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## **THE IMPACTS OFFREE MOVEMENT OF SKILLED LABOUR IN ASEAN UPON VIETNAM**

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### **Abstract**

*In the context of the 4.0 technology revolution creating an economic platform transformed from a model based on low-cost labor to a knowledge economy requiring highly skilled workers, Vietnam has witnessed the sharply increasing demand for skilled workers. Since joining ASEAN, Vietnam has proactively participated and implemented free movement of labor commitments within the ASEAN Economic Community. This paper aims to clarify the impact of these commitments on the Vietnamese policies and laws on attracting skilled labor from other ASEAN member states. The paper analyzes both positive and limited aspects of these impacts before 2003 and since 2003 until now. The results of this study show that Vietnam's commitments to the*

*free movement of labor in ASEAN positively impact the completion of Vietnam policy and regulations on attracting ASEAN skilled labor, but the level of impacts is limited.*

**Keywords**

Skilled Labor, Free Movement, Policy and Regulation, ASEAN, Vietnam.

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**1. Introduction**

Skilled labor is generally directly and closely involved in the generation, development, spreading, and application of knowledge (ILO, 2014). In ASEAN, there is an absence of a definition of skilled labor. Based on these instruments, ASEAN skilled labor can be divided into two groups: professionals authorized by the ASEAN member states within the Mutual Recognitions Arrangements (08 MRA); persons engaged in the conduct of trade in goods, trade in services, and investment under ASEAN Agreement on the Movement of Natural Persons (MNP). ASEAN labor-free movement refers to facilitating the movement of skilled labor within the region. However, member states continue to maintain various types of domestic barriers that limit the movement of skilled workers from other states. ASEAN member states create the "framework" on the free movement of skilled labor and encourage countries to harmonize domestic policies and laws to loosen related barriers.

Since the "Doimoi- renovation" policy in 1986, Vietnam has remarkably changed into regional and international integration. Becoming a member of ASEAN in 1995 is an initial step for this progress. To guarantee sustainable development, Vietnam must resolve some bottlenecks in human resources, that is, the shortage of skilled labor. In 2018, the Vietnamese workforce over 15 amounted to about 54 million, but only 11.00 million people (20.3%) were skilled workers (Vietnamnet, 2019). The establishment of the ASEAN Community makes an opportunity for Vietnam to counter the shortage of skilled labor through attracting more skilled labor of ASEAN member states. Implementing commitments on the free movement of skilled labor in ASEAN requires the changes of Vietnam policies and regulations on attracting ASEAN skilled workers. This study will focus on the impacts of Vietnam's commitments on the changes of the policy and regulations on attracting skilled inflow labor from other ASEAN member states. The organization of this paper is following: 1) To clarify the positive impact of these commitments on the changes of Vietnam's policy and law on attracting ASEAN skilled workers; 2) To point out the level of the limited impact of these commitments on the change of these policies and

regulations. The implications are followed by appropriate recommendations for Vietnam to improve the efficiencies of implementing its commitments on the free movement of skilled labor in ASEAN. The article ends with a succinct conclusion.

## **2. Literature Review**

Yoshifumi Fukunaga & Hikari Ishido (2015) discuss the MNP commitments of each ASEAN member state compared to Mode 4 in GATS, AANFTA, and AFAS 8. The finding of this study is that the commitments vary widely among ASEAN member states regarding sectoral coverage, committed categories of natural persons, and lengths of initial periods of stays. Regarding Vietnam, the authors merely point out commitments relating to sectoral coverages and categories of natural persons compared to the commitments in GATS, AANFTA, and AFAS 8.

Pham Thi Hien & Nguyen Tuan Vu (2017) point out the primary contents of MNP, evaluate the impact of this Agreement on establishing the ASEAN single market and production base, and point out some implications for Vietnam. The authors suppose that Vietnam's commitments are average compared to other member states' commitments in this paper. Moreover, the Vietnamese government also has reviewed and modified the domestic law to implement MNP. Thus, the authors do not deeply analyze domestic law changes to implement Vietnam's MNP commitments.

Dovelyn Rannveig Mendoza and Guntur Sugiyarto (2017) illustrate how 08 MRAs are currently functioning at the national and regional levels by exploring the experience with implementation by ASEAN member states. For Vietnam, at a national level, the authors point out the institutions established and related legislative framework before and after signing MRAs. Nevertheless, the authors do not update some professionals' regulations, such as architecture and engineering.

Recent studies have produced the findings of ASEAN member states' commitments (including Vietnam) under MNP, the implementations of MRAs separately. These studies do not thoroughly analyze Vietnam's commitments related to the free movement of skilled labor in ASEAN and its implementation through transposing into domestic law.

### **3. Research Issues**

In this paper, the research questions are:

- 1) Vietnam's commitments to ASEAN free movement of skilled labor?
- 2) To what extent that the commitments influence Vietnam's regulations and policy?

### **4. The theory**

In the literature of this study area, theoretical background explaining Vietnam's commitments to free movement of labor in ASEAN and its implementation is based on the integration theory. The creation of a single market generates additional welfare effects by enabling labor to move to where it is most productive (Robson, 2002). A shift occurs from less productive to more productive jobs until marginal productivity. Prerequisite of this course is that labor is mobile with no constraints on migration exist in the narrow sense (work permit, residence permits) and the broader sense (e.g., difference peculiar to specific countries in the performance of a given job, the living and housing conditions, language) (Werner, 1990). In this study, we use this theory to explain Vietnam's commitments on step-by-step loosening the restrictions for skilled labor from other ASEAN member states, thereby facilitating skilled workers to work in Vietnam in the context of deeper integration in ASEAN with the establishment of the ASEAN Economic Community.

### **5. Methodology**

In this paper, the following qualitative methods are used:

- 1) Analysis method is used to point out the reason and the level of impact on Vietnam's regulations;
- 2) Comparative method is used to clarify the scope and level of Vietnam's commitments and changes. We compare Vietnam's commitments under GATS/WTO and ASEAN. Besides, we compare Vietnam policies and regulations changes before and after 2003.

We collected data from the statistics database of the Department of Employment, the Ministry of Labour, War Invalids, and Social Affairs from 2013 to 2017 to measure the number of ASEAN skilled workers working in Vietnam. We use the ASEAN's legal instruments, MNP, 08 MRAs, and Vietnam's schedule of commitments from the ASEAN Website ([http://agreement.asean.org/search/by\\_pillar/2.html](http://agreement.asean.org/search/by_pillar/2.html)) and Vietnam's legal documents from

Vietnam legal source (<https://vbpl.vn/pages/portal.aspx>) to analyze the changes of Vietnam's regulations.

## **6. Analysis**

To clarify the impacts of Vietnam's commitments on the changes in the Vietnamese policies and laws, we start with the positive impact of these commitments. To analyze the positive impacts, the changes in policies and regulations relating to attracting foreign workers before and after 2003 are referred to in the first heading. The latter heading focuses on the limited level of these impacts under the following viewpoints: a lack of a separate policy of attracting ASEAN skilled workers, many restrictive measures regulated in domestic laws, and a limited amount of skilled labor moving to Vietnam under the commitments on the free movement of skilled labor.

### **6.1. The Positive Impact on the Changes of Vietnam's Policy and Regulations on Attracting ASEAN Skilled Workers**

Before 2003, the impact of these commitments on Vietnam policy and regulations is insignificant. Vietnam's commitments relating to the free movement of skilled labor included Mode 4- the presence of natural persons in the initial package, the second package, and the third package of commitments under AFAS. The narrow depth and level of Vietnam's commitments to the presence of natural persons resulted in the local impact. In this period, Vietnam had no specific policy on attracting skilled workers from other ASEAN members, but it was mentioned in the general policies on international integration. Based on these policies, the leading viewpoint on attracting skilled labor is that Vietnam only allows recruiting high qualified labor, skilled labor (Tran Thuy Hang, 2019). Targeting the segment of these types of labor is to supplement the shortage of highly qualified labor, skilled labor in the domestic labor market.

Regarding regulations, the provisions relating to foreign workers, including foreign workers from other ASEAN member states, were mainly stipulated in the Labor Code 1994 with several articles (from Article 131 to Article 133). Accordingly, foreign-invested enterprises are allowed to employ foreign employees where the Vietnamese cannot satisfy the requirements for work requiring highly technical or management skills. These foreign employees are worked for a brief time provided that training plans and programs are established to enable Vietnamese workers to do such works and replace foreign employees. Hence, in this period, the regulations

on attracting foreign labor in general and ASEAN labor, in particular, were not changed in the direction of openness for skilled foreign workers, including foreign workers from other ASEAN member states. In other words, there had still many restrictions applied for foreign workers stipulated in the domestic regulations.

From 2003, the scope and level of commitments are further opened, which has positively impacted the changes in Vietnam's policies and regulations contents. Along with the commitments related to the movement of a natural person under AFAS (from the fourth package to the eighth package of commitments) and MNP, Vietnam participated in 08 MRAs on services. Vietnam ratified legal instruments relating to the free movement of skilled labor, such as ratifying MNP on March 09th, 2013, MRA on practicing technical consulting on April 28th, 2008, MRA on tourism on December 22nd, 2014. The reasons expound this impact is that as Vietnam becomes a member of ASEAN, it must implement the commitments, including commitments on the free flow of skilled labor in the single market and productions base. Under Article 5 (2) of the ASEAN Charter, ASEAN member states shall take all necessary measures, including enacting appropriate domestic legislation. It requires the changes in Vietnam's policy and regulations toward being compatible with its commitments and the direction of deeper regional integration.

In terms of the policy, attracting skilled workers seems more specific and transparent. Even Vietnam promulgated the strategy on international integration on labor and society, including ASEAN labor integration. In 2013, the Political Bureau of the Communist Party of Vietnam promulgated *Resolution No.22- NQ-TW on international integration* to create a strategic foundation for the unified perception of the whole Party and the people on international integration in the new context. Regarding Vietnam's integration into ASEAN, the Resolution emphasized that “*actively and positively participating in multilateral institutions, contributing to building political and economic order equally and democratically, preventing wars and preventing wars. Especially, it requires paying special attention in building the ASEAN Community*”.

Based on Resolution No.22/NQ-TW, the Prime Minister issued Decision No. 145/QĐ-TTĐ dated January 20th, 2016, approved the overall strategy for international integration through 2020, vision to 2030. The general objective mentioned in the Decision No.22 is international integration into labor-society to promote the potential of internal resources and

comparative advantages of Vietnam, maximizing international environment and resources, contributing to implementing the achievement of the goals of labor and society development through 2020, vision to 2030 to strive to catch up ASEAN-6 countries by 2020 and ASEAN-4 countries by 2025. Considering the development of high-quality human resources, the Decision sets out specific goals for developing high-quality human resources in line with requirements, participation in the global and regional labor market, increasing the opportunities of quality jobs for Vietnamese labor and licenses and certifications in many training occupations recognized by other nations. In addition, Vietnam continues to follow the perspective of attracting high qualified foreign labor, skilled labor working in Vietnam, including the labor of other ASEAN member states. In short, Vietnam's goal is to develop high-quality human resources where Vietnam labor can participate in international and regional labor markets and attract high qualified foreign labor, especially labor from ASEAN member states.

In terms of regulations, Vietnam continues to modify domestic laws to be well-matched with its commitments to facilitate skilled labor movement. Vietnam has gradually fulfilled its obligations by enacting appropriate domestic legislation to facilitate laborers from other member states to access the Vietnam labor market. Several domestic regulations are amended, specializing in guiding legal documents related to occupations Vietnam committed under MRAs. The contents of these legal documents are compatible with its commitments, referred to in [Table 1].

**Table 1:** *Legal documents related to the implementation of 08 MRAs*

<b>Occupations</b>	<b>Legal documents</b>
1. Engineering services	<ul style="list-style-type: none"> <li>- The 2014 Construction Law.</li> <li>- Decision no.1128/QĐ-BXD on the establishment of Vietnam Monitoring Committee to enforce MRA on engineering services on September 15th, 2008.</li> <li>- Decision no.820/QĐ-BXD on the assessment regulations to ASEAN Chartered Professional Engineer on August 06th, 2009.</li> <li>- Decision no.821/QĐ-BXD on the promulgation of regulations on organization and operation of Vietnam Monitoring Committee to implement MRA on engineering services on</li> </ul>

	<p>August 06th, 2009.</p> <ul style="list-style-type: none"> <li>- Decision no.425/QĐ-BXD on consolidating and appointing members of Vietnam Monitoring Committee to implement MRA on engineering services on May 11th, 2012.</li> </ul>
2. Architectural services	Decision no.554/QĐ-BXD on the assessment regulations to ASEAN Chartered Professional Architect on June 14th, 2011.
3. Accountancy services	The assessment regulations to examine ASEAN Chartered Professional Accountant
4. Tourism professionals	Vietnam Tourism Occupation Skills Standards (VTOS)
5. Medical practitioners, dental practitioners, nursing services	<ul style="list-style-type: none"> <li>- Law on Medical Treatment and Treatment 2009.</li> <li>- Decree no.87/2011/NĐ-CP detailing and guiding a number of the Law on Medical Treatment and Treatment 2009 on September 27th, 2011.</li> <li>- Decree no. 41/2015/TT-BYT amend and supplement Decree no. 41/2011/ TT- BYT on October 14th, 2011, guiding the grant of practising certificates to medical examination and treatment practitioners and operation licenses to medical examination and treatment facilities on October 16th, 2015.</li> </ul>
6. Surveying	No information

*(Source: Authors collected from the website:<https://vbpl.vn/pages/portal.aspx>)*

Two underlying contents in the legal documents involved in implementing MRAs on engineering services and architectural services are to adopt the legislative framework for MRA implementation and the creation of national regulatory authorities. Vietnam has completed two required contents. For example, under Decision No.820/QĐ-BXD on the regulations to examine ASEAN Chartered Professional Engineer on August 06th, 2009, a professional engineer must meet some criteria to grant ACPE. The Ministry of Construction, which is the governing body establishes and authorizes VNMC (Vietnam Monitoring Committee) to implement and supervise the implementation of MRA on engineering services.

Vietnam is implementing the remaining MRAs, which are MRA on accountancy services, tourism professionals, MRA on Medical practitioners, MRA on dental practitioners,



and MRA on nursing services. To implement MRA on tourism professionals, Vietnam has established the Tourism Professional Certification Board (VTCB- Vietnam Tourism Certification Board) to perform the functions of the Tourism Industry Board (NTPB) and the Tourism Professional Certification Board (TPCB). Moreover, Vietnam also granted 08 sets of Vietnam Tourism Occupational Skills Standards (VTOS- Vietnam Tourism Occupational Skills Standards) version 2013. These standards have been revised under the current regulations of the Ministry of Labor, Invalids and Social Affairs, and the ASEAN Common Tourism Curriculum (CATC) to meet the necessary criteria for recognizing tourism licenses and certification in the coming time. Vietnam has developed the Assessment Regulations to ASEAN Chartered Professional Accountants for MRA on accountancy services, launched by the Ministry of Finance, and is preparing to promulgate this Regulation domestically (Ha Thi Minh Duc, 2019).

Concerning Vietnam's commitments on the movement of a natural person under the MNP, on November 15th, 2012, the Vietnam Government passed the Resolution on ratifying the contents and signing the ASEAN Agreement on Movement of Natural Persons and the attached Schedule of Commitments. On this basis, on April 17th, 2018, Vietnam issued Notice no. 23/2018/TB-LPQT on the entry into effect of the international treaty: the ASEAN Agreement on Movement of Natural Persons signed in Phnom Penh, Cambodia on November 19th, 2012, and Vietnam's Schedule of specific commitments attached to the Agreement was adopted in Brunei on April 10th, 2013 and entered into force for Vietnam from June 14th, 2016. Having compatible with the commitments of MNP, Vietnam's domestic regulations were amended, thereby foreign workers who are allowed to work in Vietnam in the following forms: intra-company transferee, contractual service suppliers, persons responsible for setting up the commercial presence, service salespersons, and other personnel (Managers, executives, and specialists who cannot be substituted by Vietnamese and who are employed outside Viet Nam's territory by a foreign enterprise which has established a commercial presence in the territory of Viet Nam intending to participate in the foreign enterprise's activities in Viet Nam).

Generally, besides FDI has rapidly raised in recent years causes the requirements of skilled labor in Vietnam, the changes in the policies and domestic regulations have created the legal environment more conveniently, resulting in the number of skilled workers, including ASEAN ones has been increasing than the previous period [Table 2]. Loan predicts that skilled labor from the ASEAN Economic Community (AEC) working in Vietnam will increase from

51.900 to 59.000 workers by 2022 (Vu Thi Loan, 2020).

**Table 2.** *Skilled foreign workers working in Vietnam from 2013 to 2017*

*Unit: person*

Year	Amount	Skilled foreign workers working in Vietnam				
		Managers	Executives	Specialists	Technical workers	Others
2013	72.172	11.703	----	45.988	----	14.471
2014	76.309	11.910	----	51.555	----	12.844
2015	83.585	25.264	11.572	24.931	18.442	3.376
2016	83.044	23.977	11.663	27.988	15.928	3.488
2017	81.359	23.300	11.631	28.197	14.743	3.488
2018	88.854	24.888	11.673	29.378	19.592	3.323
Percent%	100%	24.9%	9.6%	42.9%	14.2%	8.4%

*(Source: The Report of Department of Employment, the Ministry of Labour, War Invalids and Social Affairs (2018))*

## **6.2. The Limited Level of Impacts on the Changes of Vietnam's Policy and Regulations**

Although the contents of Vietnam's policy and regulations have been changed as mentioned above, these changes are not breakthrough or only the basic foundation to facilitate the movement of ASEAN skilled labor to Vietnam, and the process of implementation is relatively slow.

*Firstly*, Vietnam lacks a separate policy on attracting ASEAN skilled workers. Vietnam's policy on labor integration seems to give "priorities" to Vietnamese workers to work abroad rather than attracting foreign workers working in Vietnam. It seems that from 1986 to now, the unified direction for foreign workers working in Vietnam is that Vietnam only allows the recruitment of highly qualified workers and skilled workers that Vietnam cannot provide. The purpose of attracting these workers is to supplement the shortage of domestic human resources. Global and regional economic integration strongly lead to high demand for highly qualified workers and skilled workers in Vietnam. It is forecast that the demand for recruiting foreign candidates will continue to increase by over 20% per next year (MOLISA, 2019) on attracting foreign workers. Thus, it is necessary to synchronously and systematically orient the regulations on attracting foreign workers, including ASEAN skilled workers in Vietnam.

*Secondly*, there remain substantial limitations restricting the movement of foreign workers in general, ASEAN skilled workers in particular to Vietnam. Regarding skilled workers moving under MRAs, the most significant challenge they face is "internal barriers" (ThuanGiang Tran Thi, Phat Le-Tan & Thao Thao Nguyen Thi, 2018) while they use mutual recognition mechanism under MRAs. The internal barriers refer to the requirements to register and practice under domestic laws. The regulations on criteria for workers from AMSs under the MRAs are relatively severe, making it difficult for foreign workers. Under Section 3 of Decision no.820/QĐ-BXD on the ASEAN Chartered Professional Engineer assessment regulations on August 06th, 2009, ACPE can apply to the PRA (Professional Regulatory Authority) for registration RFPE (Registered Foreign Professional Engineer). REPE is authorized to work, not in independent practice, but in collaboration with one or more Professional Engineers of the host country, but subject to local laws and regulations, they may not be permitted to submit design documents to the competent authorities of the host country to review and approve. Specifically, to practice in Vietnam, ACPE must apply dossier to VNMC (Vietnam National Monitoring Committee); VNMC will consider accepting or refusing the foreign engineer registered to practice as REPE in Vietnam. If foreign engineers are accepted to register as REPE, they do not independently practice unless they register as professional engineers issued by a Vietnamese administrative practicing authority.

Moreover, ACPE is also only registered in related to construction services. In other words, non-instruction services are not registered and recognized as ACPE in Vietnam. The engineers from ASEAN members recognized as ACPE have also recognized their qualifications in Vietnam but must also take the test to obtain construction practicing licenses in Vietnam as REPE. There are questions related to legal knowledge and professional experience in this test. Passing the test is not easy for foreign engineers because of the language barrier and the education and training system differences.

Only the Ministry of Construction, the Ministry of Culture, Sports and Tourism, and the Ministry of Finance have established a National Committee to implement MRAs on engineering services, architectural services, accounting services, and tourism professionals. Regarding the issuance of the assessment regulations, as mentioned above, Vietnam has issued 02 Decisions, including Decision No.820/QĐ-BXD on the assessment regulations to ASEAN Chartered Professional Engineer on August 06th, 2009 and Decision No.554/QĐ-BXD on the assessment

regulations to ASEAN Chartered Professional Architect on June 14th, 2011. For the remaining MRAs, Vietnam is in the process of implementation. The slowness has arisen from many objective and following subjective reasons: the recognition mechanism in each MRAs is dissimilar, the accreditation process (such as MRA on engineering services, MRA on architectural services) is complicated, highly technical, time-consuming, and requires the participation of stakeholders. The implementation of MRAs is sometimes influenced by political factors (ADB, 2015), goodwill, and the level of labor market opening in the host countries. Moreover, limitations on resources and access to information about MRAs are also significant obstacles affecting the implementation process of MRAs in Vietnam.

Regarding professionals moving under MNP, the scope and level of Vietnam's commitments are still modest, with the tight conditions restricting their movement to Vietnam. Vietnam's commitments under MNP are assessed at a medium level (commitments for 108 sub-sectors), and the temporary stay is also average with 90 days for business visitors and contractual service suppliers. Comparing Vietnam's commitments under MNP to the commitments under GATS/WTO for occupations related to free movement, it is found that the scope and extent of the commitment under MNP are slightly more open than those under GATS/WTO. Although there is no difference between the groups of natural persons [Table 4], there are a few differences in the extent of commitments, such as nursing services are not in the schedule of commitments under GATS but included in the schedule of commitments under MNP. Vietnam is unbound except for commitments indicated in the horizontal section in the schedule of commitments under GATS for accounting services. According to the schedule under MNP, foreign accountants must satisfy some specific conditions when they provide this service in Vietnam's territory [Table 3].

**Table 3:** *The groups of natural persons and duration of temporary stay according to Vietnam schedule of movement of natural person commitments under MNP and GATS/WTO*

		<b>MNP</b>	<b>GATS/WTO</b>
	Service sale persons	✓	✓
	Persons responsible for setting up a	✓	✓

The groups of natural persons	commercial presence		
	Intra-corporate transferees	✓	✓
	Other personnel	✓	✓
	Contractual service suppliers (CSS)	✓	✓
Duration of temporary stay	Service sale persons	90 days	90 days
	Persons responsible for setting up a commercial presence	90 days	90 days
	Intra-corporate transferees	03 years	03 years
	Other personnel	03 years	03 years
	Contractual service suppliers (CSS)	90 days	90 days

(Source: Authors collected from websites: <http://investasean.asean.org>, <https://docs.wto.org>)

**Table 4:** The depth and level of Vietnam's commitments to service sector/sub-services sectors related to the free movement of labor under MNP and GATS/WTO

Service sector/sub-sector	MNP			GATS/WTO		
	<i>Full commitment</i>	<i>Partial commitment</i>	<i>Unbound</i>	<i>Full commitment</i>	<i>Partial commitment</i>	<i>Unbound</i>
Engineering services		✓			✓	

Architectural services		✓			✓	
Accounting services		✓			✓	
Medical and dental services		✓			✓	
Nursing services		✓				
Tourism services		✓			✓	
Surveying services		✓			✓	

(Source: Authors collected from websites: <http://investasean.asean.org>, <https://docs.wto.org>)

Vietnam's commitments under MNP are mainly related to the measures affecting temporary entry or temporary stay of natural persons, including service sale persons, persons responsible for setting up commercial presence, intra-corporate transferees, other personnel, and contractual service suppliers (CSS). The temporary stay is 90 days for business visitors, contractual service suppliers, and persons responsible for setting up a commercial presence. Intra-corporate transferees and other personnel can temporarily stay up to 03 years. These commitments seem not to be beyond the depth and scope undertaken under GATS. These rules can be explained by the determination of non-nationals allowing to enter the state's territory, and under what conditions belongs to state sovereignty, many states have been reluctant to date to enter into binding multilateral commitments (WTO, 2004).

Moreover, the absence of an effective enforcement mechanism in ASEAN can cause the time-consuming implementation process by member states. As mentioned above, the provisions

on the movement of natural persons of ASEAN member states are integrated into other involved laws and regulations such as the 2019 Labour Code, the Decree No.152/2020/NĐ-CP. So ASEAN skilled workers moving to Vietnam under MNP shall be satisfied with tight requirements stipulated in these laws and regulations.

In practice, the number mentioned above of ASEAN skilled workers in Vietnam has increased, and there are no statistics of the natural persons moving to Vietnam under the MNP. Nevertheless, with the depth and level of commitments mentioned above and the strict conditions of entry and stay for natural persons in current domestic regulations, it predicts that this type of skilled labor accounts for a minor percent of the skilled workers working in Vietnam. There is no ASEAN Chartered Professional Engineer (ACPE), ASEAN Architect (AC), ASEAN Chartered Professional Accountant (ACPA) registered to practice as Registered Foreign Professional Engineer (RFPE), Registered Foreign Architect (RFA), and Registered Foreign Professional Accountant (RFPA) in Vietnam under MRAs on engineering services, architectural services, and accountancy services [Table 5].

**Table 5:** *ASEAN engineers, architects, and accountants register under MRA on engineering services, architectural services, and accountancy services*

	Engineers		Architects		Accountancy	
	ACE	RFPE	AA	A	ACPA	RFPA
Brunei	33	-	13	-	5	-
Cambodia	84	-	4	-	0	-
Indonesia	1213	-	155	-	1850	-
Lao	17	-	12	-	0	-
Malaysia	931	-	44	-	1134	-
Myanmar	618	07 (02 Philippines, 04 Singapore, 01 Thailand)	12	-	403	-
Philippines	610	-	99	-	85	-
Singapore	303	02 (01 Malaysia, 01 Myanmar)	100	-	782	-
Thailand	229	-	26	-	693	-
Vietnam	302	-	20	-	0	-

Amount	4.340	9	485	-	4.952	-
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*(Source: Authors collected from the websites: aseancpa.org, acpecc.net, aseanarchitectcouncil.org)*

Until January 01st, 2021, there are a total of 10.218 ASEAN professionals registered under

ASEAN MRAs in engineering services, architectural services, and accounting services, in which there are 302 Vietnamese professional engineers registered as ACPE (accounting for 7% of the total number of ACPE), 20 Vietnamese professional architects registered as AA (accounting for 4.12%) and no Vietnam professional accountants registered as ACPA (ASEAN Chartered Professional Accountant). In addition, there are no professionals from AMSs registered to practice as Registered Foreign Professional Engineer (RFPE), Registered Foreign Architect (RFA), Registered Foreign Professional Account (RFPA) in Vietnam.

## **7. Conclusion**

This study shows that the depth and level of Vietnam's commitments on the free movement of skilled labor in ASEAN are relatively narrow. Although these commitments positively impact Vietnam policy and regulations on attracting ASEAN skilled labor more specifically and more evident, the level of impacts is limited. To attract more ASEAN skilled labor working in the professionals allowed to free movement, Vietnam needs to develop a clear policy on attracting skilled foreign workers instead of issuing scattered and unsystematically Decrees or Decisions. The initial requirements are to innovate to attract, recruit, and employ skilled workers. Vietnam's talent attraction policy is focused on qualifications and is not focused on attracting foreign talents to Vietnam (MOHA, 2021). In addition, improve the implementation of MRAs next time through promoting the participation and coordination of relevant competent authorities from the early stage of implementing MRAs such as the Ministry of Labor, Invalids and Social Affairs, the Ministry of Construction, the Ministry of Training and Education. It is also necessary to proactively promulgate the regulations on establishing national agencies to implement MRAs and the assessment regulations for occupations under MRAs.

This study has a limitation on evaluating the impact of Vietnam's policy and regulations on attracting skilled workers from ASEAN member states in Vietnam. In addition, it focuses on analyzing the impact from a legal aspect. Besides, it is a lack of information on Vietnam's



implementation for the rest of MRAs and the data of persons moving to Vietnam under MNP, which are the themes to research in the future to clarify more conveniences and difficulties for Vietnam in the progress of implementing these commitments in practice.

## REFERENCES

- ADB (2015). *Achieving skill mobility in the ASEAN Economic Community challenges, opportunities, and policy implications*. Retrieved from <https://www.adb.org/sites/default/files/publication/178816/skill-mobility-asean.pdf>
- Fukunaga Y. & Ishido H. (2015). *Values and limitations of the ASEAN Agreement on the movement of natural persons*. ERIA Discussion Paper Series. Retrieved from <https://www.eria.org/ERIA-DP-2015-20.pdf>.
- Ha Thi Minh Duc (2019). *Movement of Vietnam skilled labor in the ASEAN Economic Community*. Economic Ph.D. Thesis. Vietnam Academy of Social Sciences.
- ILO (2014). Skilled labor is a determining factor for the sustainable growth of the nation. Policy Brief (1). Retrieved from [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms\\_428969.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_428969.pdf)
- MOLISA (2019). *Foreign workers in Vietnam: Increase in bosses, decrease in technical workers*. Retrieved from <http://www.molisa.gov.vn/Pages/tintuc/chitiet.aspx?tintucID=221087>
- Mendoza D.R. & Sugiyarto G. (2017). *The Long Road Ahead status report on implementing the ASEAN mutual recognition arrangements on Professional Services*. Mandaluyong City: Asian Development Bank. Retrieved from <https://doi.org/10.22617/RPT178637-2>
- MOHA (2021). *Talents and the policies to attract and use talents for Vietnamese civil service*. Retrieved from <https://www.moha.gov.vn/danh-muc/nhan-tai-va-chinh-sach-thu-hut-sudung-nhan-tai-cho-nen-cong-vu-viet-nam-45411.html>
- Pham Thi Hien & Nguyen Tuan Vu (2017). *The ASEAN Agreement on the Movement of Natural Persons (MNP) impacts Vietnam*. Vietnamese Journal of Legal Sciences (107)/2017.
- Robson P. (2002). *The Economics of International Integration*. Fourth edition. Taylor & Francis e-Library, 2002.
- Tran Thuy Hang (2019). *The law regulating labor relations of foreign workers in Vietnam in the international economic integration period*. The Ph.D. Thesis. Hanoi Law University.

ThuanGiang Tran Thi, Phat Le Tan & Thu Thao Nguyen Thi (2018). *Prioritize "positive solutions" in WTO dispute settlement mechanism*. Vietnamese Journal of Legal Sciences 01(113)/2018.

Vu Thi Loan (2020). *The movement of skilled labor in the participation progress of Vietnam in the ASEAN Economic Community*. Hanoi, Labour Publishing House.

Vietnamnet (2019). Foreign firms in Vietnam face skilled workforce shortages amid the FDI wave. Retrieved from <https://english.vietnamnet.vn/fms/business/217044/foreign-firms-in-vietnam-face-skilled-workforce-shortage-amid-fdi-wave.html>

Werner H. (1990). *The free labor movement in the single European market*, Intereconomics, Verlag Weltarchiv, Hamburg, 25(2), pp. 77-81. Doi:<https://doi.org/10.1007/BF02924786>

WTO, Background paper. Retrieved from [https://www.wto.org/english/tratop\\_e/serv\\_e/sem\\_oct04\\_e/background\\_paper\\_e.pdf](https://www.wto.org/english/tratop_e/serv_e/sem_oct04_e/background_paper_e.pdf)