

Philips Electronics

Overview of controversial business practices in 2008

Roos van Os

Philips Electronics

**Overview of controversial
business practices in 2008**

Roos van Os

Amsterdam, March 2009

Colophon

Philips Electronics

Overview of controversial business practices in 2008

March 2009

By: Roos van Os

Cover Design: Annelies Vlasblom

Funding

This publication is made possible with co-funding from the Vereniging van Beleggers voor Duurzame Ontwikkeling (VBDO)

Published by



Stichting Onderzoek Multinationale Ondernemingen
Centre for Research on Multinational Corporations

Sarphatistraat 30
1018 GL Amsterdam
The Netherlands
Phone: + 31 (20) 6391291
E-mail: info@somo.nl
Website: www.somo.nl

This document is licensed under the Creative Commons Attribution-NonCommercial-NoDerivateWorks 2.5 License.

Introduction

This company briefing has been prepared by SOMO (Centre for Research on Multinational Corporations). It provides an overview of business practices that could be considered as unsustainable or irresponsible which occurred (or might have been addressed) in 2008. In addition, it may describe developments on some issues identified in a similar overview for 2006, which was also prepared by SOMO.

The overview below describes only controversial practices that were identified and not the positive achievements of a company in the same year, except for positive developments related to some of the practices from the overview for 2006. Information on positive achievements can usually be found in a company's annual and/or sustainability report and on the company's website. The purpose of this report is to provide additional information to shareholders and other stakeholders of a company on controversies that might or might not be detected and reported by the company itself.

This report does not contain an analysis of a company's corporate responsibility policies, operational aspects of corporate responsibility management, implementation systems, reporting and transparency, or total performance on any issue. For some controversies, it is indicated which standards or policies may have been violated and a brief analysis is presented. Apart from this, the report is mainly descriptive.

The range of sustainability and corporate responsibility issues eligible for inclusion in this overview is relatively broad. The assessment is mainly based on issues and principles as outlined in the OECD Guidelines for Multinational Enterprises. These Guidelines are used as a general frame of reference in addition to company-specific standards.

Sources of information are mentioned in footnotes throughout the report. The main sources were obtained through SOMO's global network of civil society organisations, including reports, other documents, and unpublished information. Media and company information databases and information available via the Internet are used as secondary sources where necessary. Philips has been informed about the research project in advance and was given two weeks to review the report and provide corrections of any factual errors in the draft version.

The overview of controversial practices in this report is not intended to be exhaustive. Instead, it focuses on a limited number of issues and cases that might merit further attention or reflection. Where information about the latest developments, either positive or negative, was unavailable, it is possible that situations described in the overview have recently changed. Taking into account these limitations, SOMO believes that the briefing can be used to address areas that need improvement and for a more informed assessment of a company's corporate responsibility performance.

For more information, please contact SOMO:

SOMO (Centre for Research on Multinational Corporations)
Sarphatistraat 30, 1018 GL Amsterdam, The Netherlands
Tel. +31 (0)20 6391291, Fax +31 (0)20 6391321
e-mail: info@somo.nl, website: www.somo.nl

Developments on previously described issues

Labour rights violations at supplier plants in Mexico

Within the last years, various labour issues have emerged in electronic plants of Sanmina SCI in Mexico to which Philips can be related.¹ These issues were addressed to Philips, also in the context of the overview written by SOMO on controversial business practices utilized by VBDO at the shareholders meeting in 2007 and 2008. In communication with SOMO, Philips assured that it would further investigate some of the matters or include the findings in discussions with the local management of the plants. In the following paragraphs, attention is given to current developments at Sanmina SCI Systems de México, related to existence of phantom union and workers representation. First, a short introduction is given on the use of phantom unions and problems with workers representation in Mexico.

Labour rights violations at Sanmina SCI Systems de México

In 2006, different problems regarding labour conditions were identified at Sanmina SCI Systems de México, an electronics manufacturer with five plants in Guadalajara with a total of more than 10,000 employees. Worldwide, Philips used to be one of the top customers of Sanmina SCI.² As Philips comments on the draft overview:

“This is no longer the case as we have divested end of 2007 most of the business that used SSCI as supplier. Sanmina SCI has specified to us that we are now one of their smallest customers in Mexico representing less than 1 % of their revenue.”³

2008 Shareholders meeting

During the shareholders meeting on the 27th of March 2008, questions were asked to the Philips management with regard to the existence of Phantom Unions and problems related to workers representation at Sanmina SCI. In a letter written by the investment fund of the FNV addressed to Philips early April 2008, the FNV concluded that these issues were insufficiently responded to and Philips was asked to take appropriate efforts to tackle the these matters. The answer provided by Philips in response to the questions of the FNV Investment Fund stated that Philips discusses with its suppliers issued NGO reports, and, like Sanmina, operates within the EICC where discussions are held with NGO's.⁴ A representative of Sanmina SCI in Mexico communicated to CEREAL that Philips had contacted the company in 2008 asking for clarification regarding last years overview of controversial issues. While Sanmina SCI did respond to this request of Philips, CEREAL could not

¹ SOMO, Philips Electronics, Overview of controversial business practices in 2007, Amsterdam, July 2008 (update) Original version March 2008, <http://somo.nl/publications-nl/Publication_1850-nl/view?set_language=nl> (February 2009)

² The 2008 annual report of Sanmina does not mention specific customers as used to be the case in 2006 and 2007. However, it is stated that: “We seek to establish and maintain long-term relationships with our customers and have served many of our principal customers for several years” in: Sanmina-SCI Corporation, Form 10-K, 2008. References to Philips is made in Sanmina-SCI Corporation, Form 10-K, 2007, <<http://investor.shareholder.com/sanm/secfiling.cfm?filingID=1047469-07-9573> and Sanmina-SCI Corporation, Form 8-K, 2007, <<http://investor.shareholder.com/sanm/secfiling.cfm?filingID=1047469-07-9573> (February 2007).

³ Philips, comments on draft overview, 13 Mar 2009.

⁴ Letter from Philips to the FNV Investment Fund, GK/lk 08.1166, 25 April 2008

detect any additional measures taken by Philips, apart from the letter, to solve the labour problems in Sanmina.⁵ With regard to this latter remark, Philips notes the following:

“This latter is suggestive. We do not inform Cereal on our dealings with any supplier, and the fact that Cereal could not detect, does not mean Philips has done nothing related to the topic of phantom unions.”⁶

Phantom unions

In the communication between SOMO, CEREAL, the FNV and Philips after the 2008 shareholders meeting, additional attention was directed towards the existence of *phantom union* at Sanmina SCI. Philips indicated that it would need more information regarding the situation at Sanmina SCI to respond to allegations about the violation of trade union rights by this supplier, as the company stated that this was not clearly reported in the overview of CEREAL. In response to this information request of Philips, SOMO produced a document on the trade union situation at Sanmina SCI and more generally on problem of *phantom unions* in Mexico. Possibly this could also assist Philips in raising the problem of the *phantom unions* in the Electronics Industry Code of Conduct (EICC) group and to effectively address it at company and industry level.⁷

Sanmina has a so-called phantom union, which collaborates with the management. While the trade union had not disclosed its existence to the workers themselves, all plant workers are automatically affiliated to it.⁸ As of early 2008, this situation had not changed. All the workers, around the 500, of Sanmina CSI approached by CEREAL in the course of 2008 were not aware of the fact they were affiliated to a union, even though they were all members of a the phantom union set up by Sanmina SCI.⁹ According to the contract of which CEREAL has a copy, the union is affiliated to the *Confederación Revolucionaria de Obreros y Campesinos* (CROC) and not the *Confederación de Trabajadores de México* (CTM), as Sanmina mentioned to Philips.¹⁰ The CROC is legally registered as a Mexican union confederation, but does not have a good reputation and is notorious for misrepresenting workers.

Commenting on the draft report, Philips made the following comment:

“With respect to Sanmina, the topic has been on the agenda with Sanmina several times in 2008. Based on the input we received from local government, local NGO's as well as from Sanmina, we are satisfied with the manner in which Sanmina is striving to establish and keep open communications with these stakeholders, as well as employees and their representatives within the boundaries of local law. Given the description of Phantom unions in the SOMO document, summer last year, we have no reason to believe the CTM representation at Sanmina qualifies under this header. Given that Sanmina remained in a very active engagement process with the local NGO Cereal, we expect and trust that any issues Cereal may have on the topic of employee representation can

⁵ Email correspondence between CEREAL and SOMO, 26 February 2008

⁶ Philips, comments on draft overview, 13 Mar 2009.

⁷ F. Weijzig, Trade union situation at Sanmina SCI Systems de México, SOMO, 11 July 2008, <http://somo.nl/publications-en/Publication_2476>

⁸ CEREAL, New technology Workers: Report on Working Conditions in the Mexican Electronics Industry, 2006, p. 42.

⁹ E-mail correspondence between CEREAL and SOMO, 26 February 2008

¹⁰ In its letter to the FNV Investment Fund Philips stated that Sanmina SCI confirms that the official union CTM normally operates in the factories, in accordance the local labour law and the EICC. In: Letter from Philips to the FNV Investment Fund, GK/IK 08.1166, 25 April 2008

be taken up with Sanmina for resolution if and to the extent this would involve non compliance with either local law or the EICC Code. Should we receive any signal to the contrary, we remain committed to raise this again on management level, to get any such non compliance corrected.”¹¹

The importance of NGOs and trade unions raising this issue by and the necessity to take adequate measures by electronic industry is underscored by the recent complaint of the International Metalworkers Federation (IMF) lodged against the Mexican Government to the ILO. The complaint calls on the ILO to condemn Mexican laws which prevent freedom of association and contravene ILO Convention 87, which guarantees core labour standards to all workers.¹² The IMF further clarifies: “Under Mexican law the vast majority of collective agreements are so-called “protection contracts” which force workers to join unions nominated by company management rather than one of their own choosing.”¹³ Both CTM, the trade union referred to by Philips in relation to Sanmina SCI, and CROS, are explicitly mentioned by the IMF in its complaint as of operating through their enterprise member unions almost exclusively with “contratos de protección”.¹⁴

Philips states to be committed to several ILO conventions and adopted a Suppliers Sustainability Declaration based on the Code of Conduct of the EICC, explicitly underwrites the importance of Freedom of Association stating that: “open communication and direct engagement between workers and management are the most effective ways to resolve workplace and compensation issues. Participants are to respect the rights of workers to associate freely, join or not join labour unions, seek representation, join workers”.¹⁵ Responding on the draft profile, Philips comments the following:

“With respect to Phantom Unions, we have taken action towards the EICC, and put the issue on the agenda. To that extent a working document is established outlining the issue, referenced to the EICC code. The code revision process took priority, and as soon as this is finalized, the relevant working group will take this up again, to define next steps. However, given the complexity of the issue as result of its nature and parties involved, as also illustrated by the IMF complaint in the ILO framework, we do not expect this process to be an easy one with quick wins.”¹⁶

¹¹ Philips, comments on draft overview, 24 Mar 2009.

¹² IMF, IMF lodges a Complaint against Mexico with the International Labor Organization in Geneva , 20 February 2009 <<http://www.imfmetal.org/main/files/09020517153984/Background%20ILO%20complaint%20FEB%2009%20EN.doc>>. (Accessed Feb 2009)

¹³ IMF lodges a Complaint against Mexico with the International Labor Organization in Geneva , 20 February 2009

¹⁴ “When such a protection contract is concluded, the company/enterprise recognizes the union in question (Mexico has an enterprise-based union structure) as the representative of the interests of the employees of the given enterprise. Collective contracts on pay, pay raises, working time, etc., are negotiated and concluded with that union. With the conclusion of the protection contract, the employees of the enterprise (almost always only the workers) are forced to be members of that union”, in: IMF lodges a Complaint against Mexico with the International Labor Organization in Geneva , 20 February 2009

¹⁵ Philips, Suppliers Sustainability Declaration, 14 October 2005, <http://philips.com/shared/assets/company_profile/downloads/Philips_Supplier_Sustainability_Declaration_2006_12.pdf>

¹⁶ Philips, comments on draft overview, 24 Mar 2009.

New issues

Working condition at a Philips' supplier in Shenzhen, China¹⁷

In 2008, MakeITfair conducted research music player and videogame console manufacturing in China.¹⁸ The research looked into labour conditions at Vista Point Technologies in Shenzhen. VPT produces liquid crystal display LCDs for Sony, Motorola, Microsoft and Philips.¹⁹ Headquartered in California, Vista Point Technologies has been part of Flextronics International since 2006. It produces small liquid crystal displays (LCDs) and LCD components for MP3 players and mobile phones, camera modules for mobile applications, and modules for mobile phone, laptop chargers and power supplies. MakeITfair has examined the working conditions at the company's Shenzhen (Henggang town, Longgang district) based production facility. This factory specializes in LCDs. It produces among others for Sony, Microsoft, Motorola and Philips. Part of the products goes to Sony MP3 players. At the time of the research, the factory employed some 3,000 workers.

MakeITfair has given six brand companies the opportunity to comment on the research findings. The research findings were also shared with the involved supplier companies. All of them responded by commenting to the findings in detail. MakeITfair states that "most of the electronics brand companies have adopted codes of conduct which state that human rights and labour rights of workers will be guaranteed. However, the situation at the factories covered in the report shows that this is not the case." The following outline is a shortened version of the original overview of labour issues found at VPT Shenzhen, and the response of Flextronics as well as Philips on these findings. All can be found in the makeITfair report 'Playing with labour rights.'²⁰

Working conditions

At the Vista Point Technologies the following problems with regard to labour rights were detected:

- ❑ *Difficulties to resign:* Workers are not always allowed to resign when it was impossible to recruit new employees. Company statistics of October 2007 list reasons for resignation: almost a half of the resigned 70 people mentioned low pay, poor residence, poor food, long working hours, high work pressure or work done standing.
- ❑ *Low wages:* wages are low and after deduction of meals and dormitory fees even below the stipulated minimum wage. As the rate of inflation is increasing, workers find it difficult to cover their livings costs without overtime premiums. Therefore workers expressed preference for working overtime to be able to save money. However, even 50 hours of monthly overtime

¹⁷ Information derived from the following report of makeITfair, Playing with labour rights, Music players and game console manufacturing in China FinnWatch, SACOM and SOMO, March 2008, <http://makeitfair.org/the-facts/reports/the-facts/reports?set_language=en>

¹⁸ For more information look at the website of makeITfair: <<http://makeitfair.org/>>

¹⁹ Research at Factory C was carried out in April-August 2008 by SACOM. In all, 16 workers aged 18 to 23 were interviewed. The results of this research will be published in March 2009. MakeITfair, Labour Rights in Play: Music player and videogame console manufacturing in China, march 2009, forthcoming, The makeITfair campaign is a European wide project on consumer electronics. MakeITfair aims to inform young consumers about human rights, social and environmental issues along the supply chain. It also addresses consumer electronics companies that can contribute to change. For more information see: <http://makeitfair.org/>

²⁰ MakeITfair, Playing with labour rights, Music players and game console manufacturing in China. FinnWatch, SACOM and SOMO, March 2008, <http://makeitfair.org/the-facts/reports/the-facts/reports?set_language=en>

seemed not always to bring enough to cover daily expenditures including residence and meal fees, internet and mobile phone costs etc.

- *Long working hours and compulsory overtime:* Workers are required to work in day and night shifts, changing every two weeks. Normal working time is 8 hours per day. During peak season overtime of 3 hours per day is common. That is against Article 36 of the Chinese Labour Law, but according to Flextronics the factory follows the EICC compliance and ensures that all employees have minimum one rest day per week and that overtime does not exceed 86 hours per month. The interviewed workers mentioned compulsory overtime. Flextronics however says that employees have freedom to refuse overtime arranged by supervisors. According to the employee manual received by SACOM workers have to conform to the arrangement of overtime work, and when they cannot do that, they are required to give an explanation for managers, otherwise they violate the rules.
- *Unionisation:* The factory has a labour union, but according to the interviewed workers it often favours the management's interest. For example, in February 2008 when salaries were delayed for 10 days due to payroll system technical problems, a union representative only informed workers about this occurrence and asked them to dismiss after that.
- *Many occupational accidents:* At the time of the field research, workers found it physically tiring to stand up for entire 11 hours shifts. According to Flextronics 99 percent of the workers at Factory C have changed to sitting operations in 2008. As a result of high productivity quotas, workers found it difficult to get pauses for short rests. Some rather resigned due to high pressure.
- *Disciplinary methods:* Production workers are under strict control. There are 44 regulations and sanctions concerning them. Dozing off or falling asleep on duty are prohibited. It is also forbidden to be disobedient towards supervisors, work lazily, leave one's job post, discuss salaries between employees if it creates serious problems etc. Once workers leave the shop floor, they are checked and machine scanned. There are three categories of sanctions: a minor demerit costing 10 yuan off the quarterly bonus system, a demerit costing 50 yuan off and a major demerit costing 100 yuan off. Committing three demerits costs 200 yuan. The bonus is often reduced from 300 to 250 yuan, as workers are required to share responsibility for failure of meeting production quotas and for defective products. These demerits lead to dismissal: third time caught dozing off/falling asleep, third time operating machinery against regulations, third time disobeying supervisors, second time discussing wages if creating serious problems, first time making serious complaints and scorning others, smoking in non-smoking area, gambling in dormitory, serious fighting.

Response from Flextronics (incl. Vista Point Technology)

In communication to SOMO, Flextronics states that the company shares in the plight to improve both working and living conditions for all of its employees and has a great deal of respect and dignity for its employees as well as robust social, ethical and environmental programs in place. According to Flextronics the factory findings contained inaccuracies, and provides "information that will help the reader to easily see our commitment to our employees, customers and other stakeholders".

Flextronics says that it is mandatory for all of its global sites to be part of its ethical program through vigorous site training, assessment and audit processes. Flextronics says also that the company does not claim to have perfected it all yet, but its program drives it to understand the gaps and implement corrective and/or preventative actions. According to Flextronics recent audits from its customers also helps the company to understand "areas of opportunity".

Flextronics claims knowing where the gaps are and being committed to close all of them. According to the company it has very effective supplier development, selection and measurement systems in place. Suppliers that do not meet these criteria will have "developmental actions" in place. Flextronics says the company has embarked a few very proactive steps on in China as a demonstration to improve labour conditions there, including quickly investing 7 million USD to improve working and living conditions at a company (Friwo) acquired by it.

Comments by Philips:

Philips admitted that this factory is their supplier. Philips asks makeITfair to take into account the Flextronics comments or refute them on a factsbasis. According to Philips Flextronics has shown their responsibility also by inviting the makeITfair NGOs to visit the factories. PHILIPS feels the first responsibility lies with Flextronics but will take further action when needed.

Philips improves recycling policy²¹

Several times a year Greenpeace International publishes the Greenpeace Guide to Greener Electronics. First released in August 2006, the guide ranks the 18 top manufacturers of personal computers, mobile phones, TV's and games consoles according to their policies on toxic chemicals, recycling and climate change.²² In November 2007, when Philips was for the first time included in the rating and ranking, it scored particularly low, joining at the 17th position out of 18.²³

Philips then improved its chemicals policy by committing to the phase out of PVC and BFR's by 2010. And when Greenpeace added energy-criteria in June 2008 Philips also scored well on these. However, the company remained at the bottom of the ranking because of its bad score on the waste criteria and because it received a penalty for lobbying against individual producer responsibility.

On the 25th of February 2009, Philips finally improved their recycling policy by announcing that they will engage proactively in financing the end-of-life costs of their own products in an individual way and support some steps towards internalisation of the cost of recycling its products in their retail prices (rejecting the use of the consumer visible fee).²⁴ The company also committed to setting up voluntary collection systems in three countries that don't yet mandate recycling of waste electronic equipment. With regard to the adoption of a individual producer responsibility versus collective producer responsibility, Philips noted the following:

"Philips has never denied responsibility for e-waste but has merely chosen a strategy of collective approaches with the rest of the industry to collect and treat e-waste. Collection, treatment and disposal of e-waste has been proven effective through such collective systems from an environmental as well as economical perspective. Though it has been shown through research that collective systems are not perfect, it has also

²¹ Partly based on email correspondence with and input from Greenpeace, 25 February 2008 and 17 March 2009

²² Greenpeace website, Greenpeace Guide to Greener Electronics, <<http://www.greenpeace.org/international/campaigns/toxics/electronics/how-the-companies-line-up>>, (February 2009)

²³ Greenpeace, Guide to the Greener Electronics Edition Eight, June 2008 <<http://www.greenpeace.org/raw/content/international/press/reports/guide-greener-electronics-8-edition.pdf>> (February 2008)

²⁴ Philips, Press release: Philips increases sales of Green Products to 25% of total sales, 25 February 2009, <http://www.newscenter.philips.com/about/news/press/20090225_green_products.page> (February 2009)

*become clear that other stakeholders also must play their part to create a proper e-waste collection and recycling infrastructure.*²⁵

Responding to the new programme Greenpeace reacted with delight: "Philips had been the biggest obstacle in the electronics industry to tackling the growing problem of e-waste. And we have been calling on the company since 2007 to stop actively opposing laws that would oblige electronics producers to accept financial responsibility for the recycling of their own products. After several actions and 33,000 messages from our supporters, the company has finally agreed to our demands. This is a big step forward, and makes Philips a new green leader in the electronics sector."²⁶

While the new initiatives are surely a good step in the right direction Philips now has to continue working on the implementation of individual producer responsibility and has to increase the coverage of its voluntary take-back systems.

Philips has to communicate its plans and changed views to relevant stakeholders in the industry and policymakers at various governments especially with regard to the company's rejection of a visible fee as a means of financing disposal and recycling. And it has to start implementing individual financing systems.²⁷ Philips states that the company:

*"Has publicized its adapted position on Feb 25th 2009 via its international website. We are currently communicating this position to other stakeholders. It is not realistic to expect that Philips has informed all relevant stakeholders of the adapted position by the end of February 2009."*²⁸

However Philips is still defending that full internalisation – such that the recycling costs are an integral part of the product production cost – is not necessary to incentives them to design-for-recycling. Greenpeace remains to be convinced on this.

Also Philips states that it plans to phase out the use of toxic chemicals vinyl plastic or brominated flame retardants, however, Philips currently does not produce any products that are free of these materials. Regarding brominated flame retardants, this is also a major concern for workers employed in the supply chain of Philips products.

Philips states that:

"This statement is factually incorrect. In fact, Philips produces products that do not contain PVC or brominated flame retardants. Furthermore, like the rest of the industry, we are in the process of facing out the use of toxic chemicals in line with certain legislative proposals and/or voluntary action".

However on the website of Philips no information is published indicating that Philips products do not contain PVC or brominated products.²⁹ If the above claim of the company would be correct, Philips should publish a list with products that are free of PVC or brominated flame retardants.

²⁵ Philips, comments on draft overview, 13 Mar 2009.

²⁶ Greenpeace, Press release: VICTORY! Philips accepts recycling responsibility, 26 February 2009
<<http://www.greenpeace.org/international/news/victory-philips260209>> (February 2009)

²⁷ Philips Annual Report 2008

²⁸ Philips, comments on draft overview, 13 Mar 2009.

²⁹ Philips website, Chemical Management,
<<http://www.philips.com/about/sustainability/environmentalresponsibility/chemicalmanagement.page>> (March 2009)