



INFORMAL EMPLOYMENT IN VIETNAM

Le Duy Binh





INFORMAL EMPLOYMENT IN VIETNAM

Le Duy Binh

Ha Noi, December 2022

TABLE OF CONTENTS

INTRODUCTION	7
CHAPTER 1. INFORMAL EMPLOYMENT AND INFORMAL WORKERS IN VIETNAM	8
I. DEFINITION, SCOPE AND APPROACH	9
II. ROLE, POSITION, AND CONTRIBUTION OF INFORMAL EMPLOYMENT IN VIETNAM	9
III. CURRENT SITUATION OF INFORMAL EMPLOYMENT AND INFORMAL WORKERS IN VIETNAM ..	10
1. Policies of the Communist Party and the Government on Informal Employment.....	10
2. Informal employment in Vietnam.....	11
3. Informal workers by economic unit sector.....	14
CHAPTER 2. EXPANDING FORMAL EMPLOYMENT IN VIETNAM	24
I. UMBRELLA APPROACH AND OVERARCHING PRINCIPLES	25
II. EXPANDING FORMAL EMPLOYMENT BY EXPANDING SOCIAL INSURANCE COVERAGE	26
1. Systemic measures and a paradigm shift are needed to improve the social insurance system	26
2. Regulatory and administrative measures.....	27
3. Market and technical solutions.....	28
III. EXPANDING FORMAL EMPLOYMENT BY BROADENING THE FORMAL SECTOR AND FORMALIZATION OF ECONOMIC UNITS.....	30
1. Fostering the development of formal sector enterprise and cooperatives.....	30
2. Increase formality and encourage formalization of the household business sector.....	33
3. Economic restructuring, international integration and formality improvement	38
IV. ENHANCEMENT OF WORKER'S RIGHTS AND REDUCTION OF EMPLOYMENT INFORMALITY ...	40
1. Rights to employment and to establishment of employment relationships and employment status ..	40
2. Rights in terms of salary, income and benefits.....	42
3. The right to be fully enrolled in social insurance and social security.....	43
4. Right to be protected through representative workers' organizations	44
5. Right to enjoy policies to support vocational training.....	45
6. Right to occupational safety and hygiene	46
7. Right to access other basic social services	46
CONCLUSION	48
REFERENCES	49

LIST OF FIGURES

Figure 1: Overview of formal and informal workers according to the criterion for enrollment in social insurance.....	11
Figure 2: Percentage of workers who are enrolled in social insurance by type of employment in 2020.....	13
Figure 3: Workers in the formal sector in 2020 (thousand people)	14
Figure 4: Informal workers in formally registered enterprises and in cooperatives (million)	15
Figure 5: Estimated number of businesses registered under the Enterprise Law but not enrolled in compulsory social insurance in 2020	16
Figure 6: Number of non-farm household business and workers in 2020	18
Figure 7: Increasing formality and narrowing informality in Vietnam	25
Figure 8: Employment in public institutions until 2030 (million)	30
Figure 9: Number of officially registered enterprises in operation (enterprises)	31
Figure 10: Number of workers in officially registered enterprises in operation (thousand people).....	31
Figure 11: Number of officially registered FDI enterprises in operation (enterprises).....	32
Figure 12: Number of workers in officially registered FDI enterprises in operation (thousand people).....	32
Figure 13: Forecast of number of workers in formally registered enterprises by 2030 (million people).....	32
Figure 14: Number of household businesses and workers in household businesses (million)	33
Figure 15: Non-farm Household Business Pyramid in Vietnam.....	35
Figure 16: Changes in the economic structure of Vietnam over the years.....	39
Figure 17: Trade agreements to which Vietnam has entered.....	40
Figure 18: The share of trained workers with diplomas and degrees.....	45

LIST OF TABLES

Table 1: Number and rate of enrollment and non-enrollment in social insurance by labor group in 2020 (thousand people)	12
Table 2: Targets on social insurance coverage by each group of worker to achieve the overall goal articulated in Resolution 28 (%).....	26

LIST OF ABBREVIATIONS & ACRONYMS

ASEAN	Association of Southeast Asian Nations
CEC	Central Economic Commission
CIEM	Central Institute for Economic Management
EVFTA	Vietnam EU Free Trade Agreement
FDI	Foreign direct investment
GDP	Gross Domestic Product
GSO	General Statistics Office
ILO	International Labour Organization
ILSSA	Institute of Labor Science and Social Affairs
ILS	International Labour Standard
MOHA	Ministry of Home Affairs
MOLISA	Ministry of Labor, Invalids and Social Affairs
MPI	The Ministry of Planning and Investment
LFS	Labour Force Survey
OHS	Occupational Health and Safety
SHI	Social Health Insurance
SOE	State-owned enterprises
SMEs	Small and medium-sized enterprises
VCCI	Vietnam Chamber of Commerce and Industry
VGCL	Vietnam General Confederation of Labour
VND	Vietnam Dong
VSS	Vietnam Social Insurance

INTRODUCTION

According to ILO, informal employment refers to 'all employment arrangements that do not provide individuals with legal or social protection through their work, thereby leaving them more exposed to economic risk'. Informal employment refers to jobs, whether in the formal or informal sector, that are not covered by labour regulation, taxation, social protection or other employment benefits. The term informal economy workers refers to those who hold informal employment.

According to the General Statistics Office, Vietnam has 33.6 million workers in informal employment in 2021. The rate of workers in informal employment in Vietnam is 68.5%. Informal economy workers can be found inside and outside the informal sector.

Informal employment makes significant contribution to GDP. The Covid-19 pandemic has highlighted the importance of policies and actions to reduce the vulnerability of the labor market by reducing informal employment. Expanding formal employment is also an important area that Vietnam should improve on the its path to the upper-middle-income country status and to a people-centred economy where decent jobs are one of the prime priorities.

This study is implemented to discuss major policy issues related to informal employment in Vietnam and the key policy implications under the current context of Vietnam. The report is prepared by Dr. Le Duy Binh who is an economist at Economica Vietnam. The author is thankful for the support and insights by Mr. Do Ngoc An (Deputy Head of the Economic Commission of the Party Central Committee), Mr. Trieu Tai Vinh (Deputy Head of the Mass Mobilization Commission of the Party Central Committee), Dr. Doan Ngoc Xuan (Director General of the Social Department of the Economic Commission of the Party Central Committee), and Mr. Nguyen Mau Quyet (Deputy Director General of the Social Department of the Economic Commission of the Party Central Committee).

The author is indebted to experts at MOLISA, VGCL, VCCI and many other institutions who have provided valuable inputs and advices on the subject matters of the study.

The author is grateful for the technical inputs provided by ILO technical experts, especially by Mr. Carlos Andre da Silva Gama Nogueira, Mr. Huynh Phu, Ms. Makiko Matsumoto, Mr. Nuno Meira Simoes Cunha, Ms. Nguyen Thi Huyen, Mr. Nguyen Hai Dat, Ms. Sandra Yu, Ms. Valentina Barucci, and many others. The paper could not have been as it is now without the support, insights and the technical inputs of these experts. The report benefits from support of Ms. Ingrid Christensen, Director of the ILO in Vietnam and staff of the ILO office in Hanoi.

The author is indebted to colleagues at Economica Vietnam, including Mr. Pham Tien Dung, Ms. Nguyen Thuy Nhi, Ms. Pham Minh Tuyet, Ms. Dong Thi Kieu Trang and Ms. Luong Thi Thu Ngan who have provided technical inputs and time for discussions throughout the implementation of the study.

This report can be downloaded at www.economica.vn and is available in both Vietnamese and English.



CHAPTER 1

INFORMAL EMPLOYMENT AND INFORMAL WORKERS IN VIETNAM

I. DEFINITION, SCOPE AND APPROACH

According to ILO, informal employment refers to ‘all employment arrangements that do not provide individuals with legal or social protection through their work, thereby leaving them more exposed to economic risk’. Informal employment refers to jobs, whether in the formal or informal sector, that are not covered by labour regulation, taxation, social protection or other employment benefits. The term informal economy workers refers to those who hold informal employment.

In Vietnam, according to the General Statistics Office’s definition, informal employment includes all jobs without social insurance (especially compulsory social insurance) and without an employment contract with 3 month duration or more¹.

In this paper, informal employment refers to jobs, whether in the formal or informal sector, that are “*not covered by social insurance*”. The logic is, by Vietnamese laws and regulations, if a worker is not covered by social insurance, she/he is definitely not covered by regulations on labor and other employment benefits. And if she/he is covered by regulations on taxation and social protection but not covered by social insurance, she/is anyway an informal worker. As such, the use of the only indicator as “not covered by social insurance” is sufficient.

The approach used to discuss informal employment in the paper is by types of production units and jobs by status of employment which are defined by Vietnamese regulations or which are commonly understood by Government agencies, by the General Statistics Office and Government ministries. This is also to ensure that the data can be available for the description of different subsets of informal employment in Vietnam. This can also help to describe more clearly and accurately policy or regulatory issues related to specific production unit type or to jobs by status of employment by the definitions used by the Government agencies which issue such policies and regulations. This will make it easier to pinpoint which government agencies should take actions to tackle the specific informal employment issues. Such an approach also make it easier to identify which regulations and policies should be revised to improve employment formality in Vietnam.

II. ROLE, POSITION, AND CONTRIBUTION OF INFORMAL EMPLOYMENT IN VIETNAM

According to the General Statistics Office, Vietnam has 33.6 million workers in informal employment in 2021. The rate of workers in informal employment in Vietnam is 68.5%. Informal economy workers can be found inside and outside the informal sector². For example, enterprises formally registered enterprise under the Enterprise Law also have workers who are not declared to the Vietnam Social Security (VSS). In addition, Vietnam has a significant informal sector and those employed in the informal sector are informal economy workers.

Informal employment makes a crucial contribution to GDP. For example, according to the General Statistics Office (GSO)³, in 2020, the *non-farm* household business sector generates 30% of the GDP and almost all workers in this sector are informal workers.

The majority of 9.1 million workers in *farm*⁴ households are informal workers. These workers are the driving force behind the contribution of the agriculture, forestry and aquaculture sector of 15% to GDP.

1 “Report on Informal Employment 2016”, GSO and ILO (2018).

2 “Workers in Informal Employment in Vietnam”, GSO, 2020,.

3 “Statistical Yearbook 2020”, General Statistics Office (2021).

4 Including agriculture, forestry and fishery.

Private sector enterprises which are formally registered under the Enterprise Law contribute to about 10% of GDP. About 13% of workers in these formally-registered private sector enterprises are in informal employment by social insurance enrollment criteria. As such, a part of GDP is also generated by informal workers in formally registered business sector.

While informal workers play an important role in the national economy, they are highly vulnerable to external shocks as the recent Covid-19 pandemic shows. Addressing the issue of informal employment is therefore one of the priorities of the Government to build a resilient, competitive and sustainable economy in a post-Covid world especially given the fact that Vietnam is making efforts to focus on the quality of growth and to achieve the upper-middle-income status.

III. CURRENT SITUATION OF INFORMAL EMPLOYMENT AND INFORMAL WORKERS IN VIETNAM

1. Policies of the Communist Party and the Government on Informal Employment

To protect and improve the rights of informal workers, the Party and the State have issued a number of guidelines and policies. At the 5th plenum, the 11th Central Committee issued Resolution No. 15-NQ/TW dated June 1, 2012 on a number of issues regarding social policies for the period 2012-2020. The resolution requires “research and development of policies to encourage farmers and informal workers to enroll in voluntary social insurance. Review and supplement regulations mandating employers to pay social insurance premiums for employees in accordance with law”. It articulates the goal of “about 50% of the labor force being enrolled in social insurance and 35% of the labor force being enrolled in unemployment insurance by 2020”.

Resolution No. 21-NQ/TW dated November 22, 2012 of the Politburo on strengthening the Party’s leadership in social insurance and social health insurance for the period 2012-2020 sets out the tasks of “expanding government support policies for workers in order for them to be covered by various forms of social insurance and social health insurance, especially voluntary social insurance for farmers and workers in the informal sector”.

Resolution No. 28-NQ/TW dated May 23, 2018 of the seventh plenum by the 12th Party Central Committee on social insurance policy reform set the goal that “by 2021, about 35% of the working-age labor force will be enrolled in social insurance, of which farmers and informal workers enrolled in voluntary social insurance will account for about 1% of the working-age workforce”. For the first time, the Labor Code 2019 states that “people without employment relations are those who work without an employment contract” (Clause 6, Article 3). The Code stipulates further the requirement that “develop mechanisms and institutions to support the development of progressive, harmonious and stable employment relations; promote the application of this Code among workers without employment relations (Clause 4, Article 212).

The Party’s guidelines and policies have mentioned the issue of “informality” without elaborating and institutionalizing the measures to address the issue of informal employment. Therefore, it is necessary to develop a systemic and holistic approach to informal employment in Vietnam, with unified policies and solutions to expand formal employment and reduce informal employment. These policies and solutions need to be institutionalized not only in the Labor Code, the Law on Social Insurance, the Law on Occupational Safety and Hygiene, the Law on Employment but also in the whole legal system and in other laws such as Enterprise Law, Law on Tax, Law on Contract, Law on Commercial, etc.

Furthermore, these policies, and guidelines should lay emphasis on the principle of expanding social insurance coverage (not only the voluntary scheme) as this is aligned with reducing informality. Government policies

and regulations should be more explicit in facilitating registration from economic units, increasing incentives for companies and workers to register, aligning the schemes with the characteristics of the labor market. These measures are often more impactful in reducing informal employment. International good practices show that most informal workers would continue not to be covered even with the most ambitious scenarios for voluntary social insurance, thus unable to graduate into formal employment.

2. Informal employment in Vietnam

In this section, informal workers are in informal employment. Informal employment refers to jobs, whether in the formal or informal sector, that are “not covered by social insurance”.

Figure 1: Overview of formal and informal workers according to the criterion for enrollment in social insurance

FORMALITY BY ECONOMIC UNITS →	Registered households and individuals	<ul style="list-style-type: none"> Workers in enterprises registered under the Enterprise Law (~1.7 million) Workers in cooperatives registered under the Cooperative Law (140 thousand) 	<ul style="list-style-type: none"> Workers in public institutions and in Government payroll (~2 million) Workers in enterprises registered under the Enterprise Law (~13 million) Workers in cooperatives (~40 thousand)
	Public institutions & registered enterprises	<ul style="list-style-type: none"> Owners and workers hired by non-farm household business owners which are registered with district-level authority or tax agency (~5.2 million) Vietnamese guest workers working abroad (~0.65 million). 	(Some workers, owners of households, household businesses and Vietnamese guest workers working abroad are enrolled in voluntary social insurance scheme)
	Non-registered households and individuals	<ul style="list-style-type: none"> Owners and workers hired by non-registered non-farm households (~3.5 million) Owners and workers hired by 9.1 million farm households (~13.7 million) Own-account, self-employed, platform-based workers (~0.5 million) Other own-accounts and self-employed (~7.4 million) 	(Some own-account workers, self-employed, owners and workers of households are enrolled in voluntary social insurance scheme)
		NOT ENROLLED IN SOCIAL INSURANCE	ENROLLED IN SOCIAL INSURANCE

Source: Developed by the author on the basis of data from the General Statistics Office, the Ministry of Labour, Invalids and Social Affairs, Vietnam Social Security and other sources

Informal workers in Vietnam are highly diverse in nature. Although most of them are located in the informal sector, they also exist in the formal sector. For this reason, to reduce informal employment in Vietnam, there should be a simultaneous effort and integrated approach to get economic units to be registered with a relevant national authority (i.e. expanding the formal sector) and to reform get informal workers to be covered by social insurance.

Viet Nam’s labour market as described in the table is characterized by a large number of micro and small economic units (inside and outside of agriculture) where millions of low-income, uninsured workers make their living. This calls for the need to extend social insurance to informal workers as a matter of priority, even though many of these economic units realistically will never become formal.

Figure 1 shows the great diversity and difference between the groups of informal workers in Vietnam in terms of employment status, economic and financial conditions, capacity and professional qualifications and skills. Because of this diversity, it is necessary to have a classification suitable to the reality of Viet Nam’s labour market and close to legal regulations applicable to that group of workers in Vietnam. This diversity also requires that policies need to be designed to address the real needs and constraints of all categories workers, including the diversity of those in informal employment, avoiding the use of an one-size-fit-all policy or policy solution for the totality of informal employment.

However, it should be emphasized that while different policies can be considered for different groups, they should still be done under a coordinated, unified umbrella approach to formalization. The Government should adopt such an umbrella framework, driven by an overarching unified goal to reduce informality in employment.

Table 1: Number and rate of enrollment and non-enrollment in social insurance by labor group in 2020 (thousand people)

Jobs by employment status	Total	Enrolled in social insurance		Not enrolled in social insurance	
		Quantity	Percentage	Quantity	Percentage
Civil servants, labor on the Stated budget payroll, foreign organizations and embassies	2,025.8	2,025.8	100%	0.0	0%
Labor in registered enterprises*	14,771.6	13,065.1	88%	1,706.5*	12%
Labor in registered cooperatives	180.0	40.0	22%	140.0	78%
Non-farm household businesses	8,711.8	450.0	5%	8,261.8	95%
Farm household businesses	13,050.0	450.0	3%	12,600.0	97%
Platform-based workers, highly qualified and skilled own-account workers, freelancers**	500.0	10.0	2%	490.0	98%
Guest workers working abroad	650.0	9.0	1%	641.0	99%
Other own-account workers**	8,410.8	129.0	2%	8,281.8	98%
Total***	48,300.0	16,178.9	33%	32,121.1	67%

* Excluding workers who concurrently work at two enterprises or workers working at formally registered enterprises but are no longer in the age group to enroll in compulsory social insurance (some still stay to work at enterprises after retirement age). VSS estimates that there are about 760 thousand workers of this sort.

** Estimated figures

*** 48.3 million represents the total number of workers in the statutory working age (or ages 15-55 years for women and 15-60 years for men).

Source: GSO, MOLISA, VSS and calculations by the author.

From social insurance enrollment perspective, it is estimated that by the end of 2020, 16.17 million people were enrolled in social insurance⁵, accounting for 33% of the working age population that are in employment. After 5 years of implementation of the law, the number of people enrolled in social insurance increased by nearly 3.76 million people with an average annual growth rate of 5.5%. However, this growth rate is slow in order to achieve the target of 60% of the working age population being covered by social insurance by 2030 as set out in Resolution 28.

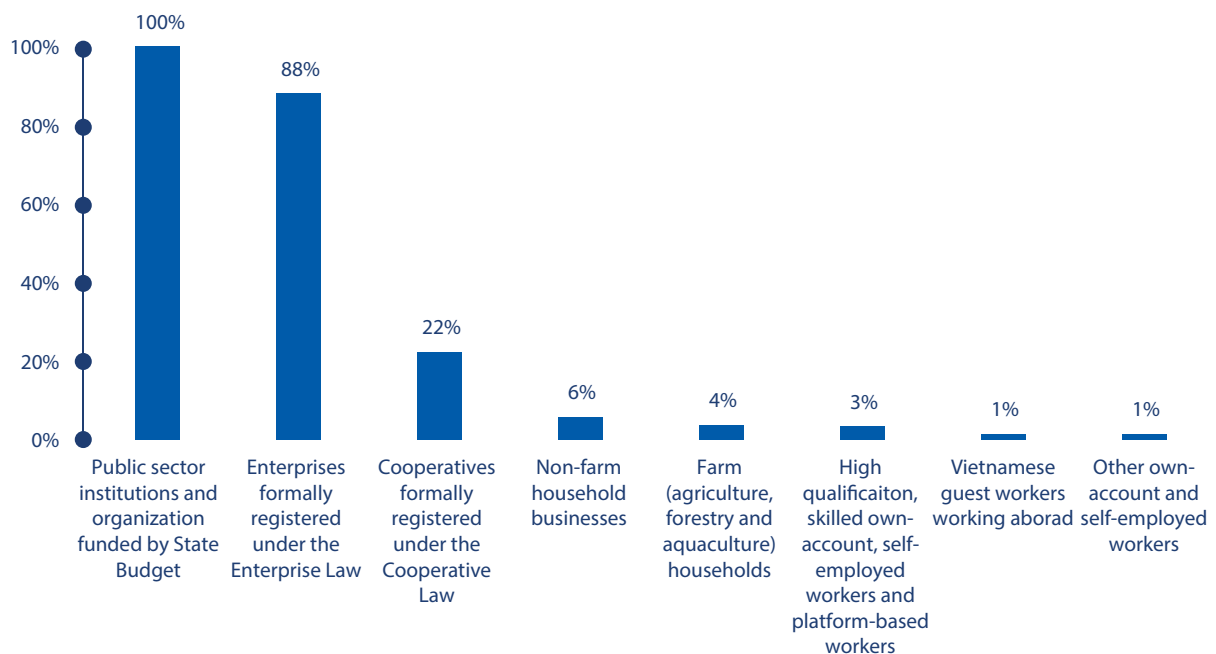
⁵ Including voluntary social insurance.

The number of people enrolled in compulsory social insurance is 15.1 million, accounting for 33.7% of the labor force of working age population that are in employment or for 89,1% of total waged employees⁶ which by prevailing laws should be covered by compulsory social insurance. The number of people enrolled in social insurance increased by nearly 3 million people compared to the end of 2015. The average annual growth rate of worker groups eligible for compulsory social insurance is 4.5%.

The number of people enrolled in voluntary social insurance is 1.13 million people, accounting for 2.1% of the working age population that are in employment, an increase of nearly 900 thousand people compared to the end of 2015. The average annual growth rate of the group is 36%.

Figure 2 shows that the rate of enrollment in social insurance by jobs by employment status. The rate of social insurance coverage is the highest for workers on the payroll and receiving salaries from the State Budget. Next to it is the worker group in formally registered enterprises, including State-owned enterprises (SOEs), private sector enterprises and foreign-invested enterprises registered under the Enterprise Law. The rate of enrollment in social insurance in the cooperative area is also higher than that of the rest of the workforce. The formality of economic units is also proportional to the level of enrollment of workers in social insurance.

Figure 2: Percentage of workers who are enrolled in social insurance by type of employment in 2020



Source: GSO, MOLISA, VSS, and calculations by the author

The rate of enrollment in social insurance gradually decreases and becomes especially low for workers of other groups such as owners of or workers in non-farm household businesses, farm households, platform-based workers, freelancers, and own-account workers.

The requirement by laws on compulsory social insurance are also important factor, affecting the level of enrollment in social insurance of workers. Figure 2 shows higher social insurance enrollment rate in economic units which are subject to stricter labor and social security regulations. This affirms that in addition

⁶ Workers on payroll and receiving salaries including public servants, workers in foreign organization, embassies, enterprises registered under the Enterprise Law (domestic and foreign-invested enterprises), and the cooperatives registered under the Cooperative Law.

to communication and advocacy, improvement in the quality of legal regulations and effective enforcement of such regulations as Social Insurance Law, Labor Code play a crucial role in expanding the coverage of compulsory social insurance, thus narrowing informal employment.

It also emphasizes the importance of a holistic approach to expand formal employment and reduce informal employment. An integrated approach with parallel efforts should be adopted, i.e. expanding social insurance coverage (both compulsory and voluntary scheme with strong focus on compulsory scheme), enhancing the fundamental rights of workers (also in the informal sector), and expanding the formal sector by facilitating registration from economic units, increasing incentives for companies and workers to register, aligning the schemes with the characteristics of the labor market, adjusting the policies and measures to be suitable to each of the job groups.

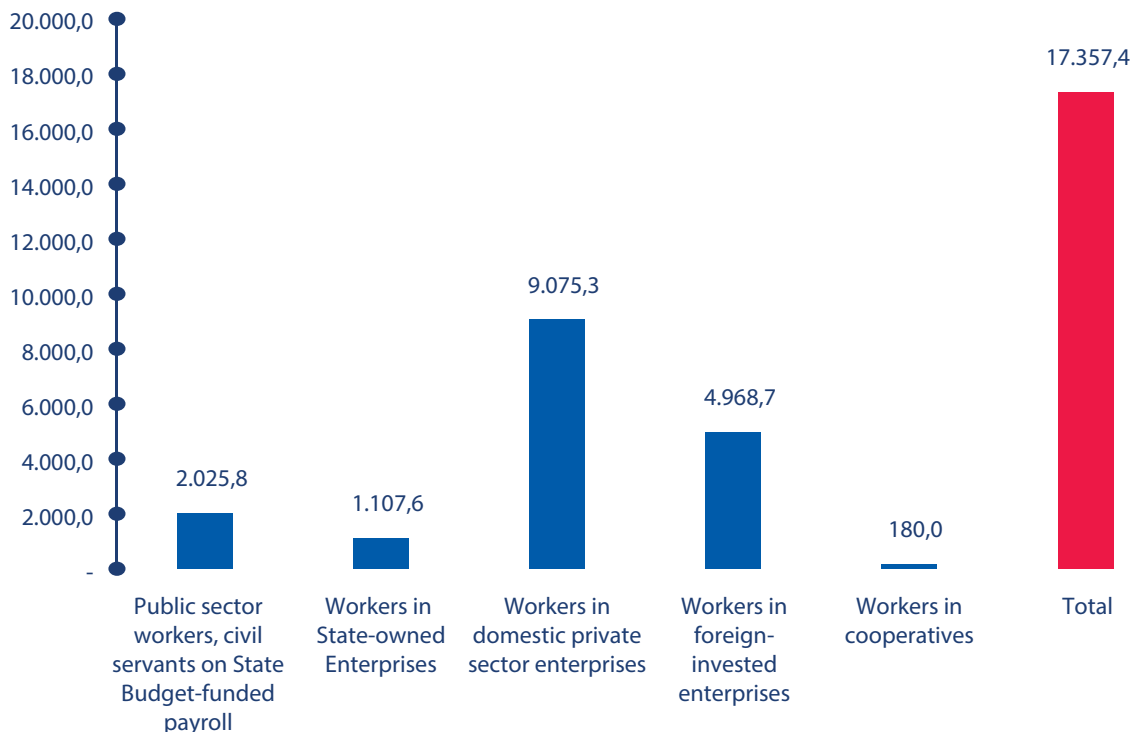
3. Informal workers by economic unit sector

3.1. Formally registered business

By the criteria of enrollment in social insurance, the rate of informal employment in the formal sector remains relatively high.

In 2020, about 17.4 million workers were employed in by public organizations funded by the State Budget, by businesses formally registered under the Enterprise Law and by cooperatives under the Cooperative Law⁷. Meanwhile, total workers enrolling in compulsory insurance were 15.13 million⁸. 1.85 million or 11% of worker in this formal sector is not covered by compulsory social insurance. In other words, 11% of workers in the formal sector as illustrated in the figure below are in informal employment.

Figure 3: Workers in the formal sector in 2020 (thousand people)



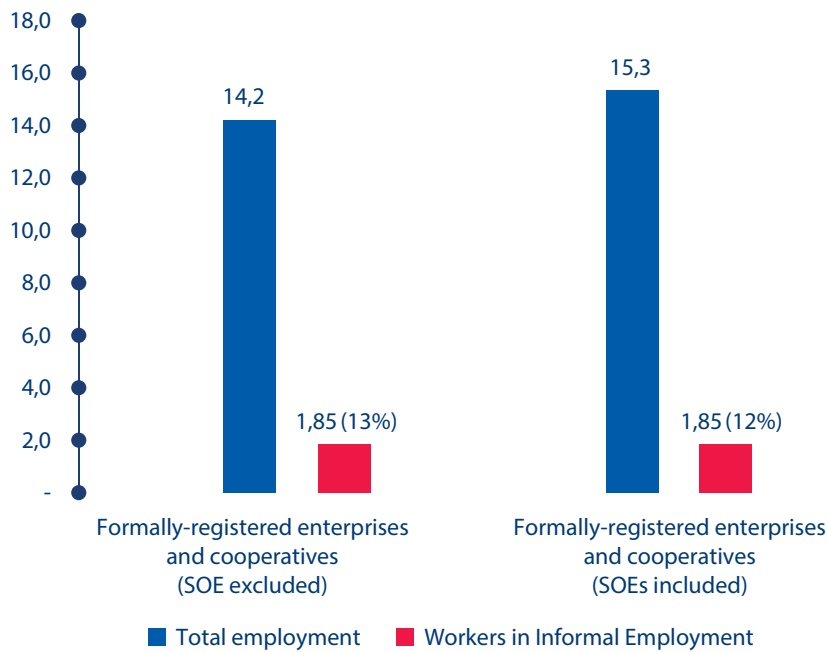
Source: GSO, MOHA, VSS, and calculations by the author

7 Statistic Year Book 2020, General Statistic Year Book (2021).

8 Year-end Report by VSS for 2020, Vietnam Social Security (2021).

While workers in organizations funded by State Budget and State-owned Enterprise are assumed to be 100% enrolled in compulsory social insurance scheme, these 1.85 million informal workers are therefore concentrated in companies registered under the Enterprise Law (both domestic and foreign companies) and in cooperative registered under the Cooperative Law. In other words, 13% of workers in formally-registered private sector enterprises and cooperatives are in informal employment. If SOEs are included, the percentage of informal worker in the formally-registered enterprise sector is estimated at 12%.

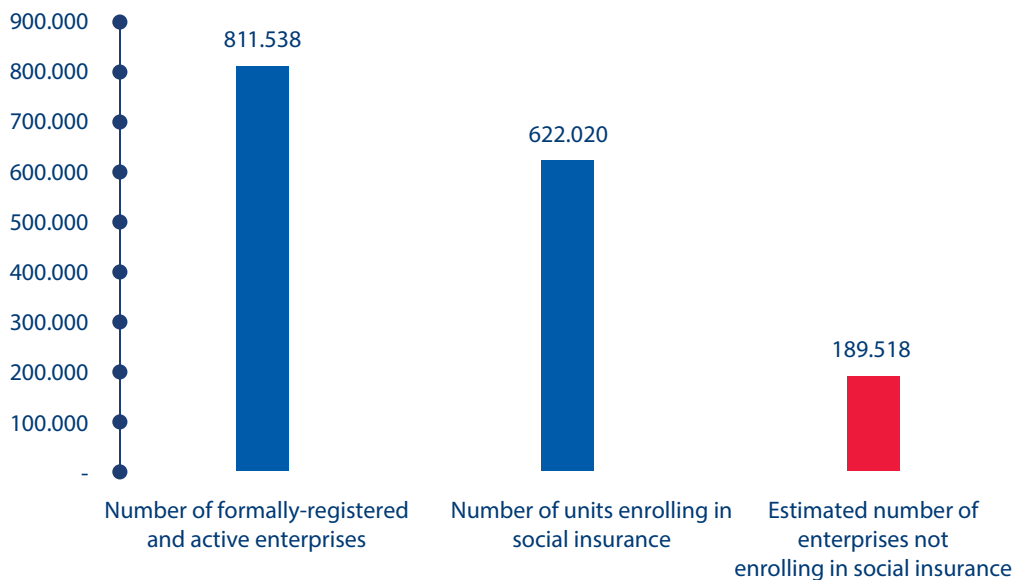
Figure 4: Informal workers in formally registered enterprises and in cooperatives (million)



Source: GSO, VSS, and calculations by the author

Informal workers in formally-registered enterprises are due to the fact that many employers (businesses) underreport the number of their employees, or register less workers than they actually employ to evade the obligation of enrolling all of their workers in social insurance scheme (partial compliance). But it is also due to the fact that many enterprises just evade the whole obligations of enrolling in the compulsory insurance scheme as required by prevailing laws (full non-compliance). By economic unit, about 23% of enterprises are formally register and active but do not enroll in social insurance. According to the Ministry of Planning and Investment, the number of enterprises which are active and are generating revenue and paying tax reached 811,538 in 2020. However, according to the MOLISA, the entire number of units enrolling in compulsory social insurance in 2020 was 622,020 units. As such, about 190,000 enterprises were still active but failed to enroll in compulsory social insurance.

Figure 5: Estimated number of businesses registered under the Enterprise Law but not enrolled in compulsory social insurance in 2020



Source: MOPI, MOLISA, and VSS (2020)

Laws and regulations on enrollment in compulsory social insurance for work by formally-registered economic establishments and enterprises are clear. But in reality, many issues remain, ranging from partial compliance to obvious non-compliance. Ineffectiveness in law enforcement, communication, and constraints of social insurance products are the main reasons for this situation.

This is the area with tremendous room for improvement and can be seen as the lower hanging fruit to be harvested to expand formal employment. It therefore deserves a high attention and prioritized actions. Improving compliance and increasing enrollment in social insurance by formally-registered enterprise will contribute significantly to narrowing down informal employment in Vietnam. If all registered enterprises fully comply with regulations on enrolling their workers in social insurance program as required by laws, it is estimated that the coverage rate of compulsory social insurance will immediately increase by 2.2 percentage points, contributing to an increase in social insurance coverage rate in 2020 from 33.7% to 35.9%. This measure alone can reduce the rate of informal employment by 2.4 percentage points from 68.5% to 66.1%.

Besides, thanks to the annual rapid growth of formally-registered enterprises, the number of workers in the formally-registered enterprise sector has also increased steadily at 2-3% per year in recent years. Full compliance with Social Insurance Law, Labour Code and other regulations related to enrollment in compulsory social insurance for workers by businesses will contribute tremendously to the goal of 60% of the working age population that are in employment being enrolled in social insurance as articulated in Resolution 21 of the Politburo and Resolution 28 of the Central Committee of the Party.

3.2. Cooperatives

According to the Vietnam Cooperative Alliance (VCA) and the GSO, by the beginning of 2020, there were 24,204 cooperatives in the whole country, more than 50 cooperative unions and nearly 100,000 cooperative groups. The total number of members in existing cooperatives is 5.94 million. Currently, there are 179,938 workers working in active cooperatives with business results. Between 2016-2019, each cooperative has on

average about 14 workers, registering VND 15.7 billion in capital, generating VND 6.3 billion in revenue and VND 231 million in pre-tax profit.

Article 2 of the Law on Social Insurance 2014 stipulates that “*employers which are obliged to enroll in compulsory social insurance include... cooperatives, household businesses, cooperative groups, other organizations...*”. Thus, cooperatives are also subject to enrollment in compulsory social insurance if they hire workers under labor contracts. In other words, all 179.9 thousand current workers in cooperatives are subject to compulsory social insurance.

Besides, 5.94 million members of cooperatives are also potential subjects to enroll in social insurance. However, only about a quarter of cooperatives have registered to enroll in social insurance and compulsory health insurance for workers. The rate of worker enrollment is low. Meanwhile, the number of cooperative members enrolled in voluntary social insurance is limited. For example, in Khanh Hoa province, there are more than 130 cooperatives, unions of cooperatives and 300 cooperative groups operating with a total of more than 51,400 members. However, the number of members enrolled in social insurance is only about 11,000 people. In Thanh Hoa province, between 2016-2020, on average 59 new cooperatives are established each year, but the number of members and workers enrolled in voluntary social insurance is also very low with around 40% of the cooperatives enrolling their workers in social insurance.

The above situation stems from many reasons. Weak financial condition of cooperatives is often mentioned as one of the main reasons. In many cooperatives, many of the workers are at old age or are nearing retirement age. In reality, workers may join a cooperative when they are already at an old age. At that age, they would not have enough contributing years left to mature social insurance benefits. For this reason, they prefer not to join the social insurance system at all. Paying social insurance contributions does not make sense for these workers. This is a regulatory issue which need to be addressed. Many cooperatives only “prioritize” the use of seasonal workers with a short period of time, with daily wages. The income of workers is therefore unstable and precarious. In addition, many cooperative managers are unaware of or lack of understanding on regulations on social insurance, health insurance, unemployment insurance. The hiring of labor is usually only through verbal contracts, not a labor contract as prescribed. It is these difficulties that leave a huge gap in the coverage of social insurance in the cooperative sector. As a result, informal workers account for an overwhelming proportion of the total number of workers in the cooperative sector, including cooperatives which are formally registered under the Cooperative Law.

Similar to their enterprise counterparts in the business sector, cooperatives are formal economic establishments and are subject to the Law on Social Insurance. However, there are cooperatives which do not enroll in social insurance or shirk their obligations under the Law on Social Insurance. In many cases, they enroll but do not fully enroll all of their workers in the program.

In order to reduce informal workers in the collective economy, it is necessary to take stronger enforcement measures to require cooperatives to fulfill the obligations of compulsory social insurance for workers. Prevailing laws should also be revised in order for more categories of workers/members of cooperatives to be included in the eligibility criteria under the compulsory scheme.

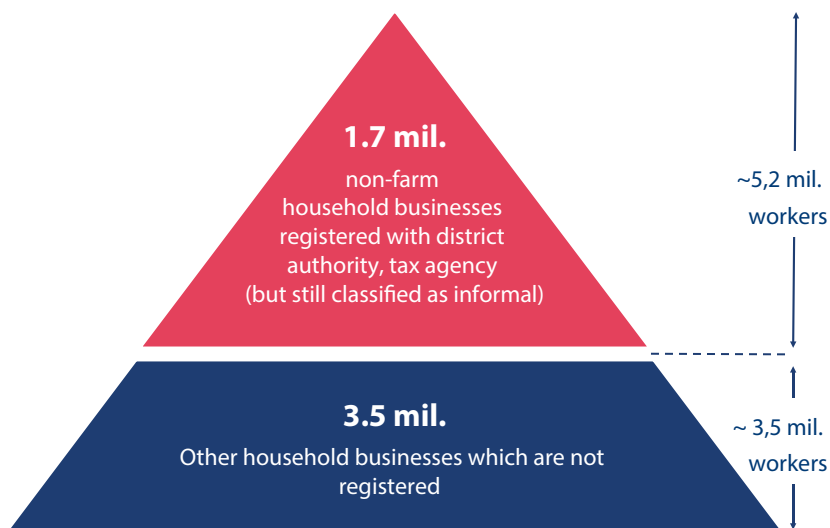
3.3. Non-farm household businesses

According to Decree 01/2021/ND-CP, household businesses can be established by an individual or by members of the household. Household businesses are registered at the business registration office under the district-level People’s Committee. Household businesses do not have legal status.

According to the GSO, by the end of 2020, the whole country has over 5.2 million non-farm household businesses⁹. The total number of workers in non-farm household business is 8.7 million people. According to the GSO, nearly 70% of non-farm household businesses are not registered with district-level People’s Committee. According to the General Department of Tax, about 1.7 million registered tax payers are non-farm household businesses. In other words, about 1.7 million non-farm household businesses are actually registered with either district-level authority or with the tax department¹⁰.

It is estimated that these 1.7 million household businesses employ about 5.2 million workers. Almost all these 5.2 million workers are not enrolled in social insurance. The remainder of around 3.5 million non-farm household businesses are not registered with district-level authority and with the tax agency and almost all of 3.5 million owners/ workers of these non-registered household businesses are obviously not enrolled in any social insurance scheme, be them compulsory or voluntary.

Figure 6: Number of non-farm household business and workers in 2020



Source: Developed by the author on the basis of data from the General Statistics Office and the General Department of Taxation (2021)

While the non-farm household businesses accounts for 30.4% of GDP, creating jobs for 8.7 million people or 18% of the working age population that are in employment, the sector makes almost zero contribution to social insurance coverage, and thus making no contribution to reducing informal employment. This is a fact that needs to be faced with and changed.

Since the majority of non-farm household businesses are small, even micro in size and are on subsistence level, they should be subject to simple and less strict laws and regulations in order to survive and subsist. However, there are also hundreds of thousands of non-farm household businesses which should be made subject to strict regulations on labor and social insurance and they do have financial capacity to enroll. The General Department of Taxation estimates that there are 102,095 household businesses with regular

9 “Statistical Yearbook 2020”, General Statistics Office (2021).

10 It should be noted that though these household businesses are registered, they are still considered or classified as in “informal sector” by Vietnamese policy makers, regulators and also by researchers. Though they are registered, they still have no legal status according to the Decree 01/2021/ND-CP. There are some on-going efforts by the Government to formalize non-farm household businesses. The Law on SME Support also devotes a section on measures to support formalization of non-farm household businesses.

revenue of more than VND 1 billion/year in 2017. Many household business even have a turnover of several hundreds of billion dong/year (General Department of Taxation, 2018). Currently, about 1.7 million household businesses are registered with the tax agency, having a revenue of over VND 100 million a year and are fulfilling tax obligations. These 1.7 million household businesses also need to be subject to compulsory social insurance. Laws and regulations should be revised so the owners and workers of these household businesses are required by law to be enrolled in compulsory social insurance scheme.

At the lower tier, about 3.5 million non-farm household business are unregistered due to the fact that their annual revenue is below the threshold to be subject to registration as required by law. This is also due to ineffectiveness in enforcing household business registration by district-level authorities or tax agencies.

“

According to the provisions of Clause 3, Article 2 of the Law on Social Insurance 2014: "... 3. Employers enrolled in compulsory social insurance include state agencies; enterprises, cooperatives, household businesses, cooperative groups, other organizations and individuals that employ workers under labor contracts..." Thus, household businesses are identified as employers. Therefore, if the owner of a household business hires and uses labor under a labor contract, both the householder and the worker are subject to compulsory social insurance.

”

The principle of fulfilling social insurance obligations in parallel with tax obligations should be applied to household businesses. Current laws and regulations should also be revised so non-farm household business owners and individuals when registering with the tax agency will be enrolled in compulsory insurance scheme at the same time.

Regulations on the requirement to enroll in compulsory social insurance for workers in household businesses also need to be strictly implemented, ensuring that household businesses strictly comply with the legal provisions on compulsory social insurance applicable to employers. As such, different social insurance regimes need to be designed for different levels of income, with subsidization or total exemption for specific categories.

However, the premise to do this is to craft a system that will make sense and easy for household businesses to contribute. The cost and benefit of the social insurance system need to be advantageous for all household businesses. For example, contributions need to be affordable and benefits need to be relevant to the specific categories of workers. There need to be improvements in enrollment procedures, payment plans, claiming benefits to match with the financial, human capacity as well as the specific characteristics of household businesses. The practice of applying the same regulations and process for enrollment procedures, payment plans, claiming benefits which are applicable to bigger sized organizations and enterprises to household businesses is really discouraging for household businesses. This is one of the reasons why many household businesses are not interested in enrolling in compulsory social insurance for their workers.

Improving social insurance products and procedures therefore plays an extremely important role in expanding social insurance to cover 8.7 million informal workers in the household business sector.

3.4. Farm households

Households are the basic economic unit in agricultural, forestry and fishery production in Vietnam. As of July 1, 2020, there were 9.1 million farm households which are classified as in agriculture, forestry and fishery. These farm households employed about 13,05 million workers and almost all of these employment are informal by social insurance enrollment criteria.

In recent years, many households have expanded their production scale and significantly improved their revenue and economic and financial capacity. As of 2020, 20,611 households have developed into farm scale, becoming relatively large in size and employs many regular workers. These households should be subject to compulsory social insurance scheme.



3.5. Vietnamese guest workers working abroad

According to a report by the Department of Overseas Labor, MOLISA, by the end of 2019, 650,000 Vietnamese workers were working abroad in more than 40 countries and territories. According to Vietnam Social Security, only 9,000 workers or about 1.4% of the total number of workers working abroad were enrolled in Vietnamese compulsory social insurance.

Often, Vietnamese guest workers contribute to the social security system of the country they work. However, the guest workers often work on contracts of 3 to 5 years. They became no longer eligible for social security of the host country when they come back Vietnam where they are not covered by any social insurance program either for not contributing to it when working abroad. This is a dilemma for the Vietnamese guest workers working abroad. If contributing to both Vietnamese social insurance program and the social security system of host countries, that will be double contributions for them.

It is important that the Government negotiate and enter into agreements with host countries to avoid double contribution by employers and workers. An agreement as such is being negotiated between Vietnam and South Korea. The Government should formulate regulations and social insurance product to help Vietnamese guest workers to contribute to Vietnam social insurance program only for the pension part while they work abroad and for also for others like health, injury, unemployment after they return.

3.6. Own-account workers with high qualifications and skills, sole traders, business partners of technology platforms, gig economy workers, and freelancers

Along with the development of the economy, a group of highly qualified own-account workers has emerged in the labor market. They work as consultants, designers, freelancers providing intellectual services, artisans, engineers, architect, sole traders, highly-skilled workers, singers, writers and artists. These workers do not work on the basis of long-term labor contracts with other individuals, organizations or enterprises. Rather, they work on the basis of short-term service contracts which are based on the specific assignments. These highly skilled and qualified own-account workers may or may not register with the tax authority. They may or may not have fulfilled their tax obligations. However, almost all of these own-account workers do not enroll in social insurance despite of the fact that the capacity and affordability to contribute to social insurance is relatively high for this group of workers.

In particular, with the economy going digital and with the 4.0 industry revolution, digital and tech platforms have created new job opportunities and also have blurred the line between workers, employees and own-account workers. In Vietnam, there are now hundreds of thousands of platform-based taxi or two-wheeler drivers, shippers, content creators on such digital platforms as YouTube, TikTok, online shop owners on Facebook, Zalo or other social networks, freelancers working with foreign partners entirely through online platforms, businessmen using their own or their family's property to do business on the basis of online platforms such as Airbnb, Booking, application developers for technology companies such as Apple (AppStore) or Google (Google Play) or online salesmen (shops) on e-commerce sites such as Shopee, Sendo, Tiki, Lazada, Alibaba or Amazon, etc. With the current speed of digital transformation and the development of the digital economy, it is forecast that own-account workers on digital platforms in Vietnam may well exceed more than 1-1.5 million workers within the next decade.

A special feature of own-account workers on this digitized platform is that these business individuals do not have a formal employment relationship with tech firms or firms owning or operating the platforms. Workers now become work partners or own-account workers in a completely or partially online working environment.

The number of own-account workers is rising sharply due to the increase in number of young workers entering this form of business partnership. There is an upward trend of shifting from jobs with employment relationship to self-employed own-account in the form of business partners of with platform-based firms.

It is noteworthy that a proportion of these own-account workers earn a substantial income but do not fulfill tax and social insurance obligations. Efforts to require certain groups of high-income own-account workers and self-employed to fulfill their tax obligations must be paralleled with efforts to compel them to enroll in social insurance. Recently, the tax agency has stepped up efforts to push work partners (self-employed dependent) of platform-based companies into paying personal income tax. However, a similar effort to induce workers of this category to enroll in social insurance has not yet been initiated. Similarly, recent efforts to require artists and other high-income own-account workers to pay taxes have not been accompanied by parallel efforts to oblige them to enroll in social insurance. Prevailing laws and regulations should be revised to make sure that these workers are to be enrolled in compulsory social insurance program.

Therefore, measures to induce own-account and self-employed workers to pay tax must be accompanied with parallel measures that require them to enroll in social insurance. Enrollment in social insurance may also become a mandatory condition for business partners when entering into partnerships with tech platform-based firms or firms that provide technology platforms for business partners. Tech platform-based firm will be held responsible to check that this condition is met before signing business partner contracts. Otherwise, the business partnership contracts are deemed to be invalid or the tech platform-based firm are considered to violate the laws if such condition for the business partnership with their platform-based partners is not met.

According to prevailing regulations, for e-commerce businesses and individuals selling on Facebook, Zalo, etc., if their sales revenue is above the taxable revenue threshold (currently regulated revenue threshold is from VND 100 million/year or more), they are obliged to declare and pay value-added tax and personal income tax. This provision should be expanded to include the requirement to enroll in social insurance.

When signing service contracts with formally registered enterprises, State agencies, international organizations, organizations with legal status in Vietnam, self-employed workers should be required to provide valid social insurance numbers and proof of social insurance enrollment as they are required to provide the employers with the personal income tax codes. Own-account workers are responsible for maintaining their social insurance codes valid over the years with their periodic social insurance contributions. Service contracts or business partner contracts without information on the social insurance number of own-account workers should be treated the same as contracts without the personal income tax number. Such contract may be deemed invalid and the expenses paid under the contract may be considered ineligible as tax-deductible expenses.

Other own-account workers are also encouraged to enroll in social insurance. Depending on their income level, they may contribute all or benefit from the co-contribution by the State (subsidization).

3.7. Other self-employed, freelancer, family worker and employees with low skill and qualification

In addition to jobs by employment status as described above, there is a high number of self-employed, own account workers, employees with low skills and qualifications in Vietnam. They account for a large proportion of informal workers in Vietnam. They can be construction workers, street food vendors, micro business owners, cleaning workers, and domestic helpers. It is estimated that in 2020, workers of this category are about 7.4 million, accounting for about 15.3% of the working age labor force.

This is a group of informal workers who need support to access social insurance. This group of workers is characterized by having no or unstable income or lower income. Social insurance products for this group of own-account workers also need to be designed to suit their capabilities, payment plan, payment methods or co-payments.





CHAPTER 2

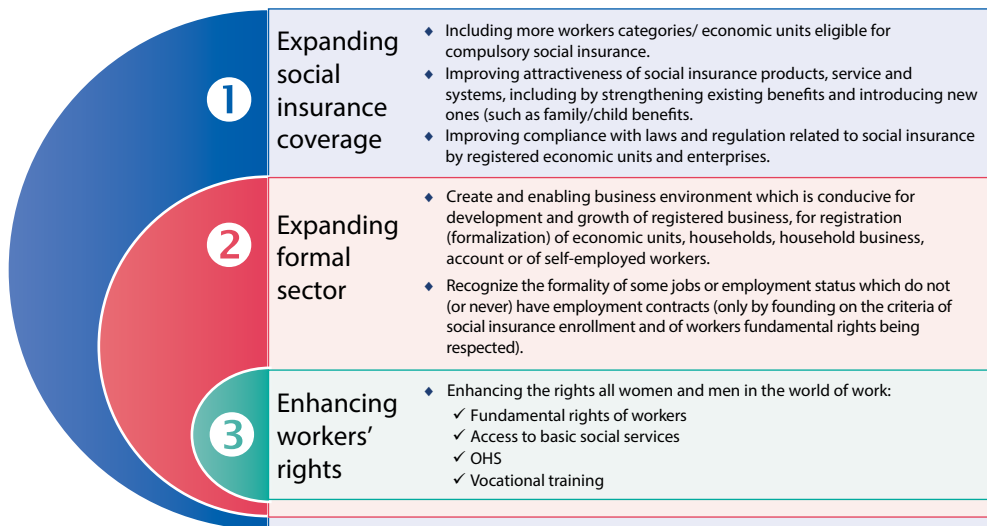
EXPANDING FORMAL EMPLOYMENT IN VIETNAM

I. UMBRELLA APPROACH AND OVERARCHING PRINCIPLES

A paradigm shift on the approach and overarching principle to increase formality is crucial to the goal of formal employment expansion in Vietnam. The expansion of formal employment should be implemented by an integrated approach with policies and measures aimed at expanding social insurance coverage, expanding the formal economy, while enhancing the rights of workers regardless of the fact if they have an employment relationship or not.

Such an integrated approach requires the expansion of social insurance coverage by such measures as including more workers categories/ economic units eligible for compulsory social insurance, improving attractiveness of social insurance products, service and systems, including strengthening existing benefits and introducing new ones (such as family/child benefits), and improving compliance with laws and regulation related to social insurance by registered economic units and enterprises.

Figure 7: Increasing formality and narrowing informality in Vietnam



Source: Le Duy Binh and colleagues (2022).

The focus of the approach to informal employment should also be shifted by emphasizing on measures to get informal workers enrolled in social insurance rather than on them having an employment contract. They can become formal workers in the informal sector. In other words, in the short-term, it is about formalizing informal employment via social insurance enrollment and protecting workers' rights without emphasizing too much on transferring workers to the formal economic sector or on having an employment relationship as a requisite to formalize informal employment.

In parallel with that and with a view for the medium and long-term, polices and regulations should be revised to encourage and capacitate the informal sector players to gradually start behaving like a formal sector actors or enterprises, for example family businesses start keeping good book of accounts, registering as business, contributing to compulsory social insurance for household members and hired workers, etc.

The integrated approach also calls for polices and actions to expand the formal sector. This can be achieved by the creation of an enabling business environment which is conducive for development and growth of registered business, for registration (formalization) of economic units, households, household business, self-account or of self-employed workers. It is also recommendable to recognize the formality of some jobs or

employment status which do not (or never) have employment contracts (only by founding on the criteria of social insurance enrollment and of workers fundamental rights being respected).

And finally, policies and actions to enhance the right of workers, whether they are in the informal or formal sector, should be promoted. Enhancing the rights all women and men in the world of work, e.g. fundamental rights of workers, access to basic social services, OHS and vocational training are all important to improve the formality of employment for workers.

II. EXPANDING FORMAL EMPLOYMENT BY EXPANDING SOCIAL INSURANCE COVERAGE

1. Systemic measures and a paradigm shift are needed to improve the social insurance system

The expansion of formal employment is in direct proportion to the expansion of social insurance coverage. In order to achieve the overall goal in which the number of the employed working-age workers enrolled in social insurance over the total workforce reaching 45% by 2025 and 60% by 2030, the level of social insurance enrollment of workers by job position should meet the targets as described in the following table.

Table 2: Targets on social insurance coverage by each group of worker to achieve the overall goal articulated in Resolution 28 (%)

	2020	2025	2030
Workers on the payroll, receiving state budget salary	100%	100%	100%
Workers in formally-registered businesses	88%	93.5%	100%
Labor in cooperatives	22%	37%	70%
Non-farm household businesses	6%	23%	50%
Skilled and qualified technology-based or own-account workers	2%	100%	100%
Guest workers working abroad	1%	16%	30%
Workers in agricultural, forestry and fishery households, domestic helpers and other own-account workers	5%	10%	20%

Source: Developed by the author on the basis of data collected from the GSO, MOLISA, VSS and other sources

Social insurance is a pillar for social security. Social insurance is not only the right but also the obligation of the workers to themselves, to third parties and to the society. Therefore, similar to tax obligations, social insurance should be considered a requirement for workers and employers. Social insurance enrollment should be considered a mandatory element for any workers having sufficient income to afford it. People with income will need to fulfill the requirement to enroll in social insurance along with tax obligations. In parallel, the social security system need to be improved in order for it to be attractive and make sense from the workers' and employers' perspectives

For many jobs or employment status, regulations and laws should be revised to ensure that social insurance enrollment will become a pre-condition for entering into service contracts, consultant contract, or business partnership contracts. This principle should be applied especially to groups of workers with enough income to pay or co-pay for social insurance. For own-account workers, especially those who are self-employed dependent on platform-based firms, skilled and qualified workers, social insurance enrollment is a mandatory

condition to be met to be eligible to enter into service contracts, outsourcing contracts, consultant contracts or business partner contracts regardless of whether they are short-term or long-term. For the enterprises or organizations which hire workers through service contracts, outsourcing contracts, consultant contracts, business partner contracts, regulations will be revised to ensure that such contract will be deemed invalid and the expenses paid under the contract will be considered ineligible as tax-deductible expenses if they fail to make sure that the contracted worker provides his or her social insurance number to be written in the contract (just like the requirement for the personal income tax number to be written in the contract as now).

It is also high time for a paradigm shift in the social insurance system to renew the current compulsory and voluntary social insurance regimes. The social insurance approach should be further improved to provide better services to social insurance enrollers and enrollees (employers and workers) with more suitable, attractive, and diverse products and benefits. Change in mindset, innovating and improving social insurance products and services, service delivery, social insurance regimes, will be the foundation to expand compulsory and voluntary enrollment in social insurance.

Efforts to engage existing enrollees and to minimize insurance abandon rate are as important as attracting new employers and workers to join. Reducing the number of workers leaving the system comes not only from changes in legal regulations but also from measures to improve benefits and attractiveness of both the compulsory and voluntary social insurance.

Low-income workers, social protection beneficiaries, and low-income own-account workers continue to be supported by the State to enroll in compulsory and voluntary social insurance. This contributes to the expansion of social insurance enrollment, enhances the formality of own-account workers and helps them enter the labor market with a position in which they are better protected by the social safety net.

The attractiveness of social insurance system often comes from the interaction between the benefits and the contribution rates. Therefore, more subsidization from the Government is also important to guarantee that introducing new and better benefits will not be followed by a large increased in contribution rates to finance such new and better benefits. Programs which are designed for Government support to different worker group in Vietnam should take this into account in order for the social insurance system to be really attractive after all.

Expansion of formal employment and social insurance also involves the role of other laws such as the Law on Taxation, the Enterprise Law and some other specialized laws. The approach to the expansion of formal employment therefore needs to be based on systematic approach with overarching principles and requires the engagement of many ministries, agencies, and the revision of legal documents of many other sectors. It is not only the role of such laws and regulations as the Labor Code, the Social Insurance Law or the Employment Law.

2. Regulatory and administrative measures

In addition to that, further efforts should be made to strengthen the enforcement of the Law on Social Insurance to improve compliance by those who are required by the prevailing to enroll and to be enrolled in compulsory social insurance enrollment. Effective public communication to encourage employers and workers on social insurance scheme can also contribute to better coverage.

On the principle that workers and employers will have same universal rights and obligations to enroll in social insurance as for taxes, workers and employers will exercise their rights and responsibilities to enroll in social insurance at the same time as in tax.

Thus, those who have income and payment capacity (to be determined on the basis of the current taxable income threshold) will be subject to compulsory social insurance. On the basis of this principle, prevailing laws should also be revised in order for more categories of workers to be included in the eligibility criteria under the compulsory scheme.

Current laws and regulations should be revised to integrate the principle that social insurance enrollment is a mandatory condition for participating in the labor market by own-account workers with high qualifications and skills, own-account workers (with a threshold to classify those who can afford social insurance premiums), actors in a gig economy without an employment contract, business partners of platform-based firms. The legal framework should be adjusted in the direction that own-account workers or business partners who fall into this category and who have sufficient income to afford social insurance must provide a valid social insurance number and current social insurance enrollment when signing a short-term service contract, expert contracts, performance contracts, business partnership contracts with State agencies, formally-registered enterprises, platform-based firms and registered household businesses.

The Law on Tax, Law on Social Insurance, Law on Contract and related regulations on contracts need to be adjusted to link tax administration with social insurance administration.

The Enterprise Law and related tax laws should be revised to reform the legal form of “private enterprise” (*doanh nghiệp tư nhân*) as it is stipulated now in order to reflect more accurately the nature of “sole proprietorship” (*doanh nghiệp một chủ or doanh nghiệp cá thể*) of this type of business. Other laws in tax management applicable this type of business will also need to be reformed to reduce the legal and tax compliance cost applicable to businesses which adopt this legal form. By so doing, this will be a big boost to encourage household businesses to registered as sole proprietorship under the Enterprise Law, facilitating the formalization of this important business sectors. This will create a very important foundation and conducive environment for the expansion of formal employment in the household business sector.

In addition, an important factor to expand formal employment is to have a conducive economic environment where formal sector enterprises (those who contribute for their workers’ compulsory social insurance) can develop and grow, and where new ones will be established everyday. As such, business environment reforms should be stepped up to make it easier for individuals, households, own-account workers, self-employed to register themselves or their businesses. A conducive, low-cost, transparent business environment with simple administrative procedures will encouraged these informal workers and actors to formalize by way of registration.

The Government is aimed at the objective of 1.5 million active formally-registered enterprises by 2030. This objective need to be supported by a wide range of policies and regulations to maintain the current business registration growth rate (of businesses registered under the Enterprise Law), and at the same time to improve the survival rate of formally-registered enterprises. The objective, if achieved, will be a big boost to the expansion of formal business sector in Vietnam which on its turn will be very supportive of the expansion of formal employment in the country.

3. Market and technical solutions

It is highly important to further innovate and diversify compulsory and voluntary social insurance products and services in order to make them more suitable, convenient and attractive in terms of payment plan, payment method, affordability, entitlements and benefits. One of the keys to expanding social insurance coverage is to make the system to be attractive to both social insurance enrollers and enrollees, including

those who are subject to compulsory and voluntary social insurance. One way to improve the attractiveness of the system is reducing the minimum required period of contributions for entitlement to retirement pensions from the current 20 years and bringing the system closer to ILS. Introducing new benefits such as family benefits would serve the goal of increase the attractiveness of the system. Family benefits can help to reduce lump-sum withdrawals while also bringing Vietnam social protection system closer to ILS¹¹.

Investment should be made to improve the technology and technical infrastructure for managing social insurance accounts of enrollees. Improved technical infrastructure will help to enhance transparency, enabling enrollees to access to their electronic social insurance books and be instantly informed about their contribution and entitlement accounts. For those enrolled in social insurance, especially on a voluntary basis, having convenient and fast access to up-to-date information about their social insurance account is crucial to their decision making on social insurance enrollment and maintaining their enrollment in the long run.

The coordination mechanism between tax authorities and social insurance agencies in monitoring the development of social insurance enrollees should be institutionalized. It is important to link tax administration with social insurance administration. Stronger investment should be made into technology upgrade to promote information sharing between different institutions. For instance, seamless cross-institution sharing of information between the Business Registration Agency, the Tax General Department of Tax and VSS could be an important factor in enhancing compliance.

The National Citizen Database (*Cơ sở Dữ liệu Dân cư*) has been launched and put into use. The database could be used by linking citizen identification codes (*mã số công dân*) with social insurance number and personal income tax code, thereby enhancing compliance. It also helps to facilitate and to ease the procedures related to enrollment in social insurance, payouts, receipts of benefits and entitlements.

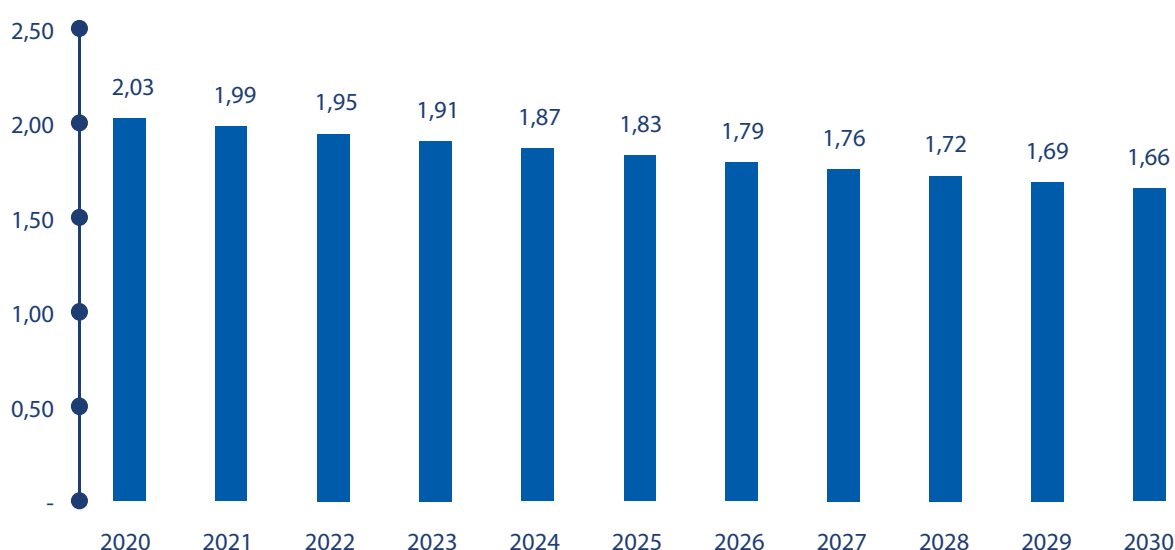


¹¹ Family benefits are currently one of the only two contingencies covered by C102 not included in Viet Nam's Compulsory Social Insurance System

III. EXPANDING FORMAL EMPLOYMENT BY BROADENING THE FORMAL SECTOR AND FORMALIZATION OF ECONOMIC UNITS

Efforts are being stepped up to reform the public sector in Vietnam. Employment in the public sector e.g. civil servants, workers in public institutions will be downsized. According to Resolution No. 19-NQ/TW of the 6th Plenum of the 12th Central Committee, employment in public institutions will be reduced by 10% by 2025 (as compared with 2021) and another 10% by 2030 (as compared with 2025). Given these targets, it is estimated that the employment in public sector will decline to 1.83 million by 2025 and then 1.66 million by 2030.

Figure 8: Employment in public institutions until 2030 (million)



Source: Statistical Yearbook 2020, GSO (2021), Resolution No. 19-NQ/TW of the 6th Plenum of the 12th Central Committee and calculations by expert team

The downsizing process means the decrease in number of formal employment in the public sector. Thus, the expansion of the formal sector in the economy will depend significantly on the expansion of the formal sector at enterprises and cooperatives and the enhancement of the formality of household businesses and business individuals.

The expansion of the formal employment therefore will be dependent on the effort to the development of formally registered businesses, formalization and registration of household businesses and informal sector economic units. This will be spurred by the overall efforts to restructure the economy and international economic integration.

1. Fostering the development of formal sector enterprise and cooperatives

Promoting formally-registered enterprises and cooperatives will contribute to narrowing the informal sector and expanding formal employment. In reality, policies to promote entrepreneurship, enterprise development, SME development have made important contributions to this goal.

Over the past three decades, entrepreneurship promotion and enterprise development have made significant contribution to the rise in number of jobs for workers in the formal sector. Specifically, by 2020, about 8.8

million jobs have been created by formally-registered domestic private sector enterprises and 4.5 millions jobs by FDI enterprises.¹² All these jobs are considered to be in the formal sector and thus are subject to compulsory social insurance rules and regulations.

The Enterprise Law 1999 set the foundation for the strong development of domestic private enterprises and unleash entrepreneurship among the Vietnamese people. The Law enshrines the freedom to do business of the people, providing protection of private enterprises and reinforcing private ownership. The Enterprise Law 1999 includes a number of unprecedented business environment reforms, significantly simplifying administrative procedures for business establishment, removing barriers to market entry, promoting the reform mindset among Government agencies, ministries, agencies and local authorities in order to facilitate the development of private enterprises. As soon as *the Enterprise Law 1999* was released, the number of businesses registered annually has increased sharply. Vietnamese entrepreneurs have invested hundreds of billion of US dollars in the economy through registered businesses under *the Enterprise Law*.

The number of formally registered enterprises has increased dramatically from about 14,500 private-sector enterprises established in 2000 to about 442,500 active enterprises in 2015 and 668,500 active enterprises in 2019¹³. Among these enterprises, a good number of them graduated from household businesses.

The jobs created by these enterprises have shifted millions of workers from the informal sector to the formal sector, and given them the opportunity to transition from low-income jobs in the agricultural sector to jobs with higher productivity and income. In addition, the development of the enterprise sector and the expansion of formal employment make an contributions to the expansion of social insurance coverage. The number of workers in formally registered enterprises has increased sharply in recent years from about 12.85 million in 2015 to 15.1 million in 2019.

Figure 9: Number of officially registered enterprises in operation (enterprises)

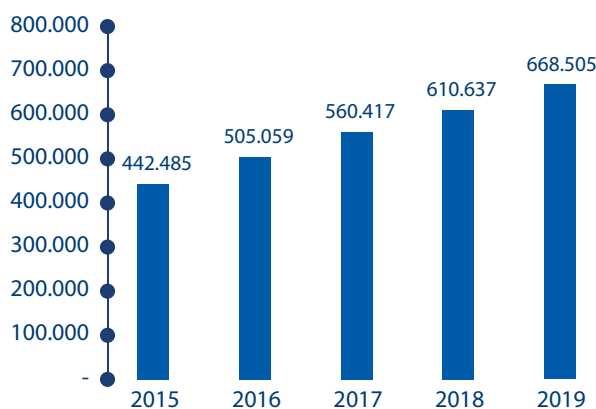
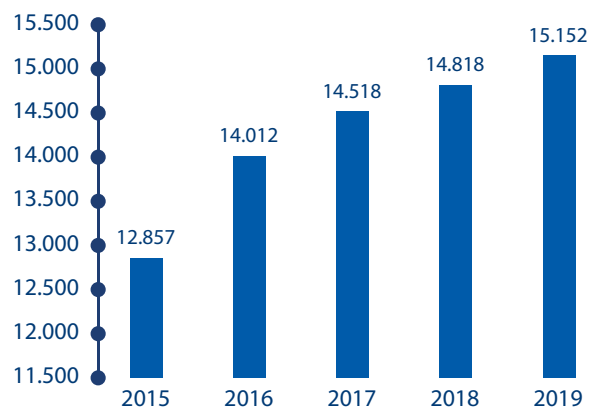


Figure 10: Number of workers in officially registered enterprises in operation (thousand people)



Source: Statistical Yearbook 2020, GSO (2021).

Policies to attract foreign investment has strongly contributed to the expansion of formality and thereby narrowing of informality in Vietnam. In the formally-registered enterprise sector, foreign-invested enterprises plays an increasingly important role and are becoming a significant source of formal employment.

12 "Statistical Yearbook 2020", General Statistics Office (2021).

13 Ministry of Planning and Investment, "The White Book on Vietnam Businesses 2021" (2021)

Figure 11: Number of officially registered FDI enterprises in operation (enterprises)

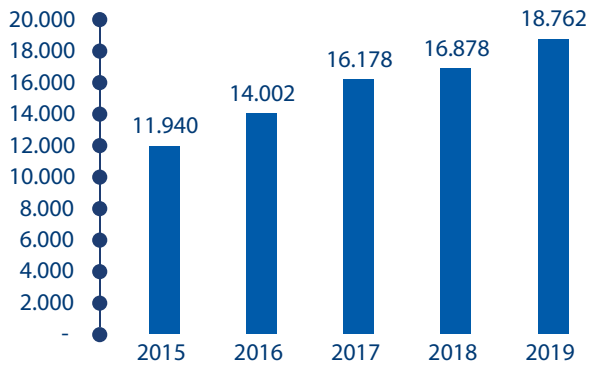
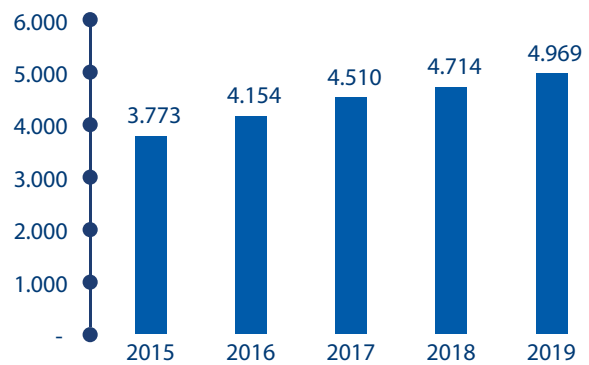


Figure 12: Number of workers in officially registered FDI enterprises in operation (thousand people)

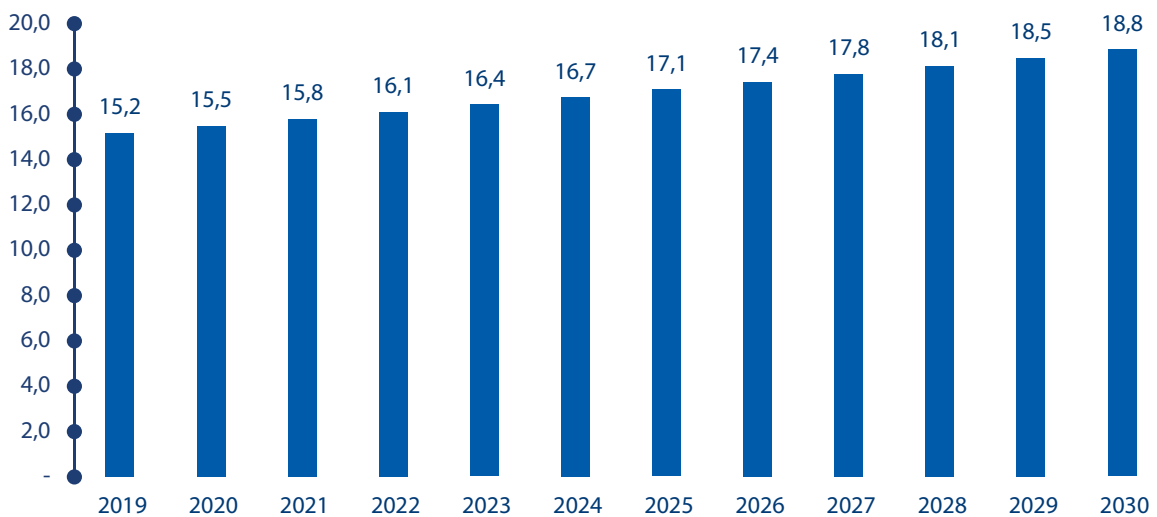


Source: Statistical Yearbook 2020, GSO (2021).

By the end of 2019, the whole country counted nearly 18,700 foreign-invested enterprises, 30,827 FDI projects with a total registered capital of approximately USD 363 billion. Foreign-invested enterprises are currently creating 4.97 million jobs in the formal sector. Jobs created by FDI enterprise will keep increasing as Vietnam is stepping up efforts to attract foreign investment and the economy is deepening the integration into the international economy through trade and investment agreements signed in recent years.

In addition, according GSO, by December 31, 2019, the total number of active cooperatives nationwide is 14,388 cooperatives, with 179,938 workers and 5.94 million members¹⁴.

Figure 13: Forecast of number of workers in formally registered enterprises by 2030 (million people)



Source: Statistical Yearbook 2020, GSO (2021) and calculations by experts.

The numbers in the figure show the gradual movement of informal workers to the formal sector, especially in private enterprises and foreign-invested enterprises registered under the Enterprise Law. In recent years, the worker growth rate in formally registered enterprises was 3.6% in 2017, 2.1% in 2018 and 2.3% in 2019. With an average growth rate of about 2.0% per year, it is estimated that the number of workers in the formally registered enterprise sector will increase from 15.5 million in 2020 to 18.8 million in 2030.

14 “2020 White Book on Cooperatives of Vietnam”, Ministry of Planning and Investment (2021).

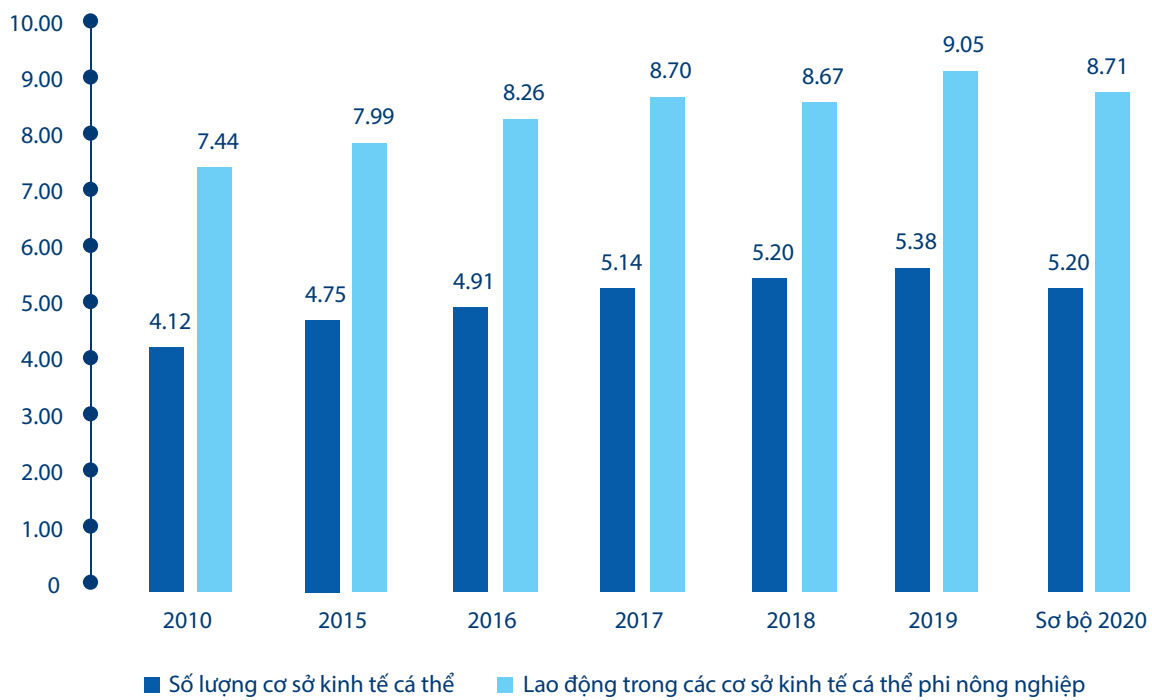
This shift to the formal sector facilitates the transformation of informal employment into formal one. Along with measures to improve formal enterprises' compliance with the law on social insurance mentioned above, business development and foreign investment attraction will play an important role in the goal of 60% of the working-age population in employment being enrolled in social insurance, thereby reducing informal employment in Vietnam over the next decade.

2. Increase formality and encourage formalization of the household business sector

2.1. Increase formality of the household business sector: implications and potential

Household businesses are a unique economic entity in Vietnam. According to the GSO, there are now about 5.2 million household businesses nationwide. Household businesses are especially favorable form of business which is preferred by the people when starting a business. Household business is preferred because of easy registration with extremely simple procedures that can be done at district-level authority offices (district people's committees). The requirements related to accounting and bookkeeping are very simple. Household businesses are not strictly bound by regulations and requirements on social insurance, conditional business lines, environment, fire prevention, etc.

Figure 14: Number of household businesses and workers in household businesses (million)



Source: Statistical Yearbook, GSO (2020 and other years).

Most importantly, household businesses can pay lump sum taxes which is “negotiable with tax authorities”. Thanks to this, they are subject to low tax burden. Therefore, according to the General Department of Taxation, though accounting for more than 30% of GDP, the household business sector contributes only about 1.6% to the State budget revenue¹⁵.

Despite being preferred by the people as a favorable form to start business and being mentioned in the Enterprise Law, household businesses are not considered a type of enterprise. Therefore, they are classified

¹⁵ Statistical Yearbook 2020, GSO (2021), and GSO (2021).

to be in the informal or semi-formal sector. The 2015 Civil Code no longer regulates household businesses and no longer recognizes them as a legal party in civil transactions.

In addition to requiring the heads and workers of household businesses to be enrolled in compulsory social insurance, improving the formality of the household businesses is key to improving the formality of some 8.7 million workers in the sector. Formalization also provides household businesses with a stronger legal status, better protection and opportunities for further development.

2.2. Approach to improve the formality of household business sector

Formalizing household businesses requires a flexible, systemic and well-structured approach with multiple measures rather than by using force as the only tool. It is important that favorable conditions and simplified procedures are created so holders of household businesses will consider the costs and benefits of formalization and come up with the decision to formalize rather than using coercive measures as the only tool to force household businesses to formalize. Measures, when applied, must be suitable with the current actual situation of household businesses.

Some household businesses need to be subject to stricter and stronger measures to formalize

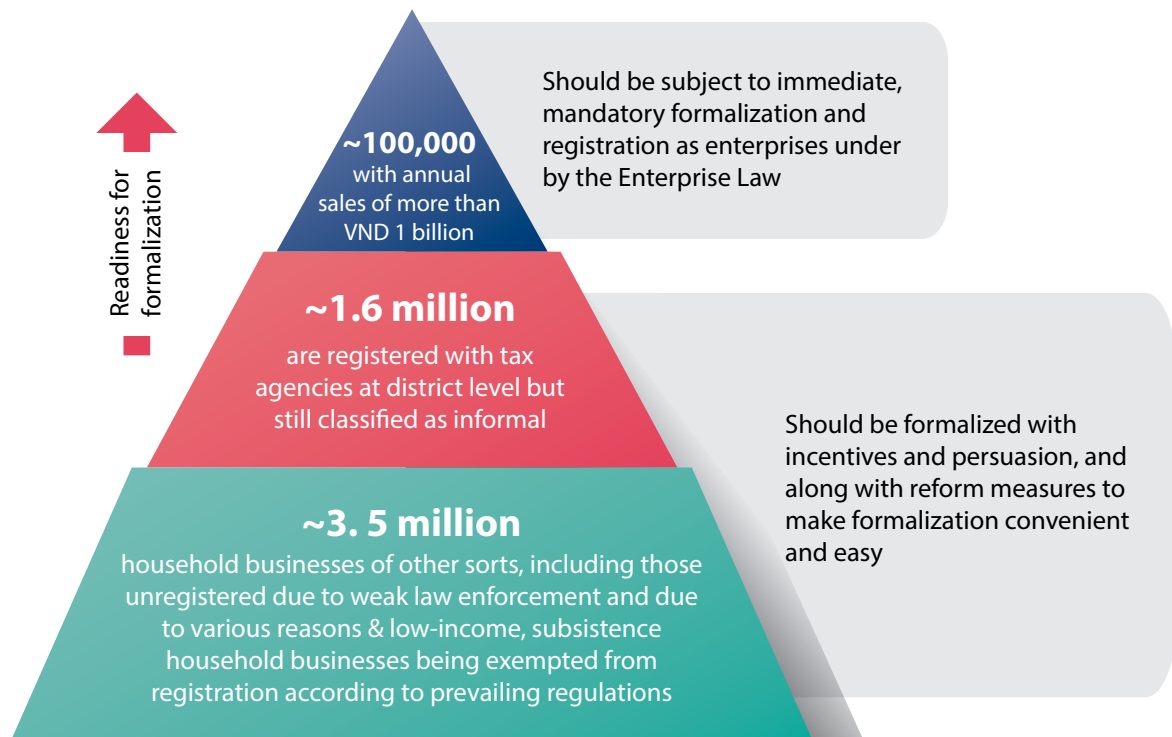
Currently, most of household businesses are micro in size, low in income and operate out of necessity. These household businesses should be regulated by simple and loose legal regulations in order for them to subsist. However, there are also hundreds of thousands of household businesses that need to comply with stricter tax regulations and obligations.

The General Department of Taxation estimates that there were 102,095 household businesses with regular revenue of more than VND 1 billion/year in 2017. Many household businesses even have a turnover of several hundred billion dong/year (General Department of Taxation, 2018). Many household businesses operate in industries that are not suitable for the form of household business such as trading in chemicals, medical equipment, construction equipment, mining, etc.

Household businesses in these industries are not required to comply with the strict conditions, regulations and technical regulations as prescribed for these conditional business lines. These household businesses also benefit from regulations that allow the payment of lump sum tax. This has created an unequal competition between economic units operating in the informal sector and formally registered enterprises.

These household businesses are in the upper layer of the household business pyramid. They have evaded the formalization and registration as enterprises for the fear of being more transparent. This is also motivated by the desire of taking advantage of the tax and social security regulations which are currently applied loosely to household businesses. This has not only been unfair for formally registered enterprises but also resulted in loss of revenue for the State Budget.

Figure 15: Non-farm Household Business Pyramid in Vietnam



Source: Vietnam Private Sector: Productivity and Prosperity, *Economica Vietnam* (2018, updated in 2021).

The evasion of transparency and compliance with tax and social security obligations clearly do not contribute to the creation of a good business culture. They even create obstacles for large-scale household businesses to develop in a sustainable manner with better governance, business efficiency and productivity in order to make their services and products to be more competitive nationally and internationally.

As such, household businesses at the top of the pyramid need to be subject to stricter and stronger measures to formalize and to convert into enterprises. They should be subject to stronger inspection or measures to fully comply with regulations on compulsory social insurance for both household business owners and workers after conversion. This should be accompanied with measures to simplify regulations applicable to sole proprietorships in terms of registration, tax, financial reporting – the form of business under the Enterprise Law which is most convenient for household businesses to be converted into.

Create an enabling environment for households businesses to choose to register or to formalise

Among others, the Enterprise Law provide a legal form of *private enterprise*¹⁶ (*doanh nghiệp tư nhân* in Vietnamese and *sole proprietorship* in nature) which is very similar in nature to household businesses. Enterprises registered as *private enterprises* are considered to be in the formal sector. However, this form of business is increasingly losing its attractiveness and is no longer an option for people when starting a business and registering a business.

If in the early years of the Enterprise Law 1999, nearly half of registered enterprises were registered as *private enterprises* (44.7% in 2000, 35.9% in 2001). However, in recent years only a very small percentage of enterprises choose the form of *private enterprise* when registering their business (3.9% in 2016 and 0.87% in 2020).

¹⁶ “Doanh nghiệp tư nhân” in Vietnamese and is translated literally in the Law as private enterprise. The Vietnamese term fails to self-explain the legal nature of the enterprise form as sole proprietorship even though it is used to mean this type of enterprise.

Though *private enterprise* is formally recognized in the Enterprise Law, it is much less preferable to household business - a business form which is not recognized as a formal type of enterprise under the Enterprise Law. The form of *private enterprise* have lost its attractiveness and became unpopular due to the following main reasons:

- ◆ In terms of rights, *private enterprises* are not much different from household businesses. However, in terms of obligations, a private enterprise has more responsibilities. They must comply fully with all regulations applicable to all enterprises registered under the Enterprise Law. Private enterprises which are sole proprietor in nature has to comply with all of the legal requirements in terms of registration, tax, labour, social insurance, etc. which are applicable to joint stock companies or liability limited companies with dozens or hundreds of shareholders or members. Compliance cost is very high for private enterprises despite their legal nature and size.
- ◆ The registration as a private enterprise must be conducted at the provincial business registration office (currently Vietnam has 63 business registration offices in 63 provinces) which is often located at provinces' main cities. This means that when registering a business as a private enterprise, business registrants have to go to provincial and city centers that are often far away from their residence areas. This is very costly and time consuming.

International experience shows that the form of private enterprise (sole trader or sole proprietorship) is a very popular form in many different countries. For example, in the EU, among 2.3 million businesses established in 2012, 1.6 million or 70% of them were registered as sole proprietorships or sole traders which are often translated as private enterprise as in Vietnam. This percentage is especially high in some countries, for example 92.3% in France, 86.9% in Poland, 86.4% in Netherlands, and 86.1% in Czech Republic (EuroStat, 2013). In Hungary, among 450,733 active enterprises, 53% of them are in the form of sole proprietorship (OECD, 2016). 73% of small businesses in the US are sole proprietorships (US Small Business Administration, 2013). In Southeast Asia, out of 907,065 businesses registered in Malaysia, there are 554,900 or 61.2% in the form of sole proprietorship (SMECorp Malaysia, 2017).

To formalize household businesses, it is necessary to create an appropriate legal form in the Enterprise Law and with regulatory reforms in other regulations in taxes, bookkeeping, financial reporting, labour, social insurance to reduce the compliance costs in order for such form of enterprise become more attractive for household businesses to be converted into. These reforms should precede or run in parallel with efforts to encourage household businesses to convert into this form of enterprise. Specifically, the following steps should be taken:

- ◆ *Firstly*, it is necessary to amend the Enterprise Law to create a clear, easy-to-understand and suitable legal basis for sole proprietors, sole traders. The amendment should create a foundation for legal reforms in the Enterprise Law itself, and in tax laws, contract law, and in regulations on labor, social insurance, intellectual property, finance, banking... in order to separate the regulations applicable to business individuals, sole proprietorship, sole traders with other form of business business like liability limited companies or joint stock companies. The Enterprise Law should be revised with the change of the term "*doanh nghiệp tư nhân*" (which is literally translated as "private enterprise" in English) to "*doanh nghiệp cá thể*" or "*doanh nghiệp một chủ*" (which are closer to the term "sole proprietorship" or "sole traders" in English). The change of the term is important as it reflects better and more accurately the legal nature of this type of business which the term is meant under the Enterprise Law.
- ◆ *Secondly*, the Enterprise Law should be revised to articulate that "*doanh nghiệp cá thể*" or "*doanh nghiệp một chủ*" ("sole proprietorship" or "sole traders" and after being renamed according to new laws and regulations) will be subject to simple accounting and financial reporting regimes, simple

tax regulations, less tax obligations, simple regulations on social security, labor. These regulations should be based on the fact that these enterprises are sole traders or sole proprietorships (instead of having to comply with all the same regulations as other companies as currently required under the Enterprise Law). These reforms will help to dramatically reduce the legal compliance costs of “sole proprietorship” or “sole traders” in order for it not to be too high as compared with the current compliance cost burden incurred by household businesses.

- ◆ *Thirdly*, the Enterprise Law should be revised to clearly stipulate that “sole proprietorship” or “sole traders” (after being renamed according to the new regulations) will be registered at the district level (instead of at the business registration office at the provincial or city level as now), the same level as where the household businesses are being registered currently. The Ministry of Planning and Investment will decentralize functions and tasks of implementing business registration procedures for “sole proprietorship” or “sole traders” to the district people’s committee of more than 705 districts across the country. The National Business Registration System (NBRS) which is being administered by MPI can be upgraded to make this decentralization possible. This will help to reduce dramatically travel and business registration costs if entrepreneurs and business owners choose to register their business under this form of enterprise.¹⁷
- ◆ *Fourthly*, encourage household business owner to register as a sole proprietorship or sole trader. Especially, the very important advantage of the legal form of sole proprietorship will be promoted, the entrepreneurship of the people will be further unleashed, contributing to Vietnam’s goal of one million active enterprises in the next few years as set out in the Resolution of the 12th Plenum of the 5th Central Committee on private economic development. In particular, these reforms will make an important contribution to improving formality, and enhancing the productivity and efficiency of the private sector.

Formalize informal labor in household businesses without being conditioned on household businesses transitioning to the formal sector

It is important to regulate more strictly that owners of household businesses being enrolled in compulsory social insurance, and that household business owners enroll their workers in compulsory social insurance. Stricter measures should be applied to enhance compliance of this regulations, especially among household businesses which are large-scale and which can afford. In parallel, social insurance products need to be improved to meet better the very diverse needs, affordability and the characteristics of household businesses. A specific regime of social insurance, for instance single payments or simplified regime for social security with lower rates, should be developed for household business owners and workers, or for sole proprietorships and sole traders.

Other activities aimed at improving workers’ rights, occupational safety and health conditions at household businesses, vocational training for workers in this sector also contributes to improving the formality of employment in the household business sector. The improvement can be implemented regardless of whether the household businesses have been formalized or not.

¹⁷ In addition, with this decentralization and the ability to register at the district level for this form of “sole proprietorship” or “sole traders”, people are able go to the same location, meet the same officer handling the documents, carry out the same process, receive the same documents as prescribed, and be granted a business registration certificate in a convenient and fast way. Business registration facilitators at the district level can also advise household businesses on the benefits of household business registration in the form of “sole proprietorship” or “sole traders” (private enterprise as currently stipulated in the Enterprise Law) rather than in the form of household business.



3. Economic restructuring, international integration and formality improvement

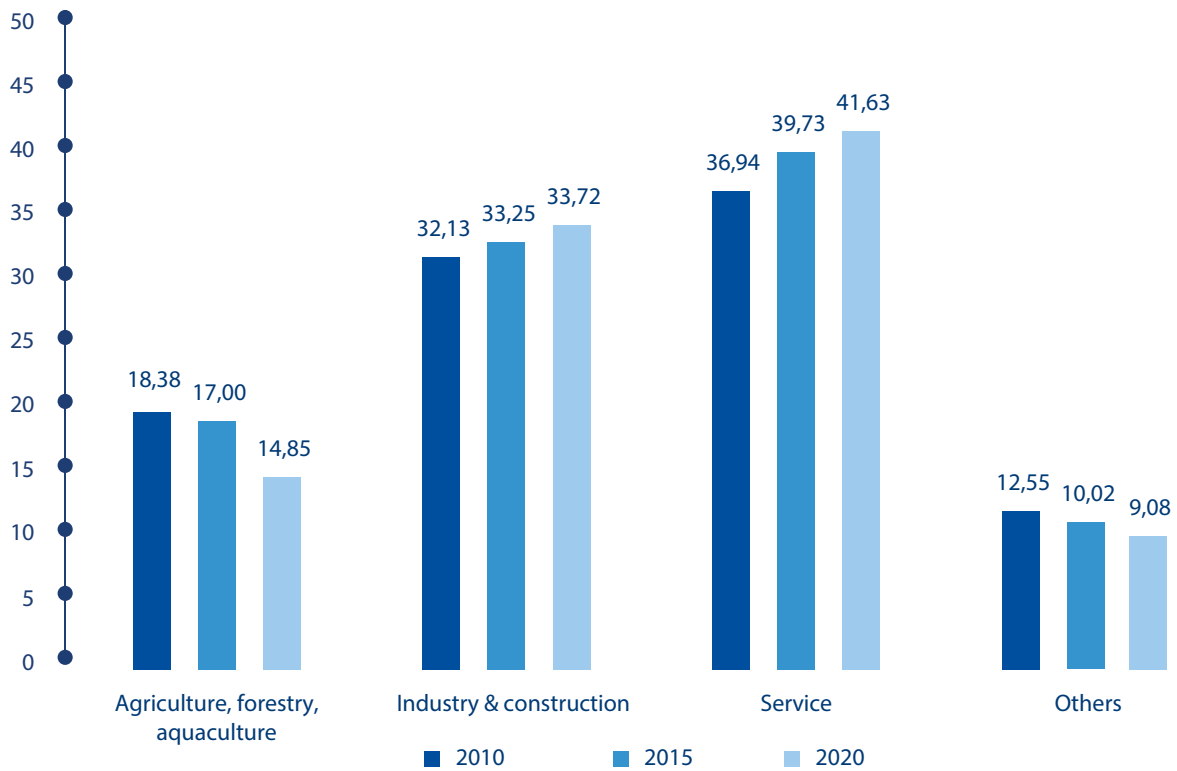
The on-going economic restructuring has a direct impact on the expansion of the formal sector and the reduction of informal employment in Vietnam. According to the GSO, in the past 10 years, the agriculture, forestry and fishery sectors have accounted for a smaller proportion in the GDP structure, while industry, construction and services account for an increasingly larger proportion.

Along with the economic restructure is the shift of labor from the agriculture, forestry and fishery sectors to industry, construction and services where an overwhelming number of formally registered enterprises are operating. In fact, labor has moved more strongly into the formal sector over the past few decades as a result of the economic restructuring.

Vietnam has been transforming itself into an export-based economy. Since 2012, the ratio of exports to GDP has exceeded that of imports to GDP. Vietnam is one of the Asian economies with the highest international trade openness. Vietnam's top exports include electronic equipment and products, footwear, technology products and automatic data processing machines. Major imports include integrated circuits, assembly machinery and tools, and petroleum. According to the Ministry of Industry and Trade, Vietnam's main trading partners are ASEAN, Australia, China, the European Union, India, Japan, South Korea and the United States¹⁸. In reality, export-oriented sectors seem to have significantly higher formal employment rates (based on social security contributions). For example, according to ILO estimates by using the GSO LFS 2021, the informal employment rate is 68.9% in the manufacturing of wearing apparel (ISIC 14), 90.2% in the manufacturing of leather and footwear (ISIC 15), 93.3% in the manufacturing of computers (ISIC 26), and 87.4% in the manufacturing of electrical parts (ISIC 27). Economic integration and international trade seems to have positive impact on improving informal employment in Vietnam.

¹⁸ VNI-PSI (2020) Vietnam Import-Export Report 2019.

Figure 16: Changes in the economic structure of Vietnam over the years

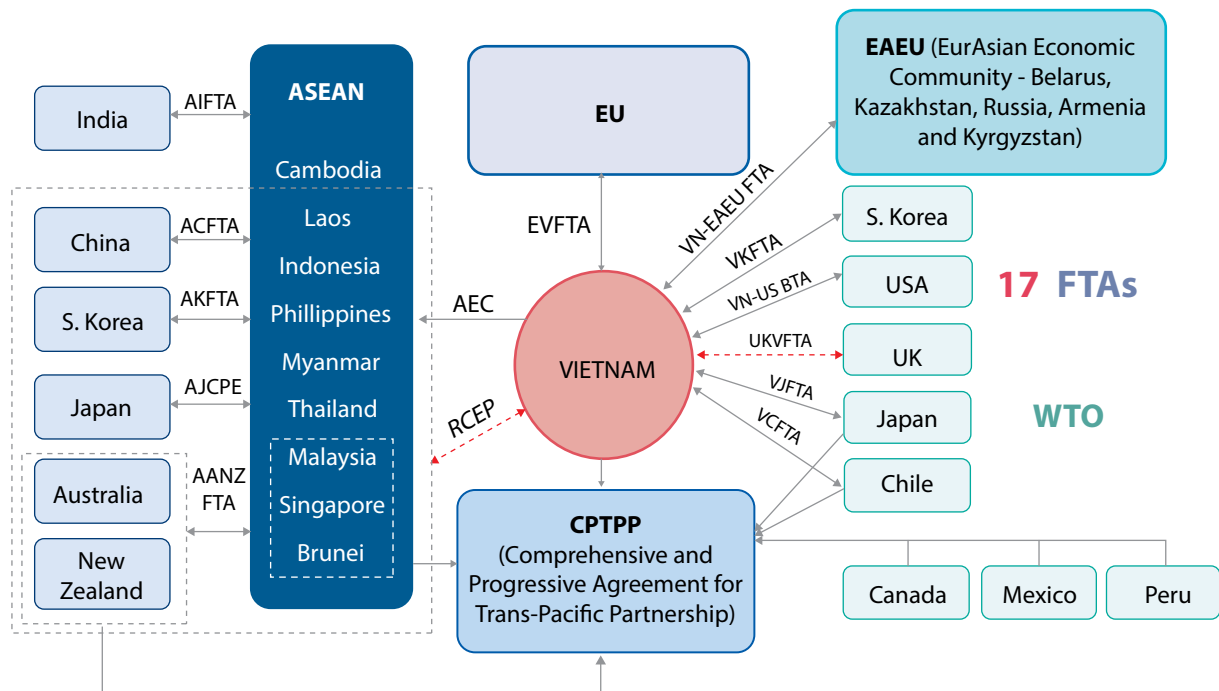


Source: General Statistics Office (2021).

Vietnam’s economic growth model currently relies heavily on foreign investment and exports. Key investment and trade partners of Vietnam include ASEAN, China, Korea, Japan, the European Union and the United States. In 2021, the total export turnover of goods was USD 336.3 billion, while the total import turnover of goods was USD 332.23 billion, resulting in a trade surplus of USD 4.08 billion (GSO, 2022). Exporting of goods and attracting FDI have a strong impact on enhancing the formality of the economy and then the formality of employment in Vietnam. To export and to attract more foreign capital, Vietnamese enterprises need to meet increasingly stricter and higher requirements of importers, foreign buyers, brands, business partners, investment partners on labor and environmental standards.

In addition, deeper integration into the global economy has significant impacts on promoting employment formality. The new-generation trade agreements that Vietnam has adhered to recently have played an important role in reducing informal employment. For example, new generation trade agreements like the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the European Union - Vietnam Free Trade Agreement (EVFTA) require Vietnam to pay as high attention to social development and environmental protection as to economic development. The European Union clearly expects that the EVFTA will have far-reaching effects on the economy, employment, labor standards, the environment, and the level of social cohesion in Vietnam. The European Union aims to ensure its trade policy helps support and promote sustainable development both within its territory and in partner countries and globally.

Figure 17: Trade agreements to which Vietnam has entered



Source: *Economica Vietnam*, (2021).

Similar to the CTPPP, the EVFTA also stipulates a number of specific measures to prevent the “race to the bottom” in labor and environment. This means that in practice neither the European Union nor Vietnam is allowed to violate each party’s domestic laws on trade and the environment, and must not relax enforcement on trade and environment for the purpose of promoting trade and attracting investment. The EVFTA also recognizes that each party has the right to manage and regulate the labor and environment sectors, and to introduce regulations on worker protection and environmental protection in its domestic law if appropriate, but must be higher rather than lower than commitments to labor standards and ILO Conventions and commitments set forth in multilateral environmental agreements.

IV. ENHANCEMENT OF WORKER’S RIGHTS AND REDUCTION OF EMPLOYMENT INFORMALITY

1. Rights to employment and to establishment of employment relationships and employment status

The Labor Code (2012) validates the workers’ right to a job or occupation According to the Code, “Workers have freedom to choose a job or occupation, participate in vocational training and improve occupational skills and be protected from discrimination” (Point a, Clause 1, Article 5). The Code also affirms that the State “has policies on unemployment insurance and policies to encourage workers to create jobs by themselves” (Clause 2, Article 12).

The Labor Code stipulates the forms of employment contract, wherein, in addition to written form of these contracts, it also provides that: “for temporary jobs with a duration of under 3 months, the parties may enter into a verbal employment contract.” (Clause 2, Article 16), which is a more relevant option to protect the rights and benefits of informal workers.

The Labour Code also regulates on domestic workers (Section 5, Chapter XI). This is a new regulation introduced in the Labor Code in order to better protect domestic workers. Specifically, it requires an employer to sign a written employment contract and contribute social insurance and social health insurance premiums for domestic workers according to regulations (specifically in Article 19 of Decree No. 27/2014/ND-CP dated April 7, 2014); create opportunities for domestic workers to participate in academic and vocational training; cover transportation costs for the domestic workers to return to their home upon contract termination, unless the domestic workers terminate their employment contract early.

The Labor Code 2019 further provide regulations on workers without employment relations while setting a number of defining criteria. The Labour Code adds the group of “Workers without employment relations” to be governed by the Code. Thus, the new Labor Code governs not only employment relations formed on the basis of employment contracts but also “people who work without an employment contract”. The concept of an employee is now defined as a person who “is paid, managed and supervised by the employer”. Employees are not required to have a “employment contract” as in the old version of the Code, but “work for an employer under an agreement”.

Article 20 of the revised Labor Code 2019 has removed provisions on seasonal contracts or work with a term of less than 12 months. Instead there are only 2 types of employment contracts: *indefinite-term employment contracts and fixed-term employment contracts*. This provides a stronger protection of informal workers and discourages employers “to bend the rules” to evade their responsibilities in social insurance payment by signing seasonal and service contracts, etc.

Article 14 of the new Labor Code has further recognized that *an electronically signed employment contract shall have the same validity as a physical contract*. In addition, in cases where the two parties reach an agreement by a different name which *contains the agreement on the paid work, salary, management and supervision of a party, it is also considered an employment contract*.

In fact, the employment relation through an employment contract is often not well-established. Due to the absence of employment contract or to the availability of only temporary employment contracts or of verbal agreement, labor rights and social security rights, especially enrollment in social insurance are often not guaranteed. Without adequate legal protection, most jobs of informal workers are indecent with unsecured labor standards. Informal workers are often in a disadvantaged position and lack protection as they do not join any trade unions and associations. Due to the absence of labor bargaining and dispute resolution mechanism, the workers are often on the losing side when disputes arise. In addition, informal workers are not articulated as a specific target group in policies and support programmes. Rather, they are often mixed up with other groups such as rural workers, poor workers, youth workers, and workers with disabilities. The state management system on labor, especially the labor inspectorate, has not yet reached the informal sector and informal workers.

In addition, the 4.0 Industry have created the basis to change the relationship between workers and many technology firms and platforms to the form of partnership rather than employment relation. The 4.0 Industry revolution has given rise to new business models under many names such as share economy, platform economy, gig economy, etc. New business models have fundamentally changed the nature of employment and the relation between workers and technology firms and technology platforms.

Many new types of jobs have appeared thanks to the revolutionary changes in information technology and digitalization.

New business models and types of employment are becoming increasingly diverse, going beyond the current regulations and laws. There are many new, non-traditional forms of labor such as platform-based drivers, owners of online stores, digital content creators on social platforms such as YouTube, online salesmen, deliverymen, platform-based deliverymen, service providers, artificial intelligence device test interviews, online surveys, photo search on demand, content processing, data filter or creating “likes” for Facebook pages on demand, shoppers, deliverymen, and many more.

These types of employment are not based on employment relation. In most cases, workers are much subject to the management of companies providing technology platforms. However, they are considered business partners rather than employees of the company and thus have no employment relation with the companies. Therefore, they are classified as self-account workers.

Some people have the opinion that this “misclassification” has resulted in many disadvantages for platform-based workers. Most of them have not been regulated by labor laws, especially in developing countries where platform-based workers have not been guaranteed with the fundamental labour rights in terms of minimum wage, occupational safety and health, social insurance, health insurance, unemployment insurance, maternity insurance.

Some people are of the opinion that it should be compulsory for companies providing technology platforms to establish an employment relation with their workers so the workers are better protected under legal labor laws. However, such compulsion may lead to the loss of job opportunities, to the lack of flexibility, and affecting the right to choose the form of work by workers. Furthermore, such mandatory measures are not suitable with the rapidly changing trend of the Industry 4.0 and the revolutionary development digital economy. They even hinder the development of the digital economy in Vietnam.

As such, a sensible and pragmatic approach is needed to both support the development of the digital economy while enhancing formality and protecting the right of platform-based workers. The fact that technology firms treating platform-based workers as business partners might be accepted as a new practice of the digital economy. On the basis of such a recognition, measures will be taken to improve the formality of platform-based workers form example by requiring platform-based workers to be enrolled in social insurance as a condition to become business partners of technology firms (and technology firms must share part of these costs through revenue sharing ratios). Other measures might include enhancing the collective bargaining power for workers across platforms, formulating regulations for technology platform partners to conduct strikes in a legal rather than in spontaneous manner as recently seen in the cases of the shippers of Bee or Grab.

2. Rights in terms of salary, income and benefits

According to the report “Current Situation and Policies on Informal Workers in Vietnam”¹⁹, low wages and income are common phenomena of informal workers and directly related to labor productivity and business performance in informal entities. Monthly average earnings of informal economy workers were found to be less than that of formal economy workers in all categories of employment status²⁰. Minimum wage regulations are not fully applied to informal workers.

The wages and income of informal workers equal to only 60-74% of the average income of formal workers. The average income of women informal workers is 91% of that of men counterparts (although the working time

¹⁹ “Current Situation and Policies on Informal workers in Vietnam”, Dao Quang Vinh, 2021.

²⁰ GSO, 2018, Report on Informal Employment 2016.

of women is longer than that of men). The income of informal workers in rural areas is 84% in urban areas²¹. In 2018, the average salary of informal workers was VND 4.8 million/month, equivalent to only 2/3 of that of formal workers of about VND 6.9 million/month (GSO, Labour Force Survey 2018). In 2020, the average income of informal workers was VND 5.6 million/month, compared to VND 6.62 million/month for all salaried workers²² (GSO, 2020). Low wages and income are the first obstacles to enrollment in social insurance, investment in education, training and skill improvement. With low-income jobs, it is difficult for workers to escape poverty. Unless labor productivity and business performance are improved in informal operation, wages and income of informal workers cannot be increased.

In addition to low wages, informal workers tend not to be provided with other welfare benefits. A survey on informal workers in the Institute of Labor Science and Social Affairs in 2017 showed that only 30.4% of salaried informal workers were paid for overtime, 19.4% were given leave and 19.4% were provided with personal protection equipment. 62.9% of informal workers were given (small) holiday bonuses as symbolic rewards which were non-negotiable in advance with the employer. The reason is that informal workers lack understanding of labor laws and capacity to negotiate with employers.²³

3. The right to be fully enrolled in social insurance and social security

The Law on Social Health Insurance (2008, 2014) and Decree 146 guiding the implementation of the Law on Social Health Insurance require all Vietnamese nationals to be enrolled in the State's social health insurance scheme.

Workers with a contract of more than 3 months must be registered for employer-employee co-contribution. The social health insurance system is designed to cover all population groups, including informal workers. Local residents can participate in the scheme with others in their households, with contribution premiums partially subsidized by the Government. By 2019, 89.96% of people enrolled in health insurance, reaching coverage rate of 90.85% of the population²⁴. Thus, more than 9% of the population, many of them are in informal employment, remain not to be covered by health insurance.

The Law on Social Insurance 2014 is designed to provide social protection for all, through a combination of compulsory and voluntary schemes. Employees with employment contracts of more than one month are entitled to compulsory social insurance contributions. Those ineligible to enroll in compulsory social insurance may opt to enroll voluntarily.

According to the provisions of the Law on Social Insurance, compulsory social insurance, unemployment insurance and compulsory social health insurance policies are geared towards workers in the formal sector. Voluntary social insurance adopted since 2008 tends to be designed for informal workers and farmers. Specifically, the Law on Social Insurance 2014 introduces a number of regulations in favor of informal workers participating in the voluntary social insurance scheme such as: removal of age ceiling for participation; lowered minimum income requirements as a basis for contributions to better reflect the financial health of many workers; flexibility in payment methods and government subsidies for voluntary social insurance participants.

²¹ ILSSA, 2017, Report on Informal Employment in Viet Nam.

²² GSO, Socio-economic situation in Q4 and the whole year 2020.

²³ ILSSA, 2017, Report on Informal Employment in Viet Nam

²⁴ "A summary report on the management and use of the health insurance fund in 2020 and the implementation of Resolution 68/QH13", Ministry of Health (2021).

Also according to the Law on Social Insurance 2014, workers with an employment contract with a term of from full 1 month to less than 3 months will be obliged to participate in compulsory social insurance from January 01, 2018, in order to discourage employers from signing short term contracts as a means to avoid paying social insurance premiums. This means that, all employees working in the informal or formal sector with an employment contract from full 1 month to less than 3 months are eligible to be enrolled in the compulsory social insurance scheme.

The Law on Social Insurance 2014 and its guiding Decree introduce government subsidies for voluntary social insurance contributions. From January 1, 2018, participants from poor households, near poor households and other groups will be respectively covered for 30%, 25% and 10% of contributions calculated at the minimum contribution rate. Thus, informal workers, if not from poor or near-poor households, covered by the voluntary social insurance, will have 10% of their contributions, calculated at the minimum contribution rate, covered by the government (equivalent to VND 15.4 thousand/month).

However, as analyzed in earlier, the coverage of social insurance is very low. The level of social insurance enrollment in the informal sector is very limited. Regarding the voluntary social insurance scheme, there remain certain barriers for informal workers to enroll. Under voluntary social insurance, only claims for pensions and death gratuity are accepted, while the compulsory social insurance offers five benefits (sickness, maternity, occupational accidents, occupational disease, pensions and death gratuity). The lack of short-term benefits has discouraged informal workers from participating in this type of social insurance, especially among female workers. Moreover, the payment rate to be contributed by workers in the voluntary social insurance scheme is 22%, much higher compared with formal workers (8%).

Increasing coverage of social insurance and health insurance as well as expanding the benefits of voluntary social insurance will further promote the rights of informal workers and help them meet the important criteria to be classified as formal workers.

4. Right to be protected through representative workers' organizations

According to the Law on Trade Union 2012, in addition to its actions on behalf of civil servants, public employees and workers (in the formal sector), a Trade Union also represents "other workers" (Article 1), which can be understood as those working in other economic sectors, including informal workers. Workers are entitled to establish trade unions (Article 4, Clause 1).

According to Article 10 of the Law on Trade Union 2012, the trade unions are entitled to represent and protect the legitimate rights and benefits of workers including informal workers by, for example, holding talks with employers and representing workers in dispute resolution.

Since informal workers are not registered or governed, they are not protected by the institutions of the labor market. They are rarely consulted in the policy making process. As most informal workers do not join trade unions or associations, they are not entitled to the protection by these organizations.

During the recent Covid-19 pandemic, informal workers were severely hurt. They are at disadvantaged when accessing to social assistance, the social security system or support measures. Their livelihoods were severely affected due to the anti-pandemic measures. However, there is no agency to represent the interests of informal workers to reflect their difficulties or to protect their livelihoods.

Strikes and protests of business partners (workers) against technology platform providers when their interests are affected are mainly spontaneous and considered inappropriate with the provisions of the law.

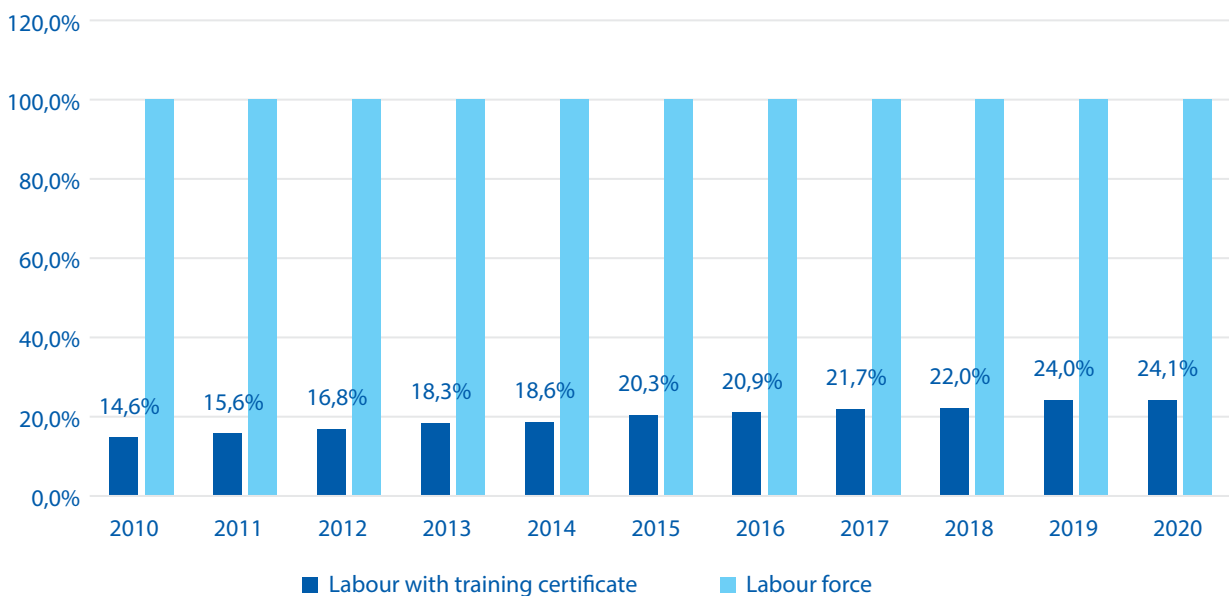
The right to strike and to join trade unions is legitimate and should be protected by law and by mechanisms to guide these self-account groups to exercise this right legally. This legal gap needs to be filled.

5. Right to enjoy policies to support vocational training

The project on “Vocational Training of Rural Workers to 2020” approved at Decision No. 1956/QĐ-TTg dated November 27, 2009 by the Prime Minister under the Law on Vocational Education 2014 provides that individuals involved in vocational education activities, in either formal or informal sector, shall be governed by the Law. The law gives priority to vocational training of workers from poor households, people with disabilities, rural workers, and women, for them to have access to tuition-free vocational training and start-up supports. Informal workers are given training free of charge or at a reduced fee should eligibility conditions are met. According to Article 6, it is required to provide equal access to training opportunities for ethnic minorities, poor and near-poor households, people with disabilities, off-shore fishermen, farmers whose farming land is confiscated by the government and other policy beneficiaries.

The more skilled workers are, the more likely they are to move from informality to formality and vice versa. In 2019, in general, only about 4.1% of informal workers were able to find formal jobs. However, for workers holding a college or university degree or higher, the probability of finding a formal job is 18.7%, 7.8% for workers holding a high school degree, 2.8% for workers at primary education, and only 1.3% for workers under primary education (ILO, 2020).

Figure 18: The share of trained workers with diplomas and degrees



Source: GSO. Labour Force Survey 2010-2018 and report submitted by the Government to the National Assembly (2021).

Vocational training in Vietnam is far from satisfactory. Vietnam has made some progress and completed the vocational education goals in the Socio-Economic Development Strategy for the period 2011-2020 and the Socio-Economic Development Plan for the 2016-2020 period.²⁵ However, the rate of trained workers in the period only reached 62% in 2019 and expected to reach over 65% in 2020. The rate of trained workers with vocational degrees and certificates was also only 24.1% in 2020.

²⁵ The socio-economic development plan for the period of 2016-2020 sets a target that the percentage of trained workers would reach about 65-70% and the percentage of workers with degrees and certificates would reach 25% by 2020.

Vocational knowledge and skills training plays a very important role in transforming jobs for informal workers as well as enhancing the formality of their employment.

6. Right to occupational safety and hygiene

Law on Occupational Safety and Health (Law No. 84/2015/QH13) was adopted by the 13th *National Assembly* on June 25, 2015 and entered into force on July 1, 2016. The Law provides for the general issues related to safety policies and principles, the rights and obligations on occupational safety and health of employees; the rights and obligations on occupational safety and health of employers; the rights and responsibilities of the Vietnam Fatherland Front, its member organizations and other social organizations; the rights and responsibilities of trade unions and farmers' associations in occupational safety and health.

This Law applies to workers with employment contracts, interns and apprentices (Clause 1, Article 2) and also those working without an employment contract (Clause 3, Article 2). Thus, informal workers (with and without a contract) are also governed by this Law.

The Law also stipulates provisions related to workers in the informal sector such as: workers in the informal sector are entitled to State policies on occupational safety and hygiene, labor in the informal sector has the rights and obligations on occupational safety and health of employees working with or without contract; regulations on occupational safety and health for some specific workers in general and those in the informal sector in particular such as occupational safety and health for female workers, juvenile workers, disabled workers, work-from-home workers.

In fact, economic entities in the informal sector such as non-agricultural household businesses, or agricultural, forestry and fishery production, the working facilities and conditions are often inadequate with old, simple working tools. Working conditions in terms of air quality, humidity, and hygiene level are often inadequate. The conditions for preventing fire, noise, waste and wastewater pollution are usually not ensured. Some workers such as deliverymen and street vendors work in potentially hazardous conditions of accidents or adverse weather conditions. Formal workers in some industries such as construction, mining, and material recycling face a high risk of occupational diseases. The working hours of workers in the formal sector are often longer than the standard of 8 hours. Labor protection, personal protective equipment are not paid enough attention, the awareness of occupational safety and health of both the employer and the workers remain limited, the state management of occupational safety and hygiene is inadequate.

Efforts to ensure occupational hygiene and safety should be promoted so that informal workers are more likely to access to these rights.

7. Right to access other basic social services

For accessing social services such as education, health care, housing, and social assistance for informal workers in general and migrant workers in particular, there are many barriers due to regulations on administrative management, household registration requirements, and financial capacity of informal workers themselves. Informal workers are even more difficult to access to high-quality education and training, and health and housing services. In many localities, migrant workers have to pay electricity and water at a higher price than local people, they also encounter difficulty in using medical services, health care and especially accessing public education and training institution²⁶.

²⁶ ILSSA, 2018, Vietnam domestic migrant workers: case studies in Hanoi and Binh Duong

Informal workers hardly find work through official channels such as employment service centers, but mainly by themselves and through references from friends and relatives.

In addition, informal workers face many difficulties in accessing policies of employment, credit loans, training, and social security due to the conditions of permanent residence or priority groups. The process of identifying beneficiaries, the procedures for receiving loans and social assistance are extremely complicated and prolonged. Policies ignore or are not based on the actual needs and conditions of informal workers.





CONCLUSION

Expanding formal employment is now one of the priorities of the Government of Vietnam. It is an important area in which Vietnam is making efforts to make tangible progresses as the country is moving up the productivity ladder and is on a good track to achieve upper-middle-income country status and to become a people-centred economy where decent jobs are one of the prime priorities.

In Vietnam, the expansion of formal employment should be implemented by an integrated approach with policies and measures aimed at expanding social insurance coverage, expanding the formal economy, while enhancing the rights of workers regardless of the fact if they have an employment relationship or not.

Such an integrated approach requires the expansion of social insurance coverage by such measures as including more workers categories/ economic units eligible for compulsory social insurance, improving attractiveness of social insurance products, service and systems, including by strengthening existing benefits and introducing new ones (such as family/child benefits), and improving compliance with laws and regulation related to social insurance by registered economic units and enterprises. The integrated approach also calls for policies and actions to expand the formal sector. This can be achieved by the creation of an enabling business environment which is conducive for development and growth of registered business, for registration (formalization) of economic units, households, household business, self-account or of self-employed workers. It is also recommendable to recognize the formality of some jobs or employment status which do not (or never) have employment contracts (only by founding on the criteria of social insurance enrollment and of workers fundamental rights being respected).

And finally, policies and actions to enhance the right of workers, whether they are in the informal or formal sector, should be promoted. Enhancing the rights all women and men in the world of work, e.g. fundamental rights of workers, access to basic social services, OHS and vocational training are all important to improve the formality of employment for workers.

REFERENCES

- The Ministry of Labor, Invalids and Social Affairs (2021) "Stocking report on the implementation of the Law on Social Insurance".
- CIEM and ADB (2017). "Formalize" Household Businesses in Vietnam.
- Dinh Truong Hinh, Deepak Mishra, Le Duy Binh, Pham Minh Duc and Pham Thi Thu Hang (2013). "Light Manufacturing in Vietnam: Creating Jobs and Prosperity in a Middle-Income Economy", Washington DC.
- Dao Quang Vinh. "Current situation and policies on informal workers in Vietnam", ILO (2021).
- Economica Vietnam & GOPA (2021). "SME Sector and the EVFTA"
- Economica Vietnam & GOPA (2020). "Digital Economy and Digital Transformation in Vietnam"
- Economica Vietnam (2013). "Non-farm Household Business Sector in Vietnam".
- ILO (2021). "Informal employment in Viet Nam: Trends and determinants", ILO (2021)
- ILO (2021). "Assessment of the Decent Work Agenda 2017-2021", ILO (2021).
- ILO (2021). "Technical Note on Informality", ILO (2021).
- ILO (2013). "Measuring Informality: A Statistical Manual on the Informal Sector and Informal Employment."
- ILO & GSO (2018). "2016 Report on Informal Employment in Viet Nam".
- ILO & GSO (2018). "2016 Report on Informal Employment in Viet Nam".
- ILO & GSO (2019). "Definition and Measurement of Informal Employment".
- ILO (2011). "Women's Entrepreneurship Development in Vietnam: Learning from Good Practices", ILO Project on Women's Entrepreneurship Development and Gender Equality (WEDGE), International Labour Organization, Vietnam.
- Jean-Pierre Cling, Mireille Razafindrakoto, and Francois Roubaud (2010). "The Informal Economy in Vietnam", ILO, Hanoi.
- Le Duy Binh & Pham Minh Tuyet (2021). "Country Programme Review Viet Nam Decent Work Country Programme 2017–2021, International Labour Organization, Vietnam.
- Le Duy Binh (2020). "Policy Insight: Formalisation of Microenterprises in ASEAN", OECD.
- Le Duy Binh (2018). "Vietnam Private Sector: Productivity and Prosperity".
- Le Duy Binh & Pham Tien Dung (2017). "Converting Household Businesses into Enterprises: Barriers from the Cost of Compliance". Vietnam Law Newspaper, (36)163/9 – 2017
- Pham Thu Lan. "Organization to represent and protect the rights of informal workers – Current practices in Vietnam and international experience", ILO (2021).
- Taussig, Markus and Pham Thi Thu Hang. 2004. "Enterprise Formality and the Role of Local Government". ADB, Discussion Paper No. 2, November 2004.
- General Statistics Office (2021). "Report on the Labour Force Survey 2020".
- General Statistics Office (2010-2020). "Statistical Yearbook".
- VCCI (2010-2020). "Provincial Competitiveness Report".
- VCCI (2010-2018). "Annual Report on Vietnam Enterprises". National Political Publishing House.

