



# ASIA MAIOR

Vol. XXX / 2019

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## **Asia in 2019: Escalating international tensions and authoritarian involution**

**Edited by  
Michelguglielmo Torri  
Nicola Mocci  
Filippo Boni**

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**viella**

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CENTRO STUDI PER I POPOLI EXTRA-EUROPEI “CESARE BONACOSSA” - UNIVERSITÀ DI PAVIA

# ASIA MAIOR

The Journal of the Italian think tank on Asia founded by Giorgio Borsa in 1989

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*When this Asia Maior issue was finalized and the Covid-19 pandemic raged throughout the world, Kian Zaccara, Greta Maiorano and Giulio Santi, all children of Asia Maior authors (Luciano Zaccara, Diego Maiorano and Silvia Menegazzi), were born. We (the Asia Maior editors) have seen that as a manifestation of Life, reasserting itself in front of Thanatos. It is for this reason that we dedicate this issue to Kian, Greta and Giulio, with the fond hope that they will live in a better world than the one devastated by the Covid-19 pandemic.*

VIETNAM 2019: PURSUING HARMONIOUS LABOUR RELATIONS  
AND CONSOLIDATING ITS RELIABLE INTERNATIONAL ROLE\*

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*During 2019, the political debate focused on identifying the most effective tools to realise «harmonious labour relations». This resulted in the ratification of some fundamental conventions of the International Labour Organization (ILO) and the adoption of the new labour code. Among the different stakeholders involved in this debate, the Vietnam General Confederation of Labour (VGCL), the sole national trade union centre in Vietnam, played an unprecedented key role, achieving some important success on the workers' side. At international level, the party-state strived to increase its international prestige, trying to strike a balance between relations with the US and China.*

### *1. Introduction*

From the early Nineties, Vietnam has created a manufacturing platform for low value-added and high labour-intensive products (namely garment, footwear and more recently electronics), driven by foreign direct investment (FDI) and progressively encapsulated in the global value chain, almost entirely export-oriented.<sup>1</sup> Making the country more FDI attractive, i.e. keeping labour costs low, providing a young and fairly educated labour force, strengthening the international trade agreements became part of Hanoi's national strategic plan. In 2016 this approach was ratified through a Post-Washington Consensus manifesto – «Vietnam 2035: Toward Prosperity, Creativity, Equity,

\* I would like to thank Simona Raffo for helping and supporting my work and Michela Cerimele and Pietro Masina for sharing their analysis on Vietnam's development model and for their advice. Moreover, I would like to thank all the Vietnamese who, during my fieldwork in Vietnam, with their advice and suggestions helped me to formulate the theses set out in this article. I am grateful to my dearest mentor, friend, and colleague, Michelguglielmo Torri for his patient and consistent support. Last but not least, thanks to the anonymous reviewers for their careful reading of my manuscript and their many insightful comments and suggestions.

1. Since 1988, FDI flows in Vietnam increased from zero to US\$ 189.7 million in 1990 and decreased to US\$ 8.6 billion in 1996, making Vietnam the second biggest recipient of FDI in the world, calculated as a percentage of the Gross National Product. World Bank, *Vietnam - Deepening reform for growth*, Hanoi, 1997. More precisely, to a first phase (1988-1996) characterized by a progressive growth of FDI, followed a second phase (1996-2006) of de facto stalemate. Finally, in the third phase (2007-2018) there was a recovery with an exponential FDI growth, which jumped from US\$ 6.7 bn to 15.5 bn. World Bank, *Foreign direct investment, net inflows (BoP, current US\$) - Vietnam*.

and Democracy»,<sup>2</sup> and by «The five year Socio-Economic Development Plan (SEDP) 2016–2020». In particular, according to Deprez, the Vietnamese Vision aims to place its economic system at the end of the global-value chain production, strengthening the «outward-looking» trade integration and, consequently, achieving the status of a high-income economy.<sup>3</sup> In other terms, the ambitions of this Vision is to create conditions to reach fully integrated industrialisation where high value-added products may be realised along with the low value added. Moreover, engaging at the end of the global-value chain production is not a process that naturally springs only from the strengthening of market integration. The analysis of what happened in Vietnam and, more generally, in Southeast Asian countries in the last 30 years, in fact, shows that the transition towards high value-added production rarely happened, notwithstanding regional or international market integration.<sup>4</sup> FDI constantly aims to replicate high labour-intensive and low value-added productions; consequently, the domestic companies are unable to insert themselves as suppliers within the FDI value chains, thus reducing the knowledge and technology transfer to local industries. At best, the involvement of national companies is limited to productions of low technological complexity and low added value. In this context, however, the service sector has grown faster than industry (on this more below), providing a fast GDP growth.

As much as this transition has been the target of all Southeast Asian countries since the 1990s, it has not yet been achieved (except by Singapore), and, as a consequence, full-scale industrialisation has not been reached. Conversely, the integration has consolidated the hierarchies between states and firms «strengthening the dependence on foreign capital and foreign technology in the export-oriented sectors».<sup>5</sup> FDI in the ASEAN 3 (namely, Indonesia, Malaysia and Thailand) produced limited spillover effects and industrial upgrading to the extent that those economies remained dependent on foreign technology and management. The World Bank's analysts who, until the 1997-98 financial crisis had presented the ASEAN 3 industrialisation model as part of a regional economic miracle,<sup>6</sup> after the crisis had to explain why the

2. The Vision was signed by the Vietnamese Prime Minister Nguyen Tan Dung and the World Bank President Jim Yong Kim on 23 February 2016. World Bank and Ministry of Planning and Investment of Vietnam, *Vietnam 2035: Toward Prosperity, Creativity, Equity, and Democracy*, Hanoi: World Bank, 2016.

3. Deprez showed recently, Vietnam preferred to boost an international integration to a regional one. Sophie Deprez, 'The Strategic Vision behind Vietnam's International Trade Integration', *Journal of Current Southeast Asian Affairs*, vol. 2, 2018, pp. 3-38.

4. Greg B. Felker, 'Southeast Asian industrialisation and the changing global production system', *Third World Quarterly*, vol. 24, n. 2, 2003, p. 260.

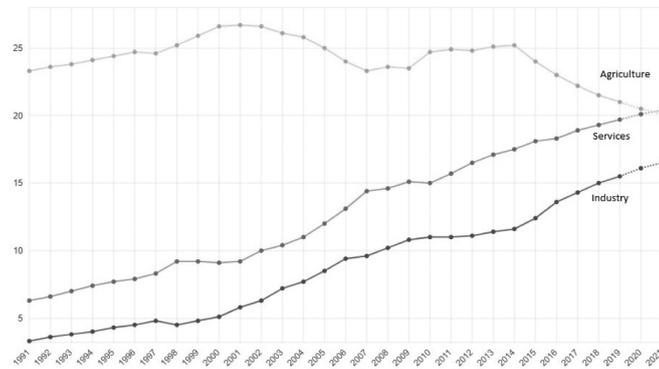
5. Pietro Masina & Michela Cerimele, 'Patterns of Industrialisation and the State of Industrial Labour in Post-WTO-Accession Vietnam', *European Journal of East Asian Studies*, Vol. 17, 2018, pp. 289-323.

6. World Bank, *The East Asian Miracle: Economic Growth and Public Policy*, Oxford: Oxford University Press, 1993.

Southeast Asian countries' economic growth never returned to the pre-crisis level. Their answer was that this disconcerting result was the outcome of a «middle-income trap», produced by the lack of pro-market reforms.<sup>7</sup>

According to scholars critical of this explanation and, more generally, the Washington consensus, the main problem, however, was not related to the «middle-income trap».<sup>8</sup> Rather, the transformation of a country into a manufacturing hub – as Masina and Cerimele have argued – «implies neither an expansion of national industry – whose growth can be limited to the foreign-invested, export-oriented sector – nor a substantial change in the composition of national labour force through an expansion of industrial employment able to absorb redundant labour from rural areas.»<sup>9</sup>

Table 1, Employment by sector in Vietnam based on a scale of million employees.



Source: International Labour Organisation, *wesodata*.

7. Indermit Gill & Homi Kharas, *An East Asian Renaissance – Ideas for Economic Growth*, Washington, DC: World Bank, 2007. For an update of the debate from the same perspective see Indermit Gill & Homi Kharas, 'The Middle-Income Trap Turns Ten', Policy Research Working Paper No. 7403, World Bank, 2015. The debate on the «middle-income trap» was introduced in Vietnam by Prof. Kenichi Ohno. The perspective of the research he promoted – that involved a wider group of colleagues at the Japanese JETRO and the Vietnamese National Economic University – tried to combine the «middle-income trap» approach with policy proposals more in line with the developmental state East Asian tradition. See Kenichi Ohno, 'Avoiding the Middle-Income Trap: Renovating Industrial Policy Formulation in Vietnam', *ASEAN Economic Bulletin*, Vol. 26, No 1, 2009, pp. 25-43.

8. For a critical review of the World Bank narrative see Pietro P. Masina, 'An Uneven Development Trap in Southeast Asia and Its Implications for Labor', in Silvia Vignato & Matteo C. Alcano (eds.), *Searching for Work: Small-Scale Mobility and Unskilled Labor in Southeast Asia*, Chiang Mai: Silkworm Books, 2019.

9. Pietro Masina & Michela Cerimele, 'Patterns of Industrialisation and the State of Industrial Labour in Post-WTO-Accession Vietnam', p. 1.

Table 1 shows the gradual increase of employment in Vietnamese industry coupled with a notable decrease of labour force in agriculture of around 20 % (5 million) in the last five years.<sup>10</sup> Nonetheless, what is really worth stressing is the employment rise in the services. In several articles, Adam Fforde reported this phenomenon, showing that the Vietnamese development model failed a full-scale industrialisation and determined a fast growth in the services sector (*servicisation*).<sup>11</sup> Consequently, according to Fforde, the export-oriented industrialisation model is not a «core active development driver».<sup>12</sup> According to World Bank data, in 2018 manufacture value added was 16% of GDP, while services value added reached 41.1%, and employed 34.7% of the total workforce.<sup>13</sup>

Moreover, as Fforde has shown, it should be taken into account that not only in Vietnam but in many developing countries servicization is a strong development driver.<sup>14</sup>

Limiting the focus on labour issues, the Vietnamese manufacturing hub has provoked different structural social changes like the semi-proletarianisation and circulatory migration in transition from agriculture to industry,<sup>15</sup> and the progressively precariousness and informalisation of workers.<sup>16</sup> Research on industrial parks has underlined a series of critical-

10. According to ILO statistics *wesodata* in 2009 industrial workers were 10.8 million and 15.5 million in 2019.

11. Adam Fforde, 'Vietnam: Economic Strategy and Economic Reality', *Journal of Current Southeast Asian Affairs*, 2, 2016, pp. 3-30.

12. Adam Fforde, 'Yes, but what about services: is development doctrine changing?', *Canadian Journal of Development Studies*, Vol. 39, No. 4, 2018, pp. 550-568.

13. Main services include tourism and telecommunications. World Bank, national accounts data and OECD National Accounts data files on value added (% of GDP).

14. See Adam Fforde, 'Yes, but what about services: is development doctrine changing?', especially Table 1, p. 551.

15. Jonathan Rigg, *Southeast Asia: The Human Landscape of Modernization and Development*, London: Routledge, 1997.

16. Workers' precariousness refers both to precarious work (low pay and lack of institutional support and representation at the workplace) and to social precarity (difficulties in housing, access to health care, social support networks). On the informalising labour approach see Dae-Oup Chang, 'Informalising Labour in Asia's Global Factory', *Journal of Contemporary Asia*, 39, 2, 2009, pp. 161-79. As regard to the Vietnamese migrant workers' living conditions, see Amy Y.C. Liu & Xin Meng (eds.), *Rural-Urban Migration in Vietnam*, Cham: Springer 2019; Michela Cerimele, 'Informalizing the Formal: Work and the Dual Dormitory Labor Regime in Hanoi's Thang Long Industrial Park', in Silvia Vignato & Matteo C. Alcano (eds.), *Searching for Work: Small-Scale Mobility and Unskilled Labor in Southeast Asia*, Silkworm Books: Chiang Mai 2019. In this case, fieldwork research was conducted between December 2013 and June 2014 in workers' living areas around the Park under the EU-funded SWORR and SEATIDE projects. On the same subject, see also Do Ta Khanh, *SWORR Fieldwork Research: Synthesis Report*, Hanoi SWORR Project, 2015. A recent report on working conditions in Samsung factories in two provinces of the Red River Delta provides data consistent with these analyses: IPEN and COFED, 'Stories of Women Workers in Vietnam's Electronics Industry', Hanoi: IPEN and COFED, 2017.

ities related to stressful working conditions: widespread use of short-term contracts (unlawfully used even for long-term workers), permanent positions systematically turned into «short-term» ones, high degree of self-exploitation to keep the job (and have access to permanent positions), job and decent wage granted only to the physically strongest/most disciplined workers.<sup>17</sup>

In 2019, these aspects were subject matters for discussion in Vietnam, following the long process of ratification of the fundamental conventions of the International Labour Organization (ILO) and the issuing of the new labour code.

In the first part of this article I will initially investigate the reasons that led the party-state to ratify the ILO's conventions and to reform the labour code. Additional space will be given for an examination of the role of the main stakeholders involved and, in particular, on the arm wrestling between the main industrial representatives and the Vietnam General Confederation of Labour (VGCL) state union.

In the second part of the article, the major developments in Vietnam international politics will be analysed. Hanoi published a new Defense White Paper, confirming the «three noes policy» (NO military alliance, NO alignments, NO foreign military basis), adding one more NO, namely the rejection of use or threat of use of violence. This addition aims to clarify its diplomatic stance and position on regional disputes in the South China Sea. It is evident that the Vietnamese party-state, in this perspective, has strived for increasing its international trustworthiness. In 2020, indeed, Hanoi will hold two prestigious mandates: first, the presidency of ASEAN, in a context in which member states are searching for the unity of intent within the framework of territorial disputes, and, second, the non-permanent seat at the UN. Consequently, some important events of 2019, such as the meeting in Hanoi in February between Trump and Kim Yong Un, or the long debate on social legislation, must be interpreted in this perspective.

The VCP's internal affairs have always been distinguished by a high level of secrecy and the consequent difficulty in getting hold of primary sources. As a consequence, from a methodological point of view, the analyst's work must be based on three classes of sources. The first is represented by the few available official documents and reports in the press of the party. The second includes the analysis of statistical data, interviews with key stakeholders and a large review of literature both on history, current affairs, and development studies. The third class of sources, concerning social legislation, consists of interviews conducted by the author in 2018

17. These aspects emerged also from author's qualitative interviews with 38 workers (garment and electronics) in Tân Thuận Industrial Zone, District 7, Ho Chi Minh City in September 2018, within the framework of ECOW project. For more details on this project see fn. 19.

in the context of two research projects (still in progress): ECOW<sup>18</sup> and CRISEA.<sup>19</sup>

## 2. Building «harmonious labor relations» (quan hệ lao động hài hòa)

### 2.1 Maintaining social order, and defusing conflict at the workplace

Confronted with critical employment conditions, Vietnamese workers historically made use of different forms of protest. More recently, wildcat strikes were the most common and probably the most effective form of struggle to obtain better salaries and, generally speaking, better working conditions.<sup>20</sup>

Between 1995 and 2012 there were 5,000 strikes across the nation.<sup>21</sup> However, after the Labour Code took effect in 2012, there has been a de-

18. Empowering Civil Society and Workers (ECOW) is a project co-financed by the European Union (EuropeAid/150453/DD/ACT/VN), in cooperation with the Vietnamese Academy of Social Sciences, the Center for Social Work & Community Development Research and Consultancy (SDRC), the Institute for Research and Consultancy on Development (RCD), and the University of Naples «L'Orientale». It is based on 3,000 Vietnamese workers' qualitative and quantitative interviews of garment and electronics FDI companies, equally distributed in the industrial zones in the North, Centre and South.

19. Competing Regional Integrations in Southeast Asia: the Search for Legitimacy (CRISEA) is a project financed by the European Commission Horizon 2020 in cooperation with the École Française d'Extrême-Orient (EFEO) (coordinator); the University of Naples L'Orientale; the University of Hamburg; the University of Cambridge; University of Lisbon; University of Lodz; University of Oslo; Chiang Mai University (CMU); the Vietnamese Academy of Social Sciences (VASS), Ateneo de Manila University (Philippines); Centre for Strategic and International Studies (Indonesia); University of Malaya (Kuala Lumpur); University of Mandalay. In work on this project as a member of the Work Package «Competing Capitalist Models and Practices».

20. Concerning worker's strikes organization occurred in the period 1995-2008 see Angie Ngoc Tran, 'Alternatives to the «Race to the Bottom» in Vietnam', *Labour Studies Journal*, 32, 4, 2007, pp. 430-451; Angie Ngoc Tran, 'The Third Sleeve: Emerging Labor Newspapers and the Response of the Labor Unions and the State to Workers' Resistance in Vietnam', *Labour Studies Journal* 32, 3, 2007, pp. 257-279; Benedict J. Tria Kerkvliet, 'Workers' Protests in Contemporary Vietnam (with Some Comparisons to Those in the Pre-1975 South)', *Journal of Vietnamese Studies*, Vol. 5, No. 1, Winter 2010, pp. 162-204, and, still by the same author 'Workers' Protests in Contemporary Vietnam', in Anita Chan (ed.), *Labour in Vietnam*, pp. 170 ff. On post-2008 strikes see Angie Ngoc Tran, *Ties That Bind: Cultural Identity, Class and Law in Flexible Labor Resistance in Vietnam*, Ithaca, NY: Southeast Asia Program (SEAP), Cornell University Press, 2013; Kaxton Siu & Anita Chan, 'Strike Wave in Vietnam, 2006-2011', *Journal of Contemporary Asia*, Vol. 45, No. 1, 2015, pp. 71-91.

21. 'Vì sao hơn 5.000 cuộc đình công không do công đoàn lãnh đạo' (Why more than 5,000 strikes are not led by unions?), *Lao Động*, 26 July 2013. On wild strikes in Vietnam see the recent book by Tria Kerkvliet, *Speaking Out in Vietnam: Public Political Criticism in a Communist Party-Ruled Nation*, Ithaca and London: Cornell University Press, 2019, in partic. pp. 21 ff.

crease in the number of strikes and participants over the past few years. The reason for this reduction is attributable to several elements. In this regard, it is necessary to distinguish the state's perspective from the workers' perspective.

From the state perspective, there have been several legislative interventions that have changed the rules of strikes in order to prevent them. According to Pringle and Clarke, «Wildcat strikes have become institutionalized».<sup>22</sup> For example, the revision of the 2012 Labor Code made illegal most strikes, limiting their possibility to those issues that are not defined in the Labor Code. Accordingly, from the prohibitions inserted in the Labour Code (article 209 onward) only a few cases escape, such as those related to health and social insurance benefits. Even in these cases, however, a strike can only be carried out under the VGCL leadership or the control of the local authority. Strikes are forbidden on issues that are defined in the law (i.e., 'rights'); as such, these conflicts are to be settled in the labour courts. Moreover, in 2013, Prime Minister Nguyễn Tấn Dũng adopted the «Democratic Dialogue at factory level», through which it was decided that all workers' requests would immediately be dealt with by «action teams». Made up of upper-level union, officials from the Industrial Zone Authority and mediators from the labour bureau within the administrative area, the action team has the task of offering workers immediate solutions in order to avert a strike.<sup>23</sup> Finally, the activation of the action teams is accompanied by a vast and widespread training of workers on the rules of strikes.<sup>24</sup>

From the workers' perspective, the decrease in strikes is not attributable to suddenly improved working conditions. On the contrary, research, including this author's qualitative interviews with workers, has shown that the decrease in strikes (or at least the obstacles to go on strike) is a result of workers' precariousness.<sup>25</sup> In fact the workers' weakness is such that protests or strikes are likely to aggravate their working conditions. Therefore strikes are resorted to only after receiving a sort of authorization from

22. Tim Pringle & Simon Clarke, *The Challenge of Transition: Trade Unions in Russia, China and Vietnam*, Basingstoke: Palgrave 2011, p. 72.

23. Angie Ngoc Tran, Jennifer Bair & Marion Werner, 'Forcing change from the outside? the role of trade labour linkages in Vietnam's labour regime', *Competition & Change*, Vol. 21, 5, 2017, pp. 397-416.

24. The Actions Teams's persuasive tactics are described by Nguyen Tu Phuong, *Workplace Justice Rights and Labour Resistance in Vietnam*, Basingstoke: Palgrave MacMillan 2019, pp. 32-34, and 38-39.

25. Author's qualitative interviews with 38 workers (garment and electronics) in Tan Thuan Industrial Zone, District 7, Ho Chi Minh City in September 2018. See also Pietro Masina & Michela Cerimele, 'Patterns of Industrialisation and the State of Industrial Labour in Post-WTO-Accession Vietnam'; Michela Cerimele, 'Informalizing the Formal: Work and the Dual Dormitory Labor Regime in Hanoi's Thang Long Industrial Park'.

local authorities, and when workers are confident that they can achieve concrete results.<sup>26</sup>

Indeed, over the past few years, news of the decrease in strikes has taken on great political value, especially for the VCP ruling class at local level. The decrease in strikes in a province or an industrial district is considered an undeniable virtue of local authorities, since it is a particularly evident sign of their organisational and mediation skills, facilitating the relation between workers and companies. As a result, the most skilled members of the local political power structure could have the opportunity to progress in their career, aspiring to prestigious positions.<sup>27</sup> Furthermore, the positive results achieved by local authorities inevitably favourably reflect on workers, especially at the end of the year, when collective bargaining is in full swing and the so-called Tet bonuses are decided. The Tet bonus is the equivalent of a 13th-month salary that Vietnamese workers are entitled to. The government leaves employers and workers to bargain its size, with the mediation of the local authority. Workers' discipline is rewarded with wage adjustments and greater bonuses.<sup>28</sup>

In this context, between the end of 2018 and the beginning of 2019, the data on strikes became an important political matter, since the new Labor Code was under discussion at the national assembly. The announced drop in the number of strikes (despite the fact that there was no real decrease) was exploited by employers' associations in the long debate to define the measures under discussion. In particular, the most controversial aspects concerned the increases in minimum wages, the retirement age and the maximum number of overtime hours. The powerful association of employers and part of the government argued that the fall in strikes was linked to an improvement in working conditions and, therefore, the number of overtime hours could be increased or doubled. We will return to this subject at section 1.3.

26. It is worth noting that in the 2012 Labour Code, sanctions on strikers are a strong deterrent power in the employers' hands. Article 35 on «Handling of labor strikes that do not follow the regulatory procedures» aims to deter workers from collective action: they will not be paid salary and benefits whenever they participate in strikes. Article 36 on «Compensation for damage caused by illegal strikes» discourages union leadership from being involved in strikes because the employer can calculate damages and costs incurred in strikes and request the organising unions to pay compensation.

27. The issue of career opportunities within the VCP is the subject of a long debate. For a description of how provincial leaders benefit from increased economic activity in their province see Thomas Jandl, 'State versus State: The Principal-Agent Problem in Vietnam's Decentralizing Economic Reforms', in Jonathan D. London (ed.), *Politics in Contemporary Vietnam Party, State, and Authority Relations*, New York: Palgrave MacMillan, 2014.

28. Nguyen Tu Phuong, *Workplace Justice Rights and Labour Resistance in Vietnam*, p. 53.

All the main local offices rushed to publish data relating to the decrease in strikes in their territories. For example, in Hanoi, from 2015 to 2019, there were 31 strikes and collective work stoppages (2015: 7 times; 2016: 9; 2017: 9; 2018: 5; Quarter I / 2019: 1).<sup>29</sup> The average participation in each strike was from 300 to 400 workers directly involved, the maximum 3,049, the lowest 50; the length was from half a day to 12 days; most strikes occurred in FDI enterprises. The most affected sectors were textile and electronics.<sup>30</sup>

The Ministry of Labour, Invalids and Social Affairs (MOLISA) also highlighted the drop in the number of strikes across the country, despite, also in this case, the absence of any real decrease. During the first six months of 2019, there were 67 strikes, one less than in the same period of the previous year. They mostly occurred in the southern provinces of Long An, Dong Nai, and Binh Duong and 80% affected foreign companies. South Korean and Taiwanese companies accounted for 16 strikes each, Chinese firms for 10 and Japanese companies for four. Most strikes took place in the garment sector (28.4%), leather and footwear (19.4%), plastic (16.42%) and wood 14.93%. The cause of the strikes was mainly disputes of interests, accounting for 55.22% of the cases; rights disputes accounted for 11.94%; finally both rights and interests disputes accounted for 32.84%. According to MOLISA, the causes of the strikes were: difficulty in the adjustment of wages and allowances in enterprises lacking a mechanism of consultation with workers and union organisations; failure to timely adjust employees' basic wages; low mid-shift meal quality. Also, dialogue at the workplace, negotiation, and signing of collective labour agreements were limited and lacking in substance.<sup>31</sup>

The strike data provided by the government, however, do not offer a complete picture of the phenomenon of protests, since they do not indicate how many workers were involved and for how many days. Government data, in fact, appear to be geared to only highlight the desired effect of the

29. 'Hà Nội: Số cuộc đình công, ngừng việc tập thể có xu hướng giảm Hanoi' (Hanoi: The number of strikes and collective work stoppages has decreased), *Lao Động Thủ đô*, 24 March 2019.

30. *Ibid.* Of course, the question is open if the official data are credible. Here, however, the question is not if to believe or not the data. Rather, the aim is to highlight how the different local and central offices are eagerly implementing the policy of publishing (dubious) data signalling a reduction in strikes. As explained below, this is in consonance with the government's rhetoric, in particular during 2019, aimed at painting an «armonious» portrait of industrial relations (namely one in consonance with the interests and policies of the industrialists).

31. '80 percent of strikes in Vietnam occurs at foreign companies', *VnExpress*, 4 August 2019; 'Tình trạng công nhân đình công chủ yếu xảy ra ở doanh nghiệp FDI' (The strikes mainly occur in FDI enterprises), *Cuộc Sống An Toàn*, 18 September 2019; 'Trên 82% vụ đình công xảy ra tại doanh nghiệp FDI' (Over 82% of strikes occurred in FDI enterprises), *VnEconomy*, 8 August 2019.

drop in the number of strikes. In this way, a distorted idea of the general conditions of industrial work is offered. Just to give an example, the strike in Quang Nam Industrial Zone in September 2019 – which involved 6,200 workers skipping meals and stopping work – would not be included in the statistics, because it only lasted a few hours. Furthermore, the motivation of the strike – the meal did not guarantee food safety and hygiene – was categorised as an accident, and not as a structural element of the difficult working conditions.<sup>32</sup>

In this context characterised by widespread discontent among the working masses and by social tension, a large debate took place on the ratification of international labour conventions which overlapped the development of the new labour code.

## 2.2. *The ratification of ILO's conventions and the proactive role of the VGCL*

On 5 July 2019, after a long debate, the National Assembly ratified the ILO's Convention n. 98 (henceforth C98) that will enter into force on 5 July 2020.<sup>33</sup> This ratification process started in 2013 when the US government earmarked US\$ 4.2 million to the ILO in Vietnam to assist MOLISA, a transition to be accomplished within five years.<sup>34</sup> US support was linked to the Trade Facilitation Agreement (TFA) and the Trans Pacific Partnership (TPP), requiring Vietnam's ratification of the fundamental ILO's conventions. The C98, adopted by the ILO in 1949, assures, in particular, fundamental principles of freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour and the elimination of discrimination with respect to employment and occupation. Ratifying this convention, the party-state must provide adequate protection against discrimination by employers or union officials. It also must guarantee collective bargaining as a voluntary process between independent and autonomous parties. A few months after ratification, the approval of the new labour code on 20 November 2019, decreed the freedom of association of workers. It will take effect from 1 January 2021, but regulations are still awaited).<sup>35</sup>

Reactions to the adoption of the freedom of association were very positive. The VGCL, for example, not only did not create resistance but

32. 'Bức xúc vì thức ăn không đảm bảo vệ sinh hàng loạt công nhân ngưng việc' (Frustrated because food does not guarantee a series of workers stop working), *Cuộc Sống An Toàn*, 17 September 2019.

33. ILO, *ILO welcomes Viet Nam's vote to ratify ILO fundamental convention on collective bargaining*, 14 June 2019; ILO, *Rules of the Game: an introduction to standards-related work of the ILO*, International Labour Office, Geneva, Centenary Edition 2019.

34. U.S. Embassy and Consulate in Vietnam, *Fact Sheet: U.S.-Vietnam Comprehensive Partnership*, 16 December 2013.

35. The New Labour code was adopted by the National Assembly, Decision No. 45/2019/QH14, and will take effect from 1 January 2021.

played a proactive role. Its leaders' statements and the attitudes adopted showed that the VGCL seems to have accepted the challenge of freedom of association, taking the opportunity to further strengthen its advocacy role on behalf of workers. The reformist action of the VGCL did not end even on the occasion of the crisis of the TPP, caused by the US' withdrawal in 2017. Instead, it continued to support the need to reform the organisation of the grassroots regardless of the negotiations of TFA agreements.<sup>36</sup>

The long ratification process of the ILO's fundamental conventions has resulted in an opportunity for the VGCL to reform itself in various ways. Firstly, it has strengthened its political and administrative presence in the territory, recruiting new members, especially in the districts with the greatest concentrations of industries, and ensuring continuous training for them.<sup>37</sup> In addition to traditional activities – fundraising for workers' trips and New Year gifts, organisation of counselling centres for female workers, periodic meetings to reward model workers – in recent years the VGCL has increased training activities aimed at both middle-ranking managers and grassroots. In particular, in 2019 training focused on the opportunities offered by the new FTAs to trade unionists and on the innovations introduced by the new Labour Code.<sup>38</sup> In this case, training was geared towards strengthening the trade unionists' skills, especially in the assistance of collective bargaining.<sup>39</sup> For example, in Bac Giang province, about 45 kilometers from Hanoi, where new industrial parks have recently been built, training activities have multiplied exponentially since 2017.<sup>40</sup> Also, coordination between the City People's

36. Anita Chan, 'Vietnam's and China's Diverging Industrial Relations Systems: Cases of Path Dependency', *Journal of Contemporary Asia*, 2019, p. 1.

37. In a context characterised by an increase in the number of companies, in 2008 the VGCL launched a five-year programme with the objective, among others, of increasing membership to 1.5 million. Angie Ngoc Tran, 'Contesting «Flexibility»: Networks of Place, Gender, and Class in Vietnamese Workers' Resistance', in J. Nevins & N.L. Peluso (eds.), *Taking Southeast Asia to Market: Commodities, Nature, and People in the Neoliberal Age*, Ithaca, NY: Cornell University Press, 2008, p. 67. Available also at [https://digitalcommons.csumb.edu/sbgs\\_fac/18/](https://digitalcommons.csumb.edu/sbgs_fac/18/).

38. During 2018-2019, the on-line newspaper of VGCL «Lao Động Thủ đô» (labour) gave an account of daily training scheduled at all levels, in all sectors and in all the territories where industrial parks are located. Just to give an example, it is possible to read the intensive scheduled training involving representatives of the construction sector, regarding CPTPP, the new FTA entered into force in 2019: 'Công đoàn ngành Xây dựng Hà Nội: Tập huấn về CPTPP và vai trò của tổ chức Công đoàn' (Trade Union of Hanoi Construction Industry: Training on CPTPP and the role of trade union organization), *Lao Động Thủ đô*, 23 November 2019.

39. The training activity of cadres and grassroots was codified in August 2019, by the VGCL, through a specific tutorial: Evaluation, Assessment of Quality of Basic Trade Union Activities General Labor Union of Vietnam. VGCL, n. 1294 / HD-TLĐ, 14 August 2019.

40. In the Bac Giang province, the calendar of meetings up to 2023 was defined in 2019. 'Further communication to effectively implement cooperation agreement for trade unionist welfare', *Bac Giang On line*, 6 November 2019.

Committee and the Labor Federation has reinforced, with a twofold objective: to monitor the main critical issues concerning workers' conditions and to identify solutions, both at trade union and local political level.<sup>41</sup>

Although the reforms constitute a step towards the acquisition of rights by workers, the risks arising from opening up to free bargaining cannot be underestimated. As noted by some analysts, the multiplication of union representatives signals the intrinsic weakness of the new unions, due either to lack of experience or, simply, lack of sufficient critical mass to support their requests.<sup>42</sup>

### 2.3. *The new labour code and the strengthening of the VGCLs bottom-up approach*

The Labour Code was last amended in 2012 and initially scheduled to be next revised in 2022. But the Vietnamese legislator started a new comprehensive revision process in 2017 to cope with the requests of the employers' associations, and to adapt national legislation to international rules imposed by the new generation of FTAs.<sup>43</sup>

The most controversial parts concern minimum wage, maximum overtime hours and retirement age. It is no coincidence that the National Assembly's Committee on Social Affairs held up to 14 meetings nationwide and made many field trips to collect comments related to the revision of the new Labour Code,<sup>44</sup> the passing of which was postponed several times.

41. 'Phối hợp xây dựng quan hệ lao động hài hòa' (Coordinate to build harmonious labor relations), *Lao Động Thủ đô*, 12 May 2019; 'Xứng đáng là chỗ dựa tin cậy của đoàn viên, người lao động' (Labor Union of Ba Dinh District: Worthy is the reliable prop of union members and workers), *Lao Động Thủ đô*, 30 December 2019.

42. On the global weakness of the unions see Marcel van der Linden, 'Global Labour: A Not-so-grand Finale and Perhaps a new Beginning', *Global Labour Journal*, Vol. 7, No 2, 2016, Special Issue (May), *Politics of Precarity - Critical Engagements with Guy Standing*. On incumbent risks in Vietnam see Joe Buckley, 'Vietnam Gambles on Workers' Rights', *Jacobin*, 7 July 2019.

43. We refer, in particular to the Europe-Vietnam Free Trade Agreement (EVFTA) and Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) (entered into force on 14 January 2019) that both contain specific chapters on labour rules. The EVFTA's labour provisions are included – along with provisions concerning the environment – in Chapter 13 «Trade and Sustainable Development (TSD)», and the CPTPP include requirements on «well established standards on labour» in Chapter 19. Although Chapters on labour are formulated on different legal culture approaches, both use non-binding language in formulating the request to equalise national legislation to the ILO's Core Labour Standards. I.e. EVFTA uses a soft language of «continued and sustained effort toward ratifying [...]». On this, see James Harrison & Mirela Barbu, Liam Campling, Ben Richardson, & Adrian Smith, 'Governing Labour Standards through Free Trade Agreements: Limits of the European Union's Trade and Sustainable Development Chapters', *Journal of Common Market Studies*, 2018, pp. 1-18.

44. 'Sửa bộ Luật Lao động: Tăng giờ làm thêm là bước lùi!' (Revising the Labor Code: Increasing overtime is a step back!), *VNEconomy*, 6 August 2019.

An agreement has been reached on minimum wage, which, starting in 2020, will increase on average by 5.5% on a regional basis (in 2017 the increase was 7.3%, in 2018 6.5%, and in 2019 5.3%).<sup>45</sup> In this way, the highest wages (of Hanoi and Ho Chi Minh City) are aligned with Cambodia's minimum wages (US\$ 190).<sup>46</sup>

The most controversial part, however, was related to overtime, since companies and Minister of Labour, War Invalids and Social Affairs Đào Ngọc Dung pressed to raise its limit to 400 hours per year.<sup>47</sup> Conversely, most of the National Assembly members were in favour of the VGCL position, which wanted a restriction of overtime hours.<sup>48</sup>

The representatives of the Vietnam Chamber of Commerce and Industry (VCCI) and Vietnam Textile and Apparel Association (VITAS), two of the most powerful employers' associations, supported by foreign lobbies, such as the Japan Chamber of Commerce and Industry (JCCI) and Korea Chamber of Commerce and Industry (KCCI), have been denouncing the alleged risks of overtime limits for the Vietnamese economy for years. Thanks to their influence on the media, they have managed to monopolise the debate, conveying the idea that the Vietnamese model is inadequate and non-competitive in comparison to other ASEAN countries.<sup>49</sup> The greatest threat, according to these groups, is related to the loss of appeal among investors and to a consequent flight of capital to other countries.<sup>50</sup> Their mantra, «employees and employers are in the same boat» proposes inclusive rhetoric and aims to create a tripartite system in which the government, the trade union and representatives of employers

45. Region I, Urban areas of Hanoi and HCMC, VND 4.42 mil. (US\$ 190.57); Region II, Rural areas of Hanoi and HCMC, VND 3.92 mil. (US\$ 169); Region III, Cities and districts of Northern Bac Ninh, Bac Giang and Hai Duong provinces, is poised to climb up to VND 3.43 mil. (US\$ 148); Region IV, the rest of Vietnam, is poised to rise to VND 3.07 mil. (US\$ 132). 'Minimum wage set to increase by 5.5% in 2020: National Wage Council', *Viet Nam News*, 12 July 2019.

46. 'Minimum wage set at \$190 for 2020', *Phnom Penh Post*, 22 September 2019.

47. The Ministry of Labour, War Invalids and Social Affairs already in 2018 insisted on raising overtime work up to 400 hours per year. See for example: 'Overtime regulations need careful thought. Update', 6 September 2018. The Socialist Republic of Vietnam, Ministry of Labour, War Invalids and Social Affairs, *Meeting looks into amendments to Labour Code 2012*, 3 May 2019.

48. 'Đại biểu Quốc hội khóc khi đề nghị giảm giờ làm cho công nhân' (National Assembly deputies cried at the request of reducing working hours for workers), *Thư Ký Luật*, 25 October 2019.

49. 'Businesses renew request to double Vietnam's overtime limit: commerce chamber', *VNExpress*, 28 December 2017.

50. 'Working hour reduction to create more difficulties: expert', *Vietnamnet Global*, 3 September 2019.

are equal partners.<sup>51</sup> Once all this has been pointed out, it is worth stressing that a tripartite system appears to be both unlikely and, given the weakness of the workers and their representatives, not desirable.

In spite of the support given by the media to the position of the employers' associations, the VGCL and the National Assembly won the arm wrestling. The new code confirmed, first of all, that overtime could be introduced only with the workers' consent; also it could not exceed 50% of the normal working daily hours. In any case, the total number of normal working and overtime hours could not exceed 12 hours per day (VGCL proposed a 10-hour limit per day and 48 hours per week),<sup>52</sup> no more than 40 hours a month, and no more than 200 hours in one year were permitted. However, this limit could be raised to 300 hours per year for a very long list of companies, covering most of the FDI-driven production sectors (textile, garment, footwear, electronics, electrics, agricultural processing, forestry, and aquatic products for export).

The second topic under debate was the increase in the retirement age. The synthesis between different opinions was as follows: starting in 2021, retirement age in «normal working conditions» is 60 years and 3 months for men, and 55 years and 4 months for women. After 2021, retirement age will increase by 3 months for male employees and 4 months for female workers each successive year.<sup>53</sup> By 2028 retirement age will reach 62 for male workers and in 2035 will reach 60 for women.<sup>54</sup>

Some exceptions to the above rule are provided for workers suffering from reduced working capacity, for those doing extremely heavy, toxic and dangerous jobs, and, finally, for those working in areas with exceptionally difficult socio-economic conditions. In these cases, workers may retire at a younger age, but the diminution in the retirement age cannot exceed five years in respect of the approved limit, unless otherwise prescribed by law. Workers with high professional and technical qualifications and other special cases may retire at a higher age but without exceeding five years from the prescribed level.<sup>55</sup>

51. 'Balancing Benefits between Employees and Employers', *Vietnam Business Forum*, 23 August 2019; 'Working hour reduction to create more difficulties for textile and garment in Vietnam', *Asian News Network*, 4 September 2019.

52. 'Working time and overtime regulations remain controversial', *Vietnam Law and Legal Forum*, 7 September 2019.

53. Before the new Labour Code, the retirement ages were 60 years old for males and 55 for females. Employees could retire early and access their pension benefits when they had worked for 25 years for men or 20 years for women, providing that there had been five year of continuous work, or when they were in poor health and no longer able to work, after at least 15 years of continuous service. 'Retirement age to rise as from 2021', *Vietnam Global Net*, 20 November 2019.

54. 'Quốc hội chính thức thông qua đề xuất tăng tuổi nghỉ hưu' (The National Assembly officially passed a proposal to increase the retirement age), *BizLIVE*, 20 November 2019.

55. *Ibid.*

Throughout the debate the VGCL played a decisive role in many choices. After a long period when it was nothing more than the transmission belt of government decisions to the workers, in recent years the VGCL aimed at representing the rights and interests of workers.<sup>56</sup> However, it is reasonable to think that a deal between the VGCL, the VCP's leadership and, in particular, the National Assembly has been reached in recent years, to anticipate the effects of unavoidable reforms of workers' representations.

### 3. *International relations: The multilateral diplomacy*

The Vietnamese government hosting in Hanoi of the summit between US President Donald Trump and North Korea President Kim Jong-Un (27-28 February 2019) was a high profile event both nationally and internationally. Although the summit was unsuccessful, Vietnam's role in hosting it demonstrated that the VCP and the Vietnamese government are reliable partners for the international community in trade and diplomacy and that Hanoi can act as a facilitator in difficult international negotiations. In this perspective, what was also clear was Hanoi's intention to play a unifying part as ASEAN's chairman in 2019 and a trustworthy non-permanent member of the UN Security Council in 2020. In 2019 Vietnam was also completing its mandates as 2015-2019 member of the UN Economic and Social Council (ECOSOC), and 2017-2021 member of the UNESCO Executive Council.<sup>57</sup>

Thanks to these achievements, the Vietnamese government strived to strengthen its multilateral diplomacy, based on the political line indicated by the VCP in 1991 as well as repeating it in subsequent national congresses.<sup>58</sup> Indeed, in the national defence policy area, Vietnam has built a network of bilateral and multilateral relations aimed both at the creation of a confidence environment in the region and addressing its own main security issues.

From this perspective, Vietnam's most urgent problems are the protection of the export system, ensuring the circulation of goods in the region,

56. Vincent Edwards & Anh Phan, 'Employer's associations in Vietnam: inching towards tripartite engagement', in John Benson, Ying Zhu & Howard Gospel (Eds.), *Employers' Associations in Asia: Employer Collective Action*, New York: Routledge 2017, p. 155.

57. 'Vietnam elected non-permanent UN Security Council member for 2020-2021 term', *VNExpress*, 7 June 2019.

58. During the VII Congress, in 1991, the VCP decided to expand international relations with different countries not necessarily belonging to the communist sphere and, since then, this political diplomacy has always been confirmed. See i.e. Communist Party of Viet Nam, *Documents of the XIIth Party Congress*, National Political Publishing House, Ha Noi, 2016, p. 313 and the official web site of the Ministry of Foreign Affairs at the page «Chính sách đối ngoại của Đảng và Nhà nước Việt Nam» (*Foreign policy of the Party and State of Vietnam*) [http://www.mofa.gov.vn/vi/cs\\_doingoi/ns140217213857](http://www.mofa.gov.vn/vi/cs_doingoi/ns140217213857).

and the assertiveness of China in the long dispute in the South China Sea. The publication of the new Defence White Paper (DWP) in November shed light on how Hanoi intends to tackle these problems. In the next paragraphs, first the characteristics of the new Defence White Paper and, then, the complicated relations with China and the US are analysed.

### *3.1. The new Defence White Paper and the complicated relationship with China*

In a ceremony led by Deputy Defence Minister Nguyen Chi Vinh, on 25 November 2019, the government released its 4<sup>th</sup> Defence White Paper.<sup>59</sup> Since 1998, when the first DWP was released (the second in 2004 and the third in 2009), Vietnam's defence priorities have profoundly changed.

In the late Nineties, following the fall of the Berlin Wall and the collapse of the USSR, Vietnam had to necessarily avoid isolation. Its process of regional and international integration was successful. As a consequence, Vietnam's security perspective and the list of threats also changed. According to Nguyen Tung Vu, as soon as external threats ceased, poverty and economic backwardness, as well as corruption, inefficiency, and red-tape, directly challenged the legitimacy of the VCP leadership.<sup>60</sup>

In the first decade of the century, when economic progress made it possible to alleviate poverty and backwardness, the VCP initiated a new policy in the international arena, aimed at strengthening its legitimacy through proactive multilateralism. This approach allowed the VCP to achieve several goals, which among others included the internationalisation of the Spratlys and Paracels conflict with China. Still within this framework, Hanoi has strengthened relations with Washington, becoming a reliable partner of the US Free and Open Indo-Pacific (FOIP) strategy.

It is probable that through its 2019 DWP, Vietnam wanted to highlight its strengthened autonomy within the FOIP, although without renouncing the benefits of China's Belt and Road Initiative (BRI) and India's Act East policy. Its strategic doctrine is based on the core pillars of self-reliance and resilience (epitomised by the «three noes»: NO military alliance, NO alignments with one country against another, NO foreign military basis), and emphasises the peaceful settlement of all disputes as a main national goal. Moreover, in the 2019 DWP there appears both a fourth no (NO using force or threatening to use force in international relations) and a further, «depending-on-circumstances» policy. This latest policy – which is enunciated in the statement: «depending on circumstances and specific conditions, Viet-

59. The Socialist Republic of Viet Nam, Ministry of National Defence, *2019 Defence National Defence*, ST National Political Publishing House. The full document is available on the Ministry of Defence website: <http://www.mod.gov.vn>.

60. Nguyen Tung Vu, 'Vietnam's Security Challenges: Hanoi's New Approach to National Security and Implications to Defense and Foreign Policies', *Asia Pacific Countries' Security Outlook and Its Implications for the Defense Sector*, (NIDS Joint Research Series No. 5), Tokyo: The National Institute of Defense Studies, 2010.

nam will consider developing necessary, appropriate defence and military relations with other countries»<sup>61</sup> – does not allow an easy and clear interpretation.

In fact, the «depending on circumstances» principle appears enigmatic enough to prompt different interpretations. Derek Grossman (RAND Corporation), Christopher Sharman (Stanford University), Bill Hayton (Chatham House) have maintained that it can be interpreted univocally as a clear «warning to China».<sup>62</sup> This interpretation is reinforced by the fact that the DWP quotes China eight times and, in three cases, it does so negatively, in relation to Beijing's destabilising behaviour in the South China Sea, as when the DWP states: «Divergences between Viet Nam and China regarding sovereignty in the East Sea [sic] are of historical existence, which needs to be settled with precaution, avoiding negative impacts on general peace, friendship, and cooperation for development between the two countries».<sup>63</sup>

Within these interpretations, some important elements are not taken into consideration and, therefore, defining the new DWP as a «warning to China» seems inappropriate. The two countries are well aware of each other's national strategies and of the real capacities to implement them beyond their respective DWPs. Beijing remembers that, historically, Vietnam has always strongly opposed any expansionist attempts towards the south.<sup>64</sup> For its part, Vietnam is aware of China's national strategy, aimed at strengthening its role of hegemonic superpower, and knows the weight which the Exclusive Economic Zones (EEZ) carry for China. Hanoi's China strategy, which takes all the above elements into consideration, has always been the continuance of appeasement towards China, even after the 2014 crisis,<sup>65</sup> aimed at strengthening diplomatic ties with Beijing. At the same time, Vietnam has involved the international community in the South China Sea, while avoiding recourse to an arbitral tribunal, as The Philippines did in 2013. Finally, at regional level, Hanoi has urged ASEAN to amend the Code of Conduct (COC) in the South China Sea.

Throughout 2019, China and the ASEAN countries actively advanced consultations on the COC, forecasting that the code will be completed by 2021. During the 22<sup>nd</sup> ASEAN – China Summit in Bangkok, Li Keqiang, the

61. The Socialist Republic of Viet Nam, Ministry of National Defence, *2019 Viet Nam National Defence*, ST National Political Publishing House, p. 24.

62. 'Sách trắng Quốc phòng 2019 của VN «cảnh báo Trung Quốc»' (Vietnam's Defence White Paper 2019 «warns China»), *BBC News Tiếng Việt*, 29 November 2019.

63. The Socialist Republic of Viet Nam, Ministry of National Defence, *2019 Defence National Defence*, ST National Political Publishing House, p. 24.

64. Hong-Kong T. Nguyen, Quan-Hoang Vuong, Manh-Tung Ho & Thu-Trang Vuong, 'The «same bed, different dreams» of Vietnam and China: How (mis)trust could make or break it', *TTU-ISR*, Working Paper 1802, Version #1: 26, May 2018.

65. In 2014 China decided to plant a giant oil rig in Vietnam's exclusive economic zone, sparking a major crisis in bilateral relations.

premier of the Chinese State Council stated: «We stand ready to work with Asean countries building on the existing foundation and basis to strive for new progress in the [code of conduct], according to the three-year time frame, so as to maintain and uphold long term peace in the South China Sea.»<sup>66</sup>

It is worth noting that Hanoi published its DWP on 25 November, four months after Beijing. Therefore, it is easy to think that each word has been weighted in order not to affect the diplomatic results that have been pursued for years. In particular, concerning the seas policy, the Chinese DWP stated that:

China's armed forces defend important waters, islands and reefs in the East China Sea, the South China Sea and the Yellow Sea, acquire full situation awareness of adjacent waters, conduct joint rights protection and law enforcement operations, properly handle maritime and air situations, and resolutely respond to security threats, infringements, and provocations on the sea.<sup>67</sup>

Although the Chinese objective to defend itself from any sort of threat is much more explicit than the enigmatic Vietnamese DWP («depending on circumstances»), Beijing did not dedicate more than a few lines to this matter.

Secondly, the Vietnamese national strategy is preserving and promoting pacifist and humanist values. The recent social reforms, in compliance with international principles, or the peacekeeping intervention in South Sudan, are clear signs of the VCP's international political line. A warning to China, at that moment, would have been an obvious contradiction, having repeatedly pronounced on the refusal to use or threaten the use of force in order to settle disputes.

Thirdly, the Hanoi multilateral policy has made it possible to build strong relations with the US and the constellation of US allies in the Pacific, including India, Japan, and Australia. Although Vietnam and the US are not formal allies, military cooperation has also been further confirmed by the three-day visit of US Defense Secretary Mark Esper (19-21 November 2019). Esper told the audience at the Diplomatic Academy of Vietnam: «We will not accept attempts to assert unlawful maritime claims at the expense of law-abiding nations».<sup>68</sup>

It is relevant that, in this constellation of good relations, Russia is also present. In 2018, a military cooperation roadmap between Russia and Viet-

66. 'Beijing pledges «long term peace» in the South China Sea where its Asean neighbours also stake claims', *South China Morning Post*, 3 November 2019.

67. The People's Republic of China, The State Council Information Office, *China's National Defense in the New Era*, July 2019, p. 11. Full text is available in Chinese and English on Chinese Government web site [www.english.gov.cn](http://www.english.gov.cn)

68. 'US Defense Secretary Highlights Vietnam as Partner Against Chinese Influence', *The Diplomat*, 21 November 2019.

nam covering the period of 2018-2020 was signed, and in 2019 both agreed to accelerate the signing of documents to enhance cooperation, comprising the joint vision on defence cooperation during 2019-2023.<sup>69</sup> In this regard, it is important to note that a Russian-state company has been working with Hanoi since 2018, to expand gas development projects in Vietnam's exclusive economic zone, including drilling two new wells in the area falling within China's self-proclaimed nine-dash line.<sup>70</sup> This does not mean that behind the cooperation between Vietnamese and Russian oil companies there is an attempt to directly involve Russia in the South China Sea controversy, as Bennett Murray claimed.<sup>71</sup> Bearing in mind that Moscow does not appear to have any interest in being involved in controversies in this region, it is more likely – as argued by Alexander Korolev – that Putin, by supporting China, Vietnam, and the Philippines, aims to act as a facilitator among the contenders.<sup>72</sup>

Based on these elements, Vietnam's goal seems once again to refer to international law to resolve conflicts. According to the Vietnamese DWP:

ASEAN and China have adopted a framework for a Code of Conduct (COC) in the South China Sea and are actively working on COC contents with a view to institutionalising commitments of parties to peace and stability in the East Sea, facilitating the management and resolution of disputes through peaceful means based on international law [...].<sup>73</sup>

The document clearly distinguishes between countries that observe international codes and those that (the reference is to China) do not.

Nguyen The Phuong, a researcher at Vietnam National University Ho Chi Minh City, proposed a further different and interesting interpretation of the enigmatic phrase in the DWP. *One-depend*, argued this analyst, «officially and significantly expands the spectrum of strategic choices by giving the military more room to maneuver, especially in handling its relationships with Western militaries.»<sup>74</sup> However, the lack of sources shedding light on

69. 'Vietnam, Russia foster defence cooperation', *Nhân Dân*, 16 August 2019.

70. Huong Le Thu & Sunny Cao, 'Russia's growing interests in the South China Sea', *The Strategist*, 18 December 2019.

71. Bennett Murray, 'Vietnam's Strange Ally in Its Fight With China', *Foreign Policy*, 1 August 2019.

72. Alexander Korolev, 'Russia in the South China Sea: Balancing and Hedging', *Foreign Policy Analysis*, Vol. 15 (2), April 2019.

73. The Socialist Republic of Viet Nam, Ministry of National Defence, *2019 Viet Nam National Defence*, ST National Political Publishing House, p. 12. Also available at [http://news.chinhphu.vn/Uploaded\\_VGP/phamvanthua/20191220/2019VietnamNationalDefence.pdf](http://news.chinhphu.vn/Uploaded_VGP/phamvanthua/20191220/2019VietnamNationalDefence.pdf).

74. Nguyen The Phuong, 'Vietnam's 2019 Defense White Paper: Preparing for a Fragile Future', *Asia Maritime Transparency Initiative*, 17 December 2019.

the internal dynamics inside the Vietnamese armed forces makes any conclusion tentative.

### 3.2. *The ignited South China Sea controversy*

If relations between Vietnam and China during 2019 were to be assessed only with reference to the tensions in the South China Sea, they could not but appear difficult. Nonetheless, the increasing interdependence between the two countries, especially in economic terms, sheds a different and more positive light on them. For almost ten years, China has been among the top ten sources of foreign investment in Vietnam. From January to November 2019, FDI from China increased 1.65-fold reaching US\$ 2.28 billion.<sup>75</sup> Moreover, Hong Kong ranked second among FDI investors in Vietnam, with a total registered investment capital of US\$ 7.87 bn.<sup>76</sup>

Perceptibly, the controversy surrounding the South China Sea puts the two countries in an ambiguous position. On the one hand the Vietnamese are alarmed by China's expansionist activities; on the other, Beijing aims at strengthening the «comprehensive strategic partnership» signed in 2013 with Hanoi and is sending positive messages for the peaceful resolution of the South China Sea dispute.<sup>77</sup> In 2018, during the 21st China-ASEAN Summit in Commemoration of the 15<sup>th</sup> Anniversary of China-ASEAN Strategic Partnership, China's Prime Minister Li Keqiang stated:

China is ready to work with ASEAN countries toward concluding the Code of Conduct (COC) consultations in three years based on consensus. Greater stability in the South China Sea will be conducive to the peace and development of East Asia as a whole.<sup>78</sup>

In spite of Li's conciliatory statement, in 2019 the South China Sea situation became more tense. In July, a Chinese Geological Survey ship accompanied by several escorts including China Coast Guard (CCG) ships, entered Vietnam's exclusive economic zone (EEZ) for seismic surveying in waters near Vanguard Bank (*bãi ngầm Tư Chính*).<sup>79</sup> Hanoi responded by sending a small number of Vietnam Coast Guard (VCG) ships and other vessels to monitor the situation, demanding that China immediately cease

75. 'Chinese investment in Vietnam surges', *VnExpress*, 3 December 2019.

76. The Socialist Republic of Vietnam, Ministry of Planning & Investment, *Brief on foreign direct investment of 2019*.

77. See i.e. the report of the last meeting held in Vietnam in December 2019 between the Vietnamese Foreign Minister and the large Chinese diplomatic group released by the Vietnamese Army newspaper: 'Vietnam, China continue boosting comprehensive strategic partnership', *People's Army Newspaper*, 29 December 2019.

78. 'Full text of Chinese Premier Li Keqiang's speech at China-ASEAN Summit', *Xinhua*, 15 November 2018.

79. Carlyle A. Thayer, 'A Difficult Summer in the South China Sea', *The Diplomat*, 1 November 2019.

its serious violations, withdraw all its vessels from Vietnam's maritime zones and desist from repeating similar violations.<sup>80</sup>

The Vietnamese government tried to involve the international community, but the solidarity it received was very limited. Concern was raised by Japan<sup>81</sup> and Australian Prime Minister Scott Morrison, during his first visit in Vietnam, who, however, did not explicitly condemn Beijing's actions.<sup>82</sup> The United States did not go beyond complaining that China was using «bullying tactics» towards Vietnam.<sup>83</sup> Nonetheless, the gift of a second US Coast Guard's old patrol cutter was clearly aimed at boosting Vietnam's ability to withstand the pressure of the Chinese Coast Guard.<sup>84</sup> But it certainly does not resolve the issue.

Hanoi's reactions to the latest Chinese exhibition of arrogance have been firm but never threatening. The Vietnamese line has always been one of firmly referencing international law, while maintaining, in all circumstances, a low profile. As pointed out by Vietnamese Prime Minister Nguyễn Xuân Phúc, in a speech delivered to the National Assembly: «What happened in the East Sea recently was getting very complicated, including serious violations in Vietnam's sea recognized by international law [...]. We will keep fighting in means in line [*sic*] with international law».<sup>85</sup>

For his part, Vietnamese Foreign Ministry Spokesperson Lê Thị Thu Hằng reiterated «that the Vanguard Bank lies completely within Vietnam's EEZ and continental shelf, as delineated from the Vietnamese shore in accordance with the United Conventions on the Law of the Seas (UNCLOS) 1982, and that the Vanguard Bank is not a disputed area or with overlapping claims.»<sup>86</sup>

### 3.3. *The ambiguous relationship with the US*

The trade war between the US and China, started in 2018, led many foreign companies operating in China, including the US ones, to move

80. 'Biển Đông: VN yêu cầu TQ rút tàu và «không đe dọa hòa bình»' (South China Sea: Vietnam requires China to withdraw ships and «not threaten peace»), *BBC News Tiếng Việt*, 22 August 2019.

81. 'Japanese FM stresses need of upholding law in East Sea', *Việt Nam News*, 28 August 2019.

82. 'Lãnh đạo Việt Nam và Úc nêu quan ngại về căng thẳng Biển Đông' (Vietnamese and Australian leaders raised concerns about East Sea tensions), *BBC News Tiếng Việt*, 23 August 2019.

83. 'Pentagon accuses China of «bullying tactics» in waters off Vietnam', *Reuters*, 26 August 2019.

84. 'U.S. to provide ship to Vietnam to boost South China Sea patrols', *Reuters*, 20 November 2019.

85. 'Việt Nam never concedes in sovereignty matters: PM', *Việt Nam News*, 22 October 2019.

86. 'Việt Nam's Vanguard Bank is not a disputed zone: foreign ministry', *Việt Nam News*, 4 October 2019.

their manufacturing to other Southeast Asian countries, comprising Vietnam.<sup>87</sup> This process had direct repercussions during 2019, and two in particular were the most conspicuous. The first was the increase in exports from Vietnam to the US, mainly owing to the re-export of many Chinese products that receive «made in Vietnam» labelling and the replacement of Chinese products with Vietnamese ones. According to the US Census Bureau (Jan-Apr), US Imports from Vietnam have surged by 38% with a total of US\$ 20.7 billion products compared to the same period in 2018. At the same time, US imports from China decreased by 12.8%.<sup>88</sup>

The second repercussion of the US-China trade war was the relocation of Chinese companies and Chinese FDI to Vietnam.<sup>89</sup>

Both these elements led to a trade surplus with the US – on track to reach US\$ 50 billion in 2019.<sup>90</sup> Nonetheless, the commercial maneuvers of Southeast Asia countries to bypass higher US tariffs did not pass unnoticed by the Trump administration. In June, the President himself described Vietnam as «almost the single-worst abuser of everybody».<sup>91</sup> Words were soon followed by deeds. The US Commerce Department imposed duties of more than 400% on steel imports from Vietnam.<sup>92</sup>

Through the imposition of trade sanctions and threat of further commercial retaliation aimed at Hanoi, Trump achieved two results:

Increasing imports of goods from the US to Vietnam;<sup>93</sup>

Obtaining Hanoi's consent to ban Huawei, the giant Chinese multinational technology company, from supplying 5G telecoms equipment to Vietnam.<sup>94</sup>

The rise in the import of goods from the US did not create as much clamour as the Huawei ban. In August, state-run Vietnam National

87. 'Apple assembler Foxconn considering iPhone factory in Vietnam – state media', *Reuters*, 4 December 2018; 'Apple weighs 15%-30% capacity shift out of China amid trade war', *Nikkei Asian Review*, 19 Jun 2019.

88. See the figures at US Trade Census Bureau website: <https://www.census.gov/foreign-trade/balance/c5520.html>.

89. 'Vietnam seems to pick up more windfalls from US-China trade war', *Global Times*, 7 July 2019; 'Vietnam can hardly be «winner» of trade war', *Global Times*, 31 July 2019; 'Manufacturers Want to Quit China for Vietnam. They're Finding It Impossible', *The Wall Street Journal*, 21 August 2019; 'Vietnam gains ground in shift from China', *Financial Times*, 17 September 2019.

90. 'Trump's targeting of Vietnam is misguided', *Financial Times*, 16 September 2019.

91. 'Vietnam Moves to Ease U.S. Tension With Trade, FX Monitoring', *Bloomberg.com*, 7 May 2019.

92. 'US slaps import duties of more than 400 per cent on Vietnamese steel to prevent companies exploiting loophole', *South China Morning Post*, 3 July 2019.

93. 'Vietnam's US\$5b plan to neutralise Trump's tariff threats', *The Business Times*, 25 September 2019.

94. 'Trump's targeting of Vietnam is misguided', *The Financial Times*, 16 September 2019.

Coal-Mineral Industries announced it was negotiating to buy US coal, for the first time, from Xcoal Energy & Resources LLC. This is a company based in Pennsylvania, namely a state expected to play a pivotal role in the 2020 presidential election and where Trump won in 2016.<sup>95</sup> In September, news circulated of the fast-tracking by the Vietnamese government of a US\$ 5 billion liquefied natural gas project in the southern Binh Thuan province, aimed at building an import terminal gas-fired power plant, which would eventually import billions of dollars of US fuel into the country.<sup>96</sup> Moreover, during Trump's visit to Hanoi to meet North Korean leader Kim Jong-Un, Vietnam's Bamboo Airways and VietJet Aviation JSC signed agreements to purchase 110 Boeing jets. State-owned Vietnam Airlines JSC said it was considering an order for 50-100 Boeing 737 Maxs.<sup>97</sup> Last but not least, the Ho Chi Minh City municipality worked with US meat suppliers to help fill an estimated 500,000-tonne pork shortage – valued at US\$ 1.29 billion – caused by a swine fever epidemic that had reduced Vietnam's pig population.<sup>98</sup>

With regards to the 5G technology in Vietnam and the supposed ban on Huawei, there has been a great deal of emphasis from the Western press, used by the Trump administration to discredit China and Huawei. The Western press highlighted that the Hanoi government shunned Huawei in order to align with Trump's wishes or, in different interpretations, as retaliation by Vietnam against China.<sup>99</sup> Actually, according to the CEO of Viettel (Viettel Group, Vietnam's largest mobile carrier owned by the defence ministry), Vietnam has been working for years on the autonomous development of 5G technologies, using Nokia and Ericsson equipment.<sup>100</sup> Viettel's CEO said: «We decided not to use Huawei, not because of the US ban on Huawei – we just made our own decision. Many other countries, including the US, have found evidence that showed using Huawei is not safe for the security of the national network. So we need to be more cautious.»<sup>101</sup> With this project, Viettel is the sixth manufacturer in the world to develop 5G.

95. 'Vietnam's US\$5b plan to neutralise Trump's tariff threats', *The Business Times*, 25 September 2019.

96. *Ibid.*

97. *Ibid.*

98. 'Big pork shortage looms over Việt Nam', *Việt Nam News*, 1 July 2019.

99. 'Is Huawei a Security Threat? Vietnam Isn't Taking Any Chances', *The New York Times*, 18 July 2019. 'Vietnam can't cut China industry links over 5G issue', *Global Times*, 28 August 2019.

100. 'Vietnam shuns Huawei as it seeks to build Southeast Asia's first 5G network', *South China Morning Post*, 28 August 2019.

101. 'Huawei might be excluded from Vietnam's mobile networks', *International Finance*, 27 August 2019.

#### 4. *The economic resilience*

During 2019, the macroeconomic data were extremely positive, above all thanks to the consequences of the commercial war between the US and China, which contributed to increasing exports and FDI. According to General Statistics Office of Vietnam, the country's exports amounted to more than US\$ 217 billion in the first 10 months of 2019, with a year-on-year increase of 7.4%, and, during the same period, imports neared US\$ 210 billion, a year-on-year increase of 7.8%.<sup>102</sup> At the end of 2019, Vietnam's trade surplus was US\$ 11.12 billion, compared to a US\$ 6.8 billion surplus in 2018. In the first five months of the year, Vietnam also drew FDI worth \$16.74 bn, the highest in the period since 2015.<sup>103</sup> Throughout the entire year of 2019, FDI into Vietnam reached US\$ 20.38 billion, a 6.7% rise compared to US\$ 19.10 billion in 2018.<sup>104</sup>

While the FDI offers the possibility of supporting GDP growth (in 2019 estimated by 6.8%, after the record 7.1% in 2018) and strengthening the export-led model, at the same time it contributes to the persistence of some critical issues concerning labour and the educational system. FDI is mainly oriented towards labour-intensive sectors, requiring unskilled or low skilled workers. The textile and garment industry, just to give an example, is striving to achieve an export turnover of more than US\$ 40 billion in 2019, a year-on-year increase of 14-15%. According to Lam Thanh Ha, Chinese FDI still had either low technology content or used outdated technology, at the same Vietnamese level. In this way, rising competition between Chinese and Vietnamese companies produced a huge negative impact on the latter.<sup>105</sup>

For these reasons, replication of this development model stalled the government's desire to invest in Industrial Revolution 4.0.<sup>106</sup> Vietnam failed to attract foreign investment in high-tech, advanced technologies, environmentally-friendly practices, clean and renewable energy, advanced medical equipment, and health care services.

102. 'Vietnam's export rises 7.4 pct in 10 months', *Xinhua*, 29 October 2019.

103. 'Vietnam attracts record FDI', *VNExpress*, 27 May 2019.

104. *Ibid.*

105. Lam Thanh Ha, 'Chinese FDI in Vietnam: Trends, Status and Challenges', *Perspective*, ISEAS – Yusof Ishak Institute, 24 April 2019.

106. The debates on Industry 4.0 in recent years have multiplied and deepened, thanks to the stimuli of various stakeholders, public and private. Among other documents, the *Summary of Viet Nam Industry White Paper 2019, Manufacturing and Sub-sector Competitiveness*, edited by Vietnamese Ministry of trade and industry and United Nations Development Organisation in partnership with The Republic of Korea.