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## **Trend in the Development of Labour Commitment in the Eu Fta – Policy Implication for Vietnam**

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**Abstract:** The purpose of this study is to clarify and highlight some development trends in labour commitments within the new-generation Free Trade Agreements (FTAs) recently signed or negotiated by the European Union (EU). Specifically, the study first clarifies the content of labour commitments in current EU FTAs, which include three pillars: (i) Core labour standards (CLS); (ii) Decent work agenda (DWA); and (iii) Corporate social responsibility (CSR). Based on this, the study analyzes recent trends in these three pillars within EU FTAs. Additionally, the research provides several policy implications for Vietnam to effectively implement its labour commitments with EU partners.

**Keywords:** Free Trade Agreement, Labour Commitments, Decen Work Agenda, Corporate Social Responsibility.

## Introduction

In the context of stalled negotiations and diminished effectiveness of multilateral cooperation under the WTO framework, FTAs have become the leading alternative form of economic cooperation for protecting trade interests and improving access to new markets for the EU (Majchrowska, 2020). For the EU, FTAs boost the trade system by adopting a deeper and broader approach to promoting openness and integration, as well as addressing issues that are not yet ready for multilateral discussion (Commission of the European Communities, 2006). Undoubtedly, the advent of the second-generation FTAs integrating labour commitments in the Trade and Sustainable Development (TSD) chapter has proven more effective in the "Global Europe: Competing in the World" strategy that the EU is pursuing. Accordingly, the EU-Korea FTA in 2011 established a series of new-generation FTAs incorporating both trade and non-trade elements, such as labour and environmental commitments. These labour commitments focus not only on CLS from ILO's fundamental conventions but also reference the ILO DWA, forming substantive commitments, while CSR constitutes cross-cutting commitments.

To date, the EU has continuously negotiated and signed new-generation FTAs with various partners, with a recent trend towards negotiating FTAs with emerging economies in the ASEAN region. However, recent FTAs have shown significant changes in the content and structure of labour commitments, leading to alterations in the implementation of these commitments, affecting not only newly signed countries but also those that had previously signed EU FTAs. Therefore, as the most comprehensive and anticipated FTA with a developing country, clarifying the trends in labour commitment negotiations in recent and future FTAs is highly significant for Vietnam in terms of aligning with its signed commitments.

By examining ten second-generation EU FTAs currently in effect (including: (1) EU-Korea FTA; (2) EU-Colombia/Peru/Ecuador Trade Agreement; (3) EU-Central America Association Agreement; (4) EU-Canada Comprehensive and Economic Trade Agreement (CETA); (5) EU-Japan Economic Partnership Agreement (EPA); (6) EU-Singapore FTA; (7) EVFTA; (8) EU-UK Trade and Cooperation Agreement (TCA); (9) EU-Chile Interim Agreement on Trade; (10) EU – New Zealand FTA) and two FTAs under negotiation (EU-Indonesia FTA and EU-Thailand FTA), this paper focuses on examining changes in the content and structure of labour commitments in recent EU FTAs. Thus, on one hand, the paper provides insights into labour commitments in the TSD chapter of new-generation EU FTAs, while on the other hand, it highlights future trends in the EU's trade negotiations with various countries. Consequently, the paper may offer suggestions for Vietnam and other current and potential EU partners to effectively implement their labour commitments in new-generation FTAs.

## Literature reviews

Regarding the topic of trends in labour commitments within EU FTAs, there is almost no research conducted. Existing studies related to this topic primarily focus on analyzing aspects of labour regulations in FTAs. For example, ILO (2013) analyzed legal and comparative aspects of labour

provisions, creating a map and analyzing active FTAs. It defined three pillars of labour provisions, classifying them into obligations, monitoring activities, cooperation, and dispute resolution. ILO (2016) expanded the scope of the previous labour provisions framework by (i) broadening the scope and (ii) deepening the analysis of implementation, focusing on cooperative activities and the role of stakeholders in agreements. ILO (2017; 2019) detailed specific issues related to labour provisions, including their approach and effectiveness. This work enhanced the analysis of labour obligations in FTAs, particularly focusing on ILO-related obligations such as CSR, gender, and migrant labour. Araujo (2018) provided comparative analyses of labour provisions in US and EU FTAs (including the now-defunct TPP and TTIP). Raess and Sari (2018) introduced a new dataset on the design of labour regulations in trade agreements. The foundational dataset includes 487 PTAs from 165 countries from 1990 to 2015. Raess and Sari (2020) continued to develop the database for PTAs effective since late 2017. LSE (2021) conducted a comparative analysis of TSD regulations to identify best practices for assessing TSD. However, most existing studies have focused on evaluating labour commitments based on three pillars: (1) standards; (2) compliance mechanisms; and (3) monitoring, rather than on specific areas such as CLS, DWA, and CSR. Moreover, recent FTAs have undergone significant changes compared to previous FTAs on various issues, meaning these studies have not yet addressed these changes. This is how this research, basically, plays a crucial role in re-evaluating the structure of EU commitments up to the present and providing guidance for countries that have, are, or will sign FTAs with the EU to gain deeper insights into EU labour commitments and implement them effectively.

## 1. Content and Nature of Labour Commitments in EU FTAs

Labour commitments in the TSD chapter of EU FTAs share three main types of provisions: substantive commitments, procedural commitments, and institutional mechanisms (Smith et al., 2021). In this framework, CLS and the ILO DWA are components of substantive commitments. CSR/ Responsible Business Conduct (RBC) constitutes a cross-cutting commitment (TSD Experts Group Meeting, 2017), filling legal gaps in specific policy areas and enhancing the monitoring and enforcement of CLS (Ying Chen, Benedict Sheehy, 2023). With this approach, the three main pillars of labour commitments proposed in EU FTAs are ILO CLS, DWA, and CSR.

DWA is structured into: (i) overarching and cross-cutting objective of labour commitments; (ii) general obligations that parties commit to fulfill; and (iii) areas of cooperation between the parties. As noted by the Panel of Experts in the EU-Korea FTA dispute: *“decent work is at the heart of their aspirations for trade and sustainable development, with the ‘floor’ of labour rights an integral component of the system they commit to maintaining and developing”* (Murray, Boisson de Chazournes, Lee, 2021). Broadly, DWA represents the overarching goal of labour commitments in EU FTAs, partly through supporting or promoting the endogenous development of labour standards (Arestoff-Izzo et al., 2007).

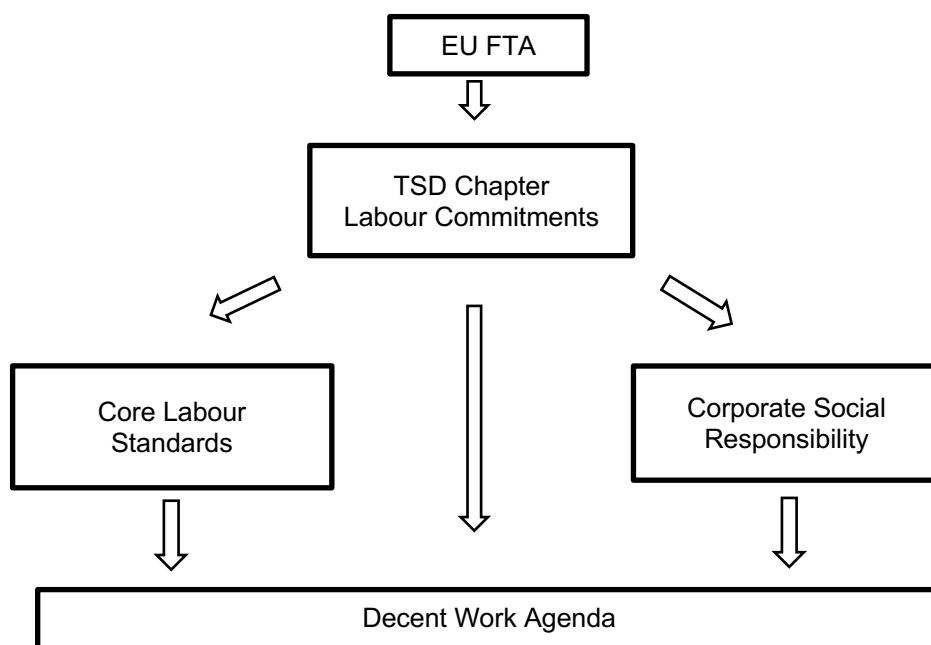
CLS are expressed through obligations to respect, promote, and effectively implement fundamental labour principles and rights, in accordance with the obligations of ILO member states and

the 1998 Declaration, including: (i) Freedom of association and effective recognition of the right to collective bargaining (Convention No. 87 on Freedom of Association and Protection of the Right to Organise and Convention No. 98 on the Right to Organise and Collective Bargaining); (ii) the elimination of all forms of forced or compulsory labour (Convention No. 29 on Forced Labour and Convention No. 105 on the Abolition of Forced Labour); (iii) the effective abolition of child labour (Convention No. 138 on Minimum Age and Convention No. 182 on the Worst Forms of Child Labour); (iv) the elimination of discrimination in respect of employment and occupation (Convention No. 100 on Equal Remuneration and Convention No. 111 on Discrimination (employment and occupation)).

Regarding CSR, the EU recognises additional social commitments such as corporate governance and broader socio-economic policy coordination, promoting CSR/RBC (Corley-Coulibaly et al., 2022). In the context of CSR provisions, the agreement addresses national obligations under international principles such as the OECD Guidelines for Multinational Enterprises, the United Nations Global Compact, and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, as well as areas of cooperation between the parties (Nguyen, Nguyen & Nguyen, 2024).

**Figure 1**

*Relation between key elements in labour commitments under the TSD Chapter*



Source: authors own development

## 2. Trends in labour commitments in EU Free Trade Agreements

### 2.1. Upholding ILO CLS

First of all, the first wave of new-generation FTAs, such as the EU-Korea FTA, EU-Col/Peru/Ecu FTA, EU – Central America FTA, CETA, EU-Japan EPA, EU – Singapore FTA and EVFTA, use the

1998 ILO Declaration as a foundation for implementing the CLS. Nevertheless, certain FTAs between the EU and other nations, finalized after 2022, including the EU-Chile FTA and EU-Thailand FTA, explicitly incorporate the amended version of the ILO Declaration on Fundamental Principles and Rights at Work from its 110<sup>th</sup> Session in 2022. This revised version includes five fundamental standards instead of the previous four. According to the updated Declaration, the new addition is the need for a "safe and healthy working environment". It so happens that the remaining FTAs, while still making reference to the 1998 Declaration, all necessitate the adoption of this fifth standard. For instance, *"The Parties welcome the decision of the 110<sup>th</sup> International Labour Conference by which a safe and healthy working environment is added to the fundamental principles and rights at work. No later than at its first meeting the Trade Committee"* as stated in Article 19.3(4) of the EU - New Zealand FTA.

Another point is that it is important to emphasise that the some recent FTAs underscore the need of ratifying and efficiently executing the 2014 Protocol to the Forced Labour Convention rather than just demanding adherence to two conventions concerning forced labour, as was the case with earlier second-generation EU FTAs. Article 26.17 of the EU - Chile FTA and EU-Indonesia FTA, EU - New Zealand FTA states that *"The Parties affirm the importance of ratification of the Protocol of 2014 to the Forced Labour Convention, 1930, adopted at Geneva on 11 June 2014 by the International Labour Conference at its 103<sup>rd</sup> Session"*.

Under other circumstances, several recent EU FTAs include more extensive and profound obligations. The international labour standards mentioned are often expanded to include areas such as occupational health and safety, labour inspection system. Examples of these expansions may be found in specific articles of various trade agreements, such as Article 26.16(7) of the EU-Chile FTA, Article 19.3(9) of the EU-New Zealand FTA, and in the agreements between the EU and Thailand, Indonesia, and the UK. The EVFTA and EU-Indonesia FTA address the rights of migrant workers.

## 2.2. Promoting ILO DWA

The first, in order to address labour issues in the present circumstances, second-generation EU FTAs are increasingly relying on newly enacted international legislative frameworks relevant to DWA. For instance, the EU-Chile FTA and the EU-Thailand FTA now make reference to the revised 2022 version of the ILO Declaration on Social Justice for a Fair Globalisation, instead of relying on the previous version adopted at the 97<sup>th</sup> International Labour Forum in Geneva on 10 June 2008, which was widely used in earlier new generation EU FTAs. Simultaneously, the International Labour Conference approved the ILO Centenary Declaration for the Future of Work at its 108<sup>th</sup> session in Geneva on June 21, 2019, as explicitly mentioned in the EU-Thailand FTA.

The second, unlike the aspirational provisions found in numerous EU FTAs that acknowledge the importance of achieving full, productive, and decent work for everyone in addressing the challenges and opportunities brought about by globalisation, recent FTAs concentrate on particular sectors. These agreements include enforceable requirements for parties to guarantee that their labour laws and practices align with the objectives of the DWA, which encompass (i) ensuring occupational health and safety; (ii) establishment of acceptable minimum or decent working standards; and (iii) non-

discrimination in respect of working conditions (iv) Social dialogue. For instance, the EU-Thailand FTA, Article 19.3(8) of the EU-New Zealand FTA, Article 399(6) of the EU-UK TCA, and Article 23.3(2) of CETA all highlight the importance of promoting the ILO DWA via their respective laws and practices. From a legislative perspective, these discrepancies indicate an inclination to enforce mandatory requirements to incorporate international frameworks for decent work into domestic legislation. They also reflect an increasing dedication to confronting the problem of decent work in developed nations.

The third, the scope of collaboration on DWA is steadily broadening across several interconnected domains. Actually, this is reflected in the key pillars of decent work, namely: (i) the inter-linkage between trade and full and productive employment; (ii) core labour standards; (iii) social protection; and (iv) social dialogue. Not only that, this approach is also extended to other areas associated with labour, for example: other international labour standards; labour market adjustment; labour statistics; human resource development and lifelong learning; social inclusion; and gender equality. Multiple EU FTAs express a dedication to cooperate on the inter-linkage between trade and full and productive employment for all, including youth, women, and people with disabilities. They also emphasise a commitment to ensuring social protection for all, encompassing vulnerable and disadvantaged groups, such as migrant workers, women, youth, and people with disabilities. Besides, EVFTA explicitly reaffirms its commitment to collaboration on additional labour standards, extending beyond the fundamental labour standards. And, the EU-Chile FTA highlights the connection between trade and labour policies in achieving sustainable employment. This is evident in the specific areas of cooperation, which include: job creation and the promotion of productive, high-quality employment, including policies to generate job-rich growth and promote sustainable enterprises and entrepreneurship; promotion of improvements in business and labour productivity, in particular in respect of small and medium-sized enterprises; work-life balance and innovative workplace practices to enhance workers' well-being; and increasing awareness of DWA. In the present trend of responsible supply chain management, many EU FTAs have included sustainable work in global supply chains as a key area of collaboration. These FTAs include the EU – Thailand FTA, EU – New Zealand FTA, EU – Indonesia FTA, and EU – UK TCA.

### *2.3. Promoting CSR*

Firstly, recent EU FTAs have introduced a significant modification by including a specific clause on CSR, with an enhanced emphasis on RBC within the context of responsible supply chain management. In previous EU FTAs, CSR material was included as a topic of collaboration. Given that the Parties recognise the importance of RBC and CSR practices, which include responsible value chain management. This recognition is evident in recent FTAs such as the EU – Chile FTA, EU – Thailand FTA, EU – New Zealand FTA, EU – Indonesia FTA, and EU – UK TCA..

Secondly, in addition to using diplomatic language to encourage parties to consider internationally recognised agreements, recent FTAs explicitly mandate "adherence, implementation, follow-up and dissemination of relevant international instruments". This is most evident in the EU-Thailand FTA, which specifically incorporates sector-specific guidelines and even requires parties to

take actions to promote the application of the OECD Due Diligence Guidelines. Article 26.3(3) of the EU-Chile FTA, Article 19.12(3) of the EU-New Zealand FTA, and Article 406(3) of the EU-UK TCA all contain similar provisions. Furthermore, it is worth noting that the EU has implemented the Corporate Sustainability Due Diligence Directive and, concurrently, mandates partner nations to align with these EU measures (2<sup>nd</sup> DAG meeting between EU-Vietnam).

Thirdly, The EVFTA CSR provision is considered to be a step forward in the EU's goals, however it only recognises “in accordance with their domestic laws or policies agree to promote CSR”. The requirements of the agreement members in this EU FTA are clearly defined as the need to provide supporting policy frameworks, in line with national laws or policies, to promote the adoption of applicable practices by firms. This is achieved via the supply of *“promote RBC and CSR, including responsible value chain management, by providing supportive policy frameworks that encourage the uptake of relevant practices by businesses”* (Article 406(2)(a) EU – UK FTA, EU – Thailand FTA, EU – New Zealand FTA).

### 3. Policy implications for Vietnam

It can be stated that the government needs to strengthen EVFTA labour obligation monitoring and evaluation. Vietnam lacks evaluations, impact studies, and reports that confirm EVFTA labour commitments. With increased EU expectations for labour commitments, the implementation of labour standards by relevant authorities must be regularly checked and examined. Increasing civil society, the ILO, and the EU's involvement in external monitoring and assessment might aid Vietnam's implementation efforts.

At the same time, the Vietnamese government must combine implementation with trade partner cooperation. In the three essential areas of labour obligations, Vietnam has neither signed Convention No. 87 or adopted the Decree of the Workers' Representative Organisation. This is particularly applicable to DWA and CSR. Vietnam might benefit from collaborating with the EU and its member states on technical assistance, capacity development, information exchange, and training to satisfy these obligations. Vietnam may do its tasks more efficiently.

Beyond that, to fulfil its obligations under the agreement, the Vietnamese government must enhance domestic labour standards. The EU's employment duties are based on ILO standards and recommendations. Regardless of the trading relationship, domestic law should handle the local labour standards challenges. Improving labour rules is critical for properly carrying out EVFTA labour duties. Improving standards improves working conditions, increases the labour force, and prepares human resources to fulfil labour commitments under Vietnam's next generation of FTA.

As part of the fundamental changes, encourage private sector involvement (Business). Recently, Labour's pledges have focused on the business sector. This includes mandatory agreements to encourage firms to collaborate with the government to comply with labour regulations, particularly those relating to corporate social responsibility and responsible business conduct. In the absence of

Vietnamese government implementation and oversight, private sector involvement may assist assure compliance. Thus, innovation, as well as the evaluation and support of firms that use innovative techniques to improve labour standards, must be prioritised. Enterprises may strengthen their labour commitments by designing and executing strategies to prevent labour breaches in corporate operations, creating an ESG Reporting Framework, and avoiding the import and export of forced or child labour.

## Conclusions

This study has analysed a limited sample of second-generation EU FTAs to identify emerging patterns in employment obligations in both recently completed agreements and ongoing negotiations for future EU FTAs. The research evaluated the modifications of EU FTAs in relation to three key elements of labour commitments: CLS, DWA, and CSR. The evolving legal framework of the ILO and the EU significantly impacts the development trend of labour obligations in FTAs. EU policy specifically transitions from non-binding agreements to legally binding commitments. The research then suggests many policy implications for Vietnam and other countries that have signed or are in the process of negotiating FTAs with the EU, considering the numerous changes and more stringent legislative rules.

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