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## **UNDERSTANDING AND MINIMIZING RISK FOR STRIKES IN VIETNAM**

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## INTRODUCTION

Although the right for employees to strike over workplace and economic concerns is a sign of a modern democratic free market system, all parties agree that it is generally the least desirable method for resolving differences between employees and employers. Work stoppages, whether conforming to legal guidelines or not, are disruptive, costly, and damaging to the relationship between employer and employees. Trust and good-will so essential for workplace cooperation and productivity is quickly broken and only slowly repaired.

This booklet explains some of the reasons for the current wildcat strikes in Vietnam and offers concrete measures that can be implemented immediately at the workplace to minimize an enterprise's risk for labour problems.

**Prepared by Jan Jung-Min Sunoo**

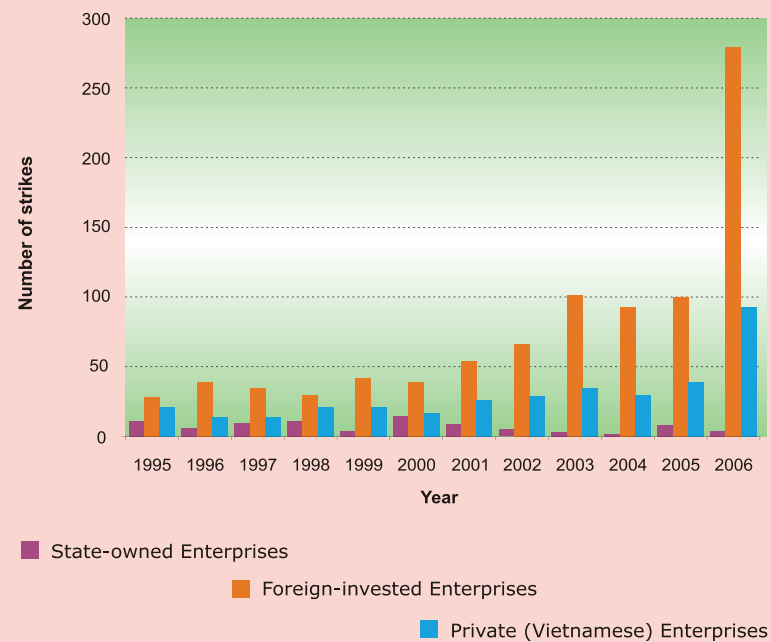
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## PREQUENTLY ASKED QUESTIONS ABOUT STRIKES IN ENTERPRISES IN VIETNAM

### What is the trend of strikes in Vietnam?

There have been 1,370 reported cases of wildcat strikes since 1995. The chart below shows the overall strike trends in Vietnam since the adoption of the Labour Code in 1995.

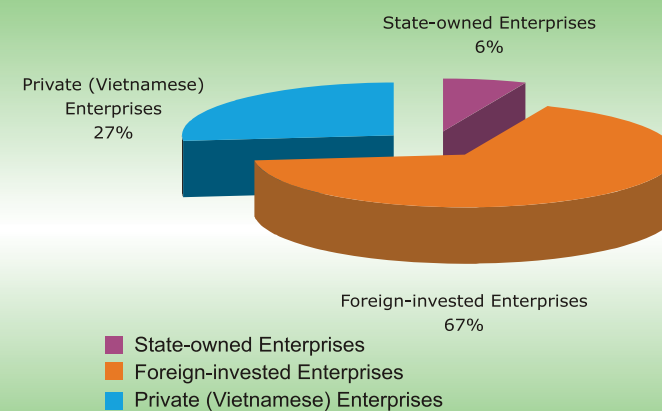
Number of strikes in Vietnam by Enterprise Ownership  
1995-2006



### Where are strikes occurring?

More than two-thirds of all strikes have been in foreign-invested enterprises, mainly in the south. Although these companies account for only around 3% of the total number of enterprises in Vietnam, they employ 15% of Viet Nam's entire industrial workforce.

Percentage of strikes in Vietnam by Enterprise ownership  
1995-2006





### How are strikes occurring?

Workers seem to strike spontaneously before discussing their problems with their employers. Most strikes occur without prior consultation with unions. The strikes do not follow the legal procedures in the Labour Code. Most are less than a week in duration.

### Why are workers striking?

Industrial actions are a normal part of industrial life in a market economy. Indeed, the phenomena of strikes reflect the dynamic nature of economic and social development for the past 10 years in Vietnam. However normal they may be, nevertheless, they are a serious indication of a need to bridge a communication gap.

According to ILO experts' research findings, the following were reasons given by workers for going on strike:

- 33%: Demand for higher wages or failure to pay a promised increase
- 25%: Failure to pay a promised bonus
- 25%: Excessive overtime hours
- 20%: Failure to pay for overtime hours worked
- 17%: Workers complain that they do not have labour contracts with their employers
- 13%: Failure of employers to pay social insurance

As this indicates, strikes are currently linked to economic dissatisfaction and working conditions as well as employers' violations of the Labour Code and regulations.

Workers are voicing demands for higher wages, protesting not receiving agreed-to bonuses, and protesting excessive overtime hours. Although everyone agrees that education and adherence of workers and employers to the labour law will certainly be of some benefit, there is growing realization that labour law education alone will not be able to resolve the conflicts growing from the fundamental contradictions of growing desire of workers for better pay and better working conditions and the need for employers to be increasingly productive and lower costs in the competitive marketplace of the global economy. These pressures are likely to be heightened by the recent entry of Vietnam to the World Trade Organization.

### How can employers and workers address this growing international pressure?

Such direct employer-workers actions as two-way ongoing communication mechanisms and collective bargaining will be necessary at the work place to reconcile the inevitable recurring conflicting interests of both parties.

### What are the future challenges for labour relations?

- There is a labour shortage in some of the Industrial Zones and Export Processing Zones which only encourages workers to become bolder to demand more compensation for their labour.
- Because wildcat strikers are often paid for the days they are on strike, and are often successful in winning concessions from employers for this type of job action, the popularity for this activity has spread.
- Increasing number of strikes based on workers' desire to improve their wages and working conditions unrelated to employer violations.
- 75% of workers in some provinces have migrated from other areas and are unfamiliar with factory life.
- Competition with other countries will intensify since Vietnam has now joined the World Trade Organization.



## GOOD PRACTICES FOR EMPLOYERS

### 1 Good people management provides a competitive edge for a company.

As Vietnam deals with the post WTO era and global markets, competition will only increase. Good people management requires human resource management policies geared to ensure fairness, and facilitate continuous two way communications in order to encourage high performance.

### 2 Regular worker-manager meetings.

The first step for harmonious labour relations at the workplace starts with information-sharing and two-way communication. Wildcat strikes are more likely to happen in a workplace where there is no regular two-way communication between management and workers. Establishing a regular two-way communication channel enables the management to understand concerns and views of workers, and therefore to develop a policy which reflects the views and concerns of workers.

### 3 Reward good performance and higher productivity.

### 4 Know and comply strictly with the Labour Code and regulations and any mutually-agreed terms and conditions between the workers and the employer.

#### In enterprises that have a trade union:

Being proactive in building a relationship with the trade union at your enterprise has benefits.

- 1 **Workplace stability.** In the absence of a well-functioning credible union at the workplace, employers may not have a reliable employee counterpart with whom they can discuss their concerns and problems. Where a union does exist, it is in the employer's interest that workers channel their concerns to management through this organization.



*Union-Management meeting at Il Jung Company*

### 2 Negotiating a substantive wage and benefits collective agreement that includes clearly defined wages and working conditions can help the employer to stabilize the work environment in several ways.

- Negotiating a CBA can help to reduce the possibility of wildcat strikes. Addressing major concerns of workers and employers (e.g. wages and working conditions) in collective bargaining, encourages workers to rely on this orderly and effective process to address their needs in the future, rather than taking spontaneous job actions whenever they are dissatisfied. This will condition employees to expect regular opportunities to improve their wages and address workplace concerns and will lower their need to take spontaneous job actions.
- The collective bargaining setting provides many opportunities for management to clarify and share the legitimate concerns of management with employees.
- Many CBAs contain a "no-strike clause" where the workers promise not to strike as long as the CBA is being upheld by the employer.

### 3 Regular meetings between the management and representatives of workers can help identify and address concerns before they become major problems and improve communication.

- Good labour relations can be the Vietnam enterprises' competitive edge- especially as the demand for higher wages rises and global competition sharpens.
- Regular meetings open up the vital communication link between employers and their workers.

- Use the opportunity to listen to and address the everyday concerns of workers. Any problem resolved in its beginning stages builds credibility and trust between the workers and management- trust that will be needed in the coming years to increase cooperation at the work place.
- A responsible, respected, trained union supported by the workers, but aligned with the goals of a successful operation is an invaluable asset to the enterprise.
- As the need for increased flexibility, innovation and productivity grows, worker-employer cooperation will already have been established.



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**4 Respond quickly to any conflicts that occur. Have a quick, transparent and fair dispute resolution system in place to handle any problems quickly. Follow these principles:**

- Always try to resolve problems directly at the lowest level
- Uncover each person's interest by asking "Why?"
- Respect each side's right to have their interest, even if it isn't your own.
- Strive for a win-win solution that encompasses both side's concerns.
- Know who the District and Provincial Mediators and relevant authorities are and contact them immediately if a problem cannot be resolved at the enterprise level.

## GOOD PRACTICES FOR UNIONS

**1 An effective union must be credible in the eyes of its members and workers at the enterprise.**

- Workers have often gone on strike without consulting the local union for the past years because they do not perceive the union at the enterprise level as strongly representing workers' voices effectively to management.
- In order to assume credibility and take leadership, the union at the work place must function independently of management to first and foremost represent workers' rights and interests to the employer.
- It is crucially important that workers elect a local union leader they all trust and respect. It should also be encouraged that union leaders and union committee members come principally from the lower or non-management employees so that the majority of workers can better identify with and trust their leadership.
- Cooperation with the employer is important to a smoothly functioning enterprise, but it is normal that some conflicts of interest will be encountered. Where disagreement occurs, it must be clearly identified and respectfully acknowledged and effort made on both sides to resolve the problem.

**2 The union can negotiate a substantive collective bargaining agreement that includes items that may go beyond the prescribed labor code items.**

- The collective bargaining process is the MOST IMPORTANT OPPORTUNITY for the union to demonstrate leadership at the work place in a way most meaningful to workers.
- The CBA is the main opportunity for workers to negotiate wages, and have some input over workers' everyday concerns such as overtime policy, safety issues, food quality, training opportunities, housing, transportation, recreational facilities and other issues that are associated with their work place that impact their lives.

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- Any issue that might lead to a strike should be addressed and resolved during the collective bargaining process.
- If major concerns of workers are addressed well during collective bargaining, workers will learn to use this effective method to address their needs through regular collective bargaining meetings in the future, rather than feel compelled to take strike action to get their concerns noticed.
- Consult views of workers, through a democratic process, before preparing union proposal for collective bargaining with employers.
- Set an annual date for negotiating wages, working conditions, etc. This will lead to workers becoming more disciplined about how and when to put forth their demands to the employer.
- Union leaders should never sign a CBA until after it has been explained to and approved by the union members. The approval by the workers gives them a just sense of ownership and empowerment and makes adhering to the CBA their responsibility as well.

### 3 **Address concerns and grievances of your members and the workers in your regular meeting with the management and your members and workers**

#### **Regular meeting with management**

- Ask the management to have regular meeting with you. Present your members' concerns and grievances. Also, listen to the concerns of the management.
- Meetings must be planned, and regular.
- Results of meetings must be shared widely with employees.

#### **Regular meeting with your members and the workers**

- Hold regular meeting with your members and the workers to listen to their grievances and demands, so you can represent their grievances clearly in your meetings with the management.
- The Union should not expect the employer to agree with them on every matter. Disagreements can be a valuable tool to understand an issue better and eventually come to resolution.

- Demonstrate to management that good labour relations can be the enterprise's competitive edge.
- Share results of meetings with your members and the workers in a timely fashion.

### 4 **Respond quickly to any conflicts that occur. Have a quick, transparent and fair dispute resolution system in place to handle any problems quickly. Follow these principles:**

- Always try to resolve problems directly at the lowest level.
- Uncover each person's interest by asking "Why?"
- Respect each side's right to have their interest, even if it isn't your own.
- Strive for a win-win solution that encompasses both side's concerns.
- Involve the District or Provincial union official if the problem cannot be resolved at work with enterprise workers representatives.
- Know who the District and Provincial Mediators and relevant authorities are and contact them immediately if a problem cannot be resolved at the enterprise level.
- Let workers know when and how the problem has been successfully resolved.



## WHAT CAN EMPLOYERS AND WORKERS REPRESENTATIVES DO TO MINIMIZE THE RISK FOR A WILDCAT STRIKE?

### 3 ACTIONS TO TAKE NOW

There are some basic actions that can be taken to minimize the chances for industrial disputes before they escalate to the level of a work stoppage. These actions will also begin to improve industrial relations immediately.

- 1 Be proactive in establishing regular meetings with two-way communication between the employer and workers representatives so that problems can be recognized early and addressed quickly.
- 2 Where unions exist, consider negotiating wage and working conditions collective agreements (CBAs) that address vital concerns of both workers and employers. Setting regular dates for negotiating wages, benefits, working conditions, etc. will lead workers to become more disciplined about how and when to put forward their desires to the employer. It will give both sides a legitimate forum to express and negotiate for their needs at the workplace.
- 3 Have a transparent, fair and lawful dispute resolution system in place to handle problems quickly. Be certain that it is viewed by workers and management alike as a fair system. Involve the provincial union official and call the Local or District Mediator if a problem cannot be resolved between the two parties.

#### Why is it important to have regular and transparent communication between employees, the worker representatives and the employer?

- Regular communication between enterprise management, the worker representatives and employees provides both parties with an opportunity to express any issues they may have in relation to the workplace.
- This provides employees with an opportunity to air any grievances and gives management the opportunity to deal with any concerns that employees may have quickly and efficiently.

#### Why is a union important?

- Formal communication between employees and management is critical if disputes are to be resolved effectively, without the necessity of employees taking wildcat strike action.
- The union can function as a communication bridge explaining employee grievances and aspirations to the employer.
- In enterprises where there are a high proportion of rural workers who are less familiar with the requirements of a factory environment, the union can help in their adjustment.

#### Why is negotiating a Wage and Working Conditions Agreement important?

- Collective Bargaining Activity is a strategy with three key anticipated positive outcomes:
  1. Reduction in the number of wildcat strikes.
  2. Stimulate ongoing two-way communication between employees, workers representatives and employers.
  3. Developing a disciplined workforce with responsible leadership.
- Collective bargaining activity funnels workers' demands and interests into a legitimate, effective mechanism, thus lessening the tendency and need for spontaneous job actions.
- Employees become more disciplined and learn to anticipate and use regularly scheduled collective bargaining meetings as their opportunity to address concerns, seek higher wages, change things at work, etc.
- By employers and employees actively negotiating and agreeing on terms and conditions of employment and putting them in writing, both parties are guaranteed that their agreement will be followed, since collective and individual agreements are enforceable under the law.



## STEPS FOR EMPLOYERS TO TAKE IN THE EVENT OF A STRIKE

In the unfortunate event of a strike the following steps should be taken:

- 1 Immediately call the local Labour official, officials of District or Provincial Confederation of Labour and/or VCCI/VCA representative.
- 2 Notify the local police if there is any violence, threats of violence or destruction of property.
- 3 Attempt to identify and speak to the strike leader to find out what the problem is.
- 4 Avoid threats or losing your temper. Going on strike gets everyone excited. The best tactic is to ask many questions to understand the workers' concerns and cool the situation down.
- 5 Don't try to solve the problem before you understand the problem!
  - a. Ask enough questions until you fully understand the nature of the problem and then address it seriously and soberly.
  - b. Don't make promises that you cannot keep.
- 6 Be cooperative with Mediators and the Arbitration Council and relevant authorities during the dispute resolution process.



## STRIKE RISK TEST

Although no survey can predict actual strike risk with 100% accuracy, this survey will give you some relative ideas about what your company is or is not doing to protect you against the possibility of a strike. Remember, ONGOING TWO-WAY COMMUNICATION is your best insurance.<sup>(\*)</sup>

### WORKPLACE RELATIONS CHECKLIST

WORKER INVOLVEMENT	RESPONSE	ACTION REQUIRED
1. Are workers involved in solving process and production problems?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
2. If so have their suggestions led to increases in productivity and profits?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
3. In such cases have workers been rewarded?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
4. Were those rewards: (select one or more answers) a. Monetary? b. Individual recognition? c. Team recognition?	Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/>	
5. Does giving information to workers result in better motivation or performance?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
6. Do workers provide feedback of their views?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
7. Is training provided to enable better participation?	Yes <input type="checkbox"/> No <input type="checkbox"/>	

<sup>(\*)</sup> This Strike Risk Test was adapted from materials of ILO Factory Improvement Programme, 2007.

8. Where workers are actively involved in planning production lines/processes, is there a significant difference between such lines and others in which there is no involvement?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
9. Has worker involvement led to greater competitiveness of the enterprise?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>MECHANISMS FOR STRENGTHENING RELATIONS</b>	<b>RESPONSE</b>	<b>ACTION REQUIRED</b>
10. Do you have an employee suggestion scheme?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
11. If yes, is it used on regular basis?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
12. Are the suggestions shared with workers?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
13. Are the suggestions implemented?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
14. Are workers consulted on decision on which suggestions get implemented?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
15. Do you have daily point of production meetings?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
16. Do you ever use joint decision making with workers to plan improvements or changes in the factory?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>DISPUTES AND THEIR SETTLEMENT</b>	<b>RESPONSE</b>	<b>ACTION REQUIRED</b>
17. Do you have internal arrangements for the resolution of disputes?	Yes <input type="checkbox"/> No <input type="checkbox"/>	

18. If so are workers and their representatives part of the process?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
19. Do you use outside conciliation when necessary?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
20. Have you been able to avoid disputes in the last three years which may cause a stoppage of work or other serious disruption?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
21. If one exists, is your grievance procedure used by employees?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
22. Do workers know how to access the procedure?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>WORKER REPRESENTATION ISSUES</b>	<b>RESPONSE</b>	<b>ACTION REQUIRED</b>
23. Do you have a union in your factory?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
24. Do you have regular meetings with your union or other body representing workers?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
25. On request, do you have meetings with your union or other workers body?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
26. If your company does not have a union, do workers organize meetings among themselves and discuss issues and concerns?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
27. Are the meeting minutes recorded?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
28. Do the workers select their leader to act on their behalves and send their concerns and demands to the management?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
29. If yes, do you engage in any collective bargaining?	Yes <input type="checkbox"/> No <input type="checkbox"/>	

## YOUR STRIKE RISK RATING

SCORING: **Add up all your “YES” responses.**

### 25-31 “Yes” Responses:

VERY LOW STRIKE RISK! You are doing most of the things right that companies of excellence do. Your employees probably feel informed, appreciated and involved with the company. Congratulations on your good labor relations!

### 20-24 “Yes” Responses:

LOW STRIKE RISK! You are on the right track! Your responses indicate that your company places a higher than average emphasis on work place communication. Review the “NO” Responses to identify areas you may wish to improve on.

### 10-19 “Yes” Responses:

SOME STRIKE RISK. Like many companies, your communication mechanisms for hearing workers' concerns and complaints may be weak or inconsistent at best. There is a lot of room for worker frustration to grow and develop into undesired actions. Review all your “NO” Responses to see what is missing in your labor relations practices.

### 0-9 “Yes” Responses:

HIGH STRIKE RISK. The main reason for workers going on wildcat strikes is LACK OF ONGOING TWO-WAY COMMUNICATION with management. Your responses indicate that this is not a high enough priority within your company. Review all the “NO” Responses immediately and move to correct the problems!

## FOR ADVICE OR TECHNICAL SUPPORT ON LABOUR RELATIONS, CONTACT

### ILO Vietnam Industrial Relations Project

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Tel : 84-320-858 181 - Fax: 84-320-853 304

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Add : 21 Phan Chu Trinh, Danang  
Tel : 84-511-825 606 - Fax: 84-511-825 661

### HCMC Industrial Relations Advisory Services Centre

Add : 153 Xo Viet Nghe Tinh Str., Ward 17,  
Binh Thanh Dist, Ho Chi Minh City  
Tel : 84-8-518 0973 - Fax: 84-8-899 7952

### Dong Nai Industrial Relations Advisory Services Centre

Add : 62/8 Cach Mang Thang 8, Quang Vinh Ward, Bien Hoa, Dong Nai  
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