



# TRADE UNION REFORM

FOR WORKERS' RIGHTS AND INTERESTS

UNDER THE VGCL-NIRF/Japan COLLABORATION PROGRAMME  
COMPILED BY VGCL INSTITUTE FOR WORKERS AND TRADE UNION

NEWSLETTER

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## HIGHLIGHTS

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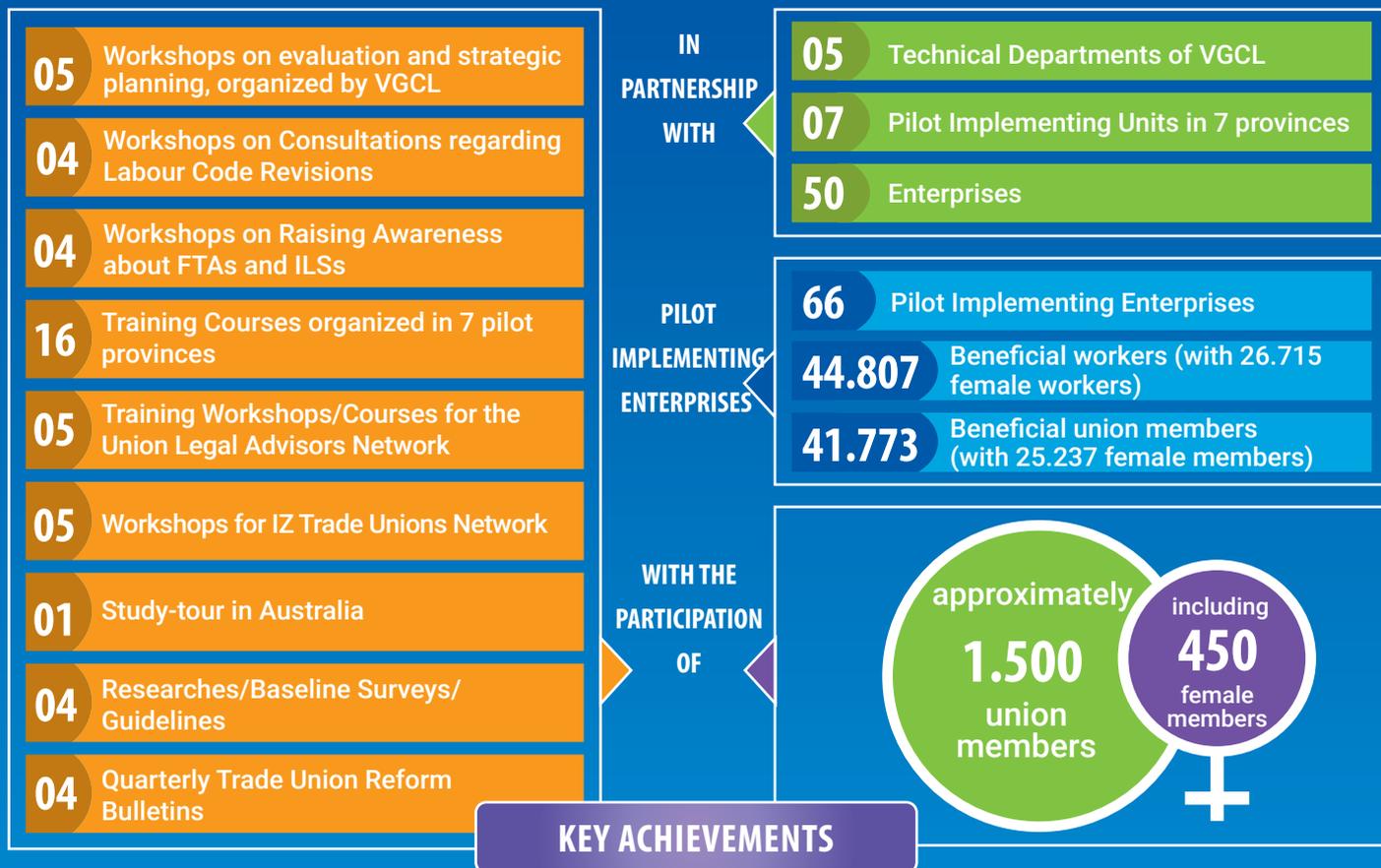
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UPDATES



# NIRF/ JAPAN PROJECT – A TWO-YEAR REVIEW

THE NIRF/JAPAN PROJECT COMMENCED ON DECEMBER 31, 2016. TO DATE IT HAS COMPLETED TWO-THIRDS OF ITS PLANNED JOURNEY AS A COOPERATION PROGRAMME. AS OF THE END OF 2018, THE PROJECT, IN COLLABORATION WITH THE VIETNAM GENERAL CONFEDERATION OF LABOUR (VGCL) AND LOCAL PILOT IMPLEMENTING UNITS, HAS LAUNCHED A SERIES OF ACTIVITIES ACROSS A WIDE RANGE OF AREAS.



- VGCL's voice, positions and suggestions provided in the process of revising and adopting the Labour Code have been strongly supported.
- Democratic elections and new forms of unions as well as multi-employer collective bargaining and social dialogue have been promoted at various levels.
- Industrial Relations (IR) initiatives and pilots have been scaled up in various provinces and sectors with a variety of partners and using new channels and communication modalities.
- Good practices and lessons learnt have been developed and shared among the Industrial Zone (IZ) Trade Unions Network.
- An effective mechanism for dealing with labour disputes has been triggered through activities of the Union Legal Advisors Network.

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# COOPERATION BETWEEN VGCL AND NIRF/JAPAN PROJECT 2018 REVIEW AND 2019 PLANNING

The NIRF/Japan Project is a part of the New Industrial Relations Framework (NIRF) Programme. The overall objective of this Programme is to establish an effective legal and institutional base for a new industrial relations framework in Vietnam with respect to the 1998 ILO Declaration on Fundamental Principles and Rights at Work. Under the Collaboration Programme with VGCL, the NIRF/Japan Project directs its support to ensure the representative functions of trade unions (through sharing experiences and lessons learnt from practice).



## A. MAIN RESULTS

### 1. Project management

Engagement among technical departments of VGCL (including the International Cooperation Department, Industrial Relations Department, Organizing Department, Institute of Workers and Trade Unions, and Communication Department) has been strengthened

Technical support and collaboration among VGCL technical departments and local pilot units have been promoted.

Information on the progress and results of project activities is updated, exchanged and shared regularly with leaders of VGCL.

Results of project activities are spread and shared more broadly within the trade union system.

Connections, information sharing and

experience exchanges have been boosted among pilot implementing units which joined the project both early on and more recently

### 2. Technical support

The project design is relevant to VGCL policy priorities (e.g. revision of laws, organizational structural reform, legal advisory service, development of IZ trade unions network, etc.)

Initiatives and lessons derived from pilot activities play important roles and are contributing to the process of renovating VGCL's organizational structure and activities as well as to Vietnam's labour law reform (e.g. formation of multi-employer unions, multi-employer collective bargaining agreements, etc.).

The IZ Trade Unions Network has been recognized as a breakthrough activity of the Project. The IZTU Network is the

nexus for directly spreading good practices and experiences in organizing grassroots trade unions (GTUs) and enhancing connections between upper-level unions and their members and workers in collective bargaining, labour disputes and strike settlement in 50 IZ/EPZ/EZ trade unions.

The Union Legal Advisor Network has been established in piloted provinces which are hot spots on industrial relations in order to strengthen capacity and efficiency of legal advisory services and legal protections for workers.

VGCL's trainers have rich practical experience (in various technical departments, IZ Trade Unions, GTUs, local Federations of Labour (FoLs), etc.) and are a crucial resource for sharing and spreading lessons gained from Project activities in the most



applicable, pragmatic and friendly manner for the trade unions in the whole system.

### 3. Research

Research has been promoted across the entire Project in order to develop a connection between research and implementation, namely:

- Research on legally organizing (informal) workers in forms of syndicates
- Research on the phenomenon of employment termination for mid-aged workers
- Policy brief on IZ Trade Union activities
- Handbook of legal advisory services

Research findings have provided important scientific information that is contributed as inputs for identifying strategic priorities for VGCL as well as for the Project's implementation.

### 4. Communication

Communication has been strengthened and promoted under the Project.

- A special section in the VGCL

e-portal, news items in Labour News, television programme "Vietnam Trade Union"

- Trade Union Reform Bulletins
- Email-based and other social-network-based contact groups

Information on Project activities is updated and shared in a more expeditious, broad and holistic manner than before.

## B. SHORTCOMINGS

### 1. Implementation progress

- Some activities were rescheduled for deployment into the end of the year (after the 12th Vietnam Trade Union Congress) and a number of activities could not be implemented as planned.
- Pilot programmes in Hai Phong, Binh Duong and Dong Nai are being implemented behind schedule.
- Pilot for the establishment of multi-employer GTUs in micro and small enterprises in Long An has not achieved the results assigned by VGCL.

- Some VGCL technical departments do not strictly follow the deadlines for submitting outputs (e.g. Handbook of Legal Advice by IR Department, 02 Institute of Workers and Trade Unions studies).

### 2. Quality of activities

- Post-activity works are often completed slowly (e.g. Reports on results/ Recommendations after completion of activity/ Financial works)
- Follow-ups are not invested properly in terms of time allocation (e.g. solutions for issues of concern that have been raised).
- There is lack of breakthrough/determinant thoughts in a number of pilot members during pilot implementation. They are not proactive and often relying on the top-down instructions. Those implementing the pilots are not always proactive, instead relying on top-down instructions.

### 3. Networking activities

- Cooperation and engagement among two key constituents (i.e.

VGCL and VCCI) occur only sporadically, which does not properly reflect the proactivity and expectations of these two actors.

- Tripartism-based activities (between VGCL, MoLISA, VCCI) are still limited and separated isolated.
- Other activities coordinated between NIRF/Japan Project and other ILO Projects are not sufficiently enhanced by the series of collaborative activities due to the different objectives and work plans that these projects pursue.

### C. ROOT CAUSES OF THE SHORTCOMINGS

#### 1. Originating with trade unions

- The XII Vietnam Trade Union Congress was the pinnacle of 2018 for the entire trade union system, from national to GTU congresses. All

efforts were channeled towards preparatory work for and implementation of the Congress' Resolution with the result that time allocated for project implementation was significantly impacted.

- Personnel changes after Trade Union Congresses led to tasks re-assigning which resulted in several tasks modifications in some pilot implementing units (e.g. Long An and Binh Duong), which eventually slowed or directly influenced the quality of pilot programmes.
- Personnel streamline in the trade union system, especially at the local level (e.g. the case of Da Nang), led to a shortage of staff for conducting pilots.

#### 2. Originating with the project

- The project as designed was overly packed with objectives and activities;

there were also multiple technical departments and local units which created overloaded and highly intensive works for project staff as well as for local unionists.

- Project management requires strict compliance to the Project timeframe together with output-based management coupled with transparency in financial management.

#### 3. Originating with collaboration modality

- A National Steering Committee was established for the NIRF Programme (consisting of representatives from MoLISA, VGCL and VCCI); however no coordination mechanism was formed to properly associate and promote the responsibilities and roles of each party. Each party has their own agenda and resources (in terms of time and human resources), which are limited, so planning for collaborative activities between different stakeholders has been encountering difficulties.
- VGCL's Technical Advisory Committee consisting of various technical departments and units helped to strengthen collaboration among VGCL departments, but it created complex, overlapping and overdue implementation.

### D. PROJECT WORK PLAN 2019



#### Tentative Timeline for 2019

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Preliminary summary, evaluation, planning		Completion of pilots in Hai Phong, Binh Duong, Dong Nai									
		<ul style="list-style-type: none"> <li>• Support pilots in Da Nang, Ho Chi Minh City, Quang Nam</li> <li>• Support consultative activities on Labour Code and Trade Union Law; IZ Trade Union Network; Legal Advisors Network</li> <li>• Develop evaluations/lessons learnt/summary for pilot programmes</li> </ul>								Final Project Wrap-up, Closure of Project	



### STUDY PLAN ON RATIFICATION OF CONVENTIONS NOS 87 AND 98 SOME ISSUES OF POSSIBLE CONCERN TO TRADE UNIONS

Centre for Industrial Relations Development  
Ministry of Labour, Invalids and Social Affairs (MoLISA)

According to the issued Action Plan for Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) attached to the Prime Minister's Decision No. 121/QĐ-TTg dated 24 January 2019, the Ministry of Labour – Invalids and Social Affairs (MoLISA), together with relevant ministries and organizations, is assigned to complete the Statement for Ratification of ILO Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, in 2019, and the Statement for Ratification of ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise, in 2023. Thus, according to this plan the Government of Vietnam, and particularly MoLISA, must carry out the procedures required for this preparatory work, including preliminary reviews of the gaps between prevailing legislation and ILO Conventions Nos 87 and 98.

#### Core Principles of Convention No. 87<sup>1</sup> (1948)

This Convention enshrines four fundamental principles, specifically:

- (1) Workers and employers shall have the right to establish and to join organisations of their own choosing without previous authorisation. This right must be applied equally to all workers and employers without distinction whatsoever, including civil servants .
- (2) Organisations shall have the right to draw up their constitutions and rules, to elect their representatives, to organise their administration and activities, and to formulate their programmes. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.
- (3) Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority. Such action is the most serious form of

<sup>1</sup> Except for the armed forces and police.

intervention and against freedom of association.

(4) Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation, shall have the right to affiliate with international organisations, including receiving (technical and financial) support from such organisations.

Furthermore, Article 8 of Convention No. 87 states that workers and employers and their respective organisations shall respect the law of the land and that the law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.



### Core Principles of Convention No. 98<sup>2</sup> (1949)

#### The Convention's aims are:

(1) Workers shall enjoy adequate protection against acts of anti-union discrimination from recruitment until the termination of their employment.

(2) Workers' and employers' organisations shall be independent of one another. In particular, acts which are designed to promote the establishment of workers' organisations under the domination of employers or employers' organisations, or to support workers' organisations by financial or other means, with the object of placing such organisations under the control of employers or employers' organisations, shall be deemed to constitute acts of interference within the meaning of this Convention.

(3) Collective bargaining is promoted by ensuring the right to free and voluntary bargaining between employers and workers' organizations. Thus, bargaining parties shall enjoy full freedom in determining bargaining issues, level, and scope of bargaining.

#### Some issues of possible concern to trade unions

If Vietnam ratifies ILO Conventions Nos 87 and 98, it will be necessary to amend current labour law, including the Labour Code, Trade Union Law and implementing documents, in order to guarantee compatibility with these

two Conventions. Here are some key issues:

(1) Ensuring the principle allowing workers to establish and join organizations of 'their own choosing', meaning that workers shall enjoy full freedom in joining or not joining representative organizations, and that they shall have the right to independently choose a representative organization rather than having this decision dictated by law. If workers themselves choose to have one unique representative organization or a single trade union system, then this decision does not contradict the standards embedded in the Convention.

(2) Ensuring the self-determination of workers' and employers' representative organization(s) in drawing up their constitutions, rules of operation, and programmes. The laws shall not intervene unduly into the internal operations of such organisations.

(3) Revising and strengthening the regulations protecting workers, trade union officers, and organisers of workers from employer acts of anti-union discrimination and interference. In particular, it is necessary to amend and supplement regulations on: anti-union discrimination; anti-union interference; acts of anti-union discrimination and interference; mechanisms for claiming and appealing in case of anti-union discrimination and interference; and, sanctions and remedies against acts of anti-union discrimination and interference.

<sup>2</sup> This Convention does not apply to the position of public servants engaged in the administration of the State.

## REVISION OF 2012 TRADE UNION LAW IN RESPONSE TO THE REQUIREMENTS OF A NEW CONTEXT

**Ngo Duy Hieu**, *National Assembly Delegate*  
Vice President of the Vietnam General Confederation of Labour



The Trade Union Law taking effect as of 1 January 2013, institutionalized the Party's visions and guidelines regarding perfecting and developing a socialist-oriented market economy. It is an important legal basis for ensuring and improving efficiency for the Vietnam Trade Union, and contributes to maintaining the socio-political stability of the country.

After six years of enforcement, the provisions of the 2012 Trade Union Law have translated into reality. The position of the Trade Union is increasingly confirmed. The material and spiritual life of union members has improved, with workers being looked after and taken care of. Workers are loyal to their job and are working with good attitudes, proactively and creatively. This state of affairs contributes to the building and socio-economic development of the country.

New requirements have emerged for amendment of the 2013 National Constitution and related laws, as well as regarding the demand to integrate more and more deeply into the global

economy and for better socio-economic development; the preceding require that the Trade Union Law be defined. Pursuant to Resolution No. 18-NQ/TW dated October 25, 2017, by the Party Central Committee of the XII Party, Plan No. 735-KH/DĐQH14 dated 18/01/2018 of the National Assembly, and the National Assembly's Official Letter No. 1099/UBPL14 of the National Assembly Legal Committee, VGCL has focused on directing all levels of trade unions to conduct an assessment and review of the implementation of the 2012 Trade Union Law, and then, based on that, to study policies and recommendations suggested for revising the Trade Union Law.

## 1. Orientation for revising the Trade Union Law

The amendment and supplementation of the Trade Union Law will "focus on the content related to organizational structure". Therefore, the reform of the Trade Union Law at this time will focus on the organizational structure with basic principles, as follows:

(1) to integrate and institutionalize the Party's innovative visions and guidelines related to the development of the country; (2) to ensure consistency with the 2013 National Constitution and to systematize labour and union laws in the current legal system; at the same time, to incorporate Directive No. 22/CT-TW dated June 5, 2008 of the Party Central Committee's Secretariat on "Strengthening the leadership and directing the development of harmonious, stable and advanced labour relations in business"; (3) to inherit and to develop regulations which work properly in reality in order to ensure stability and solidity in the enforcement of the current Trade Union Law; (4) to study and incorporate international experience with the Trade Union Law in accordance with Vietnamese practices, and step by step, to enhance compatibility with international law; (5) to make amendments and supplements only to some articles of the Trade Union Law, focusing on content related to organizational structure.



## 2. Completed works

- Plan No. 58 / KH-TLD summarizing five years of enforcing the 2012 Trade Union Law within the system of Vietnam Trade Unions was issued and implemented on August 10, 2018.
- Based on reports from all trade union levels, VGCL has developed a draft report summing up the five-year enforcement of Trade Union Law.
- On October 19, 2018, VGCL issued Decision No. 1804/QD-TLD on the establishment of a Steering Committee and Supporting Unit for the Steering Committee. The Steering Committee on the revision of the Trade Union Law holds meetings to launch works related to the Trade Union Law revision.
- On a monthly basis, VGCL reports to the National Assembly's Legal Committee and Social Affairs

Committee regarding progress on revising the Trade Union Law.

## 3. Works yet to be undertaken

(1) Conduct preparatory activities for completing the dossier of proposed legislation according to the provisions of the Law on Promulgation of Legal Documents; (2) expand the draft statement for developing a bill to amend and supplement a number of articles in Trade Union Law; (3) expand on the five-year summary report for enforcing the Trade Union Law; (4) draft and refine the bill; (5) develop a report assessing the impact of policies on the proposed law; and (6) promptly complete a dossier proposing amendments to the Trade Union Law in accordance with the Law on Promulgation of Legal Documents for submission to the National Assembly's Standing Committee and the National Assembly.

## MULTI-EMPLOYER TRADE UNION IN PRIVATE CHILDCARE UNITS IN AN MY (QUANG NAM) SPOTLIGHT ON VGCL'S PILOT PROGRAMMES

### Ta Thi Bich Lien

National Project Coordinator - NIRF/Japan Project

Teachers in kindergartens, especially preschool teachers in private childcare groups, face many difficulties in their employment, such as working 9-10 hours per day; heavy workloads, high-pressure environments, and a high working intensity require teachers to stay alert at all times. The work is hard; however, the salary, the remuneration, for some preschool teachers is not commensurate with their contribution. Many teachers in private childcare groups have not been issued employment contracts nor have they been covered by social insurance or health insurance. The relationship among preschool teachers in non-public areas, especially teachers in private childcare groups ineligible for establishment as a kindergarten, is characterized by monotony and a lack of connections. They have little opportunity to exchange professional information, share experiences, or to help one another improve work efficiency, culture and professional ethics.

In An My Ward, Tam Ky City, Quang Nam, the establishment of a multi - employer grassroots trade union (MEGTU) for private childcare groups creates a new association model for the Vietnam Trade Union. The teachers in



private childcare groups form a GTU which then organizes mass activities for non-public preschool teachers. This model is the basis for trade unions to take care of and protect the legitimate and lawful interests of union members and workers in this noble occupation according to the cultural traditions of society. At the same time, the model enables union members and preschool teachers to participate in meaningful trade union activities. This MEGTU is one of the pilot activities found under the Cooperation Program between VGCL and the International Labour Organization's (ILO) NIRF/Japan Project piloting in Quang Nam. Upon its establishment in mid-2018, the An My

Ward MEGTU attracted and recruited 27 teachers in 10 private An My Ward childcare groups as union members. After less than a year, this MEGTU has attracted 12 more teachers and workers to join the trade union organization.

On April 7, 2019, the First Union Congress of the MEGTU for private childcare groups located in An My Ward (term 2019-2023) was held in Tam Ky City, Quang Nam. The Congress evaluated the results of trade union activities held from the MEGTU's establishment through to April 7, 2019, and also developed activities for the next five-year term, including nine targets and six tasks and solutions. At



this Congress, union members elected members to the Executive Committee of the Trade Union consisting of five members and structured from private preschool groups, including: Private Preschool of Green Poetry, Ha Anh Private Preschool, Starlight Preschool, Preschool Small House, and Preschool 19/5. During this event, Ms. Do Thi Thuy Trinh from the Green Childhood Preschool Group was introduced and directly elected by the Congress to the position of President of the MEGTU for the private preschool group in An My Ward with 100% of the vote.

The establishment of a MEGTU in My An Ward and the success of the first Union Congress is a remarkable outcome demonstrating solidarity, determination, unity and consensus from the workers to the upper level union, together with the strong determination of the Quang Nam FoL Pilot Implementing Unit to actively innovate the organization and operation

of trade unions meeting new situational requirements.

Before the Congress was held, two other groups from private childcares were attracted to join the union, bringing the total number of union members to 39. This addition also shows the attention of workers to the union and their wish to be cared for, represented and protected by a union.

A remarkable innovation is the fact that the Quang Nam Pilot Implementing Unit has boldly applied another pilot of directly electing the President of the GTU at the Congress. This initiative is also known as a "pilot within a pilot". The personnel participating in the Executive Committee of the Trade Union were introduced by union members from the childcare group, and the Interim Executive Committee summarized and finalized a list of candidates for the election held at the Congress. The unanimous election

results for the MEGTU President demonstrated the absolute trust union members have in the new female President of the MEGTU. These results also confirm the spirit of 'dare to dream and dare to make it come true', persistence and creativity of the Quang Nam Labor FoL Pilot Implementing Unit.

In addition, the interest and voluntary coordination of private childcare owners in the process of mobilizing the establishment of a MEGTU as well as the support of the parties involved in MEGTU activities, such as the private childcare club, An My Ward People's Committee, and Tam Ky City Education Department, should be highlighted.

However, this success is an initial one, and has been setting some new requirements for the Quang Nam FoL in guiding and directing the activities of this MEGTU in An My Ward regarding how to meet the expectations of preschool teachers in representing and

## PILOT ACTIVITIES

caring for the workers, protecting their interests and improving their material and spiritual life in the future. To do so, Quang Nam FoL should continue to guide and support the Executive Committee of the MEGTU in proposing dialogue with employers soon and carrying out collective bargaining and the signing of collective bargaining agreements. Later on, the Quang Nam FoL should effectively implement and supervise the implementation of policies and benefits for union members and employees in accordance with the law.



## PILOT ACTIVITIES: PLANNED BENCHMARKS FOR PILOTS

### Dong Nai FoL

Complete the pilot on social dialogue (SD) in wood-processing enterprises in Tam Phuoc IZ, Bien Hoa City (by the end of May 2019).

### Binh Duong FoL

Complete the pilot on SD in wood-processing enterprises in Tan Uyen District, Binh Duong (by the end of May 2019).

### Hai Phong FoL

- Complete the pilot on expanding MECBA in Trang Due IZ.
- Conduct SD in Nomura IZ. (by the end of May 2019)

### Ho Chi Minh City FoL

Consolidate multi-employer dialogue and conduct negotiations for MECBA in Linh Trung EPZ (by the end of October 2019).

### Da Nang FoL

Continue expanding MECBA (by the end of October 2019).

### Quang Nam FoL

- Support MECBA and MESD in MEGTU .
- Pilot establishment of MEGTU in group of villas, homestays in Hoi An. (by the end of October 2019).

## FOCAL NEWS: THE FIRST SIX MONTHS OF 2019

### Activities implemented during 1<sup>st</sup> Quarter 2019

- MESD in wood-processing enterprises in Binh Duong, 12 January 2019.
- Workshop on 2018 summary review and 2019 planning with VGCL and NIRF, March 7-8, 2019.
- Consultation workshop on the study of the phenomenon of termination of employment for mid-aged workers, March 13, 2019.

### Activities planned for 2<sup>nd</sup> Quarter 2019

- Talk show "Future trade unionists in the process of IR reform in Vietnam" with students from the Trade Union University, May 31, 2019.
- Workshop on the "Position of IZTU in the strategic reform of VGCL"
- Workshop on the organisational and operational structure of Advisory and Consultancy Centers for workers
- Workshop on sharing experiences on the ways to prevent and resolve workers' interests in enterprises with owners fleeing and going bankrupt.