

Improve Vietnamese Law to Meet the Business Appraisal Obligations in The Supply Chain with Germany And the Eu Of Vietnamese Businesses

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Abstract:

The article focuses on improving Vietnamese law to meet the requirements and due diligence obligations of businesses in the supply chain with Germany and the European Union (EU). This context involves promoting exports and strengthening economic ties with Germany and the EU. Completing the law aims to create favorable conditions for Vietnamese businesses to participate in the international supply chain, meeting technical, safety and quality standards, thereby creating business development opportunities sustainability and expanding export markets. This also creates momentum for the development of the economy and promotes Vietnam's international integration.

Keywords: Business, Due Diligence Obligations, Supply Chain, Germany, EU, Vietnam.

1. Overview of business appraisal obligations in the supply chain of Germany and the EU:

The Federal Republic of Germany is located in Central Europe, bordering the Baltic Sea and the Nordic Sea, between the Netherlands and Poland, as well as to the south of Denmark, with a total area of 357,022 km². Germany's current population was recorded at 83,717,216 people on November 29, 2023 according to the latest data from the United Nations [2]. Economically, the Federal Republic of Germany is the fourth largest economy in the world and the largest in Europe [1], with the world's leading export of machinery, transport vehicles, chemicals and equipment family, taking advantage of a highly skilled workforce. The industry mainly focuses on automobile manufacturing, machinery and equipment manufacturing, industrialization,

and electronic engineering industries [5]. For the Asian and Southeast Asian markets, Vietnam is becoming one of Germany's important trading partners, especially in terms of exporting goods.

For a long time, Germany has been one of Vietnam's most important commodity export partners in the European Union (EU) market. In 2020, Germany still maintains its position as Vietnam's second largest export market in the EU and ranked seventh globally, with Vietnam's export turnover to Germany reaching 6.64 billion USD. Data from the General Department of Customs shows that exports from Vietnam to Germany have increased sharply in the period from 2010 to 2020, with export turnover nearly tripling from 2.37 billion USD in 2010 to 6.64 billion USD by 2020, with an average growth rate of 12.8% per year [4].

The new Law of the Federal Republic of Germany on Enterprise Due Diligence Obligations in Supply Chains (LkSG) was passed in July 2021 and takes effect from January 1, 2023. The Act applies to all businesses registered in the territory of the Federal Republic of Germany with a scale of at least 3,000 employees, with effect from January 1, 2023, and from 1000 employees with applicable regulations.

In such a context, Vietnam needs to consider adjusting some content in the legal system to support businesses in fulfilling their supply chain appraisal obligations.

2. Recommend a number of solutions to improve Vietnamese law in order to meet the obligations of business appraisal in the supply chain with Germany and the EU of Vietnamese enterprises:

First, proposal to reduce the retirement age to enjoy social insurance for direct manual workers and increase pension benefits

During the survey at 10 businesses, the Survey Team received many recommendations from business representatives, trade unions and workers related to asking the State to reduce the retirement age for workers directly involved in production (for example, directly processing seafood, producing shoes...). The recommendation for direct manufacturing is to retire around 50 years old. In fact, most of the businesses in the Survey Group do not have direct workers aged 50 or older (only in the management, administrative, and office sectors). Having to stand and produce 8-10 hours/day makes workers over 50 years old unable to meet the requirements. However, these cases want to retire early but do not meet the requirements of the Health Council.

According to Article 169 of the 2019 Labour Code, it is stipulated as follows [7]:

- Employees who meet the conditions for social insurance payment period according to the provisions of law on social insurance are entitled to pension when they reach full retirement age.
- The retirement age of employees under normal working conditions is adjusted according to the

roadmap until reaching 62 years old for male employees in 2028 and reaching 60 years old for female employees in 2035.

From 2021, the retirement age for employees under normal working conditions is 60 years and 03 months for male employees and 55 years and 04 months for female employees; After that, each year increases by 03 months for male employees and 04 months for female employees.

- Employees with reduced working ability; doing extremely heavy, toxic or dangerous occupations and jobs; doing heavy, toxic and dangerous occupations and jobs; Working in areas with extremely difficult socio-economic conditions can retire at a lower age but not more than 5 years old compared to the provisions in Clause 2 of this Article at the time of retirement, unless otherwise provided by law other rule.

- Employees with high professional and technical qualifications and in some special cases can retire at a higher age but not more than 5 years old compared to the provisions in Clause 2 of this Article at the time of retirement, except in cases where The law has other provisions.

In addition, according to current regulations, employees who have participated in social insurance for 20 years will receive a pension at the rate of 45%, and those who have participated in social insurance for 35 years will receive a pension of 75% (the highest level). With a social insurance salary of about 5 million VND/month, when retiring, this worker will receive a pension of only nearly 3 million VND. Regarding the conditions for paying social insurance to enjoy pensions, it is proposed to reduce the length of time from 20 years to 15 years, moving forward to only 10 years, so that more workers have the opportunity to participate in social insurance when they retire. Shorter closing time.

Second, proposal to change regulations on overtime and overtime work

Currently, overtime hours for employees comply with Article 107 of the 2019 Labour Code, specifically [7]:

- Ensure that employees' overtime hours do not exceed 50% of normal working hours in a day; In case the regulation on normal weekly working hours is applied, the total number of normal working hours and overtime hours must not exceed 12 hours in a day; no more than 40 hours in 1 month;

Ensure that the number of overtime hours worked by employees does not exceed 200 hours in a year, except for the cases specified in Clause 2.

Employers are allowed to employ employees to work overtime for no more than 300 hours in a year in the following industries, occupations, jobs or cases:

- Manufacturing, processing and exporting textile, garment, leather, shoe, electrical, electronic products, agricultural, forestry, salt and seafood processing;

- Production and supply of electricity, telecommunications, oil refining; water supply and drainage;

- In case of solving tasks that require highly qualified and technical labour that the labour market does not provide fully and promptly;

- In cases where urgent work must be resolved that cannot be delayed due to the seasonal nature or timing of raw materials or products, or to resolve work arising due to unforeseen objective factors or consequences weather, natural disasters, fires, enemy sabotage, lack of electricity, lack of raw materials, technical problems of the production line;

Thus, the number of overtime hours in 2023 for employees is no more than 40 hours/month and no more than 200 hours/year (except for some cases where overtime is not allowed to exceed 300 hours a year). In 2022, employees are allowed to work a maximum of 60 hours/month, no more than 300 hours/year. In 2022, in the context of Covid-19 epidemic prevention and control and socio-economic recovery and development, the National Assembly Standing Committee passed Resolution 17/2022/UBTVQH15 on overtime hours in a year, per month of the employee [3].

Surveys at seafood and garment enterprises show that seasonality in production activities is very high. For example, for seafood processing enterprises: shrimp and fish are caught seasonally. During peak periods, the demand for labour suddenly increases, while legal regulations only allow overtime to a certain extent regulations. Therefore, it is recommended to allow calculating overtime and overtime hours by month or year. Regulations that businesses have the right to arrange overtime work but not exceeding the prescribed number of hours per month or year. Some businesses want an increase of 400-500 hours, adjusted for the year.

Third, propose changes to other labour policies and laws

To comply with the Law: German Act on Due Diligence in Supply Chains, Vietnam needs to: (i) Review, propose amendments, supplements and promulgate new laws and regulations related to the promotion and protection of human rights Labour and employee welfare in labour relations and employment are guaranteed to be compatible with international labour standards that Vietnam has joined (including: Law on Occupational Safety and Hygiene, Law on Insurance). society, Employment Law and guiding documents); (ii) Research and develop policies on protecting jobs, retraining workers and protecting workers' rights in relationships with platform companies in the context of digital transformation; (iii) Research, amend, supplement or promulgate a new Trade Union Law and documents detailing and guiding implementation; (iv) Prevent and stop acts of gender-based violence in the online environment

In addition, amend regulations in the field of protecting the rights of vulnerable groups: Research, review, propose amendments, supplements or promulgate new legal documents related to equality gender; prevent discrimination and protect the rights of vulnerable groups in business activities to ensure feasibility and compliance with international standards, including: Law on Gender Equality in 2006, Law on People with Disabilities in 2006. 2010, Children's Law

2016... and documents guiding its implementation; develop the Law on Gender Change to implement Article 37 of the 2015 Civil Code.

Fourth, proposal to amend the Law on Product Quality to ensure compliance with EU and German law

The Law on Product Quality took effect from July 1, 2008 [6]. Some Vietnamese quality standards and regulations are no longer appropriate (for example in the field of fisheries); The implementation of quality management principles according to the provisions of the Law on Product and Goods Quality with international practices has not been thorough. The assignment of management responsibilities between ministries and branches is not clear for some products and goods, leading to problems in practice. The separation between state inspection activities on product and goods quality and technical service activities - conformity assessment activities is not truly transparent, leading to overlaps, problems and barriers. In import and export activities, resources cannot be fully utilized to perform state management tasks.

Besides, the application of technology in quality management and traceability of products and goods is the biggest shortcoming today. In our country, barcode technology is just one of many tools for management product quality and electronic labeling. Meanwhile, in many countries and regions around the world such as Europe, Germany... the application of technology, including barcodes, is for quality management and electronic labeling. At the same time, identifying, encoding and collecting machine-readable information is the premise for digitizing and exchanging electronic data in the supply chain and is the foundation for electronic traceability solutions.

3. Conclusion:

In summary, improving Vietnamese law to meet business appraisal obligations in the supply chain

with Germany and the European Union (EU) is bringing great potential in creating favorable conditions for businesses. Vietnamese businesses participate in the international market. This will contribute to promoting exports, expanding markets, and promoting international integration, thereby bringing great benefits to the country's economy. To help businesses fulfill their supply chain appraisal obligations, the Government can consider reducing the retirement age, reducing the insurance payment period to enjoy retirement benefits, and making appropriate changes in regulations. Rest and break time between shifts as well as many other legal regulations.

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