

Towards enforcement of labor standards in the *European Union–Vietnam Free Trade Agreement*: can Vietnam leverage the impact of the implementation of corporate social responsibility?

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Abstract: The *European Union–Vietnam Free Trade Agreement* (EVFTA) contains fairly comprehensive rules, including non-commercial norms and values, in which labor standards are integrated into the sustainable development content. However, the EVFTA does not create new labor standards; it merely references the Conventions of the International Labor Organization (ILO) and requires members to comply with them. To enforce labor standards under the EVFTA, Vietnam has made significant efforts to ratify the ILO conventions on fundamental labor standards and incorporate these standards into its domestic legal system. In addition, promoting voluntary initiatives by enterprises, such as adopting corporate social responsibility (CSR), should be considered a complementary approach to strengthening the effective implementation of labor standards in Vietnamese businesses.

This article analyzes the current situation of labor standards enforcement in Vietnamese enterprises under the EVFTA and explores the potential role of CSR in ensuring compliance. On the basis of these insights, it presents several recommendations to enhance the adoption of CSR in Vietnam.

Keywords: *corporate social responsibility, EVFTA, ILO, labor standards, Vietnam*

1. Introduction

From the perspective of the European Union (EU), labor provisions—commitments related to labor rights—have been integrated into free trade agreements (FTAs) since 2009. Similarly to labor provisions in other EU FTAs, a key aspect of the *EVFTA*'s labor commitments is the obligation of both parties to effectively implement the fundamental labor standards of the ILO.

To enforce labor provisions under the *EVFTA*, member countries, including Vietnam, are required to actively ratify ILO conventions, particularly those on core labor standards, as mentioned in the *ILO Declaration 1998*. Subsequently, these standards must be incorporated into domestic labor laws, accompanied by mechanisms to ensure compliance in practice.

To meet these requirements, Vietnam passed the *Labor Code 2019*, which is considered a breakthrough act that better protects workers' rights, addresses challenges in labor relations and ensures compliance with labor standards under the *EVFTA* (Nguyen and Nguyen, 2023).

However, the reality of labor relations in Vietnam in recent years has shown that violations of labor laws in general, and labor standards in particular, remain relatively common in enterprises. This situation poses challenges to ensuring the implementation of labor standards under the *EVFTA* in Vietnamese enterprises.

To effectively enforce labor standards in the *EVFTA*, in addition to continuing to improve the national legal framework on labor and strengthening the government's inspection and monitoring mechanisms, an internal control tool within the enterprises—namely, the corporate social responsibility—can also be considered to apply for this purpose.

Through a theoretical and practical analysis based on secondary data, the article will address the following key questions: (1) What is the current status of the enforcement of labor standards under *EVFTA* commitments in Vietnam? and (2) Is CSR helpful in ensuring enterprises' compliance with labor standards?

2. Implementation of labor standards under the *EVFTA* in Vietnam

2.1 Labor standards under the *EVFTA*

Over the past two decades, the inclusion of labor provisions in trade agreements has become increasingly prevalent and comprehensive (Brown, 2016). The EU has long incorporated labor provisions into its trade policy, embedding sustainable development commitments and references to key international labor standards in its FTAs. The 1999 *EU–South Africa Free Trade Agreement* was the first to reference ILO's core labor standards, marking a shift in EU trade agreements. Since the *EU–South Korea Free Trade Agreement* (2009), labor provisions and environmental protection rules have been integrated into the 'Trade and Sustainable Development' (TSD) Chapter, becoming a distinct feature of EU FTAs (Jacur, 2018; Aimsiranun, 2022).

Among EU FTAs, the *EVFTA* is recognized as one of the most comprehensive in terms of labor provisions (Edwall, 2020). Article 13(10) of its TSD Chapter reaffirms Vietnam's commitment to the ILO's eight core labor conventions, based on the 1998 *Declaration on Fundamental Principles and Rights at Work* (Huong *et al.*, 2023). These conventions establish four core labor standards:

- 1) Freedom of association and collective bargaining (Conventions No. 87 and 98).
- 2) Elimination of forced labor (Conventions No. 29 and 105).
- 3) Abolition of child labor and the prohibition of its worst forms (Conventions No. 138 and 182).
- 4) Elimination of employment discrimination (Conventions No. 100 and 111).

In June 2022, the 110th International Labor Conference adopted a resolution adding a fifth core labor standard: safe and healthy working environments (Conventions No. 155 and 187). These conventions aim to ensure hygienic workplaces, worker safety and protection from violence and harassment.

Under the *EVFTA* (Article 13), the EU and Vietnam confirmed their commitment to effectively implement ILO conventions ratified by Vietnam within its domestic laws and regulations. The agreement also prohibits Vietnam from reducing labor protection levels to attract trade or investment (*EVFTA*, Article 13(4(3))(a)) as well as mandates that Vietnam take sustained

measures to enforce labor laws and link labor standards to trade compliance (*EVFTA*, Article 13(3)3)). Additionally, both parties acknowledge the risks of weak labor protections and commit to preventing trade and investment practices that undermine workers' rights (Nguyen, Van Tromp and O'Connell, 2020). It is expected that the *EVFTA* will promote sustainable development while reinforcing Vietnam's obligations to uphold fundamental labor rights in line with international standards.

2.2 Current status in implementing labor standards in Vietnam

Right after signing the *EVFTA*, with significant efforts from the government and related stakeholders, Vietnam has undertaken important activities to create favorable conditions for complying with the labor provisions. Notable actions include ratifying the remaining ILO's core conventions and incorporating of labor standards stated in the *EVFTA* into national labor laws. Accordingly, it ratified *Convention No. 98 on Collective Bargaining* in 2019 and *Convention No. 105 on the Elimination of Forced Labor* in 2020, bringing the total number of ILO conventions ratified to 25. This includes 9 out of 10 fundamental conventions, 3 out of 4 governance conventions, and 13 technical conventions. This initiative demonstrates Vietnam's determination to improve the labor standards, reflecting a serious commitment to fulfilling labor provisions under the *EVFTA* (VNTR, 2023).

The ratification of the ILO conventions has had an essential impact on labor relations in Vietnam, fostering positive changes in various aspects. However, one core convention, *Convention No. 87*, remains unratified.

In addition, to ensure the implementation of labor standards under the *EVFTA*, Vietnam has prioritized incorporating these standards into its domestic labor legislation (Huong *et al.*, 2023). The *Labor Code 2019* is regarded as a crucial legislative measure to strengthen the enforcement of labor standards under the *EVFTA*. Effective since 2021, the Code introduced several new provisions to enhance the implementation of labor standards, including regulations against forced labor, measures to prevent workplace sexual harassment and the establishment of workers' representative organizations at enterprises. These provisions serve as key legal foundations to ensure the effective enforcement of labor standards in Vietnam under the *EVFTA*.

Despite such efforts in legislation, Vietnam still faces challenges in enforcing

labor standards at the enterprise level. These challenges have been identified through enterprises' surveys on compliance with labor law conducted by Better Work.¹ The table below presents the results of the survey, which involved 293 factories participating in Better Work program.

Table 1: The status of enterprises in compliance with the labor standards (Better Work, 2023)

Labor standard(s)	Number of enterprises violated, %	Description of violations
Freedom of association and collective bargaining	14	Not complying with workers' approval of collective bargaining agreement
	9	Not ensuring the autonomy of the trade union in their decision-making process.
Salary	45	Failing to incorporate allowances and additional payments into the calculation of overtime payments.
	15	Having double bookkeeping practices in their payroll.
	12	Failing to make social insurance contributions on time and in full.
	5	Not complying with legal requirements on payment for work-stoppage.
	1	Paying some workers less than the minimum wage.
Working time	76	Not complying with yearly overtime limits.
	75	Not complying with monthly overtime limits.
	66	Not complying with daily overtime limits.
	22	Not maintaining accurate working time records.
	9	Not adequately providing workers with annual leave entitlement.
Occupational safety and health	24	Being in non-compliance regarding a functioning fire detection and alarm system.
	16	Not ensuring that their emergency exits or escape routes were accessible and unobstructed during working hours.
	14	Not adequately protecting pregnant or nursing workers against safety and health risks.

¹ Better Work is a collaborative program between the ILO and the International Finance Corporation (IFC), a member of the World Bank Group. The program assesses compliance with fundamental international labor standards and national labor laws in 1,450 garment factories, employing over 1.9 million workers across seven countries, including Vietnam. In 2023, Better Work Vietnam conducted 442 garment factory assessments on labor law compliance, including 306 on-site assessments and 136 online assessments.

Labor standard(s)	Number of enterprises violated, %	Description of violations
Contract and Human Resources	38	Not complying with legal requirements on dialogue at the workplace.
	18	Having internal work rules that do not comply with national law.
	9	Not complying with legal requirements on communicating laws and regulations on sexual harassment at the workplace.
	8	Not complying with legal requirements on dispatched workers.
Discrimination	4	Maintaining some form of discrimination, mainly related to pregnancy status.
Child labor	4	Not having a reliable system in place to verify the age of workers before hiring.
	1	Using workers under 15.
Forced labor	0	Engaging in forced or compulsory labor.

The data above has shown that the main compliance issues related to ILO's labor standards often involve some standards such as freedom of association, wages, working hours, occupational safety and hygiene, insurance, etc. Among them, non-compliance focuses more on standards such as those regarding working hours, occupational safety and health and workplace dialogue.

In addition to information on compliance among factories surveyed by Better Work, other studies indicate that compliance issues are even more challenging for small and medium-sized enterprises (SMEs). The management, expertise and professional skills of employers in these enterprises remain limited. Workplace conditions and occupational safety are often inadequate, yet businesses do not prioritize these issues due to low awareness and weak compliance with labor laws among both employers and employees. Most SMEs only address risks when problems arise, rather than proactively preventing them. Many enterprises focus solely on immediate operational needs while overlooking potential risks that could emerge in the future (VCCU, 2019, p. 32).

In short, the data and information above indicate that non-compliance with labor standards in Vietnamese enterprises mainly revolves around regulations related to freedom of association, working conditions, occupational safety and hygiene, contracts and human resources. This suggests that ensuring the full implementation of labor standards remains a significant challenge for enterprises in Vietnam, even though these standards have already been incorporated into the national legal framework (VCCI, 2019, p. 31).

The ILO (2019) emphasizes that properly implementing labor standards in each country largely depends on an effective labor inspection mechanism. However, in Vietnam, due to the shortage of labor inspectors, activities such as labor inspection to ensure the strictness of labor law enforcement have not met requirements; the number of specialized labor and social insurance inspectors is still limited (150 labor inspectors and 685 social insurance inspectors compared to over 800,000 enterprises); also, the enforcement of inspection decisions is still low (Quang *et al.*, 2022), and the inefficiency of supervisory and dispute resolution mechanisms and non-compliance with labor standards in enterprises tends to be widespread. If this issue is not effectively addressed, it may cause a significant barrier to trade between Vietnam and the EU (Quang *et al.*, 2022).

Furthermore, several studies on compliance with labor standards in Vietnamese enterprises also indicate that while external factors such as weak law enforcement or judicial system inefficiencies play a role, there are also two internal factors contributing to non-compliance. These are the lack of proper internal control within enterprises and the absence of a transparent supply chain management system (Canh and Ha, 2023). Therefore, it is time for enterprises in Vietnam to integrate labor rights issues, including labor standards, into their internal control systems to proactively monitor and address non-compliance issues as soon as they arise. The implementation of CSR, to some extent, is regarded as a tool for measuring, recognizing and disclosing a company's responsibilities toward sustainable development, including compliance with labor standards (Thuy, 2019).

According to the World Business Council for Sustainable Development,

CSR is the commitment of enterprises to contribute to sustainable economic development, through compliance with standards on environmental protection, gender equality, occupational safety, labor rights, fair pay, employee training and community development, product quality assurance... in a way that benefits both businesses as well as the overall development of society (WBCSD, 2002).

Nowadays, CSR has become an increasingly common initiative on a global scale. Based on the perspective that enterprises should focus on broader social goals in their operations rather than solely on financial objectives, CSR initiatives have emerged and evolved significantly. CSR involves voluntary corporate adoption of non-binding instruments, such as codes of conduct (CoCs) and auditing mechanisms, to mitigate negative social impacts (Tuan,

2024). Therefore, good practices on CSR in businesses may also have positive impact on ensuring the implementation of labor standards.

3. Is there potential to apply CSR as a tool for ensuring compliance with labor standards in Vietnamese enterprises?

3.1 Relationship between CSR and the enforcement of labor standards in the *EVFTA*

Over the years, the relationship between CSR and labor standards has been a key area of interest. Traditionally, the EU has viewed CSR as a critical tool for ensuring sustainable development. The EU believes that incorporating CSR provisions into its FTAs can help fill accountability gaps by clarifying these provisions and providing additional mechanisms to strengthen existing CSR enforcement systems (Ruggie, 2009).

With the inclusion of CSR provisions in its FTAs, the EU emphasizes encouraging stakeholders to promote voluntary CSR initiatives addressing labor and environmental issues. In FTAs signed between the EU and various countries, CSR promotion is consistently included to encourage commitment among parties involved in these agreements. These provisions increasingly reference internationally recognized CSR standards and guidelines or specific international frameworks (Schimanski, 2013).

The *EVFTA* is no exception. CSR provisions are embedded within the TSD Chapter alongside labor provisions. This highlights the *EVFTA* promotion of voluntary tools and initiatives to enhance the effectiveness of sustainable practices, one of which is CSR initiatives. Therefore, the implementation of labor standards in this chapter not only aims to achieve the shared objective of sustainable development between the EU and Vietnam by encouraging the parties to adopt CSR initiatives but also seeks to further promote sustainable development in private business activities.

The specific benefits of adding CSR provisions to the *EVFTA* are evident in two main aspects:

- 1) Promoting the use of impact assessment mechanisms and enhancing the participation of stakeholders in implementing the *EVFTA* and
- 2) Establishing networks for collaboration and experience-sharing.

The *EVFTA* includes extensive commitments, high standards, and broad coverage across multiple fields. Under the *EVFTA*, the parties acknowledge that voluntary initiatives such as CSR can contribute to the success and maintenance of high levels of environmental and labor protection, complementing domestic regulatory measures. In this context, effectively implementing CSR is considered one of the critical requirements for businesses to succeed (Ba, 2022). On the one hand, CSR can help fill legal gaps in specific policy areas, contributing to enhanced monitoring and enforcement of labor standards (Nguyen, Nguyen and Nguyen, 2024). On the other hand, as a core component of CSR, the effective enforcement of labor standards can also support better implementation of CSR policies within enterprises.

A strong connection between CSR and the labor standards in the *EVFTA* can be identified based on several fundamental factors (Kuriyama, 2011):

- 1) CSR is explicitly included in the TSD Chapter of the *EVFTA*, clearly reflecting the close relationship between CSR and labor standards. CSR provisions are indirectly represented through the role of enterprises in fulfilling environmental and labor commitments under the agreement. Furthermore, when labor standards are recognized across various instruments, such as commitments in the *EVFTA* and soft CSR tools, they become legally binding on the parties to these agreements. Similarly, if CSR-related labor standards are combined with strict and comprehensive provisions in the *EVFTA*, these standards could become legally binding obligations for *EVFTA* member states and businesses within these countries.
- 2) Labor standards and social dialogue are the core components of CSR, which also align with the ILO's fundamental activities. In recent years, core labor standards have gained broader recognition within CSR initiatives. Most CSR initiatives, including codes of conduct, are built around principles derived from ILO labor standards. In other words, labor standards are considered a primary element of corporate CSR and are often formalized in business codes of conduct (CoCs). Although not legally binding, principles derived from ILO conventions serve as guidelines for corporate behavior. Today, there are an estimated 1,000+ CoCs developed by multinational corporations. While early CoCs varied significantly, they now primarily focus on ILO labor standards. Currently, countries around the world often commit to adhering to common standards for CSR, such as Business Social Compliance Initiative (BSCI), which reflects international labor standards;

SA8000, aimed at improving working conditions for employees; ISO 26000, providing guidance on social responsibility; Electronic Industry Citizenship Coalition (EICC), addressing social responsibility within the global electronics supply chain; Worldwide Responsible Accredited Production (WRAP), which establishes standards and codes of conduct for manufacturing enterprises, widely applied in the garment industry and elsewhere. Among them, the SA8000 standard contains CSR provisions, such as (a) child labor, (b) forced labor, (c) occupational health and safety, (d) freedom of association and collective bargaining, (e) non-discrimination, (f) disciplinary practices, (g) working hours, (h) remuneration and (i) management systems (Nguyen, no date).

- 3) CSR initiatives will also ensure the effective implementation of labor standards enshrined in the *EVFTA*, as discussed above. CSR initiatives enable the voluntary commitment of enterprises to implement labor standards in their CoCs, making these standards more effectively enforceable in practice compared to legal regulations (Wagner, 2017).
- 4) CSR is a temporary compensatory measure for the lack of enforceable international tools addressing labor standards. Additionally, CSR proposes soft measures that adapt to the specific conditions of individual businesses while still meeting labor standards. This flexibility allows CSR to bridge the gap between local labor standard enforcement and what businesses deem ethically and economically feasible.
- 5) A notable recent development in CSR management practices is engaging in dialogue with labor organizations, leading to the signing of agreements at the international level. These agreements are part of the evolution of CSR tools, promoting more effective social dialogue procedures and structures internationally.

In general, the *EVFTA* encourages the parties to promote voluntary initiatives such as CSR to effectively implement the sustainable development provisions of the agreement. When CSR initiatives are included in the *EVFTA*, although the approach may still be voluntary, the commitment has been raised to a new level—that between the countries participating in the FTA, including Vietnam. Therefore, this will bring some specific benefits to CSR implementation: ensuring the level of similarity between countries when implementing CSR, promoting the development of CSR resources, including human resources, and enhancing the transparency and fairness of the dispute resolution system related to CSR.

3.2 Practical application of CSR in Vietnamese enterprises

The concept of CSR was first introduced in Vietnam by multinational corporations in the mid-1990s through codes of conduct and labor standards for local suppliers, primarily in the textile and garment industries (Nguyen, Van Tromp and O'Connell, 2020). Since then, CSR has continued to develop, often in the form of voluntary CoC, philanthropic activities or programs to comply with social and environmental standards, typically implemented and monitored by foreign companies operating in Vietnam (Tien, 2023). In many cases, to comply with CSR standards set by multinational corporations, especially those from Europe and the United States, Vietnamese enterprises have adhered to higher standards than those required by domestic laws. These initiatives not only comply with the law but often go beyond the legal commitments to which enterprises are bound according to applicable domestic laws (Jacur, 2018).

As a member of the *EVFTA*, Vietnam has committed to promoting CSR through initiatives such as exchanging best practices, conducting training and providing technical advice. Additionally, in formulating its socioeconomic development strategy for 2021–2030, Vietnam's leadership has referred to provisions from various international instruments, including the *OECD Guidelines for Multinational Enterprises*, the *UN Global Compact*, and the *ILO Tripartite Declaration*. These frameworks emphasize sustainable development, ensuring a balance between social responsibility and economic growth.

At the enterprise level, many big enterprises in Vietnam have recognized that CSR has become an essential requirement for businesses. In fact, in the context of globalization and international integration, companies that fail to comply with CSR, may encounter difficulties in accessing global markets (Nguyen, Bensemann and Kelly, 2018). Enterprises implementing CSR, on the other hand, may have achieved tangible benefits in their production and business activities. However, CSR remains voluntary, and many Vietnamese enterprises, particularly SMEs, lack incentives or resources for effective implementation. Currently, most Vietnamese enterprises actively implementing CSR are export-oriented since they must meet the market access requirements imposed by Europe, the United States and Japan (Nguyen, Bensemann and Kelly, 2018). Hence, the enterprises that focus on the domestic market or more accessible foreign market tend to ignore the implementation of CSR. A report by VCCI emphasized that the majority SMEs in Vietnam do not consider labor issues and improvement of labor

standards as a priority in their operation, which is caused by multiple factors, including the limited CSR awareness (particularly in labor-related aspects), inconsistent labor regulations, weak enforcement mechanisms for CSR compliance and insufficient representation, intermediary institutions and the role of business associations (VCCI, 2019). Thus, addressing these barriers efficiently is crucial to improving the adoption of CSR.

However, positive changes have occurred since Vietnam signed the *EVFTA*. In reality, CSR is yet to be developed under any official legal framework. Nevertheless, the Vietnamese government has approved a National Action Plan (NAP) on Responsible Business Practices (RBP) (‘Decision No. 843/QĐ-TTg, 2023–2027; OECD, no date), a different concept aimed at promoting the integration of social responsibility values within the business activities of enterprises. According to the OECD (no date), upon accepting the RBP concept, the states will be involved in encouraging enterprises to integrate CSR into their operation as well as in the whole supply chain of relevant industries. Enterprises will be expected to ensure compliance with law and address potential risks to society through prevention, mitigation or appropriate remedial actions in cases of violations of relevant standards (UNGP, Principle 11, Foundational Principle A). Thus, in essence, the concept of RBP is similar to CSR, and which is why these terms are sometimes used interchangeably. In the case of the *EVFTA*, the requirement for signatory states to promote CSR essentially means promoting RBP (UNDP Vietnam, 2022).

4. Conclusion and recommendations

The above discussions have emphasized the role of CSR in enhancing the effective implementation of labor standards while also recognizing that the *EVFTA* strongly encourages parties to adopt CSR initiatives for sustainable development. This includes the goal of ensuring compliance with the labor standards committed to under the *EVFTA*.

To help Vietnam promote CSR and achieve high-level enforcement of labor standards as committed in the *EVFTA*, the following suggestions should be considered:

- 1) From a legal perspective, Vietnam should complete the ratification of key ILO conventions (particularly Convention No. 87) and provide

detailed guidelines to facilitate the establishment and effective operation of workers' organizations in enterprises. In addition, it is necessary to promptly issue guidelines for the *Trade Union Law 2024* (which will take effect in July 2025) to lay the groundwork for joining Convention No. 87 and to promote the implementation of standards on freedom of association in enterprises.

- 2) Secondly, enterprises should be supported in developing and improving their labor standards management systems by international standards while adapting to the requirements of partner markets. SCR standards such as ISO 9001:2000, OHSAS 18000, SA 8000, and others can be implemented simultaneously by enterprises. Although these management systems are not mandatory, they may serve as useful tools to help enterprises monitor, update and fully comply with labor standards. In the initial phase, state-owned enterprises, VN100-listed companies on the HOSE stock exchange, other public companies, labor-intensive enterprises (such as those in the textile, footwear, wood processing and seafood industries) and businesses that frequently export goods should be prioritized for support in adopting and implementing labor standards management systems (Quang *et al.*, 2022). Although CSR is considered a voluntary initiative, it may assist enterprises in better managing their responsibilities in business operations, including compliance with labor standards.
- 3) Vietnam should consider strengthening legal mechanisms to transition CSR from a voluntary initiative to a semi-mandatory obligation for enterprises. Under the *EVFTA*, Vietnam has committed to promoting CSR implementation in businesses. However, this commitment may be ineffective if enterprises retain full discretion over the adoption of CSR. Government intervention is crucial to ensure these initiatives are effectively implemented.

The EU's experience offers valuable insights. Initially, the EU regarded CSR as voluntary, but later developed the concept of "implicit CSR", which combines both voluntary initiatives and legal obligations. The goal of CSR frameworks is to protect stakeholders, including employees. To support this, the EU has introduced soft laws promoting CSR, mainly focusing on labor standards (Asan, 2024). For instance, EU 'Directive 2014/95/EU' requires large public-interest companies with over 500 employees to report on CSR activities, obliging EU Member States to integrate mandatory CSR reporting into national laws. Following this approach, many EU countries have institutionalized CSR in legal frameworks. France, for example, enacted the

Corporate Duty of Vigilance Law 2017, imposing legally binding obligations on companies to identify and prevent human rights and environmental risks (Čertanec, 2019).

To support the transition of CSR from voluntary to semi-mandatory, Vietnam could issue general guidelines for CSR and responsible business practices (RBP). These guidelines should establish the minimum standards to promote and ensure the effective implementation of CSR initiatives in practice.

Last but not least, it is necessary to increase awareness and understanding of CSR and RBP among businesses and workers through training programs and periodic reporting on CSR implementation at enterprises. No matter how strong the government's efforts to promote CSR, the effectiveness of CSR adoption cannot be ensured if enterprises and workers do not understand or are not willing to implement CSR within their enterprises.

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