



FAIR LABOR  
ASSOCIATION



# LABOR IN TRANS-PACIFIC PARTNERSHIP THE CASE OF VIETNAM

HA DANG  
FLA VIETNAM

# **CONTENT**

- A. Labor concerns in TPP docking process**
- B. The tricky part – Freedom of Association**
- C. Understanding of Labor Policy Development in Vietnam – Implications for TPP labor-related options menu**



# LABOR IN TPP – WHY DO YOU CARE?

## *Linkage between Labor and Trade*

- Corporate Social Responsibility tasks?
- Cheap Labor Cost in Vietnam?
- Human Resource Management issues?
- Tackling labor disputes in form of wildcat strikes?
- Regulating and Transparent Labor Markets?
- Higher Productivity and Margin?
- More?

# ASK YOURSELF FIRST!!!

**YOU SAY**

**YOUR COMPLIANCE**

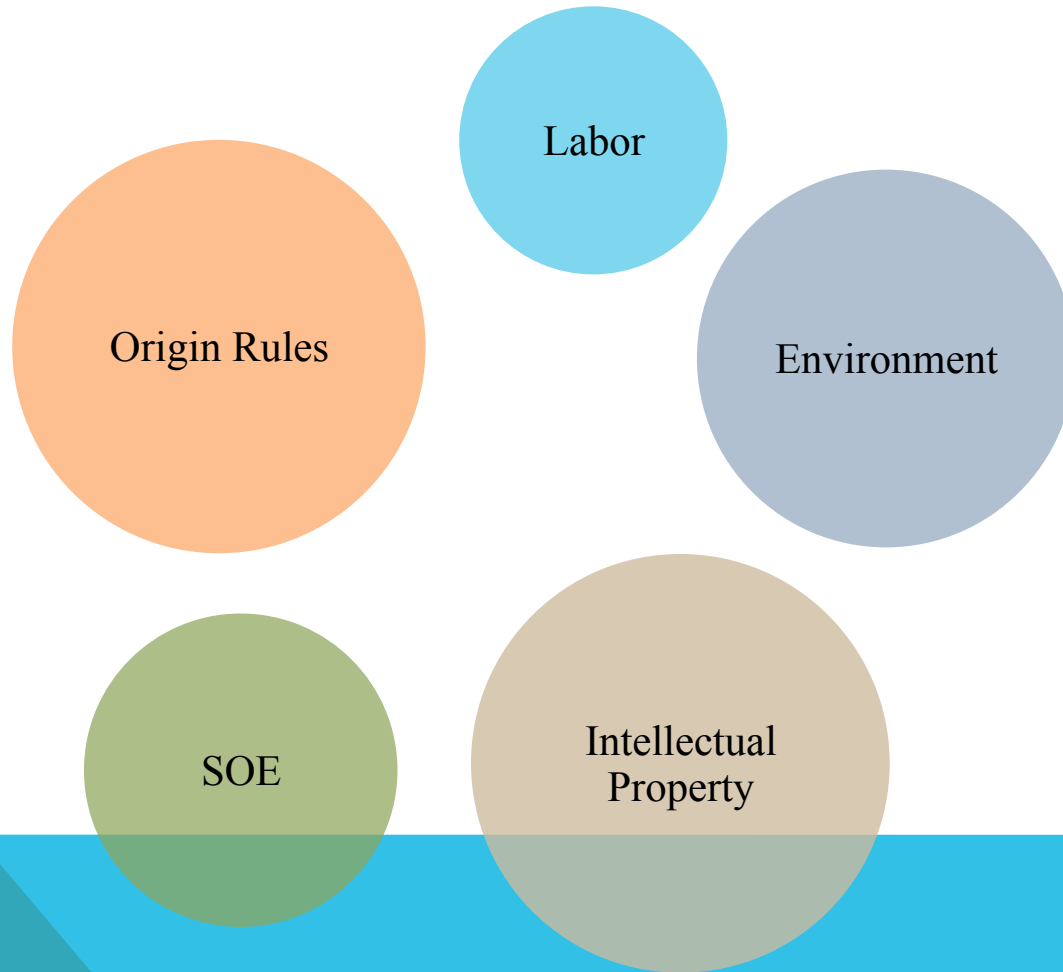
**YOU NEED**

**YOUR RISK MANAGEMENT**

**YOU HAVE TO HAVE**

**YOUR HIGHER MARGIN**

# LABOR AS ONE OF THE HIGHLY SENSITIVE ISSUES



# LABOR CONCERNS IN TPP DOCKING PROCESS

Vietnam must adopt and maintain the rights for

- freedom of association;
- the effective recognition of the right to collective bargaining;
- the elimination of all forms of compulsory or forced labour;
- the effective abolition of child labour and a prohibition on the worst forms of child labour; and
- the elimination of discrimination in respect of employment and occupation.



... in statutes, regulations and PRACTICES ...



# LABOR CONCERNS IN TPP DOCKING PROCESS

- APPLICATION AND ENFORCEMENT OF LABOR LAWS
  - Resources to labor inspection
  - Fines and sanctions to those responsible for the export/import of goods produced by Compulsory or Forced Labor or Child Labor in its Worst Forms
- INSTITUTIONAL ARRANGEMENTS
  - Establishment of National Labor Advisory Committee
- LABOR COOPERATION
  - Establishment of Labor Cooperation Mechanism
- LABOR CONSULTATIONS
  - Establishment of National Labor Contact Point



# VIETNAM'S ILO CONVENTION RATIFICATIONS

	Labor requirements in TPP	Vietnam's Labor laws and regulations
1	Recognition of obligations as ILO member	Article 6, Vietnamese Law on International Treaty 2005
2	Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87)	Not ratified yet
3	Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	Not ratified yet
4	Forced or Compulsory Labor Convention, 1930 (No. 29)	Ratified
5	Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No.182)	Ratified Convention No. <b>182</b> and Convention No. <b>138</b> concerning Minimum Age for Admission to Employment
6	Discrimination Convention, 1958 (No. 111) concerning Discrimination in Respect of Employment and Occupation	Ratified Convention No. <b>111</b> and Convention No. <b>100</b> on Equal Remuneration Convention, 1951

# FREEDOM OF ASSOCIATION

CONVENTION No. 87

FREEDOM OF ASSOCIATION AND PROTECTION OF THE  
RIGHT TO ORGANIZE (1948)

Workers and employers, without distinction whatsoever,  
shall have the right...

- To establish and to join organizations of their own choosing;
- To draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and formulate their activities;
- to establish and join federations and confederations and any such organisation

# FREEDOM OF ASSOCIATION

## THE PUBLIC AUTHORITIES (GOVERNMENTS)....

... give effect to the FOA provisions

... refrain from any interference restricting the right or impede the lawful exercises

... undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organize.

THE LAW OF THE LAND and its application shall not impair the protection of the right

The acquisition of legal personality by workers' and employers' organisations, federations and confederations shall restrict the application of the Convention

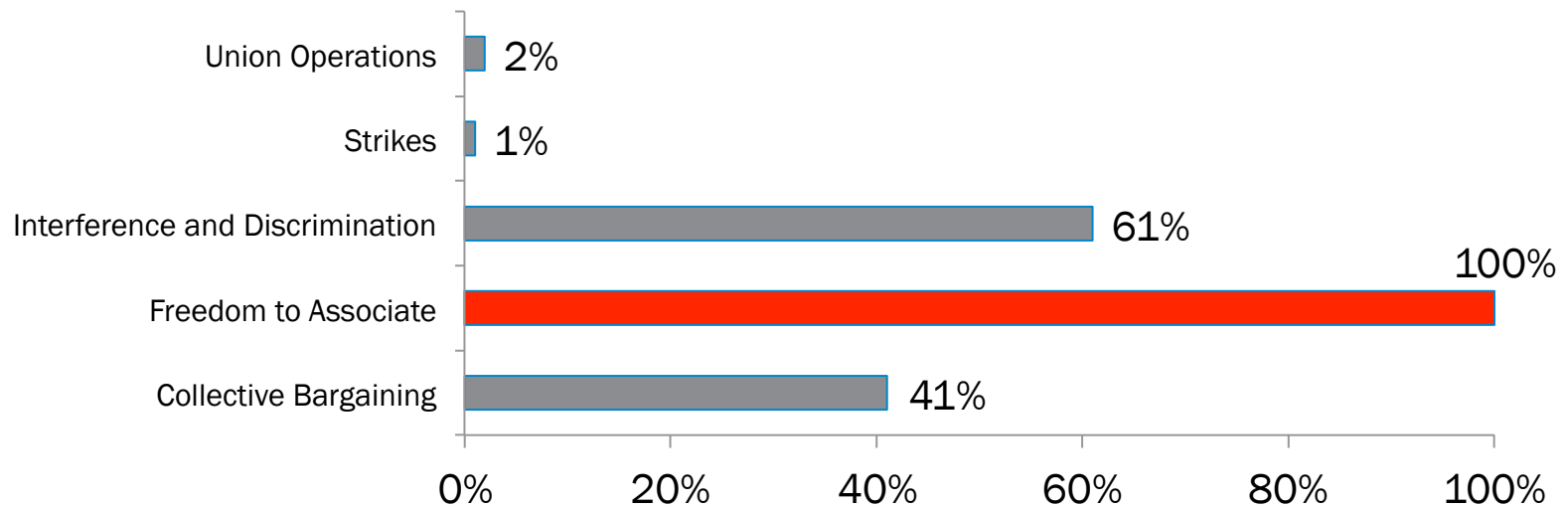
# FREEDOM OF ASSOCIATION IN VIETNAM



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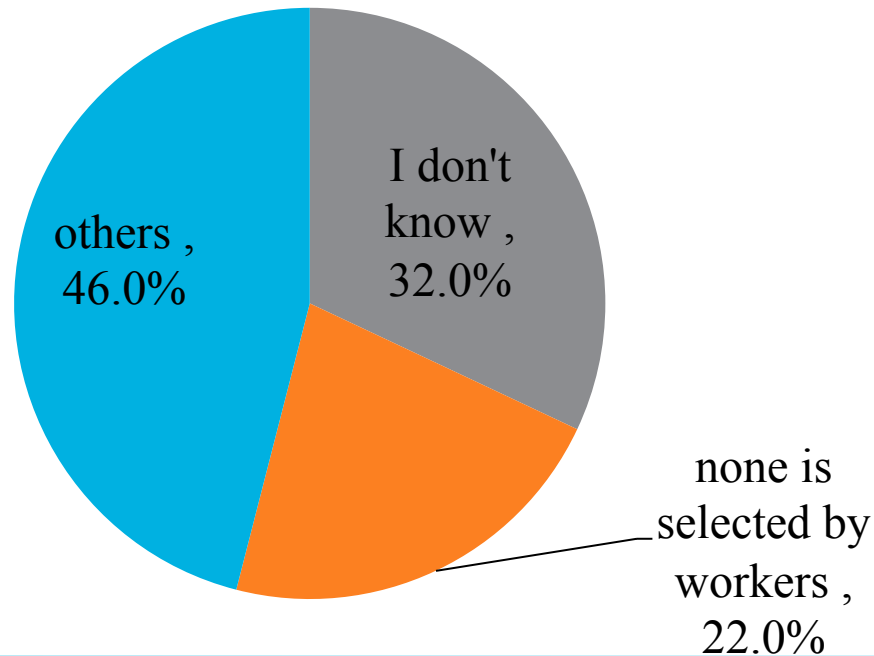
## NON-COMPLIANCE TO FREEDOM OF ASSOCIATION

Synthesis Report by



# FREEDOM OF ASSOCIATION IN VIETNAM

## How trade union members are selected?



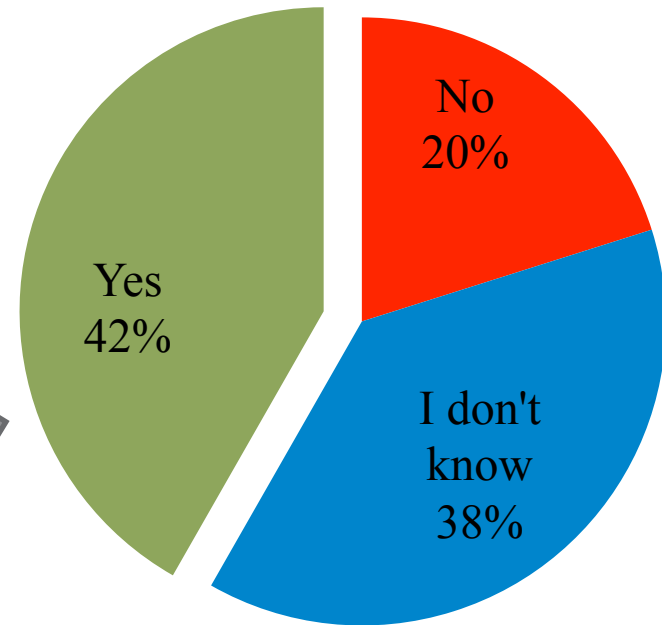
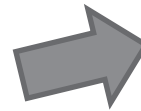
# FREEDOM OF ASSOCIATION IN VIETNAM

## 1/ Collective Bargaining Agreement

- 57% know there is one at their factory
- 37% don't know what it is

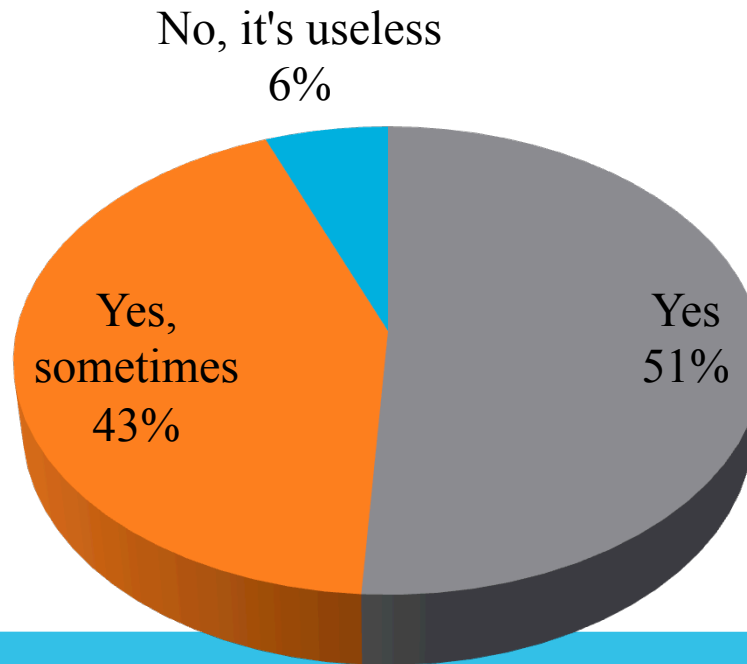
## 2/ Trade Union

- 88% are aware of the existence of Trade Union
- Does the trade union/workers' committee provide any kind of assistance on wage related issues?



# FREEDOM OF ASSOCIATION IN VIETNAM

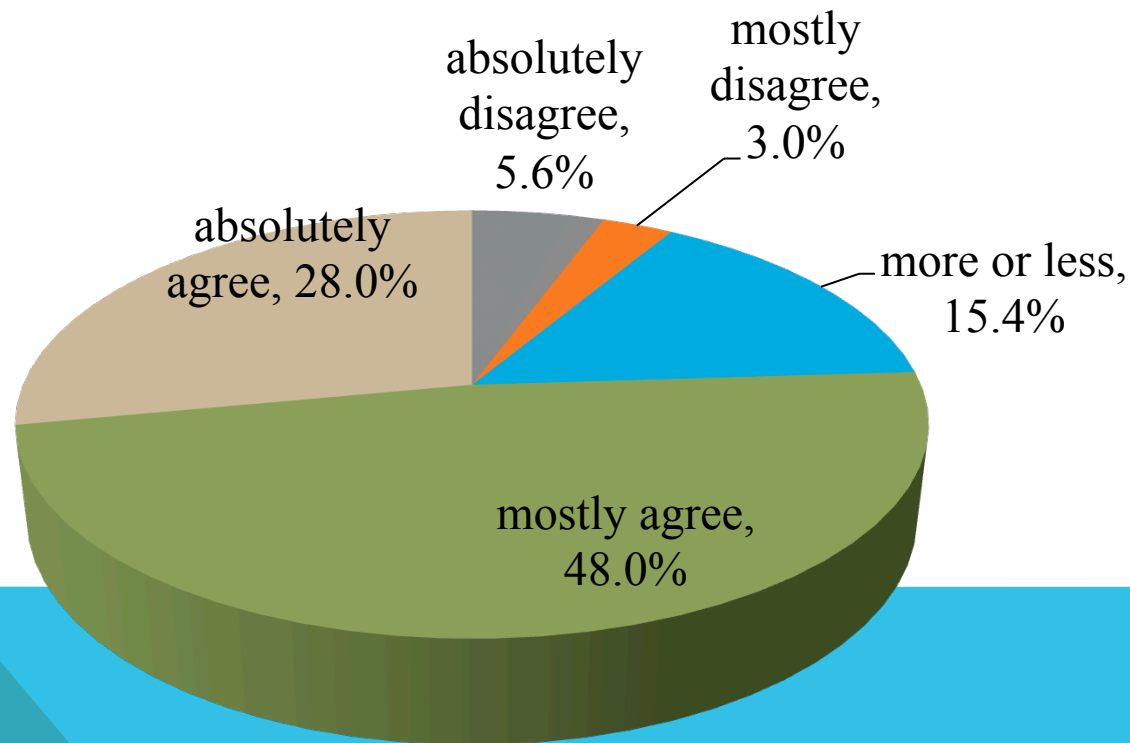
**Do you think talking to worker representatives is an effective channel to solve the problems?**





# FREEDOM OF ASSOCIATION IN VIETNAM

**Is collective voice more effective than individual one?**

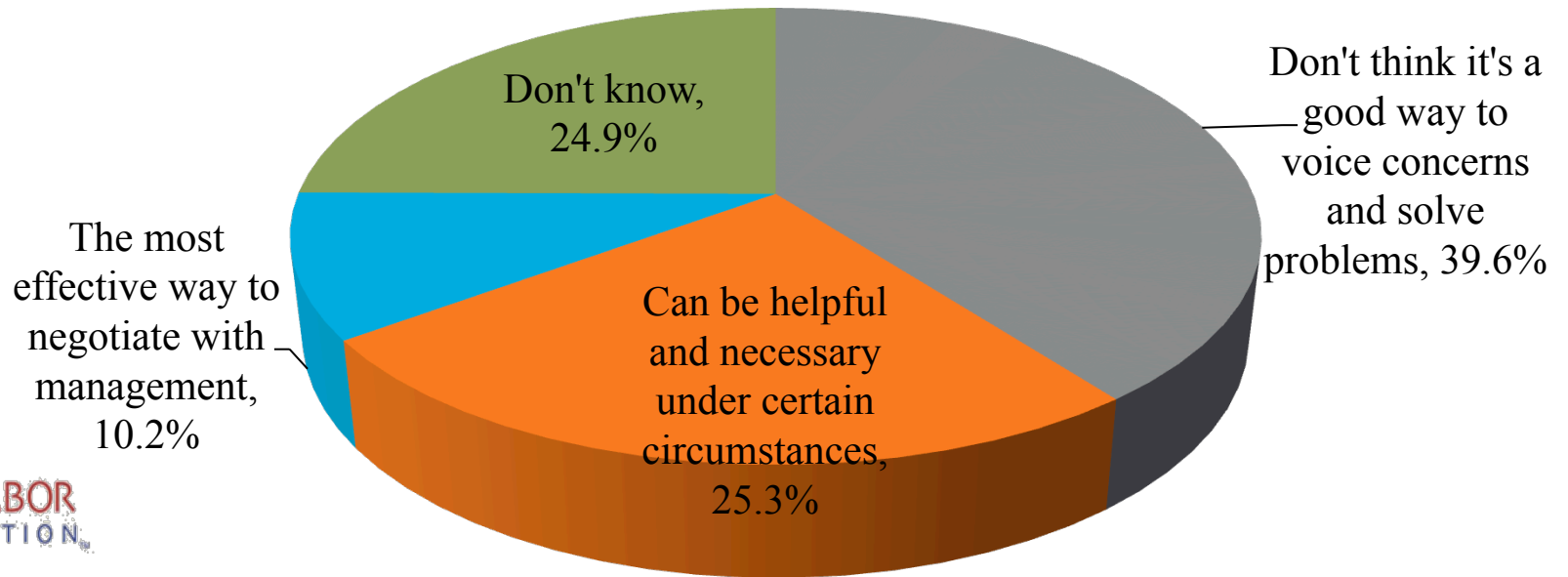


*Worker Survey Results in 31 factories participating FLA 3.0 Project*



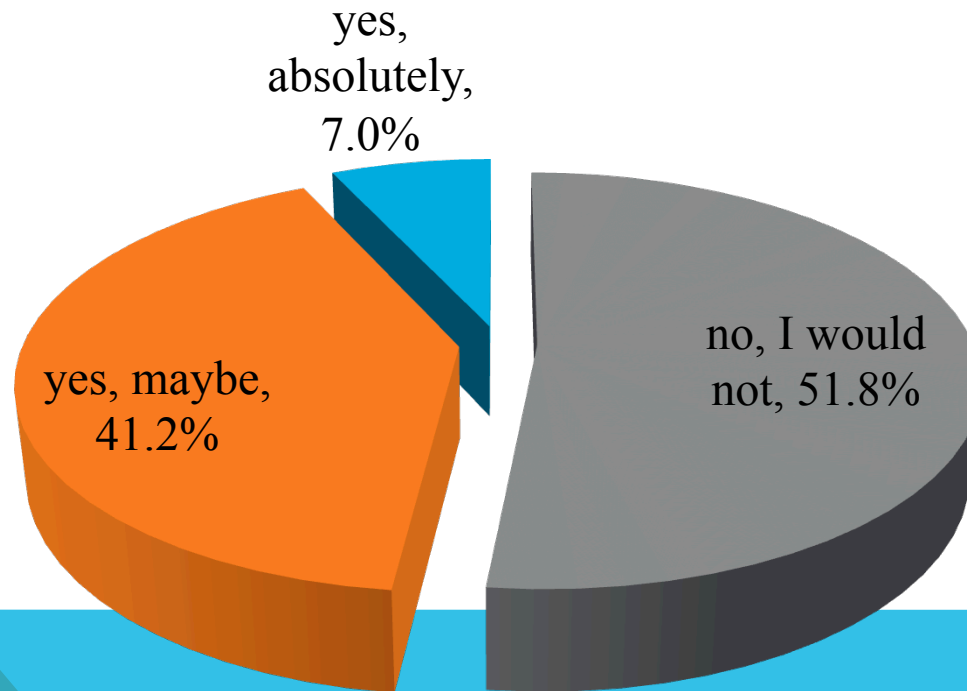
# FREEDOM OF ASSOCIATION IN VIETNAM

## Workers' opinion on strike in general?



# FREEDOM OF ASSOCIATION IN VIETNAM

**Would you participate if there is a strike in your factory?**



# SCOPE (SUSTAINABLE COMPLIANCE WORKERS' SURVEY)

## Conducting Survey:

- 150-200 workers per factory are chosen randomly from factory's worker list
- The surveyed workers represent 95% remained workers

**Focused group discussion/  
Intensive interview/  
Observation**

- ✓ Workers' genuine opinions
- ✓ Management's confidence
- ✗ Workers are trained to deal with the survey in advance

Size of population (total work force)	Sample Size		
	Good (error range +/- 5%)	O.K. (error range +/- 7%)	Minimum (error range +/- 10%)
< 500 workers	217	141	81
1,000 workers	278	164	85
1,500 workers	306	173	90
2,000 workers	322	179	92
5,000 workers	357	189	94
10,000 workers	370	192	95
>20,000 workers	377	194	96

*\* The table above is calculated on the assumption of a confidence level of 95%. This means that there is a 95% chances of the result falling within the error range (confidence interval).*

# SCAT (FLA SUSTAINABLE COMPLIANCE SELF-ASSESSMENT TOOLS)

## Assessment:

- Factory management fills in the questionnaires on FLA Assessment Portal
- FLA specialists interview factory management on-site
- FLA specialists review factory's related documents
- Factory management contacts to Project at any time for supplementary information



Factory management's genuine opinions



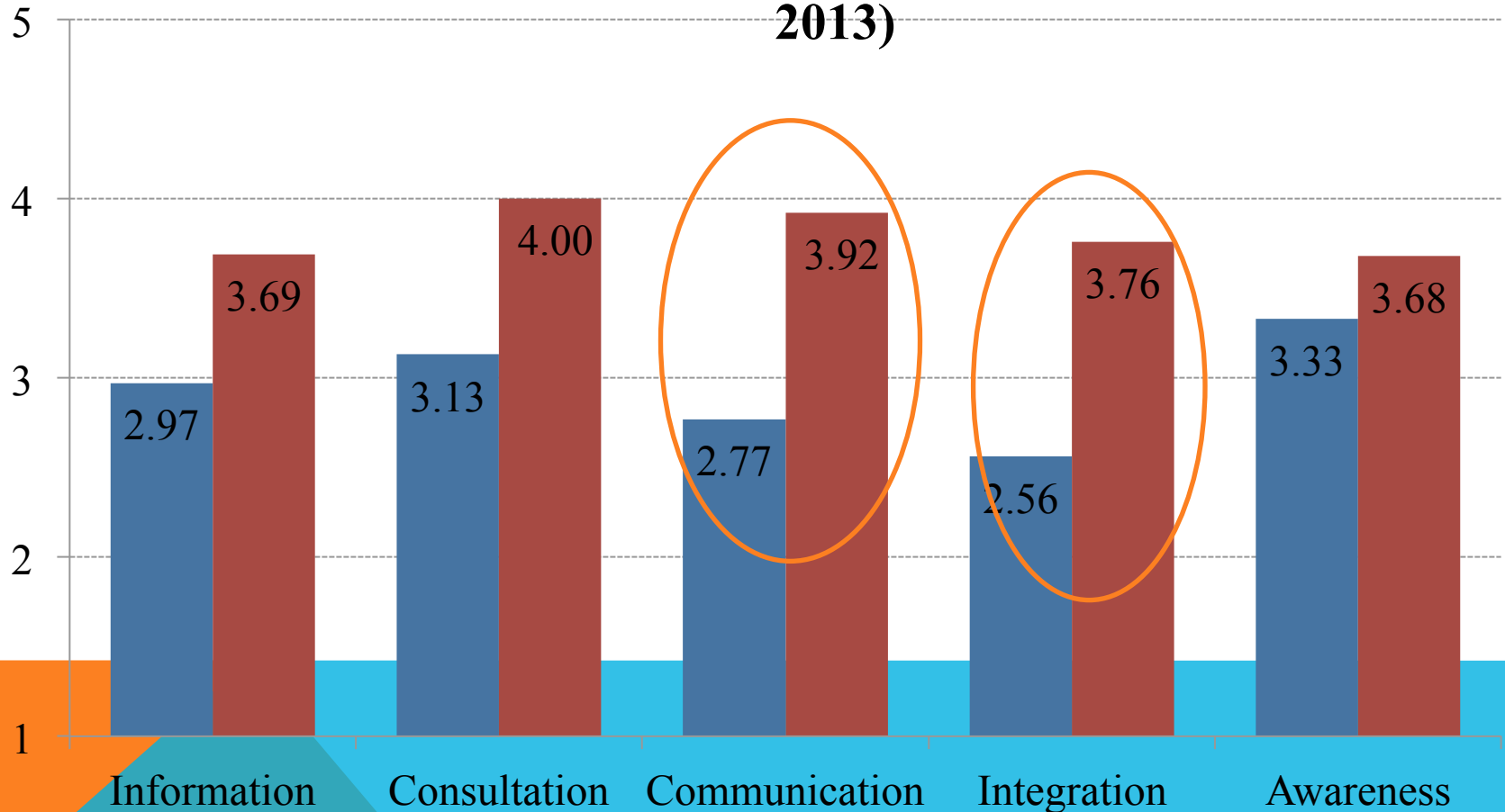
Senior management's approval

## Objective

Measuring management-workers perception gaps regarding each dimension of each compliance issue

*Significant gaps between workers' and management's perception*

**Figure 8. Aggregated Results on Labor relations (2012 - 2013)**



■ Worker Survey

■ Management Self-Assessment

# UNDERSTANDINGS OF LABOR POLICY DEVELOPMENTS – IMPLICATIONS FOR TPP FOA-RELATED OPTIONS MENU

AN OPTIONS MENU WITH “WHAT FOR” OUTWEIGHTING “WHAT”

1. A “COMPLETE” PACKAGE OF FREEDOM OF ASSOCIATION?
2. “QUASI – FREEDOM” AGENDA – FREEDOM OF ASSOCIATION ON VIETNAM’S OWN TERMS?

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## 1. A “COMPLETE” PACKAGE OF FREEDOM OF ASSOCIATION?

1. Law developments from 1994 to 2012
2. Observations on Labor Code Draft in 2010: The provisions on labor collective representatives that were watered down
3. USGOV’s requirements of “Independence” elements
  - The trade union’s independence from the State
  - The trade union’s independence from the management
  - The effective and unrestricted exercise of the right to strike by workers



# UNDERSTANDINGS OF LABOR POLICY DEVELOPMENTS – IMPLICATIONS FOR TPP FOA-RELATED OPTIONS MENU

AN OPTIONS MENU WITH “WHAT FOR” OUTWEIGHTING “WHAT”

## 2. “QUASI – FREEDOM” AGENDA – FREEDOM OF ASSOCIATION ON VIETNAM’S OWN TERMS?

1. The reputation of Vietnam’s “pro-worker” Labor Code
2. Trade Union Law 2012 – The role of upper-level trade union officials in non-union and unionized organizations
3. Grassroots Democracy Decree No. 60
  - a. Local Workers’ Councils
  - b. Meetings every 3 months

# UNDERSTANDINGS OF LABOR POLICY

## DEVELOPMENTS – IMPLICATIONS FOR TPP LABOR-RELATED OPTIONS MENU

