



Navigating Vietnam's Labor Revolution: What Employers Need to Know About Potential New Trade Union Law

Insights

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As global manufacturers pivot away from China and set their sights on Vietnam, the country's labor and employment landscape is rapidly changing. This surge in demand from Europe and the U.S. has not only sparked economic growth, but also amplified pressure on Vietnam to modernize labor standards and safeguard workers' rights. In response to this pressure from the West, Vietnam has entered several major international free trade agreements and recently released a draft of the new Law on Trade Union. Employers in Vietnam must determine whether they are prepared for the challenges and opportunities this new era may potentially bring.

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The New Draft Law on Trade Union

Vietnam's trade union system is poised for a major overhaul. The Vietnam General Confederation of Labor (VGCL) has recently unveiled a draft for a new Law on Trade Union, set to replace the existing 2012 trade union legislation. This draft is anticipated to be enacted at the National Assembly's 8th sitting in October of this year.

Here's how the draft law will upend the trade union status quo in Vietnam.

- Currently, Vietnam's trade union system is centralized under the Vietnam General Confederation of Labor (VGCL), a subdivision of the Vietnamese Communist Party. By law, all trade unions must operate through the VGCL.
- Recently, however, Vietnam entered two major free trade agreements which directly conflict with this centralized union system: the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the EU-Vietnam Free Trade Agreement (EVFTA).
- Both trade agreements have sustainability provisions that require Vietnam to adopt key International Labour Organisation (ILO) standards, including ILO Convention No. 87 – which guarantees the right to form and join independent trade unions. In fact, the CPTPP requires Vietnam to adopt ILO Convention No. 87 within five years of the agreement's commencement, which was in January 2024.
- Once Vietnam ratifies Convention No. 87, it will need to allow the creation of trade unions that are separate from the centralized VGCL system, giving workers the freedom to choose their own

unions.

Although Vietnam's current Labor Code theoretically allows for the creation of independent trade unions, the absence of clear guidelines makes it virtually impossible for such unions to operate. The new draft Law on Trade Union indicates that Vietnam is beginning to address these issues and move toward compliance.

The Manufacturer Migration from China to Vietnam

Vietnam's motivation to align its union laws with international standards has been largely influenced by the influx of Western manufacturing into the country. European and American companies have been moving their manufacturing operations from China to Vietnam for several reasons.

- First, labor costs in China have surged, with average annual wages increasing by over 160% since 2010.
- Second, political relations between China and the West have been deteriorating. In 2021, the EU imposed sanctions on China for its treatment of the Uyghur Muslim minority, and the U.S. has recently imposed significant tariffs on Chinese imports.

Due to these political tensions and rising costs in China, Vietnam's growing economy has become a magnet for international companies, with several large international corporations entering the market or significantly expanding their presences.

What the New Law Will Mean for Employers, if Enacted:

- **Amendments to prohibited acts:** The new law will expand protections for employees who join or establish trade unions. For example, if passed, it will impose a new prohibition on employers from discriminating against employees who join or establish trade unions.
- **Broadened trade union supervision rights:** While under current law, trade unions have the right to join the inspection, examination, and supervision activities of state authorities, the new law contemplates giving trade unions the power to ask businesses for information and documents during inspections and to recommend sanctions against entities that have violated regulations.
- **Expanded trade union membership protections:** The draft proposes to expand legal protections to a broader range of workers who were not previously covered by the law. This includes informal workers without official labor contracts as well as foreign workers.
- **New union fee waiver options:** Trade union fee contributions may be reduced or waived entirely if an employer is forced to temporarily halt production or business operations due to *force majeure*-type events, such as natural disaster, fire, or epidemic.
- **Changes to union financing:** A significant portion of the draft deals with how union fees will be split between the upper-level trade union and worker organizations. However, these charges are

unlikely to directly impact employers.

How Employers Should Prepare:

1. Prepare for your employees to unionize: If the draft law passes, it will be the first time in modern history that employees can form their own unions independent of the centralized VGCL system. Revise your policies and prepare your managers for a potential surge in employee interest in creating their own unions. Proactively fostering an open dialogue between management and employees can be crucial in reducing potential conflict if the draft law passes.

2. Review policies to ensure compliance: Employers should review their policies to ensure they do not discriminate against employees based on any prohibited factors, including union membership. Additionally, it's important to provide training for your managers to ensure they are making managerial decisions free from any biases against union status.

3. Conduct a self-audit in preparation for increased oversight: If the draft law passes, trade unions will have the power to request documents from businesses during state inspections. Employers should conduct a self-audit to ensure their records are in order, anticipating that unions may begin asking for documents that previously did not need to be shared. Being proactive in this process will help avoid potential compliance issues and foster transparency with union representatives.

Conclusion

We will continue to monitor developments related to workplace law in Vietnam and across the world. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. If you have questions, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our [International Practice Group](#).

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