

Regional Risk Assessment: Electronics Industry, Vietnam

Contributing organisation: The Center for Development and Integration (CDI)

August 2019



electronics  watch

 **TRUNG TÂM PHÁT TRIỂN VÀ HỘI NHẬP**
Center for Development and Integration

This risk assessment is made possible by the dues of Electronics Watch affiliates.

Electronics Watch is an independent monitoring organisation that helps public sector organisations work together, and collaborate with civil society monitors in production regions, to protect the rights of workers in their electronics supply chains. Monitoring partners conduct worker-driven monitoring, with the goal of strengthening workers' own voices to report on and address labour and safety issues in their factories. The Center for Development and Integration (CDI) conducted the research and monitoring activities for this report.

CDI is a Vietnamese non-government, non-profit organization working for the rights of the disadvantaged groups to build a society of equity, solidarity and sustainable development. CDI has implemented many projects to support migrant workers in industrial zones and urban areas. With the human rights-based approach, key activities include: organizing workers; building capacity and networking; providing information and legal support; enhancing multi-stakeholder dialogues; conducting research and surveys, and advocacy and campaigns. Moreover, CDI has actively advocated for better labor policies to promote social protection and decent work in Vietnam.

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Abbreviations

| | |
|---------------|--|
| ASEAN | Association of Southeast Asian Nations |
| CBA | Collective Bargaining Agreement |
| CDI | Center for Development and Integration |
| FDI | Foreign Direct Investment |
| FES | Friedrich Ebert Stiftung |
| FIE | Foreign-invested Enterprise |
| HCMC | Ho Chi Minh City |
| ILO | International Labour Organization |
| IPEN | International POPs (Persistent Organic Pollutants Elimination Network |
| MOLISA | Ministry of Labour, Invalids and Social Affairs |
| NWC | National Wage Council |
| OSH | Occupational Safety and Health |
| VCA | Vietnam Cooperative Alliance |
| VCCI | Vietnam Chamber of Commerce and Industry |
| VEIA | Vietnam Electronics Industries Association |
| VGCL | Vietnam General Confederation of Labour |
| VND | Vietnam Dong |
| WRC | Worker Rights Consortium |

1 Summary

This regional risk assessment of the semiconductor and electronics industry in Vietnam is intended for Electronics Watch affiliates' internal education and contractor education. It can be used to promote dialogue on steps that contractors, brand suppliers, and contracting authorities (affiliates) can take to avoid practices that may cause or contribute to breaches of labour rights and safety standards.

The Center for Development and Integration (CDI) in Vietnam set up a team of local researchers, led by Dr. Do Quynh Chi, to conduct the research for this risk assessment which is based on a desk review of databases of previous surveys carried out by CDI and other organisations, industry reports, and academic papers.

This assessment suggests that risks of breach of the following standards are of particular concern:

- **Employment is freely chosen:** Workers reported being forced to work overtime and in many cases, for longer hours than the legal

limits. Workers may be reprimanded if they cannot reach output quota and are pressured by threats of dismissal to work overtime.

- **Freedom of Association and Right to Collective Bargaining:** Due to the legacy of the centrally-planned economy, it is a common practice to have managers heading enterprise unions. Workers are not able to practice real collective bargaining when the unions are dependent on management. In companies where the unions are more independent of the management, union members may face the risk of unfair labour practices such as demotion, dismissal, and blacklisting.
- **No Discrimination in Employment:** Electronics firms prefer to recruit female workers for rank-and-file work but very few women are appointed to managerial positions. Electronics companies also have a policy of “six-month contracts” for female workers in order to reduce enterprises’ obligation with pregnant female workers. Many companies include the non-pregnancy period in the employment contracts. Female electronics workers typically earn less than their male counterparts in all wage components. Older workers, mostly women, face the risk of being dismissed and replaced by younger and lower-paid workers.
- **No Excessive Working Hours:** Working overtime is a norm rather than an exception for the electronics workers. Most workers have to work much more overtime than the legal limits. The workers may desire to work more overtime as the overtime pay accounts for 38-50% of their total income. Excessive working hours has impaired their family life.
- **Safe and Healthy Working Conditions:** Many workers are not trained about safety issues at work. Even when occupational safety and health (OSH) trainings are provided, they may not be sufficient to provide workers with necessary knowledge about the potential risks at the workplace. Exposure to chemicals and noise at work impact workers’ health and may cause frequent fatigue, pain, nausea, faintings, miscarriages and menstruation problems for women.
- **Abusive Termination of Employment:** There are few reports on unlawful termination of employment. However, many companies refuse to sign indefinite term contracts with workers, which are legally required after two continuous short-term contracts. Short-term contracts help companies to cut costs and retain flexibility. Therefore, electronics workers tend to work for up to three years for one company when their contract expires and they have to move to another company.
- **Living Wage:** Without earnings from overtime, the vast majority of electronics workers are paid much lower than the living wage for their work during the regular working hours. Keeping the regular wages low creates great pressure on the workers to work overtime.

2 Methodology

This risk assessment is based on a review of the secondary data and information from recent surveys of the working conditions in the electronics industry of Vietnam. There have not been many labour surveys of the electronics industry in Vietnam, and most of them focused on the mobile phone-making companies. They include:

- The 2017 survey by CDI covering 202 workers in 55 phone-making companies in Bac Ninh province;
- The 2016 survey by Do covering 60 workers in six phone-making companies in Bac Ninh and Thai Nguyen province;
- The 2017 survey by the International Persistent Organic Pollutants Elimination Network (IPEN) covering 45 workers in phone-making companies in Bac Ninh and Thai Nguyen;¹ and,
- The 2018 survey by CDI covering 238 electronics workers in Dong Nai and Hai Phong.

All of the surveys focus on examining the working conditions and access to core labour rights of electronics workers.

The research team analysed the secondary data based on the Electronics Watch Code of Labour Standards and the Vietnam labour legislation to identify the potential risks of violations.

The research team also interviewed experts on the legal framework for labour rights and labour practices of the electronics companies. They include:

- Two social compliance auditors;
- One representative from the Ministry of Labour-Invalids and Social Affairs (MOLISA); and,
- One representative from the Vietnam General Confederation of Labour (VGCL).

2.1. Limitations of the Research

This risk assessment has been conducted with qualitative methodologies—interviews and surveys—in combination with secondary data analysis. Because of limited access to factories, the researchers of this report and other reports providing secondary data conducted interviews and surveys with workers in their residential areas by snowball technique. While workers were able to speak more freely without the proximity and influence of management, allowing researchers to address issues workers may not have been willing to

¹ This risk assessment takes into account the companies' response to the IPEN report.

discuss inside the factory, this methodology did not permit a broader quantitative analysis for all segments in the electronics industry. Therefore this risk assessment does not claim to make a large-scale assessment of the whole electronics industry; rather, it seeks to identify and analyse known risks of violations. It opens up a new research avenue towards more quantifiable and representative data set for the whole industry.

Background

3

3.1. History of Development

The first steps of electronics manufacturing date back to the 1950s, when North Vietnam's government started importing components from the Soviet block for local assembling processes. In the 1970s, the first Japanese investors arrived to the South, where they assembled black and white TV sets. Due to the war, the electronics sector never got off the ground.

In the 1990s, Asia was already considered a major location for electronics manufacturing, with Japan, South Korea, Taiwan and China being the leading manufacturing centers. As economies developed, and consequently costs of manufacturing increased, companies operating in some of these countries moved their production sites to other countries with lower costs of production in order to stay competitive. Vietnam, which slowly started opening its borders to international business in that period, was one of the promising locations.

Japanese electronics companies were the first to react, and started a new wave of investments. Sony, one of the major global electronics manufacturers, established its factory just outside Ho Chi Minh City (HCMC) in 1994. However, it was only in the 2000s that the sector started to grow fast. When Vietnam decided to lower the electronics tariffs from 15-20% to 0-5% due to its participation in the ASEAN Free Trade Area, numerous major global electronics manufacturers moved some of their production lines to the country.

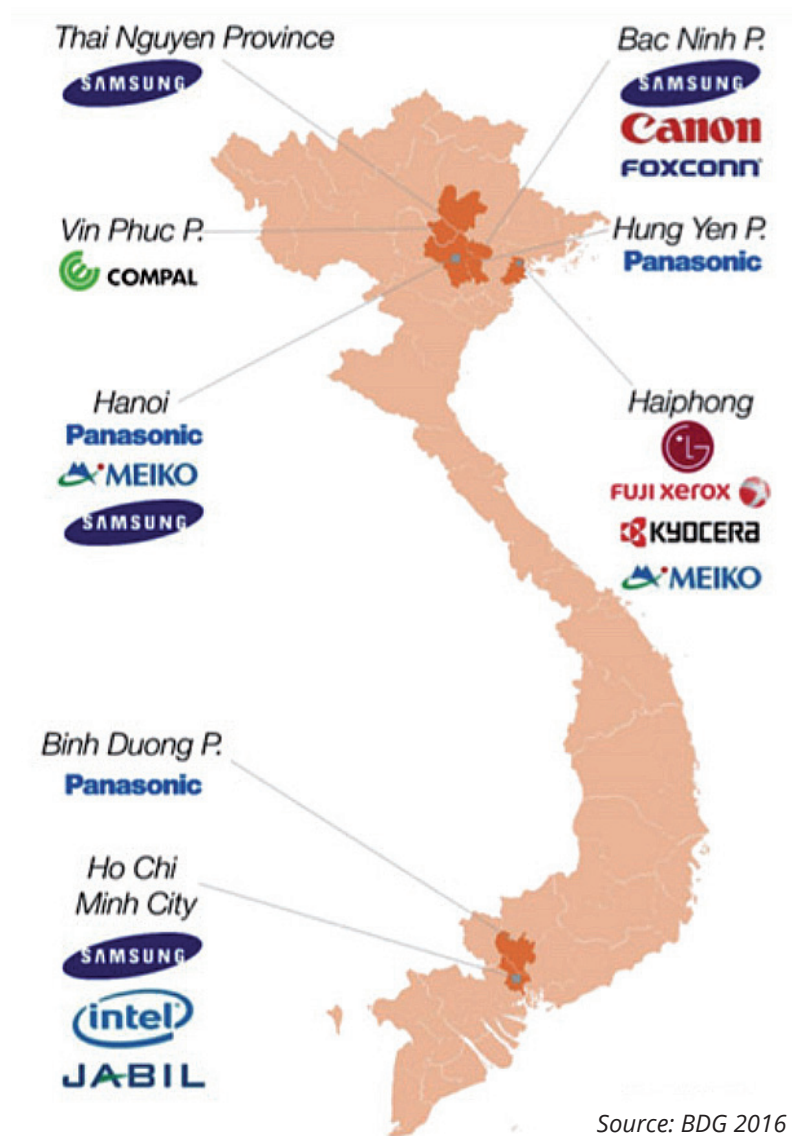
Because of Vietnam's low labour costs compared to other countries in the region, electronics manufacturers mainly focus on product assembly in the country. Higher value added processes, such as product design and software development, are slowly starting to develop, although still in their infancy.

3.2. Production Regions

The two major production regions include the three northern provinces of Bac Ninh, Thai Nguyen and Hai Phong as well as the southern provinces of HCMC and Binh Duong. The electronic firms in

the northern hub mainly produces mobile phones and phone parts with the domination of Korean brands such as Samsung (Bac Ninh and Thai Nguyen) and LG (Hai Phong) together with their suppliers. There are approximately 500 electronics companies in these three provinces (ILO 2017). The southern center includes mainly the producers of electrical products and parts with over 100 companies in HCMC and Binh Duong (see Figure 1).

Figure 1 –Main electronic clusters in Vietnam 2015



3.3. Structure of the Industry

Vietnam's electronics industry is dominated by the foreign invested enterprises in terms of the number of enterprises, production, employment, and sales. One third of the electronics enterprises are FDI enterprises but they account for 99% of the total exports of the industry. Samsung Electronics Vietnam - the largest one in the industry - accounts for 27,6% of the national export value (Custom Directorate, 2018). Ninety-nine out the top 100 electronics companies are foreign-owned. Among the top 20 electronics companies, there are eleven Japanese, four Korean, three Taiwanese and one US firm (ILO 2016). In 2016, the top 20 electronics firms employed 49.4% of the labour force of the whole industry (Nam Duong 2016).

There are about ten Vietnamese-owned companies assembling TV sets in Vietnam, but few have brands that are widely recognizable to consumers. Vietnamese TV set brands such as Darling, Belco, Favi and SAM target mainly low-income consumers in remote and rural areas where choices are limited and disposable income is low. One of the more respected local brands is Belco. Even this company which manufactures DVD players as well as flat screen TVs target mostly the rural areas rather than big cities.

Most of domestic companies only assemble imported components and parts and then sell it to local markets. Low technology, no capacity in components and spare parts design and development, small business size, lack of technical and business expertise impede the development of private enterprises. After the "glorious period" in the 1990s, all of the domestic electronics enterprises are facing serious challenges that may threaten their existence. Such "big names" as Tan Binh Viettronics, Bien Hoa Eletronics (Belco), and Hanoi Eletronics Company (Hanel) are losing their market leader position in a market which have been long protected by the Government of Vietnam.

One of the most critical weaknesses of the electronics industry in Vietnam is its low value added to the electronics product, either for export or for domestic markets. Most of the enterprises operating in Vietnam just assemble components and parts imported from other countries and then export or sell them to local markets. Therefore, the value-added content of electronics products in domestic production is negligible.

The linkage between larger foreign-invested enterprise (FIE) companies or larger companies with smaller domestic enterprises remains weak. Only a small number of domestic firms are joining the global supply chains, mostly as second tier suppliers or packaging suppliers. Without a business linkage, technology transfer is not possible and the development of the whole industry is disintegrated.

4 Findings

4.1. Employment is Freely Chosen

Vietnam has ratified one of the two core conventions of the ILO regarding forced labour and integrated in its legislation a number of regulations on the issue. Generally, forced labour is prohibited (Article 8 of 2012 Labour Code). The employers are also prohibited from keeping the employee's original identification documents or requesting employees to make a deposit in cash or asset to guarantee their compliance with the employment contract (Article 20 of 2012 Labour Code). Also, the employer must obtain the employee's consent for working overtime while complying with the legal overtime limits (Article 106 of the 2012 Labour Code; Article 4 of Decree 45/2013/ND-CP). The law also protects workers who are victims of forced labour. In particular, when facing forced labour, employees are entitled to terminating the labour contract unilaterally (Article 37) and must be paid directly, fully and in a timely manner (Article 96).

The CDI's 2018 survey of 238 electronics workers found that 21.1% workers they are subject to consequences if they do not comply with the overtime requirements of the management. In particular, 12 workers said they were victimised, 3 workers were threatened of dismissal and 7 workers got their bonus subtracted for refusing to work overtime. In the mean time, nearly half of the surveyed workers regularly worked more than the legal monthly limit of overtime in the past 12 months. Coercion of workers to work overtime, in many cases in excess of the legal limit has been found in other reports. For instance, IPEN (2017) presented worker testimony that employers reprimanded workers who did not reach the output quota and "put pressure" on workers to work overtime. Unions have confirmed this practice as workers have informed the district federations of labour through hotlines when they were forced to work too much overtime (Do 2016).

The ILO Committee of Experts has explained that the imposition of overtime does not constitute forced labour under the Forced Labour Convention (No. 29) as long as it is within the limits permitted by national legislation or collective agreements. However, beyond those limits, overtime that is imposed "under the menace of a penalty," such as dismissal or wages below the legal minimum, is forced labour (ILO 2007). As such, the practice of coercing workers into working overtime more than the legal limit in the electronics industry of Vietnam is forced labour.

4.2. Freedom of Association and Collective Bargaining

The key gap between the national law and the international conventions is the fact that the state-affiliated VGCL has the monopoly of representation of workers in Vietnam. The 2012 Labour

Code established provisions which guarantee worker's rights to "establish, join, and participate in trade union activities" (Art.189 (1)). Nevertheless, this right can be exercised only "in accordance with the Trade Union Law", which, in turn, establishes a system of trade union monopoly under which all trade unions must be approved by and be affiliated with the VGCL.² It does not guarantee freedom of association as enshrined in Convention 87 of the ILO.³

The legacy of the socialist union system is the model of the union in state-owned enterprises (SOEs) during the centrally-planned economy. In the SOEs, the union leaders were considered a part of the management that is in charge of welfare benefits (Beresford 2003; Collins 2009). Despite Vietnam's economic reform, it remains a common practice for an enterprise union to be headed by a manager instead of a rank-and-file worker. It is estimated that 60% of the enterprise unions are led by managers (Ly 2012). The survey of six electronic firms in 2016 by the Friedrich Ebert Stiftung(FES) found that all the enterprise unions of these companies were headed by department-level managers and there was no rank-and-file member in the union executive boards.

One consequence of the management unions is the obstacles to workers practising their right to collective bargaining. According to the VGCL, 67%⁴ of unionised companies in Vietnam has collective bargaining agreements. However, a survey by FES and VGCL in 2015 showed that only 15% of the existing collective bargaining agreements resulted from real negotiations between workers and management while the rest were simply copies of the law (FES/VGCL 2015). It should be noted that the Labour Code requires that a collective bargaining agreement must be approved by over 50% of the labour force of the company prior to signing (Art. 71). Yet, the 2016 survey of over 60 electronics workers in Bac Ninh showed that none of them were aware of the collective bargaining agreements in their companies, which means the workers were not engaged in or consulted about the CBA (Do 2017).

There are various types of unfair labour practices in the electronics sector. The most common practices is to separate union supporters from other workers. In some cases, employers have offered promotions or additional assignments to occupy the time of union supporters (ILO 2014). In an extreme case, an electronics enterprise has blacklisted trade union leaders (WRC 2013). Decree 95/2013/ND-CP provides for a fine of three to five million Vietnam dongs (€140-190) for an employer's unfair labour practices. However, so far no employer has been sanctioned for such violations against union supporters.

When the enterprise union officials are managers, workers do not trust the formal channels for labour-management communication, consultation and grievance-handling such as the union-management meetings and consultative committees, the workers' congresses, and

² Article 4 of the TUL: "Workplace trade union is a grassroots organization of the trade union system, which organizes union members in one or several agencies, organizations and enterprises and is recognized by the immediate upper-level trade union under the laws and Statutes of Vietnamese Trade Unions."

³ Article 12 of Convention No. 87 provides that workers and employers shall have the right to establish and to join "organisations of their own choosing".

⁴ Data provided by Ministry of Labour-Invalids and Social Affairs, by October 2017.

the quarterly labour-management dialogues. Instead, workers rely on informal channels, especially private discussion with their team leaders and supervisors to voice opinions and complaints. The 2016 FES survey of six electronic firms in Bac Ninh found that 80% of the workers regarded their team supervisors as the most trusted channel for grievance-handling and no worker named the enterprise unions as their choice for raising complaints (Do 2016).

The strike incidence in electronics is low: only 15 cases in 2017.⁵ A possible reason for the low incidence of strikes is that most workers are migrants from poor provinces without a long-term commitment to the jobs in electronics companies. When they are discontent with management, workers tend to 'exit' rather than 'voice' by going on strike.

4.3. Non-discrimination in Employment

The Labour Code also prohibits the employer from employment discrimination based on race, gender, colour, marital status, religion, disabilities, and union membership and activities (Art. 8 of 2012 Labour Code). While being prohibited by laws in Vietnam, gender-based discrimination practices exists in recruitment and employment, the division of labour and pay-gaps.

4.3.1. Recruitment and employment

In terms of recruitment, researchers have reported that electronics companies prefer to hire women for assembly jobs because they are reportedly docile (Koto 2016; Vind 2008). The fact is that female workers make up over 70% of the electronics workforce. Job advertisement of some electronics companies express a preferred gender of applicants such as "recruiting female workers from 18-25 years old."

Many electronics companies have included non-pregnancy period in employment contracts with female workers. The 2018 survey of CDI found that among the 238 interviewed workers, 28.6% claimed that their companies have non-pregnancy rule in the employment contracts. The 2013 study of Vietnam exporting manufacturing industries by the Worker Rights Consortium also noted that a foreign-owned camera producer employed female workers on six-month contracts in order to reduce their obligations with pregnant workers, while male workers had one-year contracts (WRC 2013).

4.3.2. Division of labour

Regarding the division of labour, female workers are mostly recruited to perform assembly jobs (Do 2016) and male workers are assigned to "heavy-lifting" work (Vind 2008). The explanation provided by a human resources manager of an electronics company in 2016 was:

⁵ VGCL strike statistics, 2018.

“The workers have to sit for long hours and work with very small details so women with small hands are better than men. Also managing women is easier while men tend to be more aggressive and reactive to supervisors.” (Do 2016)

According to other studies male workers usually obtain higher positions than female workers (Villadiego 2017). IPEN (2017) research describes the hierarchy in an electronics factory:

“There are 8 levels of employment in [the company]. The 6 highest levels are usually managed by men, the 7th level might be managed by men or women, and the 8th and lowest level consist entirely for female workers. About 80% of the workers are women.”

Hierarchy has consequences. First, the female workers working in assembly lines tend to be exposed to greater health risks, including contact with hazardous chemicals (Villadiego 2017). Second, because union leaders of electronics companies are both managers and male, female workers often cannot voice gender-specific issues (Do 2016). Third, the gendered segregation of occupations and skills tend to increase risks of job loss due to automation for female rank-and-file workers. According to an ILO study, Vietnamese women are 2.3 times more likely to lose their jobs due to higher automation in the manufacturing industry than men (ILO 2016).

4.3.3. Gender pay-gap

The CDI survey with 202 workers in electronics companies located in Bac Ninh found that male workers earn more than female workers in all wage components. In particular, female workers earn 53.9% less than male workers in allowances, 13% less in basic salary and 6.5% less in the total compensation (see Table 1).

Table 1 - Gender pay-gap among electronics workers

| Wage components | Gender Pay Gap |
|--------------------|----------------|
| Allowances | 53.9% |
| Overtime pay | 3.2% |
| Basic salary | 13% |
| Total compensation | 6.5% |

Source: CDI Survey, 2017

4.3.4. Age discrimination

The phenomenon of dismissing workers of over 35 years old has become so pervasive in manufacturing industries, including electronics, that it aroused debates in the National Assembly (Duy

Tien 2017). The employers tend to lay off the older rank-and-file workers who have become less productive and more expensive due to their seniority and replace them with the younger workers. As women account for the majority of the rank-and-file work force in these industries, they are more affected by this discriminative practice. According to a survey by the Ministry of Labour, Invalids and Social Affairs in 2016, 1.2 million workers of over 35 years old became unemployed that year; among them, 80% were women.

4.4. No Exploitation of Child Labour

Vietnam has ratified two ILO core conventions on the elimination of child labour (C138 and C182). These standards have been incorporated into national laws and implemented through various national programmes by “creating a comprehensive legal corridor to protect children from violence, abuse and exploitation, particularly those categorized under the law as children needing special protection.” (MOLISA/GSO, 2014)

The Labour Code 2012 set the minimum age of employees to 15 years of age and minor workers are defined as employees under 18 years of age (Article 161). Minor workers are protected by law (Section1 of Chapter XI, Labour Code 2012).

There are no reports on electronics companies using child labour in Vietnam. However, the two surveys of electronics workers in 2017 and 2018 by CDI found two cases of minor workers (one aged 17 and the other 15 at the time of survey). In both cases, the minor workers reported working 6 or 7 days a week and working overtime of up to 60 hours per month on a regular basis. These practices violate the labour legislation as the Labour Code provides that the minor worker shall not work more than 40 hours per week and in terms of overtime, they should not work more than 20 hours per month (Article 163).

4.5. No Excessive Working Hours

The 2012 Labour Code provides for regular working hours of no more than eight hours per day and 48 hours per week, with a daily break of at least 30 minutes and a mandatory weekly day off of 24 consecutive hours. Overtime must be based on workers' consent and cannot exceed 50% of the normal working hours in one day (or four hours per day) or 30 hours per month and 200 hours per year (Article 106). The annual overtime limit can be extended to 300 hours in the export-oriented industries (Decree No. 45/2013/ND-CP).

Studies show that working overtime is more a norm than exception for electronics workers. There are two working time arrangements for electronics workers: they can work eight-hour shifts for six days per week (changing from day to night shift periodically) or 10-hour shifts for four days per week. According to the Labour Inspectorate, 130

out of 216 inspected companies were found exceeding the overtime limits during an inspection campaign focusing on the electronics industry in 2017 (Labour Inspectorate, 2017).

The CDI survey of 202 electronics workers in 2017 found that 83.7% of surveyed workers work overtime on a regular basis. More than 70% of the workers reported overtime in excess of the legal limit throughout the year. During high production months, nearly 70% of the surveyed workers had to work for more than 45 hours of overtime per month. The highest monthly overtime amount recorded the CDI survey was 150 hours. Workers' desire to work overtime is high: the income from overtime accounts for 38-58% of the total compensation of electronics workers (Do 2016). In other words, without regular overtime work, workers cannot maintain a liveable income.

With such long working hours, electronics workers cannot adequately care for their young children and must leave them behind in their home villages. More than 90% of the under-18-year-old children of the surveyed workers were living away from their parents, either with their relatives in the home villages or alone. The workers have very little time away from work. Only about one-third of the workers had vacation in the past 12 months and less than 30% of the surveyed workers reported any sport or exercise activities (CDI 2017).

4.6. Safe and Healthy Working Conditions

The legal framework for ensuring safe and healthy working conditions of Vietnam is detailed and compatible with the international standards. Regulations relating to OSH are not only provided in the 2012 Labour Code, but also in a variety of laws and regulations such as the Law on Occupational Safety and Hygiene (OHS Law), the Law on Fire Prevention and Fighting, the Law on Chemicals and a series of Decrees and Circulars.

Employers have the responsibility to ensure safe workplaces in line with OSH requirements; to regularly examine and evaluate hazardous and harmful elements at the workplace as well as the operation of machinery; to assign trained and qualified safety officers; and to provide annual or bi-annual health checks for the employees (Art. 138, 139 and 152 of Labour Code 2012). Employers are also required to organize OSH trainings for different categories of employees (Art. 150 of Labour Code 2012). Companies employing more than 1,000 workers must set up an OSH Council to conduct relevant inspections every six months and at the same time employers have to maintain annual OSH plans (Article 75 and 76 of the OHS Law). The Law on Fire Prevention and Fighting requires employers to develop a plan on fire safety, which must be approved by the local fire brigade and a practice of the fire plan should be undertaken at least once per year. Labour accidents should be investigated and reported and the employer, in such cases, must pay wage and treatment fees, or provide compensation or allowances for workers involved (Art. 142, Labour Code 2012).

The Law on Chemicals requires employers to establish plans and measures to prevent and address chemical issues and periodically provide trainings on chemical safety for workers (Article 30).

There is no separate legal provisions on OSH in the electronics industry.

The biggest concern raised by the previous studies and surveys on OSH in electronics companies in Vietnam is the workers' exposure to hazardous chemicals and noise at workplace which may cause health problems (Do 2016, IPEN 2017 and CDI 2018). IPEN (2017) conducted interviews with 44 electronics workers who reported that they experienced fatigue, stomach cramps, dizziness, myopia and miscarriage. CDI (2017) observed that though electronics workers are exposed to toxic chemical on a daily basis, they do not have sufficient knowledge and skills to protect themselves from harmful influence of these chemicals. The CDI survey of 202 workers (2017) found that 47% of interviewed workers claimed that their work involves exposure to chemicals. These workers were exposed to toxic elements in cleaning chemicals (21.3%), circuit boards (16.1%), and toxic fumes (11.9%). However, it is important to note that there is a higher proportion of workers who remain unaware of whether or not they are exposed to these toxic chemicals at their workplaces (see Table 2).

Table 2 - Workers' awareness of their exposure to dangerous substances used in mobile phone manufacturing

| Chemicals exposed to | Aware of frequent exposure (%) | Unaware (%) |
|-----------------------------|--------------------------------|-------------|
| Magnetic radiation | 11.4 | 18 |
| Chemical-based glue | 8.9 | 9 |
| Semiconductor | 7.9 | 19.5 |
| Chemicals used for cleaning | 21.3 | 6 |
| Metal dust | 8.4 | 12 |
| Toxic fume | 11.9 | 20 |
| Ultraviolet radiation | 4.5 | 20.5 |
| Radiation | 3.5 | 22 |
| Circuit boards | 16.1 | 8 |

Source: CDI 2017

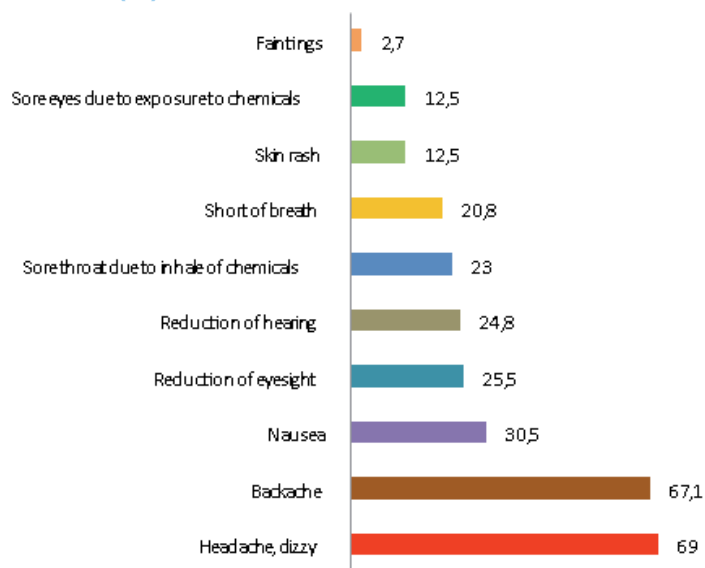
Among the workers exposed to chemicals in their workplace, 26.7% reported that they had not been trained on potential risks at workplace (hazards, poisonous substances) and impacts on their health; 34.6% stated that they had not been trained on how to use and maintain their protective clothes and equipment; and 44.3% said they had not

been trained on safety procedures at work (CDI 2017). The quality of OSH training does not appear to be satisfactory when 64% of the workers did not find OSH trainings on chemicals understandable and clear. Most of these workers (91%) got to know about chemicals and their risks by reading the labels of the bottles and cans on their own. The 2018 survey of CDI in Dong Nai and Hai Phong reported even lower rate of workers receiving OSH trainings. Among the 238 interviewed workers, only 3.8% has received all necessary trainings including OSH rules, safety issues, how to use personal protective devices, potential risks at the workplace, first-aid skills, and safe work procedures. And 10.1% of the workers, most of whom had over 6 months work experience in the current companies, claimed that they had not received any OSH training.

The Labour Inspectorate also found 74 electronics companies did not conduct OSH trainings for workers in 2017 (MOLISA 2017). They found that 47 companies did not post instructions on OSH rules at the workplace while 56 companies failed to develop an occupational safety plan and procedure.

The 2017 CDI survey found that 28.2% workers had reported one to five times to the factory clinics due to health problems in 2017. Most workers reported frequent headaches, dizziness and backaches (see Figure 2). Over 30% workers surveyed had nausea that they associated with workplace conditions while a quarter reported reduction of hearing and eye sight. Twenty-three percent of surveyed workers had sore throats which they associated with inhalation of chemicals and 12.5% experienced eye pain due to exposure to chemicals. Among the female workers, nearly half of the surveyed workers had unusual menstrual cycles while nearly 20% reported serious problems such as excessive bleeding and pain, problems that they also connected to workplace conditions.

Figure 2 - Proportion of workers with different health problems (%)



Source: compiled in Do (2018) based on the CDI 2017 survey of 202 workers

The MOLISA has acknowledged the potential for serious health impacts in the electronics industry despite lack of statistics:

“Problems relating to labour safety in the electronics industry can lead to cancer and heart attacks due to being exposed to chemicals, radiation and electronic waves ... But this is only an inference, without proving statistics, although there are real lead poisoning and occupational diseases.” (MOLISA 2016)

4.7. Abusive Termination of Employment

Vietnamese regulations on unilateral termination of employment by the employer are strict and compatible with international standards. The employer is allowed to dismiss a worker only when the worker repeatedly fails to perform the assigned work or does not present to work for five consecutive days without good reasons (Art. 38 of 2012 Labour Code). The employer is not allowed to dismiss a pregnant woman or a female worker raising a child of under 12 months old, an employee suffering from illness or accident, or an employee on a permitted leave (Art. 39 of 2012 Labour Code and Art. 40 of the 2006 Law on Gender Equality).

There is no reported case of abusive termination of employment in the electronics industry in Vietnam. However, as overtime pay makes up a large proportion of the electronics workers' income, pregnant workers who are prohibited from working overtime will not earn enough to sustain their livelihood. Because of the significant reduction of income, many female electronics workers quit their jobs when they get pregnant to find other temporary jobs that do not enforce the overtime prohibition during their pregnancy (Do 2016). In other words, the low (regular) wages paid to electronics workers have not only forced them to work more overtime but also discouraged them from keeping the jobs when they are not able to work overtime because of pregnancy and raising children under 12 months.

4.8. Legal Wages and Benefits

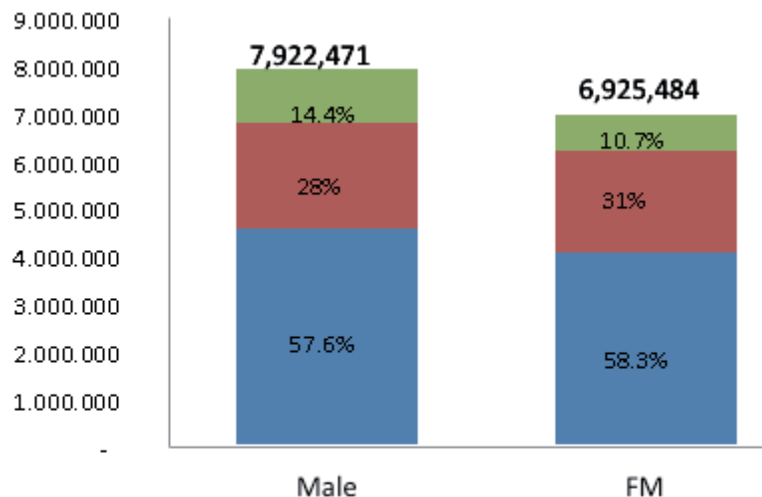
The legal minimum wage is intended to cover the minimum living needs of workers and their families (Art. 91.1 of the 2012 Labour Code). Before 2013, the minimum wage was set by the government in consultations with trade unions and employers' organisations. Since 2013, the new minimum wage is set by the National Wage Council (NWC) at the end of the year. The NWC is a tripartite body with equal representation of Ministry of Labour-Invalids and Social Affairs (MoLISA), Vietnam General Confederation of Labour (VGCL), Vietnam Chamber of Commerce and Industry (VCCI), and Vietnam Cooperatives Alliance (VCA). Each party consults their own members and develops their own proposal for the new minimum wage. Then, at the annual meeting of the NWC, each party defends its proposals while negotiating for the four regional minimum wages

which take effect at the beginning of the year.

The minimum wages for 2018 range from 2,760,000 Vietnam dong (€110) per month (Region 4) to 3,980,000 Vietnam dong (€150) per month (Region 1). If workers receive trainings by the employer, they get an additional 7% to their wage (Decree 153/2016/ND-CP). Electronics companies generally pay the applicable regional minimum wages or more. However, there are a few cases in which workers are paid less: the 2017 survey by CDI found that 14 among 202 interviewed workers received regular wages that are lower than the applicable minimum wage (Do2018).

In addition to the basic wage which is often based on the minimum wage, the electronics workers also receive a number of allowances (such as attendance allowance, travel allowance, housing allowance), bonuses and overtime pay. Below is the average wages of male and female electronics workers in 2017:

Figure 3 -Average monthly compensation of rank-and-file male and female workers (VND)



Source: compiled in Do (2018) based on the CDI 2017 survey of 202 workers

4.9. Living Wage

Although the minimum wages are intended to cover the minimum living needs of the workers and their families, they lag far behind the living wages. For instance, the gross minimum wage for Region 1 in 2018 is 3,980,000 Vietnam dong (€150) per month while the living wage estimate by the Wage Indicator Organisation is 7,330,000 Vietnam dong (€280) per month; in other words, the minimum wage only covers just more than 50% of the needs of workers and their families.

To determine whether the current wages provide decent living conditions for workers and their families, we compare the prevailing wage which is comprised of the basic salary during regular working hours plus allowances and bonuses with a living wage benchmark. Here

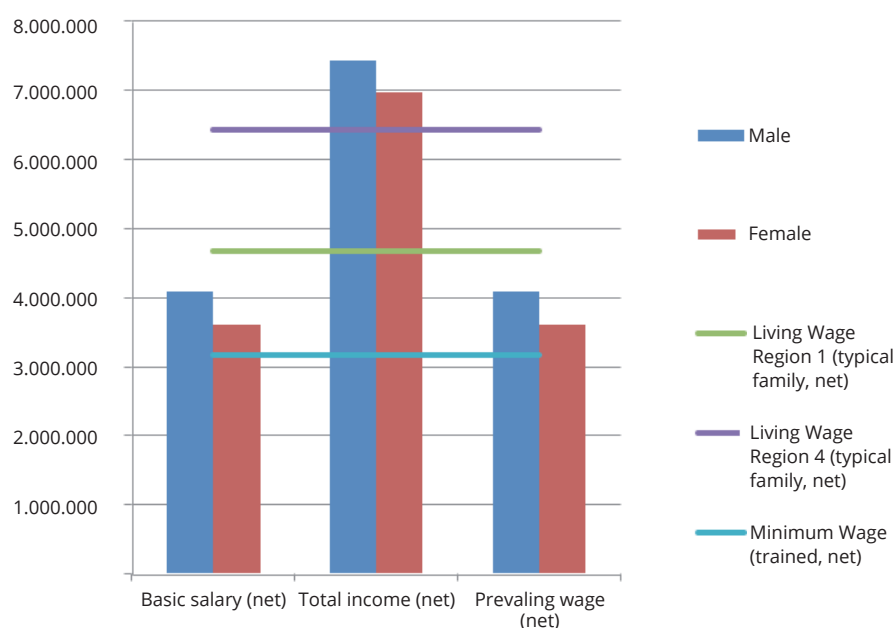
⁶ Wage Indicator is a non-profit organisation established in 1999 in the Netherlands and now operates in 92 countries. Wage Indicators estimate the living wage annually in 62 countries including Vietnam. The Living Wage is an approximate income needed to meet a family's basic needs including food, housing, transport, health, education, tax deductions and other necessities. The latest living wage estimates for Vietnam can be found here: <https://wageindicator.org/salary/living-wage/vietnam-living-wage-series-january-2018>.

⁷ Wage Indicator Foundation is a Dutch non-profit organisation aimed at comparing minimum wages, living wages and actual wages among 125 countries in the world. The living wage methodology used by Wage Indicator is developed by Martin Guzi and Martin Kahanec on the basis of the Anker living wage methodology. Wage Indicator estimates the living wage for 03 types of households: typical family; standard family and single-person family (the detailed methodology can be found here: https://wageindicator.org/documents/publicationslist/publications-2018/living-wage_english_20181221.pdf). In this report, we use the living wage benchmarks estimated for a standard family (2 adults and 02 children) for Region 1 (most developed) and Region 4 (least developed) for 2018.

we use the living wage estimate of the Wage Indicator Organization⁶ which is based on the Anker methodology (Anker 2017). The living wage estimate for Vietnam is based on the typical household size in Vietnam of two adults and two children with 1.8 people working. The basic needs of the family include food, housing, transport, health, education, and other living costs plus 5% for contingency and tax deductions.

As shown in the Wage Ladder (Figure 4), the net living wage estimates for January 2018 ranges from 4,670,167dong (€180) per month to 6,444,716 Vietnam dong (€250) per month for the least and most developed regions of Vietnam respectively. The basic salary, prevailing wage (basic salary plus allowances and bonuses) and total income (prevailing wage plus overtime pay) of the 202 electronics workers in the 2017 survey of CDI are compared with these living wage benchmarks. The comparison clearly shows that without overtime pay, none of the workers is paid at or higher than the living wages. The low wage received by workers during regular hours has become the main driver for them to work overtime.

Figure 4 -Wage ladder of rank-and-file electronics workers, 2017



Source: Wage data calculated based on CDI's 2017 survey of 202 electronics workers; Living Wage benchmarks of Wage Indicator⁷ for Vietnam in January 2018 (Wage Indicator, 2018)

4.10. Other Domestic Labour Standards

The 2012 Labour Code provides that an employer must enter into an indefinite term labour contract with an employee after two continuous short-term contracts (Art. 22). However, the trend of short employment periods and high labour turnover among electronics workers can be an indication of the employers' intentional limitation of employment terms to avoid signing indefinite term contracts. The CDI survey (2017) found that 73.8% of the 202 interviewed workers who were selected at random had up to three years of work experience at their current companies, but only 10.9% of the workers secured indefinite term contracts while 5% had no contract at all. According to a social auditor in electronics, it is a common practice for companies to recruit workers between 18-25 years old for two short-term contracts of up to three years but refuse to extend employment into indefinite term contracts.⁸ The reason for this practice is that the longer workers work for a company, the higher their regular wages as the law requires at least 5% of disparity between wage steps.⁹ This will mean higher costs for the companies as they will not only have to pay higher wages but also higher social security contribution for the workers.

⁸ Interview with a social auditor, November 2018

⁹ Art. 7, Decree 49/2013/ND-CP

5

Root Cause Analysis

- The management of the electronics companies and the labour administrators and labour inspectors are not fully aware of the risks, especially OSH issues, in the electronics industry. The Labour Inspectorate acknowledged this lack of awareness as one of the root causes of safety issues in the industry (Labour Inspectorate, 2017). To improve the awareness, further studies of the risks in the industry should be conducted and shared with all relevant stakeholders including the firms and labour inspectors.
- The number of labour inspectors in Vietnam is limited; among them, there are few labour inspectors with specialised knowledge of the electronics industry. Trainings for the labour inspectors on the potential risks in the electronics industry are important.
- The fact that the unions are manipulated by management has deprived workers of a mechanism for grievance-handling, communication, representation and protection. If the unions are independent of the management, they will be able to help address workers' complaints in a more timely manner and monitor the labour practices of the management to prevent breaches of the law.
- The linkage between the enterprise unions and the upper-level unions remains weak. As a result the grassroots unionists are not properly supported and protected in case of being victimised by the management for their union activism.
- The production in the electronics industry is highly cyclical. The electronics firms, therefore, either have to rely on temporary workers or exceed overtime limits during peak seasons. To deal with this problem, lead firms should consult with suppliers on their capacity before deciding upon the contract and lead time so as to prevent pushing the suppliers to exceed overtime limits.

Suggested questions for brands to help identify practices that may cause or contribute to breach as well as strategies to mitigate and prevent risk of breach:

- Within a 12-month period, which months are high production?
- Which months are low production?
- What is the average difference in units produced (or people employed on the production line) between high and low production?
- Is this consistent from year to year or does it vary?
- Is this variation predictable for the supplier?
- What flexibility on code of conduct issues (e.g., overtime) do brands provide suppliers during periods of high production?
- How much advance notice on average do the brands give suppliers of new orders?
- If the suppliers risk exceeding the overtime limit by the new orders, are the brands willing to adjust the orders?

Suggested questions for suppliers, contractors, and contracting authorities to help identify practices that may cause or contribute to breach as well as strategies to mitigate and prevent risk of breach:

- Can contracting authorities, contractors, and brands contribute to improved production forecasting and help to even out peaks and troughs in production?
- How can contracting authorities, contractors, and brands ensure they do not pay a price for the goods purchased from any direct supplier at which it is not feasible for the goods to be produced in compliance with labour rights and safety standards?
- How can contracting authorities, contractors, and brands ensure they do not demand a delivery schedule under which it is not feasible for the goods to be produced in compliance with working hours and overtime standards?
- What kind of leverage do contracting authorities, contractors, and brands have to ensure their direct suppliers do not cause or contribute to labour rights or safety breaches?

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