vocational training for: (i) a period of 1-2 years and received a *Bang nghe* (elementary-level vocational diploma) as defined in Article 3 of Government Decree 90 dated November 24 1993; (ii) a period of 1-3 years, ending in a *Bang tot nghiep Trung hoc nghe* (intermediate-level vocational diploma) as defined in Articles 32.2 and 37.3 of the 2005 Law on Education; or, (iii) for a period of 1-3 years, ending in a *Bang tot nghiep Cao dang nghe* (college-level vocational diploma) under Articles 32.2 and 37.3 of the Education Law. Having completed the described vocational trainings, the employee is no longer considered to be performing the "simplest work."

Summary:

Poverty Line	International: 2 \$ PPP per day National (2004): 100,000 VND per person/month in rural delta areas; 150,000 VND per person/month in urban areas.
Legal Minimum Wage SOE and Private(1 oct 2006)	450,000 VND/month
Legal Min Wage FDI (1 jan 2006), (excl. + 7%)	
Hanoi Capital & HCMC	870,000 VND/month
Suburb districts of Hanoi, Ho Chi Minh City and in the districts in Hai Phong City, Ha Long, Bien Hoa, Vung Tau, Thu Dau Mot Provincial Town, in districts of Thuan An, Ben Cat, Tan Uyen in Binh Duong province;	790,000 VND/month
Rest of the country	710,000 VND
Average salary T&G HCMC 2005	800,000 VND/Month excl OT
Reported average workers salary in FOE	1,100,000- 1,800,000 VND/Month

Wages for workers on probation:

Article 32

The employer and the employee shall agree on a trial period, the duration of the trial, and the rights and obligations of the parties. The wage of the employee during a trial period must be at least seventy (70) per cent of the wage for the relevant rank of the job. The trial period shall not exceed sixty (60) days in respect of works which require specialized or highly technical skills, or thirty (30) days in respect of other works.

Decree 113/CP on administrative penalty for law violations provides that if employers that pay workers the salary/wages lower than the minimum ones; do not pay salary/wages, do not pay exactly and sufficiently the wages for workers to work overtime and night shifts, will be fined with the maximum amount of 20,000,000 VND. In addition, the employers will cope with supplement fine that they must compensate for workers' losses, establish the pay roll and salary scales and register with Labour offices. Employees, whose interests are violated, should submit petitions to Labour inspectorate to inspect and settle the issues.

3.3.5.2 Compliance situation

Decision 53 issued by the Government clearly writes: "The minimum salary is only the floor level ". However, many enterprises do not obey this Decision intentionally; they use the minimum salary as the official salary to pay for workers for years. This phenomenon usually happens in enterprises of simple jobs like garments, leather shoes, and wood processing.

Nearly 90% of enterprises do not make public the scales of their pay rolls. This causes discontentment among workers because they think that they are not equitably treated and there is discrimination between the managerial posts and workers.

Moreover, several enterprises deliberately introduce too high working norms so that the workers have to work overtime, if not, the enterprises will use it as the basis to deduct the salary and bonuses of the workers. Norms are hardly set in a systematic/objective way, there is a lack of consultants who can do real time and motion studies.

Mr. Phung Van Hung, the Manager of the Labour Management Office, the Ho Chi Minh City Management Unit of Industrial Zones and Export and Processing Zones said that the percentage of enterprises setting up the regulations on salary and bonus payment was very low. So far only 80 enterprises out of 650 enterprises operating in the industrial zones and export and processing zones in Ho Chi Minh City have submitted and registered the salary and bonus pay rolls to the management unit.

The majority of Labour disputes so far are concentrated in the enterprises that do not make public the scales of their pay rolls, modes of payment of salary and bonus; Labour norms, praise and reward regulations to the workers. Mrs. Thanh Mai, Chief Judge of Labour, Ho Chi Minh City People 's Court said that when the disputes relating to salary and bonuses were brought to courts, the enterprises usually refused to submit the scales of pay rolls to court for investigation. It was because, according to them, these were "the secrets of the enterprises".

According to the statistics of Ho Chi Minh Trade Union Federations, from 2001 to the first quarter of 2006, 79.8% Labour disputes leading to strikes in the City are related to the payment of salary/wages and bonuses. This percentage tends to increased (Tuoi Tre online, December 29th 2005). The main violations of enterprises relating to salaries/wages include: untimely payment of salary (to fall behind salaries, untimely salary); not to publicize the salary scales; not to pay overtime wages; unreasonable Labour norms; no job cease payment, to deliberately reduce workers ' wages, the wages insufficient to support workers' living; and the wages are not increased in line with the increase of enterprises ' profits. Several enterprises agreed to pay salary/wages in line with their productivity, but later they paid average salary/wages.

Several enterprises reduce workers ' wages/salary by not paying annual extra salary funds in the enterprises' budget for employees.

Payment of allowances (such as the allowances for working seniority, or toxic working conditions) is another issue. Many enterprises cut or reduce the working seniority allowance, the "diligence" allowance (the bonus for the employees with high productivity and without day-off in a month) with an excuse that the enterprises increase the workers ' salary in line with the Decree 03/CP of the Government. Many enterprises do not pay the Tet bonuses for the workers (the bonus calculated corresponding to the working time of workers).

According to reports of functional bodies of Ho Chi Minh City, the average salary of workers in the branches of textile and garment, leather shoes, aqua-product processing (accounting for a large proportion in the City's industrial structure) is about 800,000 VND/person/month (excluding overtime wages). This salary is paid for 208 standard working hours in a month (26 working days x 8 hours).

This means workers can spend only 27,000 VND (over 1.5 USD). Such expenditure is only the minimum level and for one person and the salary cannot support the worker himself and his own family.

A recent study by the Ethical Trading Initiative, found that minimum wage was insufficient for workers in Viet Nam to cover basic needs.

Another survey conducted by MoLiSa show large disparities between SOEs, FIC and Private Companies. SOEs are at risk to loose labour. MoLiSa stated that the goal is to unify the different minimum wages by 2010. (VND 9-9-2006).

Average salary 2004/2005	SOE	FIC	Private
Managers	3.9/4.3	11.1/12.0	2.9/3.0

Workers were reported to earn about 1/3 of managers' salaries. Over 2006 this gap has been increasing.

According to the VGCL Average income in garment is 80\$, in footwear 60\$.

A recent inspection of private companies and JS companies showed an average salary of 1.8 million VND in JV with Japanese investors.

A Spokesperson of Molisa told FWF that the historical background has to be taken into account: there was a kind of double price mechanism. In the past workers received wages both in cash and in vouchers; a small book to buy rice etc. The MW is quite low, just above the poverty line of 1\$ a day. Since 1993 it has been adjusted 5 times and has risen from 120.000 to 350.000 VND. (compare Viet Nam's inflation rate, as measured by the consumer price index, which stood at an annual rate of over 300% in 1987, was below 4% from 1997 (except in 1998 when it rose to 9.2%) until 2003. However, in 2004 the consumer price index increased to 9.5%, dropping slightly in 2005 to 8.4%)

Sometimes the MW includes the social insurance so net it will be less.

According to this person the MW is not enough for workers in urban centres to survive, but in rural areas it is enough. A regional differentiation of MW would encourage migration too much. Hanoi and HCMC do not have the infrastructure to cope with that. It is discussed to abandon the 'registration book' system that controls migration.

The ETI (2006) report found that all workers were earning considerably more than the minimum wage, but the minimum wage was not considered enough to cover basic needs. Workers said they were able to save from their wage only if they did overtime hours; in one factory workers said they needed to do at least three hours overtime a day. Garment workers were earning over 40% more than footwear workers, on average, though the small sample of factories makes it difficult to draw conclusions about this. New workers, or short term workers, earned less due to being on lower grades and making more mistakes. They also had access to fewer state benefits (e.g. social and health insurance, pre- and post- natal benefits).

The MW will increase to 500.000 in a few years. But according to price rises and GDP increase it should be 900.000, to be still at the level of 50-60\$. Other sources cite that workers need 180.000-200.000 as a bare minimum. The Institute of Science and Social Issues have found that some regions have very low living standards and depend on self-reliance. The Institute of Nutrition Research also does useful research related to the LW.

VCCI told FWF that an annual 25% wage increase, as is proposed by the Ministry is feasible. Our spokesperson has seen statistics showing that many companies make enough profit to allow for higher wages (also according to VND press clipping 15-8-2006, some Vinatex companies paid a yearly dividend of 25%). Labour should not be too cheap, this is no good

way for development, also workers would go abroad.

In the late 1990s the LMW was for most wage earners too low to be significant. It was only one fourth of Viet Nam's average wage for the domestic sector.

Brassard (2004) notes "The minimum salary applied from January 2000 is 180,000 Dong per month." This is the equivalent of 7500 Dong per day or less than twelve US Dollars per month and falls far below the level of subsistence, leading labourers to undertake multiple jobs." "But the average the monthly salary (based on 1998 figures) in the textile industry in the Northern communes fell even below *below* this stipulated minimum threshold. For all other industries, including the southern textile industry, the average monthly salary is clearly above the stipulated minimum wage."

Many enterprises reduce the workers' salary instead of disciplining the workers when the workers leave work due to their own business (a deduction of 50,000 VND/time), they talk in working hours, forget to turn off the lamps (10,000 VND/time), go to work late, do not carry cards (a reduction of from 20,000 VND to 50,000 VND/time), Workers are displeased to be cut off 30% "productivity" money when they have only a day off.

3.3.5.3 Guidance for auditors

Mind:

- Income may be more than just salary.
- Many factories use piece rate bonus.
- Meal and transport costs and union dues can be deducted from the wage.
- Some company may apply financial fines not by deduction from a worker's wage but to be paid cash on the spot.

Minimum Wage:

- Does facility comply with Minimum Wage laws?
- Do workers earning piece rate all earn at least Minimum Wage?
- Payroll & wage records clear & accurate? Confirmed by workers?
- Pay & Communication:
 - Does factory clearly communicate wages, benefits, and bonuses to workers?
 - Do workers understand how to calculate their pay?
- Do workers receive clear, detailed & comprehensible pay slip?
- Leave & Benefits:
 - Workers receive all benefits & annual leave as required?
 - Do juvenile workers, pregnant women receive legal benefits?
- All deductions documented? Paid promptly? Social Security? Health insurance?
- Bonuses paid as per contract, CBA, law?
- Seniority & Severance:
 - Workers credited w/ all time worked from date of entry?
 - Severance paid according to law, contract, CBA?

Documentation & Management system:

- Company has clear, accurate & reliable pay system and maintains good records to show payment of all wages and benefits earned.
 - Clear, accurate and understandable pay system.
 - Payrolls and time records
 - The payroll and employee wage statements must contain all information necessary for an employee to calculate the monthly wages

- and allowance, including all lawful and reasonable deductions
- The wage structure should encourage good job performance rather than simply high volume.

3.3.6 No Excessive Working Hours

The FWF Labour Standard:

"Hours of work shall comply with applicable laws and industry standards. In any event, workers shall not on a regular basis be required to work in excess of 48 hours per week and shall be provided with at least one day off for every 7-day period. Overtime shall be voluntary, shall not exceed 12 hours per week, shall not be demanded on a regular basis and shall always be compensated at a premium rate." (ILO Convention 1)

3.3.6.1 Laws and Regulations

Labour Code

Working Hours

Article 68

1. Working hours shall not exceed eight hours per day or forty eight (48) hours per week. An employer shall have the right to determine the working hours on a daily or a weekly basis provided that the employees are notified in advance.
2. The daily working hours shall be reduced by one or two hours for workers who perform extremely heavy, dangerous, or toxic works as stipulated in a list issued by the Ministry of Labour, War Invalids and Social Affairs and the Ministry of Health.

Article 69

An employer and an employee may agree on additional working hours provided that the number of additional hours worked is no more than four hours a day or two hundred (200) hours annually, except in a number of special cases where the number of additional hours worked is no more than three hundred (300) hours annually as stipulated by the Government after consulting the Viet Nam General Confederation of Labour and representatives of employers.

Explanation: In 2002, VGCL succeeded in codifying their demand of limiting maximum overtime work to 200 hours per year into the revised Labour Code. At the last minute of the Labour Code revision process, however, VCCI and the textile and garment manufacturers' association (...gained an exemption clause for certain sectors allowing maximum 300 overtime hours per year subject to the Prime Minister's approval based upon consultation with VGCL and employers' representatives (article 69 of the 2002 Labour Code). Later, the textile and garment manufacturers achieved the exemption for their sector from the Prime Minister (Lee 2006).

OT Payment:

Article 61

1. An employee who works overtime shall be paid according to the wage unit price or wage of his current work as follows:

- (a) On normal days, at a rate of at least one hundred and fifty (150) percent;
- (b) On weekly days off, at a rate of at least two hundred (200) per cent;
- (c) On holidays and paid leave days, at a rate of at least three hundred (300) per cent.

When working overtime at night, he shall also be paid an additional amount in accordance with the provisions of clause 2 of this article.

Where an employee is allowed time off for the additional hours worked the employer shall only be required to pay the difference between the overtime rate and the wage as calculated

according to the wage unit price or wage of the current work of normal working days.

2. An employee who works at night as referred to in article 70 of this Code shall be paid an additional amount of at least thirty (30) per cent of the wage calculated according to the wage unit price or day shift wage of the current work.

Rest Breaks and Holidays

Article 71

1. An employee who works for eight hours consecutively shall be entitled to a break of at least half an hour which shall be included in the number of hours worked.

2. An employee who works nightshift shall be entitled to a break of at least forty five (45) minutes which shall be included in the number of hours worked.

3. An employee who works in shifts shall be entitled to a break of at least twelve hours between each shift.

Article 72

1. In every week, each employee shall be entitled to a break of at least one day (twenty four consecutive hours).

2. An employer may arrange for the weekly day off to fall on a Sunday or another specified day of the week.

3. Where, due to the nature of the work, it is impossible for the employees to have a weekly day off, the employer must ensure that the employees on average have at least four days off in a month.

Article 73

An employee shall be entitled to have fully paid days off on the following public holidays:

- Calendar New Year Holiday: one day (the first day of January of each calendar year);
- Lunar New Year Holidays: four days (the final day of the old year and the first three days of the new Lunar year);
- Victory Day: one day (the thirtieth day of April of each year);
- International Labour Day: one day (the first day of May of each year);
- National Day: one day (the second day of September of each year).

Where the public holidays referred to above coincide with a weekly day off, the employee shall be entitled to take the following day off also.

Article 74

1. An employee who has been employed in an enterprise or by an employer for twelve (12) months shall be entitled to fully paid annual leave as follows:

(a) Twelve (12) working days shall apply to employees working in normal working conditions;

(b) Fourteen (14) working days shall apply to persons working in heavy, dangerous, or toxic jobs, or in places with harsh living conditions, and to persons under the age of eighteen (18) years;

(c) Sixteen (16) working days shall apply to persons working in extremely heavy, dangerous, or toxic jobs, or in heavy, dangerous, or toxic jobs in places with harsh living conditions.

2. Travelling time not included in the annual leave shall be determined by the Government.

Article 75

The number of days of annual leave shall be increased according to the period of employment in an enterprise or with an employer by one additional day for every five years of employment.

Article 115

1. An employer must not allow a female employee who is seven months or more pregnant or currently raising a child under twelve (12) months old to work overtime or at night.

Decree N° 195/CP, 1994, provides in detail *working time, shift, overtime, holidays etc. as follows:*

Article 3

Time of work referred to in Article 68 of the Labour Code is detailed as follows:

1. In normal working conditions and normal Labour environment, the time of work:
 - shall not exceed 8 hours per day,
 - shall not exceed 48 hours per week.
2. In extremely hard, harmful, or dangerous work as indicated on a list issued by the MoLiSa and the Ministry of Health, daily working hours shall be reduced by from one to two hours.
3. The time which is included in the working hours with pay shall be composed of:
 - Time of rest in the interval between shifts;
 - Breaks for rest, according to the nature of work;
 - Time off work necessary for physiological needs, already included in working norms;
 - 60 minutes time off in every working day for a female worker nursing a child under 12 months of age;
 - 30 minutes time off in every working day for a female worker in her menstruation period;
 - Time lost in work stoppage not due to the worker's fault;
 - Time for education and training on occupational safety and health;
 - Time for meeting and education at the initiative of the employer or under his permission.

Article 4

The employer has the right under Article 68 of the Labour Code to determine the working hours on a daily or a weekly basis, and may fix the regular weekly rest day, according to the production and business conditions of the undertaking, but he/she shall not contravene the stipulations of points 1 and 2 of Article 3 of this Decree, and shall specify his/her decision in Labour contract, collective agreement, and work rules of the undertaking.

Article 5

Additional hours to be worked as referred to in Article 69 of the Labour Code is detailed as follows:

1. Additional hours to be worked shall not exceed 50% of the daily working hours established for each category of work. In the case where the time of work is determined on a weekly basis, the total of normal working hours plus additional hours to be worked in a day shall not exceed 12 hours. The total of additional hours to be worked shall not exceed 200 additional hours in a year.
2. The employer and the worker may agree on overtime work in the following cases:
 - to face accident occurred in production;
 - to deal with urgent tasks, which can not be delayed;
 - to deal with perishable materials or where work suspension is impossible due to strict technological requirements.
3. In case of facing natural disasters, foreign aggression, fire, epidemic expansion or of overcoming their consequences, the employer has the right to request more additional hours, beyond the limit established in point 1 of this Article, but consent of the workers must be sought.

Article 6

Hours of night work referred to in Article 70 of the Labour Code are computed in details as follows:

- From Thua Thien - Hue to the north: within the period from 10.00 P.M. to 6.00 a.m.
- From Quang Nam - Da Nang to the south: within the period from 9.00 p m to 5.00 a.m.

Article 7

The time of rest referred to in Article 71 of the Labour Code is detailed as follows:

- A break of 30 minutes for workers who work 8 consecutive hours in normal working

conditions, or 6 - 7 consecutive hours in cases of reduced daily working time.

- A break of 45 minutes for workers who perform night work consecutively from 10.00 P.M. to 6.00 A.M. or from 9.00 P.M. to 5.00 A.M.

Article 9

1. The following periods of time are included in the period of employment in the undertaking or with the same employer, as referred to in Article 74, for annual leave calculation:

- Trial period under the Labour contract for subsequent regular employment in the undertaking;
- Time off work for private purposes;
- Unpaid leave, with the consent of the employer;
- Time off work due to employment accidents and occupational diseases, but the total shall not exceed 6 months;
- Time off work due to sickness, but the total shall not exceed 3 months;
- Time off work under special regime for female workers;

(...)

- Time off during working hours to conduct trade union activities, stipulated by laws;
- Time of meeting or education requested or permitted by the employer;
- Forced work stoppage or time off work not due to the fault of the worker;
- Period of temporary employment suspension;

(...)

2. Workers are entitled to annual leave of 14 or 16 working days as under provisions in points b, c, paragraph 1 of Article 74 of the Labour Code, in conformity with the list of hard, harmful, dangerous work and areas with hard conditions of life, stipulated by the MoLiSa and the Ministry of Health.

3. During annual leave, if the traveling by car, by boat or by train (vice versa) takes more than two days, the traveling time counted from the third day shall be added to annual leave.

4. Travel fares and wage paid for traveling time shall be agreed by the employer and the worker concerned; as regarding workers working in remote areas (mountainous regions, regions in deep forests, islands), travel fares and wage paid for traveling time in their annual leave shall be borne by the employer.

Article 10

The workers shall be paid with the normal wage in lieu for those days of leave not taken under paragraph 3 of Article 76 of the Labour Code in the following cases:

...

2. The case where the Labour contract expires; the Labour contract is unilaterally terminated; the worker becomes redundant as a result of structural or technological changes; the worker is dismissed; the worker retires; the worker dies.

Note by FWF: This paragraph applies only to Article 76 of the Labour Code, i.e, in a condition that the employer has consulted with the executive committee of the trade union and notified the workers of the timetable for annual leave in advance. In this case if workers do not follow the timetable notified and do not use up the leave, they will be paid only 100% of normal wage. Point c, paragraph 3, Article 10 of Decree No. 114/ND-CP also regulates that "Labourers working overtime shall be paid overtime wage according to the wage unit price or wage actually paid for the work being done, which shall be at least equal to 300%, for paid festive days and holidays as defined in Articles 73, 74, 75 and 78 of the Labour Code".

Article 11

Annual leave referred to in paragraph 3, Article 76 and paragraph 2, Article 77 of the Labour Code is calculated as follows: to sum up the relevant basic number of working days for annual leave with the number of additional days according to the length of service in the undertaking (if any), then divide the total by 12 months (excluding decimal) and multiply by the number of actually worked months in the year to have the number of the days for annual

leave.

Article 13

Female workers shall not be employed in hard, dangerous work, or work exposed to toxic substances that are harmful to their child bearing and rearing functions, as stipulated in paragraph 1, Article 113 of the Labour Code. (...)

Circular No 07 dated 11/4/1995 of the MOLISA providing guidance for the implementation of some provisions of the Labour Code dated 23 June 1994 and of the Government Decree No 195/CP dated 31 December 1994 on the time for work, time for rest

Pursuant to the Labour Code dated 23 June 1994 and Government Decree No195/CP dated 31 December 1994 eLabourating and providing Guidance for the implementation of provisions of the Labour Code on the time for work, time for rest, the MoLiSa hereby provides guidance for the implementation of those provisions as follows:

I. TIME OF WORK

The working time referred to in Paragraph 1 Article 3, of the Government Decree No 195/CP is the normal working time applied to all workers.

The time of work done in extremely hard, harmful or dangerous conditions shall be reduced by one to two hours specified in Paragraph 2, the Article 3 of Government Ordinance No 195/CP shall be determined or agreed on by the MoLiSa (MOLISA) and the Ministry of Health (MOH).

II. TIME OF REST

1. Break

The break referred to in Article 7 of the Government Decree No 195/CP, is included in the 8-hour shift in the normal working conditions or of the 7/6- hour reduced shift. The break arrangement depends on work organisation of the undertaking and it is not necessary for all workers to have a break at the same time in the middle of the shift.

Circular No. 12/2003/TT-BLDTBXH dated 30 May 2003, Part V, point 2

Overtime pay is calculated at 300% level, applicable to overtime hours on paid festive days or holidays (this 300% level covers wage paid for fully paid leaves under Articles 73, 74, 75 and 78 of the Labour Code).

For Labourers receiving product-based wages, if, in addition to the regular time, their enterprises or agencies ask them to work overtime to make extra products, perform works beyond norms or arising jobs not yet included in the annual production and business plans, the wage paid for extra products made or jobs performed overtime shall be equal to 150% of the unit wage paid for products made in the regular working hours, if Labourers work overtime on weekdays; 200% if they work overtime at weekends; or 300% if they work overtime on paid festive days or holidays.)

“Over - time shall not exceed 50% working hours stipulated in the day (i.e 3- 4 hours/day). Total working hours shall not exceed 12 hours/ day and total overtime in a year shall not exceed 200 hours. A salaried worker working overtime shall benefit at least 150% ordinary work/ day and at least 200% of the same if overtime working occurs in holidays. If salary is paid under piece-work system, overtime product unit price shall increase by 50% in ordinary days and 100% in week-end and holidays” (Article 61, Labour Law).

3.3.6.2 Compliance situation

The gap in compliance is not too big here, workers know what there rights are in this respect. More common is cheating on time, e.g. If piece rate norms are too high, workers may be forced to work extra time just to fulfil the norms. Some companies do not calculate that as OT but this is not legal. Also time used for repairs or make up is sometimes not calculated as

working time, this is not legal also.

The ETI (2006) report states that all factories still rely on long working hours, especially in footwear where workers claim to work 11 hours a day on average, 6 days a week. Almost all management said it was hard to comply with code requirements due to short lead times and inflexible deadlines. Management also reported difficulties in making overtime completely voluntary due to line production. Workers complained of being expected to do overtime at little notice and not having time to prepare for it. In one factory workers said they sometimes signed to say they agreed to overtime/Sundays after the work was done.

Workers may be forced into working too much overtime, they sometimes have to work up to 10 to 11 hours a day or from 8 a.m. till 9 or 10 p.m., and in certain cases till 3 a.m. the next day without the agreement from the workers. When enterprises want the workers to work overtime and nightshifts, they have to obtain agreements with workers. However, enterprises try to find all ways and means to make workers work overtime whether they want or not. Coercing workers into working overtime and nightshifts is violations of Labour laws. Item 4, Clause 10 of the Decree 113/2004/ NŞ-CP provides: administratively fine from 15 to 20 million VND against ill treatment and coercion of employees.

However, among the more compliant factories written OT agreements are not unusual. Forced OT is a bigger problem in shoe industry since production lines are more integrated. Enterprises try to "squeeze themselves through" the functional bodies with complicated acts. For example, enterprises use two day's work cards, one is used for official day's work in case the enterprises are inspected by the functional bodies, and the other is used for overtime working. When the Labour functional bodies come to inspect, the enterprises will produce the official day's work cards.

The reason that the enterprises force workers to work overtime is to fulfil orders. District healthcare centres in Ho Chi Minh City, like Binh Chanh District Healthcare Centre, have to give emergency treatment to hundreds of fainted workers cases a month. Some healthcare centres, like Tan Binh District Healthcare Center, some days have to give emergency aids to tens of cases in which workers are fainted because they have to work overtime. In Linh Trung export-processing zone, workers went on strikes to oppose the companies to make workers overwork. Workers had to work from 7.30 a.m. till lunch break at 12 o'clock, instead of one-hour lunch break, the companies forced workers to continue working immediately until 9 o'clock p.m.

Anita Chan and Hong-zen Wang (2003) report: "When we asked seven Viet Nameese workers in the Ho Chi Minh City region what they considered as the optimal amount of overtime work a week, all seven emphasized that they wanted one day off a week (in China, during busy seasons workers in the middleman-owned factories often work for a few months without any days off), and an absolute maximum of 12 hours of overtime from Monday to Saturday on top of a normal 48 hour week. (...) In other words, they took a 60 hour week as an absolute maximum, which is the legal maximum allowed by the Viet Nameese labour law. This optimal number was based on practical experience that anything longer would be beyond their physical endurance. Some workers did report that they worked over 12 hours a day at peak season. If the managers pushed them too far, they indicated, they would just go on strike. In Haiphong, one manager told us he was worried about his workers going on strike if he had kept pushing them to work over 60 hours for more than two weeks.

ETI (2006) reports similar findings from worker interviews. "Workers mentioned various benefits from these changes (decrease in OT): they were less tired, their health had improved and they spent less on medicine/vitamins; they had more time for friends and family, especially small children; they had more time for studying and household activities.

While some workers (especially in one particular factory) complained that they weren't earning as much as before, most said that so long as they had two-three hours overtime per day they were happy as there was a balance to be struck between earning enough and having time to rest. Generally migrant workers agreed with this, but in one factory some were taking piece work home to do on Sundays and they would have earned more if they were working in the factory."

In the seven factories that FWF members audited in 2006, it was found that while most factories worked overtime (OT), excessive OT appeared to be a structural phenomenon in one company only. In another factory, the auditing team was unsure whether they had obtained enough proof to rule out excessive OT. In five out of seven companies overtime registration was incorrect or incomplete. In one of these companies OT registration was non-existent. In another company signed attendance registers were not consistent with time records and payrolls. In three companies cases were found where workers according to OT registration had not worked OT or worked on Sundays, while, according to statements made by workers themselves and entries in the broken needle logbook, there had been OT. In two factories overtime hours were not paid as stipulated by law; the law stipulates that during week days 150% of wage rate is paid for OT, 200% during the weekend and 300% on public holidays.

In several factories pregnant and nursing women were found to do OT, allegedly with their consent. In two factories workers were not compensated with a day off for working on Sundays. In one company there was no system in which workers' sign as to agree to doing OT; as such there were no means for workers to refuse working OT.

3.3.6.3 Guidance for auditors

Basic questions concerning OT:

- Does OT follow all limits in local law & regulations?
- Does OT comply with Code limits?
- Is OT voluntary? Can workers refuse OT without penalty?
- Documented?
- Rest times:
- Does factory comply with legal provisions on day of rest?
- Does factory comply with one-day-in-seven code requirement?
- Reasonable meal and rest breaks ? Comply with local law?
- Time recording :
- Workers paid for all hours worked?
- Does factory have an accurate & reliable time recording system?
- Do time cards, swipe cards, manual records match all evidence?
- Does the factory use fraud? Double books? Hidden payrolls?

Auditors should keep in mind that:

- Even if a company has a computer system the supervisors often have a manual time record. A computer system is easier to manipulate. By worker interviews you can double check time registration systems with clocks or swipe cards: One person may sign for the whole line.
- OT is sometimes used as an alternative to new recruitment. Auditors can calculate if OT is such an amount and so frequent as to justify the hiring of extra persons.
- The maximum of 200/300 hours OT only concerns workers with a permanent contract.
- Workers between 15-18 years old fall under different regulations than adult workers.

- Regulation: if workers work over 300 hours this must be by mutual consent.
- If a worker works over 10 hours they have a right to a paid diner break for 30 minutes.
- Night time rate is extra over OT, not added but multiplied.
- Auditors should ask if factories have back ups for workers that do not want to do OT.
- The law leaves open the possibility for just a verbal agreement but if this is written down it cannot be verified in audits and so this is not acceptable for us?

Documentation & Management system:

- Clear well-documented and understood policy and procedure for voluntary OT sign up.
- Reliable time recording system.
- No double time card or payroll system are used
- Production targets and productivity levels are based on a regular work week and not excessive overtime
- Encourage workers to keep their own daily working hour records. Print out a statement of the working hours for workers to check before they receive pay.
- Hourly records and payroll maintained in good conditions and on site.
- Good communication with workers is essential.

Overtime Compensation

- Premium Pay for OT:
- Workers receive premium pay for OT?
- In compliance with local law?
- Is OT pay properly paid & calculated?
- Including piece rate?
- Pay for Holidays & Leave:
- Work on holidays or leave days receives premium pay?
- In compliance with local law?

3.3.7 Health and Safety

The FWF Labour Standard:

A safe and hygienic working environment shall be provided, and best occupational health and safety practice shall be promoted, bearing in mind the prevailing knowledge of the industry and of any specific hazards. Appropriate attention shall be paid to occupational hazards specific to this branch of the industry and assure that a safe and hygienic work environment is provided for. Effective regulations shall be implemented to prevent accidents and minimize health risks as much as possible (following ILO Convention 155). "Physical abuse, threats of physical abuse, unusual punishments or discipline, sexual and other harassment, and intimidation by the employer are strictly prohibited."

3.3.7.1 Laws and Regulations

Labour Code

PPE

Article 95

1. An employer shall be responsible for the provision of sufficient protective equipment and ensuring occupational safety and hygiene, and for the improvement of work conditions in the

work place. The employee must comply with all occupational safety and hygiene regulations and the internal labour rules of the enterprise. Any organization or individual engaging in labour activities or production must comply with the laws on occupational safety and hygiene and environment protection.

Feasibility study

Article 96

1. Where an enterprise wishes to construct a new establishment, or expand or renovate an existing establishment, for the purposes of production or utilization, preservation, storage, or receipt of machinery, equipment, materials, or items which have strict requirements for occupational safety and hygiene, it must prepare a feasibility study outlining measures to be taken to ensure occupational safety and hygiene in the work place of employees and the surrounding environment in accordance with the provisions of the law.

Regular inspections and maintenance

Article 97

An employer must ensure that the work place satisfies the requirements of space, ventilation, lighting, and hygiene standards, such as dust, steam, toxic gas, radioactivity, electromagnetic field, heat, humidity, noise, vibration, and other detrimental factors. Such factors must be inspected and measured on a regular basis.

Article 98

1. The employer must, on a regular basis, inspect, maintain, and repair machinery, equipment, plants and buildings, and storage facilities in accordance with occupational safety and hygiene standards.

2. The employer must have adequate protection for parts which may easily cause dangers and sections of machinery and equipment within the enterprise. In work places and in places where there is machinery and equipment, or dangerous or toxic factors, the employer must install preventive measures for cases of breakdown, and instructions on occupational safety and hygiene in locations where they can be easily noticed and read.

Health checks and health care

Article 102

When recruiting and organizing employees, an employer must take into account the stipulated health criteria in respect of each job, and must organize the training, instructing, and notification of employees of occupational safety and hygiene regulations, preventive measures, and possible accidents which might occur for each particular job of each employee.

An employee must have his health examined during recruitment and, on a regular basis, during employment in accordance with the stipulated regime. The expenses of the health examination of the employee shall be borne by the employer.

Article 103

Enterprises shall be responsible for organizing health care for employees and for implementation of first aid and emergency actions when required.

Decree 06/ CP 1995 provided more detailed stipulations on periodic environmental inspection, medical examination, toxic indemnity etc:

“Working place with toxic elements shall be measured at least once per year in terms of the same” (Clause 4)

“Workers (including apprentice and probation ones) shall be subject to medical examination at least once per year, and every 6 month for heavy duty, toxic jobs, which expenses to be borne by employer (Clause 7)

“Workers involved in heavy-duty, toxic jobs shall be indemnified on-site and in kinds within their shift. Payment in cash instead of kinds is prohibited (Article 8, Decree 06 / CP 1995).

Reporting of accidents

Article 108

All work-related accidents and cases of occupational disease must be declared, investigated, recorded, statistically noted, and reported on a regular basis in accordance with the provisions of the law.

All conduct which intends to conceal or to declare or report falsely a work-related accidents or occupational diseases is strictly prohibited.

Specific provisions related to women workers

The state has Labour policy suitable to women conditions; Employer may not employ women in heavy-duty and hazardous jobs in contact with toxicants badly affecting their giving birth and breast feeding, child care function" (Article 123, Labour Code);

Employment of women workers in heavy-duty/ toxic jobs or jobs causing hazard to them; in case they may not still mute to other jobs, working hours shall be 2 hours shortened, however with full payment of salary (Article 13, Decision 195/CP, 1994)

Art. 116

Working places with women workers shall have dressing-room, bathroom and lady toilet.

A list of 439 heavy-duty, toxic jobs excluding women employment shall be established" (Circular No. 03/ TT- LB, 1994)

Besides, other measures are applied in case of employment of women workers in prohibited jobs to secure their health such as shortening work/ day time as above mentioned. (Article 11, Decree 3/CP, 1996)

Maternity leave

Article 114

1. A female employee shall be entitled to maternity leave prior to and after the birth of her child for a total period of four to six months as determined by the Government on the basis of the working conditions and nature of the work, whether the work is heavy, harmful, or in remote locations.

Where a female gives birth to more than one child at one time, she shall be entitled to an additional thirty (30) days leave for every additional child calculated from the second child onwards. The rights and benefits of a female employee during her maternity leave shall be as stipulated in articles 141 and 144 of this Code.

2. Where required and with the agreement of the employer, a female employee may take additional leave without pay at the end of the maternity leave stipulated in clause 1 of this article. Provided that the employer is given notice, a female employee may return to work prior to the expiry of her maternity leave if she has at least two months rest after birth and a doctor's certificate confirming that early resumption of work does not affect her health. In such case, the female employee shall still be entitled to the maternity leave allowance as well as the normal wages for the days worked.

Article 117

1. When taking leave of absence to attend pregnancy examinations; to carry out family planning programmes or to have medical treatment for miscarriage; to attend to a sick child under seven years of age; or to adopt a newborn baby, a female employee shall be entitled to social insurance benefits or to be paid by the employer a sum equal to the amount of social insurance benefits.

There is no legal requirement to have a H&S committee. The Labour Code and Law on Trade Union contain some articles about the H&S requirements and the role of Trade Union in monitoring the implementation of the legal requirements on safety of the enterprises.

According to the Labour Law, the Government organises State Inspection for Labour Safety and Labour Hygiene to monitor the implementation of the legal requirements on labour safety and labour hygiene (Chapter XVI- Labour Code).

Companies need to implement regular safety trainings as stipulated in **Circular No. 37/2005/TT-BLDTBXH date 29 December 2005**

Food poisoning has been an issue. There exists an Ordinance on Food Administration, which was effective in Nov. 2003 and an important decree relating to factory canteens:

Decree No. 41/2005/QĐ-BYT dated 8 December 2005:

Article 9 – *Conditions on the food safety and hygiene of collective canteens:*

1. *Must have safe raw food material supplying contracts, conduct 3-step-inspection and kept sample for 24 hours.*
2. *Serving staff must undergo health check and excremental examination at least once per year; serving staff must also have certificate of being trained on food safety and hygiene;*

Fire prevention

Decree No. 35 /2003/ND-CP dated 4 April 2003

Article 22.

Heads of establishments, special economic zones, industrial parks, export processing zones or hi-tech parks, chiefs of villages, hamlets, urban population groups, forest owners, and owners of motorized traffic means, which require special fire prevention and fighting safety, shall have to draw up the fire-fighting plans; where their fire-fighting plans require the mobilization of forces and means of many agencies, organizations or localities, they shall request the fire prevention and fighting police agencies to guide and direct the eLabouration of such plans.

Escape routes

Exit paths must be at least 0.8m wide: TCVN 2622-1995

Regulations on First Aid Kit

(issued together with Circular No.09/2000/TT-BYT of April 28,2000)

1. Place to put first aid kit:

- Kits shall be put at work places of Labourers.
- Kits shall be put at places most visible, easy to find, with a specific sign (usually a red cross).
- Notifying the Labourers of the place of the kit and use method.

2. Equipment, tools and medicine for the first aid kit

- The first aid kit must have enough equipment and instruments for use in emergency, not to put other things in the kit.
- To check the first aid kit regularly to ensure sufficient instruments.

Kit A Kit B Kit C

Number Minimum equipment (for 25 (for 50 (for 100 workers) workers) workers)

- 1 Adhesive tape (roll) 02 02 04
- 2 Bandage 5 x 200cm (roll) 02 04 06
- 3 Medium bandage 10 x 200 cm (roll) 02 04 06
- 4 Large bandage 15 x 200 cm (roll) 01 02 04
- 5 Absorbent pad (10 pieces/box) 01 02 04
- 6 Absorbent wool (box) 05 07 10
- 7 Triangular bandage (unit) 04 04 06
- 8 Rubber garrot 6 x 100 cm (unit) 02 02 04
- 9 Rubber garrot 4 x 100 cm (unit) 02 02 04
- 10 Scissors (pair) 01 01 01
- 11 Clamp 04 04 06

- 12 Disposable glove (pair) 02 02 04
- 13 Suitable gas mask 01 01 02
- 14 Sterilized water or salt solution in 100 ml disposable bottles (where running water is not available) 01 03 06
- 15 Arm fixture (set) 01 01 01
- 16 Forearm fixture (set) 01 01 01
- 17 Thigh fixture (set) 01 01 02
- 18 Shin fixture (set) 01 01 02
- 19 Disinfectant (bottle) 01 01 02
- 20 First-aid plan 01 01 01

3. Quantity of first aid medicine kits

The quantity of necessary first aid boxes or kits depends on the disposition at the establishment and the number of Labourers. There should be at least 1 first aid box or kit at each floor of the building. The total of kits of different types is indicated below, depending on the number of Labourers.

Number of Labourers Quantity and type of first-aid bags

Under 25 persons At least 01 kit type A

From 26 to 50 persons At least 01 kit type B

From 51 to 150 persons At least 01 kit type C

Note: 01 kit type B is equivalent to 02 kits type A, and 01 kit type C is equivalent to 02 kits type B.

Need for environment test

According to Circular 13, a company should make an annual comprehensive environment tests, including noise, humidity, vibration, chemicals temperature and micro biological (e.g. bacteriological) analysis.

OHS for SME's

Circular No. 09/2000/TT-BYT dated 28 April 2000 gives detailed guidelines concerning *OHS for SME's* (A medium-size enterprise is an enterprise having from 51 to 200 Labourers. - A small-size enterprise is an enterprise having 50 Labourers or less.)

III. CONTENT OF HEALTHCARE FOR LABOURERS AT MEDIUM AND SMALL-SIZE ENTERPRISES

1. Meeting all the norms on Labour sanitation: The work place of Labourers with noxious elements must have a clearly written internal rule placed at a vantage point. For work places having elements likely to cause occupational diseases Labourers must be informed of the preventive measures so that they themselves can avoid diseases.
2. Organizing the popularization of methods of Labour safety and sanitation: Annually, the Labour manager must organize classes for Labourers on the effect of the elements arising from the Labour environment on health so that the latter may take measures to protect themselves against the harmful effect of the occupations and occupational diseases.
3. First-aid organization: The employers must organize well first- aid work at the enterprises. First-aid workers must be trained professionally and provided with certificates
Each workshop must have a first-aid kit as listed in this Circular (Appendix 2). First-aid regulations shall be presented and directed at the work place so that the Labourers can know the enforcement thereof.
4. Drawing up the Labour hygiene dossier: Each enterprise must compile a Labour dossier according to the form stipulated at Circular No. 13/TT-BYT of October 21, 1996. The results of Laboratory tests, Labour environment inspection and periodical health-check shall be supplemented annually in the Labour hygiene dossier.
5. Laboratory test and inspection of Labour environment: Annually, enterprises must organize Laboratory tests and inspection of the Labour environment, evaluate the harmful effect of the Labour environment in order to take measures to improve the Labour conditions and environment.

6. Conducting recruitment health-check: Before admission to work, the Labourers (including job learners) must have a health check; the employer must base himself/herself on the Labourer's health to assign an appropriate job or occupation. A copy of the recruitment health-check dossier must be kept in the health dossier.

7. Periodical health-checks: The employer has the responsibility to organize periodical health-checks for the Labourers at least once a year.

The periodical health check dossier shall be made according to the set.

Classification health-check is an overall health-check in all specialties to evaluate and classify the health condition of all Labourers in the enterprise. This check must be organized at least once every three years. Where conditions permit, periodical checks may be combined with annual health classification.

8. Health-checks for early detection of occupational diseases: For Labourers working in noxious environments liable to occupational diseases, the employer shall have to organize health-checks for early detection of occupational diseases. This type of health-check should be combined with periodical health-check at the establishments liable to occupational diseases.

9. Evaluation of health due to Labour accidents and occupational diseases: All Labourers being victims of Labour accidents or suffering from occupational diseases shall enjoy occupational health-checks at the Medical Evaluation Board. The sufferers of occupational diseases must be re-examined every six months, receive treatment and functional rehabilitation at medical establishments.

11. Facilities in service of Labourers: The work place of the Labourers must have all the sanitary facilities, including: toilet, sufficient clean water, bathroom, rest room and clean and hygienic dining room. Each enterprise shall build a "health corner" where the Labourers can read books, leaflets, posters on disease prevention and use of the first-aid kit. This may be a separate room if the enterprise can afford it.

IV. RESPONSIBILITY OF MANAGING AND CARING FOR THE HEALTH OF LABOURERS AT MEDIUM AND SMALL ENTERPRISES

A. RESPONSIBILITIES OF THE ENTERPRISE OWNERS

1.... the assignment of medical workers to care for the health of Labourers at medium and small enterprises shall proceed as follows:

- If the enterprise already has a doctor, a physician or a medical station, it shall leave them as such for the healthcare service.

- If the medium enterprise does not yet have a medical staff, it must assign a medical worker to this job.

- For a small enterprise not qualified to use a medical worker to care for the health of Labourers, it may sign a contract with medical staff at the medical station or retired medical workers to work on given days and hours, but it must register with the Medical Center of the district to receive the latter's common guidance. The medical worker can concurrently assume other jobs to conform with the Labour management of the enterprise.

- To organize a safety and sanitation net at the enterprise for on- the- spot first- aid when an accident occurs.

2. The medical workers caring for the health of Labourers at the enterprise must be trained in the program of Labour safety and hygiene... .

4. The enterprise must carry out well primary healthcare, conduct timely first aid and carry out examination and treatment of common diseases for the Labourers, popularize disease prevention methods and educate the Labourers thereon.

B. RESPONSIBILITIES OF THE COMMUNE, WARD AND TOWNSHIP HEALTH SERVICES (...)

2. To have a firm account of the enterprises and noxious elements in order to take measures to guide the healthcare for the Labourers.

3. To manage the health dossiers of Labourers at the medium and small-size enterprises in the locality.

4. To organize first aid to the patients, victims of Labour accidents, chemical poisonings and other incidents.
5. To popularize methods of preventive hygiene against epidemics and occupational diseases for the Labourers.

C. RESPONSIBILITIES OF THE MEDICAL CENTERS (PROPHYLACTIC MEDICINE TEAMS) IN THE DISTRICTS AND TOWNSHIP UNDER THE PROVINCE

2. To guide the enterprises in drawing up the dossiers of Labour hygiene, control the noxious elements in the Labour environment, manage the health of Labourers. These Labour hygiene dossiers shall be made in two copies, one to be kept at the enterprise and the other at the Prophylactic Medicine Team.

V. REPORTING REGIME

The reporting regime shall comply with Circular No.13/BYT-TT of October 21, 1996 and is stipulated as follows:

Quarterly reports: Every three months, the enterprises shall complete their reports to the Medical Center of the district, town or city under the province (the Prophylactic Medicine Team) and the commune/ward health station on the 20th of March, June, September and December. If the enterprise belongs to a ministry or branch, it shall have to send one more copy of the report to the Labour Health Center of the branch.

3.3.7.2 Compliance situation

Lack of inspection capacity

As for OHS, many regulations are violated. Since the LC lacks specification, the courts do not have a legal basis to make a judgment. According to many observers fines are too low. Most local authorities are in need of jobs and investment and do not support the Labour Inspectorate to fine firms. Also there are not enough inspectors. FDI companies oppose inspections with many excuses.

"Of the 5.881 reported labour accidents in the country in 2006 only 244 have been investigated by inspectors at the provincial level. MoLiSa aims to have 80% of workers receive health examinations for early diagnosis of occupational diseases and also to have 80% of workers to receive OHS education. The report cites lack of labour safety equipment, obsolete machinery and indifferent management attitudes on OHS as the main causes for the increase in the number of labour accidents. "(VND March 1, 2007).

The Head of Labour Protection, Safety and Technical Inspectorate - The City Department of Labour, Invalids and Social Affairs admitted that "ambitions far exceeded the abilities". There are only 7 such inspectors. If these inspectors worked with their utmost ability, it would take them 650 years to inspect all enterprises and production units currently in Ho Chi Minh City. Workers injured in Labour accidents are not treated immediately because there are no medical facilities in the workshops or factories and if there is, it is usually rudimentarily equipped and has insufficient medicines and qualified medical workers to treat the injuries. According to the data of Ho Chi Minh City Center for Healthcare and Environment, through medical check-ups and professional disease examination for nearly 15,000 workers in over 40 production units in the City late 2005, there were up to 8,300 Labourers whose health conditions were only type 3 to type 5. Many workers were quite aware of the dangerous environment they were working in, they still had to accept because they were the people coming from rural areas to look for jobs in the cities and they were not vocationally trained. Lack of inspection and examination also causes employers to not seriously attempt to obey laws on Labour protection. On the other hand, the punishment for these violations is still very low and it is not enough to admonish enterprises.

Food poisoning

Along with professional diseases, food poisoning has had great effects on workers' health. Thousands of workers are coping with unsafe meals. Food poisoning in factories and

workshops has become an obsession for workers. Food inspections, conducted by Ho Chi Minh City Center for Preventive Healthcare in the institutions providing ready-prepared food, industrial food rations and collective dining halls from September 2004 to May 2005, shows that many collective dining halls, institutions providing ready-prepared food and industrial food rations have not satisfied the food safety standards.

Accommodation for workers

Another factor with great effects on employees' health is the bad accommodation. According to statistics, 70% of workers in industrial zones and export-processing zones are migrant Labourers and 60% of workers are women. According to World Bank's estimation, the poverty in Viet Nam's urban areas will concentrate mainly on migrant groups and in the coming one or two decades, there will be about one million people leaving rural areas to cities.

According to Ho Chi Minh City Trade Union Federation less than 20% of these workers live in the hostels built by enterprises. The majority of the workers, at present, have to huddle in temporary boarding houses and slums. Migrant workers from other provinces mainly live in cheap boarding houses, from 50,000-150,000 VND/worker/month. Each worker has an extremely narrow area (of about 2 m²) to live, eat, bath, and wash.

In Dong Nai province, there are 15 industrial zones in operation with about 160,000-180,000 workers. The extremely great needs for boarding houses force over 100,000 workers to look for private boarding houses with terribly bad quality.

The solution to the housing problems for millions of workers is an urgent social issue at present. This is the responsibility of the State, enterprises and of the employees themselves. The govt. has drafted a document on living conditions of labour migrants.

Punishment measures like standing outside for coming late may occur.

In four of the seven factories that FWF members audited in 2006, there was no or no functioning OHS committee. Policies are lacking or they exist but the committee is not active and there are no meetings. In another factory there is an OHS committee which is reported to meet but the meetings are not documented.

In five factories workers were found to lack awareness on OHS. In several cases it was witnessed that masks and cutting gloves were only put on when the auditing team arrived. In all factories fire safety was found insufficient. In four of these factories fire extinguishers were obstructed by boxes, materials or benches. Also, in five factories evacuation routes were too narrow, obstructed or blocked. In two factories several exits were no longer in use while the exit signs were still up.

As far as machine safety is concerned, in six factories eye guards on sewing machines are scratched, loose or removed by workers. In several factories machines had no safety instructions. In one factory workers felt unsafe at a bar-tag machine and had themselves made plastic shields to protect them from dust.

In three companies the noise levels in the embroidery rooms were found to be high, but no tests on noise levels had been carried out. Workers were not provided with earplugs or did not use them.

In all companies workers sit on ordinary chairs or benches which in the long run are detrimental for their backs. While in some factories health problems are diagnosed, no analyses as to the cause of it or any preventive measures have been set by management. In five out of seven factories first aid equipment was found to be incomplete. As for the canteens, in three factories canteen workers had not received extended health checks. In one of these factories regular health checks were also not provided. Food samples were not signed and sealed and in two of these factories the canteen contractor had no license.

3.3.7.3 Guidance for auditors

- Check if H&S committee has been set up and is really active. Are workers and

- union involved in planning for H&S?
- Health checks in itself are not sufficient, companies should compile lists of workers with specific problems, analyse causes and make a plan for follow up that contains preventive measures.
- Concrete limits as used in the survey of VCCI and the National Institute for Labour Protection: for level of humidity in the factory is 80%, for temperature is 30 degrees, while ventilation wind speed should at least be 1.5 m/s.
- Companies should have a list of pregnant workers and workers on maternity leave.
- There are no supplementary documents to establish for example the nr. of toilets needed in a specific factory. It is the job of the TU to negotiate this
- It not is common but best practice is when a company has a doctor.

Legal Requirements:

- All legally required permits, licenses, inspections...
- Safety & accident reports & documentation for at least 1 year
- Fire & Emergencies:
- Is there an adequate evacuation plan? Posted? Signs? Drills?
- Exits sufficient? Unlocked/unblocked? Signed & Lighted?
- Stairs & aisles adequate? Unblocked? Safe?
- Fire extinguishers & equip. adequate & maintained?
- Electrical safety? Fire risks?
- Housekeeping?

Machine Safety:

- Machines have guards and safeties? Properly checked/maintained?
- PPE (Personal Protective Equipment)? Hazard warning signs?

Hygiene:

- Canteen, kitchen, food preparation clean and sanitary?
- Clean drinking water available to all?
- Sufficient clean & sanitary toilets? Soap? Sinks? Paper?

Health:

- Occupational health risks, problems? Annual health checks?
- First Aid boxes and clinic? Training ? Emergency plans and procedures?
- Hazardous chemicals in use? Safely? MSDS ? PPE?

Documentation & Management system:

- Legally required permits, licenses, inspections maintained and updated;
- Written policies, procedures and instructions
- Documentation of local legal requirements for Health, Safety and Environment (HSE)
- HSE training records;
- Accident and safety logs
- Fire drill and evacuation practice logs and reports;
- Machinery inspection reports and preventive maintenance records
- Inspection reports and action plans

Harassment & Abuse

- Prohibition of Harassment & Abuse:
- Is there a clear policy to prohibit H&A? Physical, Psychological or Verbal?
- Are there channels for workers to report H&A?
- Are there procedures to investigate cases and discipline those responsible?
- Discipline:
- Does factory employ progressive discipline?
- Are discipline systems fair? Transparent? Well documented?
- Are disciplines applied to managers & supervisors or only workers?

- Is training provided to managers & supervisors in discipline procedures?

Records & Documentation regarding Harassment & Abuse

- Are adequate records and documents maintained to show compliance?
- Workers voluntarily apply to work ? Documented?
- Punishments:
- No physical or psychological abuse, humiliation or punishment?
- No monetary fines for performance? Use of positive incentives instead of fines?
- No threats of termination or other intimidation.
- Security:
- What are contractual jobs, duties, responsibilities of Security guards?
- Are workers subject to search? Bag/ body search?
- Are all searches non-intrusive and gender-appropriate?
- Do Security use physical force? Inappropriate discipline to workers?
- Establish fair, clear & transparent policies on H&A and discipline. Violators of these or other company policies should receive swift, public discipline as per rules & procedures.
- Prohibit Harassment & Abuse:
- Adopt reasonable factory rules
- Post the factory rules on notice boards and in public areas around the factory.
- Grievance channels to report H&A direct to top Mgt.
- Provide supervisors with written guidelines.
- Discipline:
- Documented.
- Applied fairly & transparently
- Progressive discipline system, written & to all

SME's

- If the audit concerns a firm of 200 workers and less; The Commune, Ward and Township Health Services must have a firm account of the enterprises and noxious elements in order to take measures to guide the healthcare for the labourer. Auditors should contact this Commune, Ward and Township Health Services to check this firm account.

3.3.8 Legally Binding Employment Relationship

FWF Labour Standard: "Working relationships shall be legally binding, and all obligations to employees under labour or social security laws and regulations shall be respected."

3.3.8.1 Laws and Regulations

Labour Code:

Article 27 defines different forms of contract (term, non-term, seasonal contract) attached systems, contract validity, renewal within 30-day, contract termination (within 12-36 months) etc.

Limits on specific or temporary contracts:

Article 27

3. Parties are prohibited from signing specific or seasonal job labour contracts for a term of less than twelve (12) months in respect of a job which is regular and has a duration of twelve (12) months or more, except in the case of the temporary replacement of an employee who has taken leave of absence for military obligations, pregnancy, or other temporary reasons.

Written copies

Article 28

A labour contract shall be entered into in writing and must be made in duplicate with each party retaining one copy. An oral agreement may be entered into in respect of certain temporary works which have a duration of less than three months, and in respect of domestic servants. In the case of an oral agreement, the parties must comply with the provisions of the Labour Code.

Content of the contract

Article 29

1. A labour contract must contain the following main provisions: work to be performed, working hours and rest breaks, wages, location of job, duration of contract, conditions on occupational safety and hygiene; and social insurance for employee.

Probation:

Article 32

The employer and the employee shall agree on a trial period, the duration of the trial, and the rights and obligations of the parties. The wage of the employee during a trial period must be at least seventy (70) per cent of the wage for the relevant rank of the job. The trial period shall not exceed sixty (60) days in respect of works which require specialized or highly technical skills, or thirty (30) days in respect of other works.

() If and when the work performed satisfies the agreed requirements, the employer must officially employ the employee as previously agreed.

Termination

Article 38

1. An employer shall have the right to terminate unilaterally a labour contract in the following circumstances:

(a) The employee repeatedly fails to perform the work in accordance with the terms of the contract;

(b) An employee is disciplined in the form of dismissal in accordance with the provisions of article 85 of this Code;

(c) Where an employee suffers illness and remains unable to work after having received treatment for a period of twelve (12) consecutive months in the case of an indefinite term labour contract, or six consecutive months in the case of a definite term contract with a duration of twelve (12) months to thirty six (36) months, or more than half the duration of the contract in the case of a contract for a specific or seasonal job. Upon the recovery of the employee, the employer shall consider the continuation of the labour contract;

(d) The employer is forced to reduce production and employment after trying all measures to recover from a natural disaster, a fire, or another event of force majeure as stipulated by the Government;

(dd) The enterprise, body, or organization ceases operation.

2. Prior to the unilateral termination of a labour contract pursuant to subclauses (a), (b) and (c) of clause 1 of this article, the employer must discuss and reach an agreement with the executive committee of the trade union of the enterprise.

Severance pay:

Article 42

1. Where the labour contract of an employee who has been regularly employed in an enterprise or organization or with a body for twelve (12) months or more is terminated, the employer must pay such employee a severance allowance equal to the aggregate amount of half of one month's wages for each year of employment plus wage allowances (if any).

2. Where a labour contract is terminated in accordance with the provisions of sub-clauses (a) and (b) of clause 1 of article 85 of this Code (*forced dismissal*), the employee shall not be entitled to a severance allowance.

Article 43

Within seven days from the date of termination of a labour contract, each part shall be responsible for full payment of all sums outstanding to the other party. In special cases, this period may be extended, but shall not exceed thirty (30) days.

Social Insurance system:

Article 107

2. The employer must bear all medical expenses incurred from the time of the first aid or emergency treatment to the completion of the medical treatment in respect of an employee who was injured in a work-related accident or contracted an occupational disease. The employee shall be entitled to the regime on social insurance for work-related accidents and occupational diseases. If an enterprise has not participated in compulsory social insurance, the employer shall be obliged to pay the employee an amount of compensation equal to the amount stipulated in the *Regulations on Social Insurance*.

For permanent and temporary contracts:

Article 141

1. Compulsory forms of social insurance shall apply to enterprises, bodies and organizations which employ employees under definite term labour contracts with a duration of three months or more and under indefinite term labour contracts. In such enterprises, bodies and organizations, the employer and the employee must make contributions to social insurance funds in accordance with the provisions of article 149 of this Code and the employee shall be entitled to social insurance benefits and allowances in the event of illness, work-related accidents and occupational disease, pregnancy, retirement, and death.

2. In respect of an employee who works under a definite term labour contract with a duration of less than three months, in seasonal jobs, social insurance contributions shall be included in the wage paid by the employer in accordance with regulations of the Government in order to enable the employee to participate in social insurance on a voluntary or self-funding basis.

Contributions

Article 149

1. Social insurance funds shall be established from the following sources:

- (a) The employer shall contribute a sum equivalent to fifteen (15) per cent of the total balance of the wages fund;
- (b) Each employee shall contribute five per cent of his wage;

Types of social insurance and Exemption for small companies

"Workers in enterprises including 10 workers and over shall be enforcedly insured in terms of illnesses, pregnancy, Labour accident and occupational disease, injury, retirement and death" (Decree No. 12 /CP, 1995)

Seasonal

Protection for pregnant workers

"An enterprise may not unilaterally terminate a Labour contract with a woman worker in pregnancy, delivery and breeding her under 12-month child" (Article 23, Ordinance on Labour contract, 1990).

3.3.8.2 Compliance situation

Law on Labour also has clear provisions on the signing of Labour contracts. Employers have to sign the Labour contracts with employees as the form of Labour contract issued by MOLISA, but in fact, employees and employers usually do not exactly do what are stipulated. Currently, there are over 80,000 enterprises all over the country. Every year, the MoLiSa managed to inspect only nearly 200 enterprises and discover many violations of the Law on Labour, such as: not to pay in social insurance, to lengthen the working time or to force workers to work overtime on holidays, red-letter days, not to pay salary as previously stipulated; to discipline, dismiss and end the Labour contracts freely. In such violations, the

cause is mainly because employers did not sign labour contracts as required with employees. In the cases of not signing Labour contracts as stipulated or of "verbal agreements", when Labour disputes occur, employees always suffer from losses, because they are the ones who hold an inferior position in Labour relationships.

Paying in social insurance for workers:

Currently, there are over 10,000,000 labourers having labour relationship, but only 5,800,000 people participate in social insurance. Only about 20% of the workers working for non-state enterprises and FDI enterprises, who are compulsory to take part in social insurance, pay social insurance. At present, out of 29,000 non-state enterprises in Ho Chi Minh City, only about 500 enterprises, structurally pay social insurances for employees. Other seasonal branches, like garment, construction and services the number of employees, who are paid social insurance, is very small, whereas these branches have extremely high rates of risks. Many enterprises deducted billions of VND from workers' salary to pay in social insurance, but they did not pay in social insurance for the workers.

Hundreds of billion VND in social insurance are being used by enterprises for other purposes. This has caused a great loss to employees. Thousands of workers' money, which is used to pay for social insurance, 'disappears' even when 5% of their monthly salary is deducted every month. Some workers, when retiring, are not settled immediately the allowance and pension regimes because of this reason.

In spite of paying for social insurance, they pay only the social insurance of 1/3 the real salary. In several enterprises, 5% of workers' salary is deducted to pay for social insurance, but workers cannot enjoy allowance on maternity or sick leaves. In some other enterprises, workers cannot have annual holidays. Workers, who are ill, cannot stay away from work. In some cases, the salary of the workers, who stay away from work with doctors' certificate for more than three days, will be lowered; their "diligence" money (the bonus for the people, who have high productivity and have not any day off in the month) will also be cut off.

Beside the mandatory social insurance there is no other form of insurance of occupational accident and such. Payment of social insurance contribution is often late.

According to the International Confederation of Free Trade Unions (Annual Survey ICFTU 2003), only about 10 percent of the workers in EPZs have long-term employment contracts. The remaining workers are reportedly on contracts of between three months and a year, which helps employers avoid the legal requirement to set up unions in enterprises with more than 10 full-time employees. For workers in EPZs, this means precarious contracts and limited opportunities to join a union.

In five of the seven factories that FWF members audited in 2006, inconsistencies concerning some contracts were found. In one factory some workers were trained without a contract. In another company seasonal workers work without contract and workers on probation, work as seasonal workers; it thus is not possible to check whether the maximum of 30 days probation time has been kept. In another factory some thirty workers under 18 held a combined training and probation status - sometimes for more than a year. They received no social insurance, no annual leave, no bonuses and their wage rates were lower than those of other (contracted) workers.

In yet another factory several contracts were not renewed in line with labour law stipulations. Additionally, some contracts were not signed by the workers. In another company social insurance was not paid during probation time.

3.3.8.3 Guidance for auditors

Mind:

- Even if workers leave voluntary they get severance pay as long as they leave

with notice.

- Law is very strict on termination, only for things like stealing can a workers be fired directly.

Documentation & Management system:

- Written policy on probation period, apprenticeship and Labour contract;
- Employment contract complying with laws and code standards;
- Records of timely payment to social security fund;
- Records of deductions from employees' wages.

3.3.9 Documentation

Documents to be checked:

- records of internal environment test.
- Most workers do have a written contract, the formal green contract, but temporary workers or trainees may not have them.
- list of pregnant workers and workers on maternity leave.
- Payment of social insurance contribution is often late, check the invoices/receipts.
- Also look for improper deductions like fines.
- Health Check records
- Permits for boilers, pressure vessels, air compressors, (yearly renewed?),
- maintenance records for larger machines and elevators
- Proof of hiring Trained technician
- Appointment letters
- Fire inspection (at least one a year) (minutes)
- If a company has a dormitory: license to have a guesthouse
- Workers have a labour book
- If a company works with employment agency, this agency should be licensed.
- Work rules (mandatory)
- Registered wage scales/Salary scale system (mandatory, many companies do not have these, in SOE it may be very complicated)
- Minutes of mandatory H&S committee meetings

3.4 Partner Network

Chamber of Commerce & Industry of Viet Nam (VCCI)

The VCCI combines the function of the Chamber of Commerce and Industry with the function of employers' organization: the function of employers' organization is carried out by the Employers' Activities Bureau within the VCCI.

The VCCI actively represents and promotes Viet Nameese export and industry in the international business arena. VCCI assists and supports development of various trainings for the Viet Nameese business community. The VCCI initiates and organises forums and dialogues on trade issues. VCCI closely cooperates with international organizations and partners.

Contact:

Chamber of Commerce & Industry of Viet Nam,
9 Dao Anh Street,

Kim Lien
HANOI

Tel: (00 84 4) 574 20 22
Fax: (00 84 4) 574 20 30
email: vcci@fmail.vnn.vn

Viet Nam Business Links Initiative (VBLI)

VBLI was set up by the International Business leaders Forum (IBLF) in 1999 with shoe manufacturers, governments, multilateral agencies and health and safety agencies in order to improve working conditions in the footwear industry. The partnership has brought improved standards to 60% of the footwear factories in Viet Nam. The World Bank has judged the partnership one of the most sustainable in South East Asia. It is now expanding into the garment industry.

The initiative has been created in partnership with the Viet Nam Chamber of Commerce and Industry (VCCI) and is supported by the government, the footwear industry, international buyers, non-governmental organisations and health and safety specialists. The Viet Nam Business Links Initiative (VBLI) is acknowledged to be an outstanding example of collective action to address an important business development issue.

VBLI's aim is: to work together as Partners in the Viet Nam Footwear Industry - Business Links Initiative, to ensure the long term continuous improvement in workplace conditions for employees in the footwear industry, with particular emphasis on occupational health and safety standards and to provide an example of collective action to other industries.

Contact:

Viet Nam Business Links Initiative
International Relation Dept. - Viet Nam Chamber of Commerce and Industry
No. 9, Dao Duy Anh Str., Hanoi, Viet Nam
Tel: 844 574 3492
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<mailto:vbli@hn.vnn.vn>

Viet Nam Cooperative Alliance (VCA)

The VCA is a business association whose membership is primarily among cooperative and small enterprises.

Functions and Tasks of Viet Nam Cooperative Alliance:

Representing and protecting the legal rights of its members.

- Promoting the development of cooperatives and the cooperative economy.
- Providing consulting and support services to its members.
- Participating in formulating policy and legal frameworks related to the cooperative sector.
- Representing its members legally in internal and external relations.

Contact:

VCA

Địa chỉ: 77 Nguyễn Thái Học - Ba Đình - Hà Nội ,

Tel: (84-4) 8431689 - 7330774

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Email: admin@vca.org.vn

Viet Nam General Confederation of Labour (VGCL)

The Viet Nam General Confederation of Labour (VGCL) is the sole national trade union in Viet Nam. It was founded in 1929 as the *Red Workers' General Union* in Northern Viet Nam, and extended into the entire country after the collapse of South Viet Nam in 1976. All trade unions in Viet Nam are required to affiliate to the VGCL, and the VGCL is one of the "mass movements" of the Viet Nameese Fatherland Front. The VGCL president is a member of the Communist Party central committee. The VGCL is affiliated to the World Federation of Trade Unions.

This workers' organization participates at all levels in the supervision of the State administration of labour in accordance with the provisions of the law (article 181.3 of the Labour Code). It also drafts laws and ordinances in relation to any matters which concern the rights, obligations and interests of workers. Its Women's Wing is particularly concerned with equal employment opportunity issues.

According to article 156 of the *Labour Code*, the Confederation must take part, together with the competent authorities, representatives of employers and other trade unions, in discussing and resolving labour relations questions. It is also given the right to establish employment services agencies, vocational training establishments, mutual aid funds, legal consultancy offices and other welfare services for workers.

Contact:

Viet Nam General Confederation of Labour (VGCL)

82 Tran Hung Dao Str.

Hanoi

Viet Nam

Tel: 84 4 825 3105

Fax:84 4 825 3781

Viet Nam Textile & Apparel Association (VITAS)

This T&G business association assists the State Government in its orientation on and development of the local textile & garment sector.

As a representative of its members, VITAS consults the State and the government bodies relating to the policy planning, state management mechanism in the T&G field. VITAS will also propose the relevant solutions to the Government to boost the Viet Nam Textile and Apparel development. The Association will join the activities of the regional, global organizations, federations. VITAS will collect, sort, analyze all activities and predict the potential development of Textile & Apparel market to support its members regarding the road map of trade production and investment development in conformity.

AGTEK – Association of Garments, Textiles, Embroidery, Knitwear

AGTEK is a business association in the textile and garment industry encompassing Garments, Textiles, Embroidery, and Knitwear producing enterprises.

Contact:

73 Bau Cat 3, Ward 12, Tan Binh District
Ho Chi Minh City
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Phone: +84 8 849 3978
Fax: +84 8 842 8301

Viet Nam National textile & Garment Corporation (VINATEX)

The Viet Nam National textile & Garment Corporation was established out of merging of all centrally State-owned enterprises in the field of textile and garment industries. Vinatex plays several different roles: as manufacturer, exporter, importer as well as distributor for textile and garments in wholesale and on retail basis. It aims to diversify a variety of activities ranging from investment, production, supply, consumption to trading according to the Law of Viet Nam.

The member factories of Vinatex have been synchronized with modern plants from spinning, weaving, printing, dyeing, finishing to garment making. As a result, they are able to supply various kinds of products such as yarns, fabrics and garment to the different markets.

Contact:

25 Ba Trieu st., Hoan Kiem dist.
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Fax: 84.4.826 2269
E-mail: vinatexhn@hn.vnn.vn

Viet Nameese Academy of social Sciences/ Institute for Family and gender Studies (IFGS)

Given the need for a scientific foundation concerning women and policy formulation and legislation, the Viet Nam Committee of Social Sciences, now known as Viet Nameese Academy of Social Sciences established a study program on "Women, Labor and Family." In 1987 the Government set up the Center for Women Studies that became the Institute for Family and Gender Studies later on.

The institute is commissioned to do research on theoretical as well as empirical issues in Viet Nam in the fields of family, women, and gender in order to fulfil the mission of a scientific ground provider for the Government bodies in its legislation and policy-making process relating to family, women, and gender equality issues. At the same time, IFGS is in the position of a reliable consultant for organizations and bodies interested in and related to family, women, and gender issues.

Contact:

Institute for Family and gender Studies (IFGS)
6 Dinh Cong Trang str.
Hanoi
Viet Nam
Tel: (84-4) 8 252372
Fax: (84-4) 9 33 2890

International Labour Organisation ILO office Viet Nam

Among others, the ILO in Viet Nam is currently focussing on microfinance related issues.

Also, the ILO in collaboration with MOLISA is presently undertaking a project on “risk-managing financial services” funded by the French government.

“Risk-managing financial services” are financial services that allow households to more effectively cope with risks and economic stresses. The aim of this two-year action research project is to test innovative financial products, such as emergency loans, flexible savings or insurance that will reduce poor women’s vulnerability. The project is essentially divided into two phases: research and pilot testing. The goal of the project is development of innovative social protection mechanisms to reduce the vulnerability of poor women in the informal sector in Viet Nam.

Contact:

48-50 Nguyen Thai Hoc Street, Hanoi, Viet Nam

Tel: (84 4) 734 09 00/2/3/5/6/7 (ext 228)

Fax: (84 4) 734 15 32

E-mail: bichvan@ilohn.org.vn

Website: www.microfinance.org.vn

Global Standards

Global Standards consulting group specializes in Corporate Social Responsibility (CSR) issues including international labour, environmental and safety standards for export manufacturers in Asia.

Headquartered in Viet Nam, with regional expertise and reach, Global Standards operates with local teams in China , Thailand and Korea.

Global Standards conducts consulting, training and monitoring services to:

Assist international firms to implement Codes of Conduct and Social Responsibility programs through training, consulting and monitoring of manufacturers

Help local manufacturers and suppliers to understand and comply with international standards through training and consulting aimed at improving management and documentation systems and attaining compliance goals.

Contact:

Global Standards

Toan Tin Consulting Services Co.

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Email: [Click here!](#)

Friedrich Ebert Stiftung (FES) Viet Nam Office

The Friedrich Ebert Foundation is a private German non-profit organization, which is committed to the ideas and basic values of Social Democracy.

One of the central concerns of the Foundation in Viet Nam is to promote the social, economic dimension as the country is introducing the market economy. In this regard, the Friedrich Ebert Stiftung pays special attention to strengthening political communication and the representation of social interests. FES primarily concentrates on the communal level, on the inclusion of women in the social development, and on increasing the ability of trade unions to safeguard their role of representing specific interests, keeping in mind the development of the media.

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Action Aid (AA) International Viet Nam

Action Aid is an international anti-poverty agency whose aim is to fight poverty worldwide. In all of the countries it operates Action Aid works with local partners to make the most of their knowledge and experience. Action Aid Viet Nam has implemented various programmes in both long-term development areas and development initiatives with local and community-based partner organisations. A total of over 60,000 poor households are directly benefiting from Action Aid Viet Nams' programme activities.

Amongst others, Action Aid Viet Nam focuses on:

Corporate Control: Enhancing knowledge and understanding on the rights and entitlements and social aspects for workers, particularly migrant workers; bringing the issues faced by workers to the attention of policy makers and employers for the change in labour policy and working conditions; promoting business associations and craft villages in developing and practicing their own labour and environment standards.

AA has conducted research among female migrant workers in the footwear and garments industry. They have developed a CoC for the footwear industry and conduct trainings inside factories on amongst others capacity building. They also have produced a handbook on workers' rights. Together with the VBLI AA organizes a CSR award nomination. In

Haiphong a Centre for Workers Rights has been established together with the Confederation of Labour.

Additionally in and close to Hanoi, trainings are conducted on social dialogue and CBA

negotiations. AA conducts programmes for both, workers and employers.

Other programmes include:

Gender Equality and Women's Rights: Besides promoting gender mainstreaming in all AA's programs and campaigns, the theme focuses on promoting women's leadership, strengthening women's movements and networks, advocating for gender responsive policies and legislation to ensure rights of women in general and women in extremely vulnerable circumstances such as trafficked women and children, women and children affected by domestic violence, migrant female workers, etc.

Contact:

Action Aid Viet Nam

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Oxfam Solidarity Belgium in Viet Nam

Oxfam Solidarity Belgium is a development organization. In Viet Nam the organisation amongst others, aims to support workers' rights. The organization does so by supporting member organizations of the VGCL, whose main objectives it is to defend workers rights. Oxfam solidarity Belgium assists the VGCL in adjusting to the new business environment: traditionally companies were state owned, now many TNCs are operating in the manufacturing industry. The aim is to enlarge the strength, influence and position of trade unions.

Oxfam Solidarity Belgium also works with NILP, the National Institute for Labour Protection, part of the VGCL. This institute conducts studies concerning occupational health and safety.

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Ha Noi, Viet Nam

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3.5 Auditing

ETI (2006) reports: “A number of CSR initiatives have been introduced as a means of co-ordinating efforts to promote good labour practice (e.g. the Viet Nam Business Links Initiative (VBLI), the VGCL/Global Alliance project, and the Social Accountability International (SAI) Viet Nam office), but CSR is still perceived as an imported concept and not well understood by the Viet Nameese. A ‘social clause’ covering labour conditions was included in the BTA with the US, but at the time of the research did not appear to be having much influence.”