

CONFIGURING LABOUR RIGHTS

Labour Conditions in the Production of Computer Parts in the Philippines

SOMO
July 2009



COLOPHON

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July 2009

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This report is published as part of the makeITfair campaign, 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.



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MAKEITFAIR

makeITfair is a European wide project on consumer electronics, aiming to inform young consumers about human rights, social and environmental issues along the supply chain. The work is co-ordinated by the Dutch organisation SOMO. Project partners are IRENE in the Netherlands, SwedWatch, Fair Trade Center, Church of Sweden Aid from Sweden, FinnWatch and Finnish Association for Nature Conservation from Finland; Germanwatch and Verbraucher Initiative from Germany, KARAT from CEE; ACIDH from the DR Congo, CIVIDEP from India and Labour Action China from China.



SOMO

The Centre for Research on Multinational Corporations (SOMO) is a non-profit Dutch research and advisory bureau. SOMO investigates the policies of multinational enterprises and the internationalisation of business worldwide. Focus is placed on research into labour conditions in the global South and cooperation with local organisations and trade unions. Website: www.somo.nl.



FOREWORD

This report is part of the ‘makeITfair’ project to raise awareness about development issues in the production chain of the consumer electronics industry, with a special focus on products for young consumers, such as mobile phones, MP3 players, game consoles and laptops. The focus of the project is on the consumer electronics industry, as this industry is growing rapidly and facing many social and environmental problems throughout the world. The industry has only recently been the subject of public campaigns, and there is still limited awareness with the wider public. As the production chain of consumer electronic products is a truly global one, the sector is a particularly good example to use in discussing issues of globalization with young consumers.

The three-year programme of ‘makeITfair’ concentrates on young consumers because they can play a decisive role in moving the industry towards more equitable and sustainable production methods. At the same time, dialogues will be initiated with electronic brand companies to encourage them to take responsibility for issues throughout their entire supply chain.

In the first year the research reports described the conditions under which the raw materials for electronics are extracted. Reports in the second and third year picture the production of electronic products in Asia. The service providers of mobile phone companies will also be researched in the third year of the project. Furthermore, the research investigates the situation in Europe itself: the first year examines production in Poland, in the second and third year the consumer electronics industry in Czech Republic and Hungary will be studied.

The dissemination of the research entails the development of Consumer Guides, educational material, toolkits for campaigning organisations and web based tools. Other activities in this project include capacity building sessions in Eastern Europe and the organisation of an annual international Round Table to bring together electronics companies, NGOs and trade unions to discuss the various responsibilities for the environmental, human rights and labour conditions down the supply chain of consumer electronics.

This EU-funded programme is led by a consortium of NGOs from Europe that includes Germanwatch, Verbraucher Initiative, SwedWatch, Church of Sweden, Fair Trade Center, FinnWatch/ Finnish Association for Nature Conservation, Karat, and SOMO, as well as NGOs in developing countries in Asia and Africa including SACOM for China, CIVIDEP for India and ACIDH for the Democratic Republic of Congo.

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EXECUTIVE SUMMARY

The Information and Communication Technology sector is generally perceived as a clean industry employing highly skilled people who earn decent wages by doing advanced engineering, programming and service jobs. What remains hidden is the labour force engaged in the manufacturing processes, often in developing countries; mostly young women working the assembly lines for excessive working hours at low pay and often deprived of their rights.

This report is following up on research that was done by the Workers Assistance Center Inc. (WAC) in the Philippines in 2006, which consisted of workers interviews and was published in 2007. That research showed there were serious violations of labour rights in the electronics industry. In 2008 SOMO and WAC conducted workers interviews and SOMO interviewed the management of six suppliers of components to computer brands as well as NGOs and trade unions. This report looks at the violations of labour rights in the supply chain of computer brands, their efforts to achieve improvements through codes of conduct and auditing, and considers if the implementation efforts have led to improved labour conditions.

When looking at the interviews that were done by WAC in 2006 and in 2008 it becomes clear that working conditions have not changed much in the intervening years. Even though the issues were communicated to the buying companies, any efforts taken have not led to much improved conditions, especially not regarding freedom to organise, wages and overtime. Some aspects of the situation have become even worse, looking at the growth of contract labour through agencies in which workers are worse off considering exactly these issues: wages and benefits and possibilities to organise. The economic crisis might have an even further negative effect on issues such as wages and organising, with workers losing their jobs.

Freedom of Association

The perception of workers in Export Processing Zones (EPZs) regarding the possibilities to organise in unions is influenced by the “no union-no strike” practice in EPZs; it is common knowledge that unions are not allowed and that any attempts at organising can be dangerous. In the 2008 interviews with workers in the EPZs of the Philippines, most workers interviewed said they did not think that their management would allow workers to organise, most knew examples of workers being dismissed for organising activities and several mentioned explicit statements against unionisation having been issued by management.

There is a clear discrepancy between the perception of workers on what the company stance is regarding organising and what companies express during the interviews. Overall the interviewed companies report that they do not deny workers the right to organise. They add that, however, there is no real need for a trade union in their factory and that the absence of a union signifies that workers are probably satisfied with the company. Management of the interviewed factories suggest other ways for workers to express their opinions and discuss grievances, for example through an employee cooperative and committees. However, labour rights organisations and trade unions oppose to the establishment of these committees as these are often management composed and will be used to discourage workers organising in trade unions.

Wages and Overtime

Workers are not able to cover basic costs with the wages they earn for a basic working day. The minimum wages are set at such a low standard that according to the National Wage and Productivity Commission

they are only a third of what a family would need to make a living. Workers thus need overtime pay to be able to pay for food, lodging etc. Especially in the peak season overtime is high, workers are regularly working 7 days per week, sometimes 12 hours per day.

Overall, the minimum wage is seen as the basic wage by the companies, over which they will pay seniority. The minimum wage is seen as the maximum entrance salary by most of the companies; according to one of the managers interviewed they “cannot increase the wage because there is the minimum level”. Governments often keep the minimum wages at a low level to attract foreign investments. Some of the companies do realise that the minimum wage is by far not enough to live on but do not draw any conclusions with respect to their own company. As the minimum wage is being set at such a low minimum workers will not be able to make a living thus will need a lot of overtime to make ends meet. “So the people ask for overtime. Every day they have a request for doing overtime.” one of the suppliers mentions. The buyers conducting audits found overtime as a major issue and workers were reporting excessive compulsory overtime in the interviews.

Contract labour

In the Philippines there is a growing trend towards 'contractualisation' in the electronics industry whereby companies will increasingly hire contract workers through an agency. Mostly the workers are employed on the minimum salary without the seniority pay, bonuses and premiums that regular workers receive. This trend seems to lead to a deterioration of the working conditions in the electronics sector in the Philippines which is accelerated by the financial crisis as workers lose regular contracts due to closures of factories and will not easily find new employment with regular contracts. Also, for contract workers, due to their short term contracts and their position in the company, it is hard to organise in union.

Supply chain responsibility and codes of conduct

Companies have increasingly been put under pressure to make sure that the products they are selling are made under good social and environmental conditions in the last decade. They should not only apply this to their own companies but also to the companies that supply them with parts and products. Computer companies and hard disk drives (HDD) suppliers have adopted codes of conduct, and have put efforts into monitoring and auditing their suppliers.

Purchasing Practices

Most of the suppliers interviewed mentioned not seeing a comparative advantage in improving social standards in their company, as customers will not pay more for the products, and are negotiating a decrease of the prices on a regular basis. The brands will be asking for improvements, which have to be paid by the suppliers, as well as sometimes the audits, but are not offering more. Overtime, one of the issues acknowledged as a problem by both suppliers and computer brands is very much related to orders, or changes in orders, from the buyers.

Electronics sector in the Philippines and the economic crisis

Per October 2008, 926 companies were engaged in the electronics industry wherein 72% foreign-owned. Japanese investments account for 37% of the total investments, 2nd biggest are US investors, 3rd Philippine exporters, and 4th Dutch investors. The HDD industry in the Philippines is totally dominated by Japanese-owned assemblers and suppliers. The main reasons for the 4 major Japanese HDD manufacturers to locate in the Philippines was the strategic location with easy access to the different countries of East and Southeast Asia (serving both as markets for HDDs as well as sourcing countries for

parts and components); the sufficient supply of workers, engineers, and technical graduates; the low wages, and the proficiency in English of the Filipino workers.

The economic crisis made the global PC market slow down in the last quarter of 2008, but it still showed a flat growth. In the first quarter of 2009, however, sales and shipments statistics show that the PC market is hit hard. Consumer spending is lower due to higher unemployment and low consumer confidence and companies clearly refrain from spending their IT budgets by extending their PCs lifecycles. The electronics sector is the major export sector for the Philippines, accounting for 58 % of the Philippines' exports in 2008, employing about 480,000 workers. Several companies have laid off workers and/or closed facilities in the Philippines. Even when, as reported by the Philippine Economic Zone Authority (PEZA) in April 2009, new orders for electronics products start to come in again this still might negatively affect new workers contracts as workers are increasingly not directly employed anymore by the electronics company where they work for but are rather hired through an agency.

EPZs

Almost all of the EPZs are private-sector owned (except four that are owned by PEZA, among which Cavite) of which 60 are manufacturing zones. There are specific incentives for companies investing in the EPZs, such as tax holidays. Most of the economic zones are Japanese controlled. The local government has only a very limited influence in the zones. There are private security forces inside the EPZs and the regular police can only enter the zones after the PEZA has been informed.

Conclusions

What becomes clear from the management interviews with the suppliers in the Philippines is that considerable efforts have been made by management to set up systems around CSR, and work has been done around improving labour conditions, creating feed back systems for workers etc. Also buyers have audited the suppliers and have asked for improvements and several companies have signalled that they are working on decreasing working hours. It is encouraging that these steps have been made and that companies put efforts into designing their policy; several suppliers have effected major changes in this regard. Several of the computer brands as well as HDD manufacturers have put efforts into auditing their suppliers and undertaken remediation efforts. This has no doubt lead to changes on such issues as health and safety and employment of young workers. Still all these efforts have not led to substantial improvement of the labour conditions in the suppliers, with respect to wages, freedom of association and working hours.

All efforts made by suppliers and computer companies on improving CSR management, audits etc. have not led to substantial improvement of the labour conditions in the suppliers' companies. There are several reasons for this:

- There is no real understanding by suppliers of what is expected from them.
- Buyers are not addressing the root causes of the labour issues such as freedom of organisation and wages, not in their codes or in their policy;
- Measures taken by some of the suppliers to facilitate dialogue between workers and management does not replace freedom of association and could even undermine this;
- Suppliers are referring to the government to point out that the minimum wage is not their responsibility without looking at their own possibilities to increase the wage above the minimum;
- There are no real efforts to implement the codes down the supply chain, with the exception of HP;

- Companies are not taking many measures beyond monitoring or auditing their suppliers. They should consider interviewing workers outside of the factory premises, remediation efforts and working with local NGOs and Trade unions
- Workers are not informed on Codes of Conduct and are not interviewed in most of the audits.
- Companies are asking for improvements while at the same time not making it attractive for suppliers to implement changes.

1. INTRODUCTION

The Information and Communication Technology (ICT) sector is generally perceived as a clean industry employing highly skilled people who earn decent wages by doing advanced engineering, programming and different service jobs. This is, however, only one part of the reality behind the computers that are sold and used around the world. What remains hidden behind the brand name companies such as Acer, Fujitsu Siemens Computers, Hewlett Packard, and Dell is the labour force engaged in the manufacturing processes in developing countries – mostly young women working at the assembly lines for excessive working hours at low pay and often deprived of their rights.

The first report by SOMO on labour conditions in the ICT hardware sector in the Philippines was published in 2005; *CSR issues in the ICT hardware manufacturing sector*¹. The second publication was *Producing Computer Hardware: an investigative report on labour conditions in the supply chain of the ICT sector in the Philippines*², which was produced by the Workers' Assistance Center, Inc. (WAC) of the Philippines in April 2007.

This 2009 report is a follow up on the report of WAC that came out in 2007; many of the factories that were researched in 2006 for the WAC report were researched again in 2008. Based on the joint 2008 field research conducted by SOMO and WAC, the report *Silenced to Deliver*³ was published in September 2008 which focused on the manufacturing of mobile phone parts. This report focuses on computer parts and especially on the HDDs and semiconductors for computers whereby the trends in the computer hardware sector in the Philippines are highlighted.

Next to these efforts concerning field research, SOMO's briefing paper *Computer Connections* details how companies responded to labour issues that were brought to their attention in relation to their company policies; how they went about remedying poor labour conditions found in factories that are producing (parts of) their computers; and how transparently companies reported about labour issues and remediation efforts.⁴ This report on the Philippines will take the efforts of the *Computer Connections* report further and look beyond the codes to see if the implementation efforts have led to improved labour conditions.

¹ I. Schipper & E. de Haan, *CSR Issues in the ICT Hardware Manufacturing Sector*, SOMO, September 2005

² WAC, *Producing Computer Hardware: An Investigative Report on Labour Conditions in the Supply Chain of the ICT Sector, in the Philippines*, SOMO, April 2007

³ J. Chan, E. de Haan, S. Norbrand & A. Torstensson, *Silenced to Deliver. Mobile phone manufacturing in China and the Philippines*, SOMO and Swedwatch, September 2008

⁴ E. de Haan & I. Schipper, *Computer Connections. Supply chain policies and practices of seven computer companies*, SOMO, May 2009

2. METHODOLOGY

Research for this report was conducted using both desk research and field research. Desk research included a literature review and further online research at the end of 2008 and the beginning of 2009, focusing in particular on global trends in the sector.

The field research in 2006 by WAC consisted of workers interviews and covered 8 factories in the Cavite Export Processing Zone (CEPZ) in Rosario, Cavite, 2 factories in Laguna Techno Park, 1 factory in Carmelray Industrial Park I- Special Economic Zone and 1 factory in First-Cavite Industrial Estate (12 factories in total). The joint field research efforts by WAC and SOMO (2006 and 2008) resulted in more than one hundred workers interviews (106 interviews). The workers were interviewed, mostly individually, in their own place or boarding houses. Some were introduced by their fellow workers or were approached in the places where they gather or stay after work. Some focus group interviews were also carried out.

In addition to the workers interviews, SOMO interviewed 12 NGOs and trade union organisations⁵, conducted 6 management interviews at factories⁶, and interviewed persons from the Semiconductor and Electronics Industries in the Philippines Inc. (SEIPI)⁷, the Philippine Economic Zone Authority (PEZA) and the Embassy of the Kingdom of the Netherlands.⁸

SOMO contacted 10 out of the 12 factories that were discussed in WAC's research study for a management interview as well as several other companies manufacturing computer parts such as hard disk drives and semiconductors. Only 6 meetings were scheduled. Both the suppliers and the computer companies that buy their components have been given the opportunity to comment on SOMO's findings and to notify SOMO about any factual errors.

Why the focus on hard disk drives (HDD) and semiconductors? A small number of HDD manufacturers and semiconductor producers dominate the world market and the Philippines is an important export country of both these products. While the Philippine exports only account for about 2% of global electronics output, the country currently manufactures 10% of the world's semiconductors and 50% of all 2.5-inch hard disk drives.⁹ Four of the six world's largest HDD producers can be found in the Philippines and eight out of the world's top thirty chipmakers¹⁰.

As the current number of HDD suppliers worldwide is reduced to only 5, one can imagine that computer brands do not have much choice where to buy. This highlights the fact that labour conditions in the supply chain of the different brands often do not differ from each other; in this case all brands buy HDDs (and chips) from the same limited number of manufacturers whose products are obviously made under the same labour conditions.

⁵ Global Alliance for Incinerator Alternatives (GAIA), Center for Trade Union and Human Rights (CTUHR), Greenpeace, Learn (Education institute of the different trade unions), Saligan (Alternative Legal Assistance Center Inc.), Alliance of Progressive Labor (APL), BAN Philippines, The Eco-Waste Coalition, Federation of Free Workers (FFW) at Vishay, KMU (or May First Movement), IBON (research-education-information development institution), EILER (The Ecumenical Institute for Labor Education and Research, Inc.) and IOHSAD (Institute for Occupational Health and Safety Development).

⁶ San Technology, Inc., Toshiba, Tsukuba Philippine Diecasting Corp., Hitachi Global Storage Technologies Philippines Corp., Fujitsu Computer products Corporation of the Philippines and Maxim.

⁷ This is the largest organization of foreign and Filipino electronics companies in the Philippines.

⁸ Mr. Ernie Santiago, President of SEIPI, Mr. Elmer H. San Pascual, Group Manager Promotions and PR Group of PEZA and Ms. Paula J. Schindeler, Second Secretary Economic and Cultural Affairs of the Embassy of the Kingdom of the Netherlands.

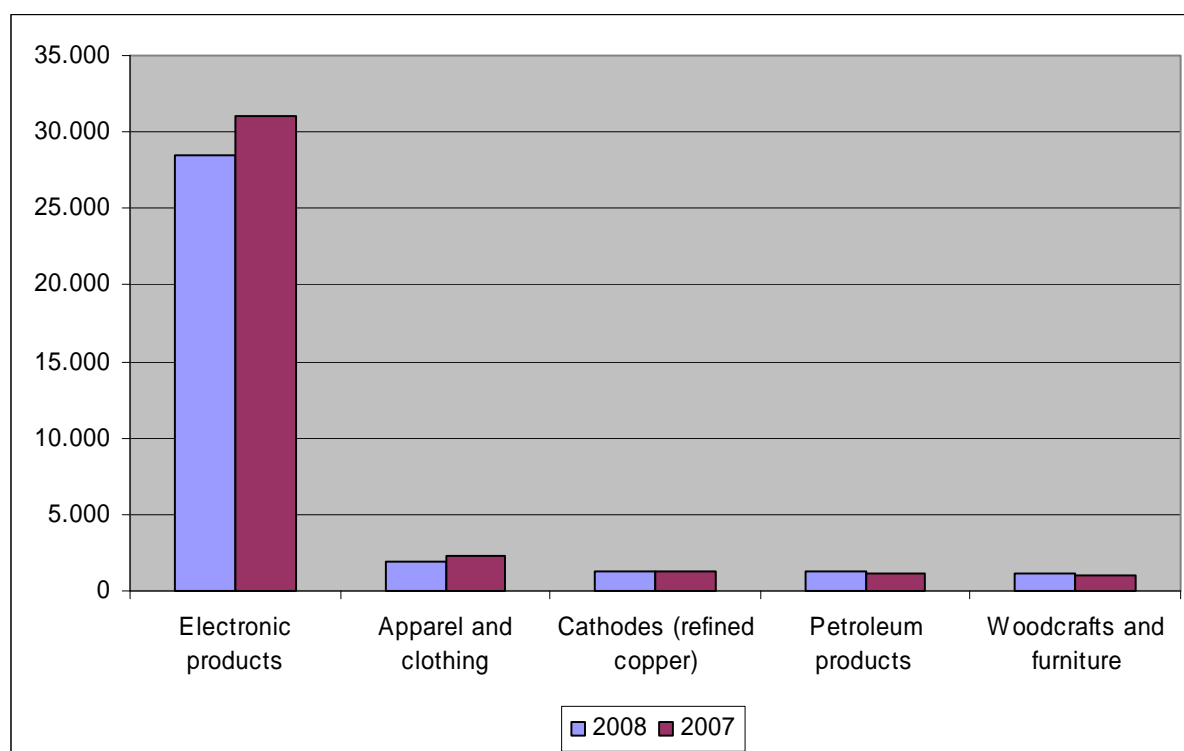
⁹ Asia Times Online, Philippines Scoffs at China Electronics Threat, 16 Sept 2006.

¹⁰ Ernie Santiago, President of SEIPI, Manila, 30-05-2008, interview by Esther de Haan

3. THE ELECTRONICS SECTOR IN THE PHILIPPINES

In several countries in the South, the electronics industry is the main exporting sector. During the last decades, the electronics sector has been an important driver for growth in the Philippines. The Philippines is ranked 7th largest producer of electronic products among the Asian countries, following China, Japan, South Korea, Malaysia, Singapore and Taiwan. In October 2008, 926 companies were engaged in the electronics industry wherein 72% are foreign-owned while 28% are Filipino-owned. The majority of them are located in Calabarzon (Cavite, Laguna, Batangas, Rizal, Quezon) with 48% and 42% in Metro Manila. In terms of employment, the industry has a net employment of about 480,000 engineers, technicians and operators while some three million Filipinos are benefited through indirect employment.¹¹ In 2008 electronic products continued to be the top earner for the country, good for 58% of the total exports, although this meant a decrease of 8.3% to \$28.501 billion from \$31.085 billion in 2007.¹²

Figure 1: Philippine top five exports: 2008 & 2007



Graphic made by Foreign Trade Statistics of the Philippines: 2008 .

The United States of America (US) continued to be the country's top trading partner in 2008, cornering 14.6% of the country's total trade. Electronic products contributed the biggest share at 48.0% of the total exports to the country, followed by garments at 17.3% share. The US is followed by Japan, China,

¹¹ Zorayda S. Tecson, *Electronics industry expected to bounce back next year*, Manila, 6 October 2009, <<http://balitapinoy.net/default.asp?sourceid=&smenu=338&twindow=Default&mad=No&sdetail=17748&wpage=1&keyword=&sidate=&ccat=&ccatm=&restate=&restatus=&reoption=&retype=&repmin=&repmax=&rebed=&rebath=&subname=&pform=&sc=1696&hn=balitapinoy&he=>>> (10-06-2009)

¹² National Statistics Office, *Foreign Trade Statistics of the Philippines: 2008*, 14 May 2009, <<http://www.census.gov.ph/data/sectordata/sr09429tx.html>> (10-06-2009)

Singapore and the Netherlands. Total external trade in goods with the European Union (EU) grossed 12.2% of the country's total trade. With the Netherlands as top trading EU partner with a 31.9% of EU's total trade.¹³

The Japanese investments counts for 37% of the total investments, 2nd biggest are US investors, 3rd Pilipino exporters, and 4th Dutch investors.¹⁴ As there are not many Dutch electronics companies besides Philips it is remarkable that Dutch investors are so prominent in the Philippines. This can possibly be explained by the fact that several companies are owned by holdings registered in the Netherlands for tax reasons. Normally, dividends declared by a domestic corporation to its foreign parent are generally taxed at 32%. Under the Philippine tax treaties with the Netherlands a preferential tax of 10% on branch profit remittances is granted. Furthermore, under the tax treaty dividends paid are subject to 10% tax.¹⁵ And liquidating dividends paid by a Philippine company to a Dutch company shall be subject to tax only in the Netherlands which has a low tax rate for this. For example Analog Devices (US) is registered as Dutch, as well as Panasonic (JP), Bag Electronics, Inc, Claymount Assemblies Philippines, Inc. Hitachi Global Storage Technologies Philippines Corporation (JP), Nf Philippines, Inc. NXP Semiconductors, and TMX Philippines, Inc.

According to Mr. Elmer H. San Pascual of the Promotions and PR Group of the Philippine Economic Zone Authority (PEZA), the production of HDD parts is in 2008 still growing whereby the lower technology production is transferred to China and Vietnam. The country has for decades been well-known for producing low-end products, but Philippines-based companies have managed to capture more added value by being an important player for more advanced assembly work these last years.¹⁶

3.1. THE ROLE OF THE GOVERNMENT IN ATTRACTING FOREIGN INVESTMENTS

The Philippines is competing on the same markets as low-cost neighbours such as China, India, Vietnam, Malaysia, Indonesia, Cambodia and Thailand. Countries desperate for foreign investment and employment make large efforts and high costs to present their country as the most attractive for foreign investment. Examples of these efforts are the establishment of economic zones with special (more lax) regulations for acquiring property, investments and taxes, export incentives, guaranteed access to resources such as water and electricity which are often offered at reduced prices, reduction of import taxes and keeping minimum wages low. In the Philippines, the Republic Act (RA) No. 7916 or the Special Economic Zone Act of 1995 was signed into law on 24 Feb 1995. The law was created to encourage economic growth through the development of special economic zones.¹⁷

The Philippines also made strategic investments in Research & Development to attract more higher-end production. One key part of the agenda of the Philippine government for ensuring continued growth is to attract investment to new regions in the country.¹⁸ For one of the interviewed companies the availability

¹³ Idem

¹⁴ Interview with Mr. Elmer H. San Pascual, Group Manager Promotions and PR Group of the Philippine Economic Zone Authority (PEZA), PEZA Office Quezon City Metro Manilla, 26 May 2008, by the authors

¹⁵ A.L. Pellas & Associates, *The Philippines*, <<http://alpellas.com/philippine-tax.html>>

¹⁶ Interview with Mr. Elmer H. San Pascual, Group Manager Promotions and PR Group of the Philippine Economic Zone Authority (PEZA), PEZA Office Quezon City Metro Manilla, 26 May 2008, by the authors

¹⁷ *Philippine foreign investment law*, Chan Robles Virtual law library <<http://www.chanrobles.com/specialeconomiczoneact.htm>> (09-06-2009)

¹⁸ Business Monitor International, *Philippines Information Technology Report Q3 2008*, August 2008, <<http://www.pr-inside.com/philippines-information-technology-report-r825894.htm>> (03-12-2008)

of more engineers was reason to move to another economic zone within the country. An extra advantage to this was that the company could start paying the minimum wage again (no employees with seniority rights anymore) and thus reduce wage costs. They also received new tax incentives from the government.¹⁹

New companies that invest in the Philippines are mostly suppliers to the large electronics companies. To attract these new investors the PEZA actively researches where the used parts are coming from and they subsequently check whether the suppliers of these parts are already operating in the Philippines. If not, the PEZA approaches them to produce in the Philippines.²⁰

In the Philippines, there are about ten investment promotions agencies (IPAs) and several national government agencies involved in managing investment activities and administering tax incentives. These include the Board of Investments (BOI), and the Philippine Economic Zone Authority (PEZA).²¹ The PEZA is an investment promotion agency and a government-owned corporation, attached to the Department of Trade & Industry. The PEZA grants fiscal and non-fiscal incentives to developers of and export producers in special economic zones. Special Economic Zones (SEZ) may contain any or all of the following:

- Industrial Estates (IEs), Export Processing Zones (EPZs), and Free Trade Zones.
- Industrial Estates (IEs) are tracts of land developed for the use of industries.
- Export Processing Zones (EPZs) are special IEs whose locator companies are mainly export-oriented. EPZ incentives include tax- and duty-free importation of capital equipment, raw materials and spare parts.
- Free Trade Zones are areas nearby ports of entry, such as seaports and airports. Imported goods may be unloaded, repacked, sorted and manipulated without being subjected to import duties.

In April 2009, Director General Lilia de Lima of the Philippine Economic Zone Authority (PEZA) reported that despite the global economic crisis, the number of investors in the economic zones rose by 218, from 1,738 in 2007 to 1,956 last year, while the number of special economic zones jumped from 154 in 2007 to 183 last year. She said 86% of the country's total exports come from PEZA locator companies.²²

Only four EPZs are owned by the government (Bataan, Cavite, Baguio City and Mactan Island in the Visayas). The rest are private-sector owned of which 60 are manufacturing zones. The PEZA only manages the incentives for the companies in these zones, the rest is managed by the private sector. Managing the zones themselves is not an activity the PEZA wants to expand. The economic zones are mostly Japanese controlled. There are private security forces inside the SEZ and the regular police can only enter the zones after the PEZA is informed. The local government has hardly any influence in the zones. The PEZA has a zone manager in every zone and a staff of around 2 or 3 people. In total, the PEZA staff numbers 616 persons for 1738 companies (in 2007).

¹⁹ Interview with the Human Resource manager of Maxim, 22 May 2008, by the authors.

²⁰ Interview with Mr. Elmer H. San Pascual, Group Manager Promotions and PR Group of the Philippine Economic Zone Authority (PEZA), PEZA Office Quezon City Metro Manila, 26 May 2008, by the authors

²¹ Further the the Subic Bay Metropolitan Authority (SBMA), the Clark Development Corporation (CDC), and other bodies mandated by various laws to establish, maintain, and manage special economic or free port zones.

²² Office of the President, *PGMA told electronics sector may be making a rebound*, Wednesday, 29 April 2009, , <http://www.op.gov.ph/index.php?option=com_content&task=view&id=24875&Itemid=2>



Photo: Special Economic Zone Laguna Technopark is one of the privately-owned industrial estates

3.1.1 TAX INCENTIVES

For projects outside special economic zones (SEZs), companies can go to the Board of Investments (BOI) for incentives. For projects in any of the SEZs companies can turn to the PEZA. There are some important differences between the incentives supplied by PEZA and by the BOI. It is clear that the PEZA grants the most generous incentives.²³

Table 1. The type of incentives provided by BOI and PEZA.

Type of incentive	BOI	PEZA	Most generous
Tax holidays up to 8 years	Yes	Yes	-
After the lapse of the income tax holidays	The standard corporate tax rate will apply (this is lowered from 35% to 30% in 2009)	Basic income tax rate of 5% of gross income.	PEZA
Tax and duty free importation of spare parts	Yes	Yes	-
Tax and duty free importation of capital equipment	No (not since 1997)	Yes	PEZA
Tax incentive on import raw materials	tax credit	tax and duty free	PEZA

Source: IMF Working Paper, September 2008.²⁴

²³ Incentives managed by some other investment promotions agencies such as the the Subic Bay Metropolitan Authority, Clark Development Corporation (Clark SEZ), Cagayan Economic Zone Authority and the Zamboanga City Special Economic Zone Authority are the same as those managed by the PEZA. <<http://www.boi.gov.ph>>

²⁴ Dennis Botman, Alexander Klemm & Reza Baqir, *Investment Incentives and Effective Tax Rates in the Philippines: A Comparison With Neighboring Countries*, IMF Working Paper, September 2008 <<http://www.imf.org/external/pubs/ft/wp/2008/wp08207.pdf>>

In a 2008 IMF Working paper researchers compared the general tax provisions and investment incentives in seven east-Asian economies—the Philippines, Malaysia, Indonesia, Lao, Vietnam, Cambodia, and Thailand—in order to provide input into the ongoing debate in the Philippines about reforming tax holidays. Conclusions were that the standard corporate income tax rate (CIT) in the Philippines is higher than in neighbouring countries but once reduced to the planned rate of 30% by 2009 it will be identical to the ones in Indonesia and Thailand. Incentives in the Philippines appear broadly comparable to those in neighbouring countries.

Table 2. Comparison of general tax provisions and investment incentives in 7 east-Asian economies.

Country	CIT	Years of possible tax Holiday	Reduced CIT possible after Tax Holiday?
Malaysia	28%	5 years	No
Philippines	35% (30% in 2009)	3-8 years	Yes, 5% on gross income (PEZA)
Indonesia	30%	3-8 years	Yes, 10% on dividend payment
Cambodia	20%	3-6 or 6-9*	No
Lao P.D.R.	35%	3-7 years	Yes, 0-10%**
Thailand	30%	3-8 years	Yes, 50% reduction in zone 5.
Vietnam	28%	1-8 years	No

Source: based on IMF Working Paper, September 2008²⁵

CIT = standard corporate income tax rate

** 3-6 when starting in first year of sales, 6-9 when starting in first year of profits.*

*** Depends on region, and 0% is possible when profits are reinvested.*

There is one thing that most special economic zones in different countries have in common. Trade union activity is strongly discouraged in the EPZs. It is common knowledge that there is a "no-union, no-strike" policy in the Philippine SEZs. The zone authorities are entitled to carry out their own labour inspections. Until now, the Department of Labour and Employment has proved unable or unwilling to enforce labour legislation in the EPZs.

²⁵ Idem

4. THE EFFECT OF THE FINANCIAL CRISIS ON THE PC MARKET

4.1. THE GLOBAL PC MARKET AFFECTED BY THE FINANCIAL CRISIS

In the last quarter of 2008, the global PC market was seriously slowing down because of the financial crisis but still showed a flat growth. In the first quarter of 2009 however the sales and shipments statistics show that the PC market is being hit hard. Experts predict that the PC industry will experience the biggest decline in history in 2009. The consumer spending is lower due to higher unemployment and low consumer confidence and companies clearly refrain from spending their IT budgets by extending their PCs lifecycles. The strong demand for the mini notebooks (also called netbooks) currently saves the PC market from crashing. These low priced mini notebooks are considered a great tool by especially young consumers who are increasingly active on social networking sites and lead consumers to extend the lifecycle of their standard notebooks and consider the mini notebook as an additional device.

All major PC players – including Toshiba, HP, Lenovo, Dell, Samsung and Fujitsu Siemens – entered the mini-notebook market in the second half of 2008, so buyers now have much more choice. These vendors are primed to recapture the market from pioneers such as Asus and Acer.²⁶ The tables with market shares below clearly show the enormous growth of ASUS and Acer due to the success of the mini notebooks.

Table 3. Western Europe Market share PCs, 1st quarter 2009

Company	Western Europe Market share PCs, 1st quarter 2009	Growth (%) of PC shipments
1. Hewlett-Packard	22.7	1.2
2. Acer	16.9	31.6
3. Dell Inc.	13.7	-22.1
4. Toshiba	5.7	20.3
5. ASUS	3.3	43.4
Others	37.7	-10.1
Total	100.0	0.7

Source: Gartner, April 2009. Data includes desk based and mobile PCs

Table 4. Worldwide Market share PCs, 1st quarter 2009

Company	Worldwide Market Share PCs, 1st quarter 2009	Growth (%) of PC shipments
1. Hewlett-Packard	19.8	2.6
2. Dell Inc.	13.1	-16.9
3. Acer	13.0	26.7
4. Lenovo	6.6	-7.7
5. Toshiba	5.5	18.4
Others	42.0	-15.6
Total	100.0	-6.5

Source: Gartner, April 2009. Data includes desk based and mobile PCs and X86 servers.

²⁶ Gartner Says Western Europe PC Market Saw Flat Growth in First Quarter 2009, Egham, UK, 6 May 2009, <<http://www.gartner.com/it/page.jsp?id=966713>>

In Western Europe the PC shipments showed a marginal growth of 0.7 in the first quarter of 2009 compared with the same period in 2008. The worldwide PC shipments in the first quarter of 2009 however, declined by 6.5%.

In contrast with the experts predicting that 2009 will show the biggest decline ever, other experts argue that the global PC market will be less affected than during the economic crisis in 2001 because of the fact that PCs are today far more important in daily life and more affordable; the major buyers of computer hardware are business customers for whom computers are indispensable; and a PC today costs only half what it cost in 2001. Furthermore, it is expected that notebook PCs will outgrow desktop PCs in 2009, and as notebooks typically have a shorter lifespan than desktops the PC market will be more driven by replacements which will also limit the impact.

Until the current financial crisis the global computer hardware market showed substantial growth figures: for the period spanning 2003-2007 a compound annual growth rate (CAGR) of 5.5%. The market grew by 5.6% in 2007 to reach a value of \$399.8 billion.^{27,28} The worldwide PC shipments in 2007 totalled 271.2 million units, a 13.4% increase from 2006.²⁹ And in 2008 the worldwide PC shipments totalled 302.2 million units, a 10.9% increase from 2007.³⁰

Major suppliers to the computer hardware market are electronic component manufacturers, including hard disk drives (HDDs) and semiconductors (chips). The majority of components used in the manufacture of computers are interchangeable and, in order to reduce costs, are often sourced from companies operating from low-cost manufacturing regions. Manufacturers do not incur significant costs when switching basic component suppliers and therefore, supplier power is low. Although Intel wields considerable supplier power due to its market domination. In the computer hardware market, the brands typically outsource a large proportion of their manufacturing to electronic manufacturing service (EMS) and original design manufacturing (ODM) companies. In 2005, the PC brands outsourced 85% of the production of notebooks and 67% of the desk tops, and since then the level of outsourcing has only increased.³¹

4.2. THE IMPACT OF THE FINANCIAL CRISIS ON THE ELECTRONICS SECTOR IN THE PHILIPPINES

Retrenchments and closures caused by the financial crises will be most immediately felt in the export sectors. As the electronics sector is the major export sector for the Philippines this sector will be most affected. The PC, camera and mobile phone companies, the primary users of the semi-conductors and microprocessors that the country exports, are dealing with a lower global demand and are minimising the purchasing of components. The government anticipates that 60,000 of the 480,000³² workers employed in the electronics sector could be affected nationwide.³³

²⁷ This market includes personal computers, servers, mainframes, workstations, and peripherals.

²⁸ DataMonitor, *Global Computer Hardware Industry Profile*, February 2008.

²⁹ Gartner, *Gartner Says Worldwide PC Market Grew 13 Percent in 2007*, Press release Gartner, 16 January 2008.

³⁰ Gartner, *Worldwide PC Shipments in 2008*, fact recorded on: March 16, 2009. Categories: PCs, <http://www.itfacts.biz/worldwide-pc-shipments-in-2008/12809> (24-06-2009).

³¹ I. Schipper & E. de Haan, *CSR Issues in the ICT Hardware Manufacturing Sector*, SOMO, September 2005.

³² Ernie Santiago, President of SEIPI, Manila, 30-05-2008, interview by Esther de Haan

³³ AFP, *Philippines fears 60,000 IT job losses after Intel shutdown*, Kioskea, January 22 2009,

<http://en.kioskea.net/actualites/philippines-fears-60-000-it-job-losses-after-intel-shutdown-11862-actualite.php3>

Take for example the semiconductors, an important export product for the Philippines. The worldwide semiconductor revenue fell by 5.4% in 2008 and the expectation is that there will be a decline of 22% in 2009. The 2008 decline resulted in the figures in Table 3.

Table 5. Top 10 Worldwide Semiconductor Vendors by Revenue Estimates (Millions of U.S. Dollars)

2008 Rank	Company	2008 Revenue	2008 Market Share (%)	2007- 2008 Growth (%)
1	Intel	33,814	13.3	-0.5
2	Samsung Electronics	17,391	6.8	-15.0
3	Toshiba	10,601	4.2	-10.3
4	Texas Instruments	10,593	4.2	-10.0
5	STMicroelectronics	10,270	4.0	3.1
	Others	172,344	54.3	-3.1
	Total	255,013	100.0	-5.4

Source: Gartner, April 2009.

Intel Philippines, that started production in 1974, has been the nation's leading exporter for many years. Since April 2008, however, Intel has been consistently dismissing workers in the Cavite plant and in January 2009 it became clear that the facility in Cavite will close down in 2009 with the loss of 1,800 jobs.³⁴ Also in January 2009, Texas Instruments Philippines Inc. announced its expectation for a second wave of layoffs. In December 2008, Texas Instruments already let go of 392 workers in its semiconductor factory in Baguio.³⁵

On the other hand, in April 2009, the Philippine Economic Zone Authority (PEZA) reported that new orders for electronics products are starting to come in again.³⁶ Even if this would mean the rebound of the crisis, what will be the effect on the working conditions of the electronics workers? Will the 50,000 to 60,000 displaced workers ever get a regular contract again and get directly employed by the electronics company? During the interviews it became clear that workers are increasingly not directly employed anymore by the electronics company they work for but are rather hired through an agency where they are paid less and do not have the same rights and benefits as regular workers. In chapter 6.3 we will give more attention to this.

³⁴ Idem

³⁵ Vincent Cabreza, *More layoffs seen at Texas Instruments*, The INQUIRER Network, 1 July 2008

<<http://business.inquirer.net/money/breakingnews/view/20090107-181975/More-layoffs-seen-at-Texas-Instruments>>

³⁶ The Official Government Portal of the Republic of the Philippines, *PGMA told electronics sector may be making a rebound*, 29 April 2009, <http://www.gov.ph/index.php?option=com_content&task=view&id=24875&Itemid=2>

5. THE HDD AND CHIP PRODUCTION

5.1. HDD ASSEMBLERS AND THEIR SUPPLIERS IN THE PHILIPPINES

The HDD industry in the Philippines is totally dominated by Japanese-owned assemblers and suppliers. In 1994 and 1995, Hitachi Computer Products, Fujitsu Computer Products Corporation and Toshiba Information Equipment Inc. started to produce 3.5” and 2.5” HDDs. NEC followed with its own HDD assembly in the Philippines a few years later, making the total of major HDD assemblers four. Japanese supplier firms that followed the HDD assemblers are for example Nidec Philippines Corporation, Luzon Electronics Technology Inc., Tsukuba Philippine Die-casting Corporation (aluminum base plates for 2.5” HDDs), and San Technology.³⁷ Different from other HDD exporting countries like Thailand and Malaysia, the well-known US HDD firms (Seagate and Western Digital) are absent in the Philippines. Seagate once planned to start an operation in Cebu, however it never realized it.

The main reasons for the four Japanese HDD manufacturers to locate in the Philippines was the strategic location with easy access to the different countries of East and Southeast Asia (serving both as markets for HDDs and as sourcing countries for parts and components); a sufficient supply of workers, engineers, and technical graduates; the low wages, and the proficiency in English of the Filipino workers.³⁸

5.2. CONSOLIDATIONS AND LAY OFFS AMONG THE HDD MARKET LEADERS

In 1985 there were 60 HDD manufacturers worldwide. After mergers, acquisitions and bankruptcies, only 7 remained in 2006. And these 7 companies continue to merge with each other to stay competitive.

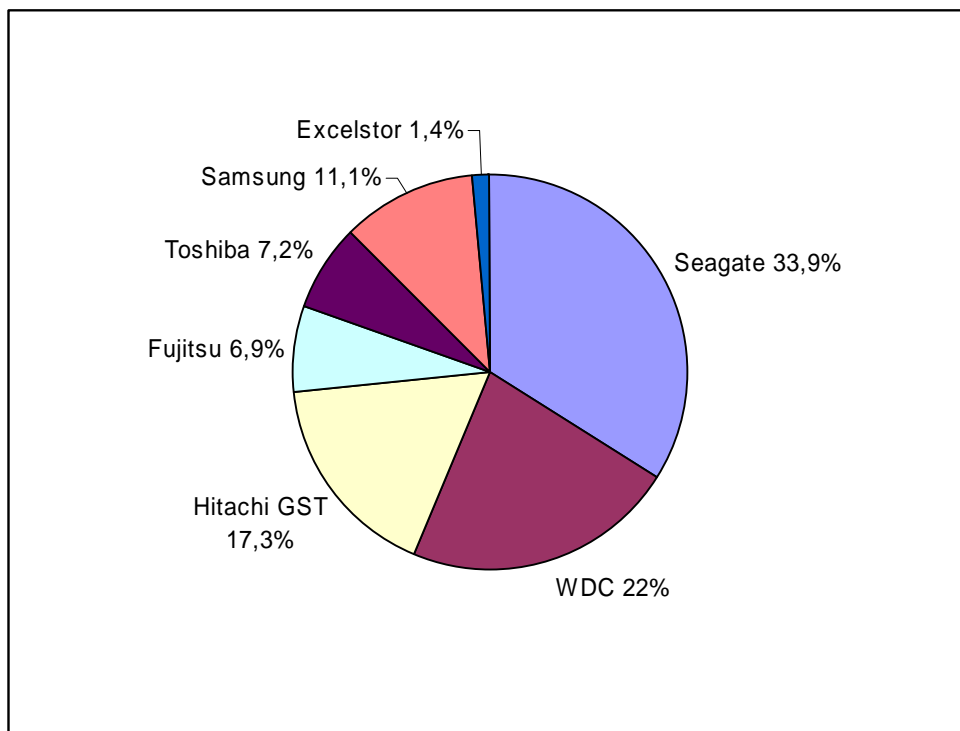
Table 6. The major HDD Companies Worldwide.

HDD Companies	2005 market shares	2009 situation	Projected 2010 situation
1 Seagate	28.7%	1. Seagate/ Maxtor	1. Seagate
2 Western Digital (WDC)	17. %	2. Western Digital	2. Hitachi GST/Toshiba/Fujitsu
3 Hitachi GST (incl. IBM)	15.5 %	3. Hitachi GST	3. Western Digital
4 Maxtor	14.1%	4. Toshiba/ Fujitsu	4. Samsung
5 Toshiba	8.5%	5. Samsung	5. Others
6 Samsung	7.2 %	6. Others	
7 Fujitsu	6.7%		
8. Others	1.6%		

³⁷ Gwendolyn R. Tecson, *The Hard Disk Drive Industry in the Philippines*, University of the Philippines, Report 99-01, January 1999, <<http://isic.ucsd.edu/philippineshdd.html>>

³⁸ Idem

Figure 2: 2007 Worldwide HDD Shipment Share (Percentage of Unit Shipments)



Source: *iSuppli*

All HDD assemblers are currently reducing their workforce due to the declining Global PC market and possible mergers and acquisitions are accelerated:

- Western Digital laid off 2,500 employees in December 2008. After initial plans to close its Malaysian facility to reduce costs, Western Digital announced its sale to competitor Hitachi in May 2009.³⁹ The 1,500 employees of Western Digital at the facility will become employees of Hitachi.
- In May 2009, Seagate announced its restructuring plan including the dismissal of approximately 1,100 employees, or 2.5% of the company's global workforce. This is Seagate's second round of layoffs. The first one was announced in January 2009 with about 800 people affected. The company wants to reduce its labour costs in excess of 25%.⁴⁰
- After rumours in 2008 of Hitachi Global Storage Technologies taking over the hard disk units from Fujitsu and Toshiba, and later the rumours of Western Digital taking over the hard disk units from Fujitsu, eventually, in April 2009, it turned out that all Fujitsu's HDD related business and functions will be transferred to Toshiba, under a new company: Toshiba Storage Device Corporation (TSDC). This includes Fujitsu Computer Products Corporation of the Philippines (FCPP) with about 3,000 workers. In total 800 employees in Japan and approximately 7,000 employees worldwide transfer to Toshiba Group from Fujitsu Group per July, 2009.

³⁹ Anton Shilov. *Hitachi Acquires Manufacturing Facility from Western Digital*, X-bit labs, 20 May 2009

<http://www.xbitlabs.com/news/storage/display/20090520115419_Hitachi_Acquires_Manufacturing_Facility_from_Western_Digital.html>

⁴⁰ Dong Ngo, *Seagate lays off 1,100 employees*, 13 May 2009 <http://news.cnet.com/8301-1001_3-10240265-92.html>

5.3. LAY OFFS AT CHIP MAKERS

The chip makers, who are directly influenced by the global PC demand, also suffer from the downturn. The total semiconductor revenues in 2008 declined, including the microprocessors and memory chips. Intel, Samsung, Texas Instruments, Toshiba, and STMicroelectronics occupy the top five positions of semiconductors in 2008. Market domination is enormous when talking about microprocessors; last year Intel made 80.5% of the microprocessors that power personal computers, Advanced Micro Devices had 12% of the market.⁴¹ Intel employed 83,900 staff at the end of 2008 and wants to reduce by more than 5,000 employees. Advanced Micro Devices wants to cut 1,100 jobs (10% of total) and Texas Instruments wants to cut 12% of its workforce, which includes 1,800 layoffs and 1,600 voluntary departures.⁴²

5.4. THE COMPANIES COVERED BY THE FIELD RESEARCH

The field research in 2006 by WAC covered 12 factories of which two major HDD assemblers (Hitachi Global Storage Technologies (Hitachi GST) and Fujitsu-FCPP), nine HDD suppliers and one more general electronics company. The joint research efforts of SOMO and WAC in 2008 resulted in interviewing workers of the same factories that were researched in 2006 (except for Luzon Magnetics, Kapco and MKP). Also workers of additional companies were interviewed: Toshiba (HDD assembler), Nidec Gopal, Maxim, Intel, Epson, IMI Philippines, Temic-Vishay and Continental-Temic, and NXP (former Philips company).

Table 7. The companies covered by the field research.

	WAC Research 2006 workers interviews	WAC/ SOMO Research 2008 workers interviews	Management interviews SOMO 2008	Supplier of the following companies
HDD assemblers				
Hitachi Global Storage Technologies Philippine Corporation (HGST) HDD 3.5" and 2.5". Head Gimbal Assembly	X	X	X	Workers say: IBM, Apple and Dell. HP as sub-tier supplier.
Fujitsu Computer Products Corporation of the Philippines (FCPP) HDD for server storage business	X	X	X	FCPP says main customers are HP, Dell, IBM and Sun Micro. Other customers are EMC, Toshiba, Hitachi, NEC and Fujitsu Siemens Computers.
Toshiba Information Equipment (Phils.), Inc. (TIP)		X	X	TIP confirms all PC makers are among their clients.
HDD suppliers:				
San Technology Inc. Owned by Hitachi Metal	X	X	X	Hitachi GST, FCPP, Toshiba, Samsung, Seagate, Hanstar, IBM, Main Aike, P.Imes,

⁴¹ Reuters, *Intel's rivalry with AMD*, ABC-CBN News, 13 May 2009 <<http://abs-cbnnews.com/technology/05/13/09/factbox-intels-rivalry-amd>>

⁴² Brooke Crothers, *Texas Instruments cutting jobs as profits plunge*, CNET news, 26 January 2009, <http://news.cnet.com/8301-13924_3-10150216-64.html?tag=mncol:txt>

Ltd. NEOMAX magnets and subassembly of voice coil motors for HDD.				Haykawa, Panasonic. Confirmed by management: Toshiba, Fujitsu, Samsung, and Hitachi GST. 2 nd tier for HP.
P.Imes , subcontractor for ASTEC, MOCOM, and ADTEC. Metal press and precision equipment maker, circuit boards.	X	X		Direct: Sony, Hitachi GST Yumex Technologies, Corporation, Casio, Through parent: IBM and Lenovo. 2 nd tier to HP through HGST. Samsung denies direct relationship.
Micro Device Technology (MD Tech) (PCB for HDD)	X	X		Nanox, Toshiba Information equipment (TIP), P.IMES, Nokia, Motorola, Sony Ericsson. Samsung denies direct relationship.
Luzon Magnetics	X			Hitachi GST
Sun Ever Light Philippines Inc Manufacture of small appendage parts for computers, disk drives, cellular phones, printers, etc.	X	X		PKI, FCCP Epson Precision (Phils) Inc., Bridgestone Precision Moldings (Philippines), Toshiba and Nidec Philippines Corporation
PTon Corporation Plastic injected products for HDD.	X	X		Mechanical Keyparts Philippines (MKP), Tsukuba Philippines Diecasting Corp. Major customer is Toshiba. Epson and Bridgestone. 3 rd tier to HP.
Tsukuba Diecasting Co.,Ltd. Aluminum base plates for 2.5" HDDs	X	X	X	To Nidec for assembly and then to Toshiba and Seagate among others. 80 to 85 % of the production is for HDDs, the rest for Fujitsu. Coating is done by Kapco. 3 rd Tier to HP. 1 st tier to NEC and 2 nd tier to Celestica.
Kapco. Plating and polishing.	X			Tsukuba Diecasting Co.,Ltd. FCCP, MKP, PTon and Bridgestone Precision Moldings Phils., Inc. 2 nd tier to HP.
Mechanical Keyparts Philippines (MKP)	X			Nidec, Toshiba, and Kapco manufacturing. Sub-tier supplier to HP, and 2 nd tier supplier to Hitachi GST.
Nidec Copal press stamping parts, molding parts, surface treatment processing parts, precision mini motors		X		2 nd tier to HP.
Other non-HDD related				

products				
Astec Power Phil. Inc AC/DC and DC/DC power supplies for computer companies	X	X		Motorola, Nokia, LG and direct relationship with Hewlett Packard ⁴³ ..
Maxim Integrated Products, Inc. Semiconductors, IC's		X	X	Motorola, Nokia, Alcatel, Intel, Sony, Hitachi, Taiyo, LG, HP, Fujitsu Siemens, Apple, Philips, Seagate, Asus, Internix, Creative, Toshiba, Delta, Lenovo, Wistron, IBM ⁴⁴ .
Intel ICs		X		All PC brands.
Epson Philippines Corporation (EPC) Printers		X		
IMI Philippines. EMS company		X		
Temic-Vishay and Continental-Temic		X		
NXP semiconductors		X		

⁴³ Emails by Lindsey Ridgeway, Supply Chain Social & Environmental Responsibility Procurement Engagement Program Manager, HP, 17-04-2009 and 1-05-2009

⁴⁴ Idem

6. LABOUR CONDITIONS IN THE PHILIPPINES

Instead of describing all labour violations encountered during the field research in the Philippines this chapter concentrates on the three main labour issues in the Philippines that are significant for most of the electronics factories in the Philippines and that pose a major challenge to achieving the improvement of labour rights. Therefore, this chapter deals with the wage levels in combination with overtime hours, the level of unionization and the obstacles to organising and the increase of contract labour.

6.1. WAGE LEVELS

6.1.1 THE MINIMUM WAGE LEVELS

The minimum wage levels are set regionally so there are differences between the minimum wages paid in the different export processing zones. The Philippines is composed of 17 regions and each region has a Regional Wage Board in which the government, the industry, and workers' representatives are represented. The workers interviewed by WAC and SOMO in May and June 2008 complained that the regional wage levels did not take into account the costs of living but were used as an artificial incentive to attract business to the province. According to the PEZA, the reason why minimum wage levels are different for the different regions is because the further away from Manila, the cheaper are the costs of living and therefore the minimum wages are lower. But it is also admitted to be a method to shift the investment further away from Metro Manila, to have more investments and more employment in the provinces. According to PEZA, it does not directly influence the wage standards; however it gives input when requested to the Department of Labor and Employment which is represented on the board of PEZA⁴⁵.

In the region⁴⁶ where the research of 2008 was carried out, the set minimum wages vary from 236 to 320 Philippine Pesos (PHP) as per March 2009. In May 2008, the minimum wage level in the province of Cavite was 282 PHP (about 4 euros) per eight hour work day, equivalent to 7,332 PHP or roughly 120 euros per month⁴⁷. The workers that were interviewed by WAC and SOMO in May and June 2008 complained about the rising transport prices and the increasing cost of rice. Especially in the production regions far from Manila rice prices were far higher than near Metro Manila because of transports costs while the minimum wage levels are lower based on the (wrong) assumption that food prices are lower outside Metro Manila.

6.1.2 LIVING WAGE

NGOs and trade unions state that a small family would need 700 to 900 PHP (11 to 15 euros) per day to cover basic needs, a figure that was confirmed by the National Wages and Productivity Commission (NWPC). According to the NWPC, a living wage for a family of six was 894 PHP (15 euros) per day in Manila and 783 PHP (13 euros) in the province of Cavite in June 2008. 229 and 225 PHP - about 4 euros - were needed per day to cover food costs alone.

⁴⁵ Interview with Mr. Elmer H. San Pascual, Group Manager Promotions and PR Group of the Philippine Economic Zone Authority (PEZA), at PEZA Office Quezon City Metro Manila, 26 May 2008, by the authors.

⁴⁶ Region 4 which are the provinces known collectively as CALABARZON (Cavite, Laguna, Batangas, Rizal and Quezon).

⁴⁷ The Philippine authorities only present daily minimum wages. The monthly minimum wage mentioned in the text is based on a normal working month of 26 days.

Province	Cavite
Daily minimum wage ⁴⁸	282
Daily food needs (family of six)	225
Daily living wage (family of six)	783

Source: National Wage and Productivity Commission, June 2008.

Consequently, basic living costs for an average Philippine family are not covered, even if both parents work full time in the electronics sector and earn the minimum wage. Workers need overtime pay to be able to make a living and workers will move to other factories when the hours of work decrease. Several factory managers gave this as a reason for keeping the working hours at incredibly high levels, up to a working week of 84 hours, for months on end. The interviewed companies were not willing to discuss the wage level as they feel this is up to the government to amend.

What do workers earn? Find below examples of wages at the researched factories in 2008.

- Interviewed contract workers hired through an agency at PTON earned the minimum wage of 282 PHP per day plus 4 hours overtime every day which is paid 44 PHP per hour plus 22 PHP meal allowance per day. This results in daily earnings of 480 PHP for 6 days per week.
- Contract workers hired through an agency at San Technology earned the minimum wage of 282 PHP for a normal working day (working hours were 7 days per week 12 hours per day).
- Contract workers at Tsukuba earned the minimum wage of 282 PHP per day. According to the last three pay checks of a female worker (normally pay checks are for 15 days) she had respectively 32 overtime (OT) hours, 48 OT hours and 40 OT hours per 15 days, and OT hours were paid 44 PHP per hour. Next to her OT she got 10 PHP allowance per day.
- At a specific department of ASTEC Power where the cables are cut to length by workers, all workers are apprentices. This means they are temporary workers and only earning 75% of the minimum wage (meaning they get about 204 PHP). As an apprentice you get no extra allowance, no meal tickets, no transport costs. A regular worker at ASTEC with 8 years of service earned 328 PHP per day and 50 PHP per overtime hour
- In Maxim the workers are earning between 314 and 400 PHP per day (these workers have been with the company between 2 and 8 years).
- In TIP all the operators earn between 100% of the minimum wage (plus 2 PHP) and 130% of the minimum wage. If you reach 10 years of perfect attendance then you will be invited for a visit to Japan (so far only one worker succeeded).
- In the Philippine IMES Corp. (P.IMES) the production workers start with the minimum wage on top of which they will get meal, transport allowance and attendance bonus. They get a bonus at the end of the year depending on the company's performance.

The conclusion of the field research is that a substantial part of the interviewed workers is paid the minimum wage as contract workers. The starting wage at companies for regular workers is normally also the minimum wage. Wage increases based on performance and seniority as provided by the companies leads to yearly wage increases for regular workers but not for contract workers. The highest basic wage of an operator SOMO interviewed during the research was PHP 384.00. There were no wages found below the minimum wage except for the apprentices at ASTEC, however, this is made possible by law. In euros, the basic wages of operators varied between 3 and 6 euros per day.

⁴⁸ The sum of money is before taxes and social security payments have been deducted. Over time earnings and bonuses are not included.

6.1.3 OVERTIME

In May and June 2008, the overtime work still exceeded the '48 plus 12' cap, which is asked by civil society organisations as one of the threshold standards for a Code of Conduct, and also the 60 hours cap per week as set by the EICC Code of Conduct at several of the factories. Workers could not refuse overtime without negative consequences. The peak period is usually around the end of the year resulting in even more excessive overtime hours.

Overtime is an issue in most factories. In several of the factories working 12 hours per day for 6 days per week is quite usual and 7 days in times of peak production (for example at Tsukuba, P.IMES, P-Ton, Hitachi GST). The 7th day is confirmed by management of Hitachi GST in their answer at the 15th of April. They add that this is allowed by the Philippines labour code and ensures these workers are adequately compensated and mention that overtime at HICAP is voluntary. However, in general it is the impression of the workers that overtime can hardly be refused, you need to have a very good excuse and find replacement.

At Fujitsu during the peak period the working week varies from 66 hours to 77 hours per week. In the low season, May for example, the working week varies from 55 hours to 66 hours. Next to this, it is not always possible for the workers to refuse overtime, as there are too many obstacles. Three hours overtime is regarded as normal; therefore in this case one cannot speak of voluntary overtime. FCPP commented that this was indeed the situation until March 2008, then it introduced the 5-2 scheme (5 working days, 2 rest days) which means that all employees will have to work only for 40 normal hours (5 days x 8 hours per day) and 15 overtime hours (5 days x 3 hours per day) or a total of 55 working hours per week. FCPP states that it improved their working hour's performance month by month. On occasions employees are allowed by management to exceed the 60 working hours per week if emergency-related. If new violations are detected, the Section Managers concerned will be warned and the section will come up with countermeasures to avoid any violation again in the future.

6.2. ORGANISING IN THE PHILIPPINES

The Philippines has ratified the ILO's core conventions on union rights, and the Philippine Constitution provides that "the State shall guarantee the rights of all workers to self organisation, collective bargaining and negotiations, and peaceful and concerted activities, including the right to strike in accordance with the law". The Labour Code recognises the right of Filipino nationals to form and join trade unions. But in reality workers who attempt to organise face severe problems due to law restrictions, police brutality and anti-union management practices. According to the International Trade Union Confederation (ITUC) and unions and labour support organisations in the Philippines, the government interferes to the benefit of the employer instead of taking a neutral stand during conflicts. Local unions report intimidations, dismissals and killings of union leaders in the export processing zones⁴⁹.

To picture the repressive situation in the Philippines, the 2007 ITUC report 'Survey of Violations of Trade Unions Rights', says that the Philippines is the second most lethal environment for union activists globally, only topped for murder of union leaders by the blood stained record of Colombia. In 2006, a total of 33 murders and 130 instances of trade union and human rights violations were reported in the Philippines last year. The above conclusions describe an atmosphere where it is dangerous to undertake union

⁴⁹ ITUC-CSI-IGB, 2008 Annual survey of violations of Trade Union rights, ITUC-CSI-IGB, 2008
<<http://survey08.ituc-csi.org/survey.php?IDContinent=3&IDCountry=PHL&Lang=EN>>

activities and where the government fails to protect union activists and even seems to justify violence against them.

According to the organisation LEARN, about 3% - 5% of the labour force of in total 36 million people are organised, and less than 500,000 enjoy collective bargaining agreements (CBAs). The working conditions are better in unionised factories, in terms of job security, and most of the unionised factories have higher wages and better health and safety conditions⁵⁰. SOMO interviewed union members of the company NXP (formerly Philips) for example and it confirms this; the union of NXP achieved that a cap of 10% on contract labour was established in the CBA; no more than 10% of the workforce of NXP can consist of contract workers⁵¹.

Research conducted by the Workers Assistance Center Inc. (WAC) in 2006 revealed several issues that have contributed to the small number of unions in the electronics sector in the Philippines:

- Company management explicitly prohibits the workers from joining a union. According to most of the workers, their opinions about union organisations are asked during the hiring interview, to determine which ones are likely to form or join a union. During orientation, the workers interviewed were discouraged by the management from joining or organizing unions and they predicted job losses by saying that a company closes or relocates whenever a union is organised.
- Employers also conduct background checks before hiring, to identify workers who have a history of union participation. There have been cases where applicants were made to sign blank papers, unwittingly waiving their right to join unions.
- Applicants are commonly required to obtain an endorsement from a local official such as the village chief, the mayor or a higher official. These officials are expected to ensure that the worker will not eventually “cause trouble” or endanger the union-free environment.
- Employers often use technical manoeuvres like obtaining a Temporary Restraining Order (TRO) to question and delay the formation of unions including the holding of certification elections (CEs), which establishes a union's right to represent workers in collective bargaining with management. Some companies also refuse to bargain when the certification election has been successfully accomplished.
- Before the certification election has taken place, the union is required to register with the Department of Labour and Employment. The documentary requirements include the list of officers and union members. This exposure of names to the company management places the officers and members at risk of discrimination, harassment or dismissal as a result of their attempts to form a union.
- Another practical ploy consists of setting up a Labour Management Council (LMC) as an alternative to elected union although this mechanism was initially conceived to tackle areas uncovered by the collective bargaining. “The idea behind it is: what is the use of having a union if you already have a LMC?” “Practically the creation of a LMC is discouraging the union formation. Therefore, no LMC should be established in nonunionized factories. It occurs that the workers’ representatives of these LMCs have already been pre-selected by the management itself”⁵².

⁵⁰ Interview with Reynaldo Rasing, Labor Education and Research Network (LEARN), Manila, 21 May 2008, by the authors

⁵¹ Email from the trade union of NXP on 4 September 2009

⁵² ICFTU, *Export processing zones in the Philippines. SMS-ing against exploitation*, Trade Union World Briefing, November 2005, N°14, p.8

Although there are not many unionised factories within the sector, in those factories that are unionised, the working conditions are often better in terms of job security, wages, and health and safety issues⁵³.

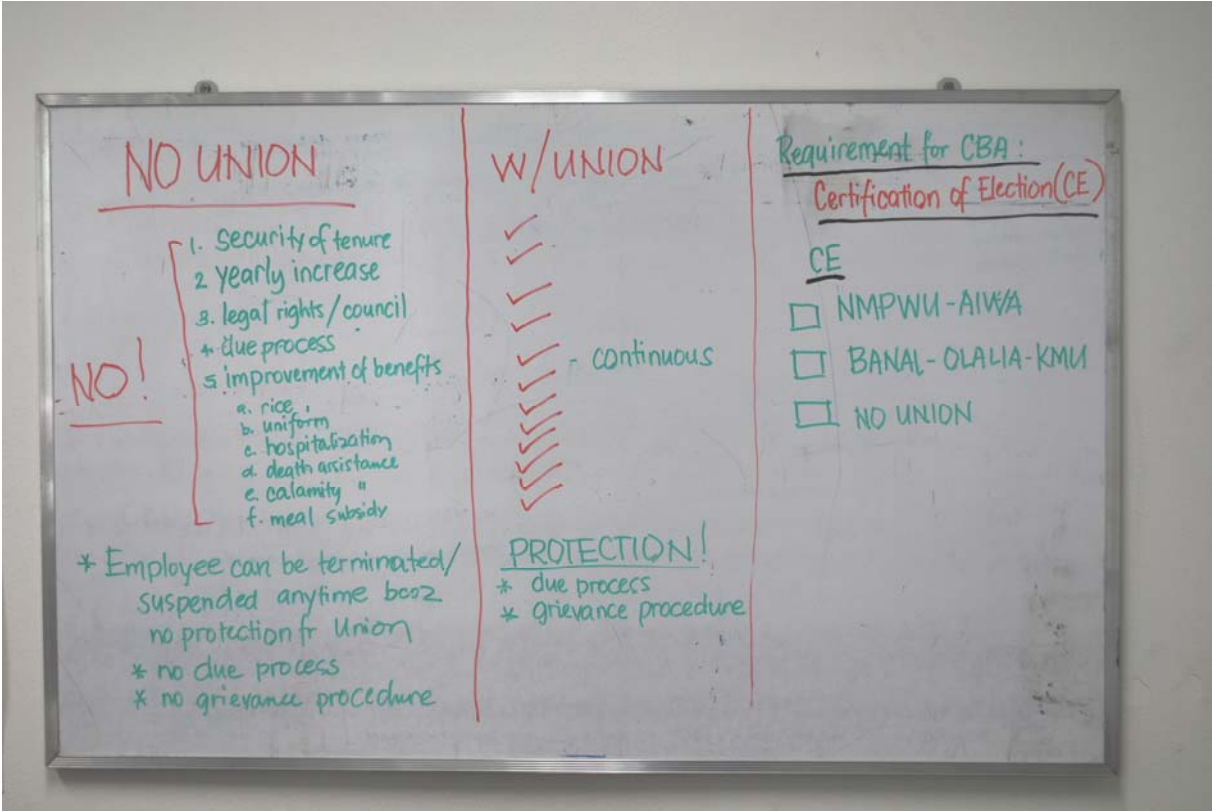


Photo: Workers education on unions explains how organising in unions can benefit workers

6.2.1 WORKERS ON FREEDOM OF ASSOCIATION

The interviews with workers, conducted by SOMO and WAC in 2008 confirmed these findings. In the Export Processing Zones in the Philippines there is a “no union – no strike” practice. Workers that are employed in factories producing electronics (parts) are well aware of this. It is common knowledge that unions are not allowed and that any attempts of organising can be dangerous. In 2008 interviews with workers in the EPZs in the Philippines, most workers said they did not think that their management would allow workers to organise, most knew examples of workers being dismissed for organising activities and several mentioned explicit statements against unionisation being issued by management. Workers from PTon say that management mentions that unions are unnecessary but further that it is logical that PTon has no union because: ‘PTon is located inside a EPZ’.

In most factories new workers are warned not to get involved in union activities; during the orientation period workers are told that unions will not be accepted and are unnecessary because the management will take good care of all problems that might arise. In Tsukuba and P.IMES for example, the workers think that the management will not allow a union as during the orientation period the workers are told that a union is not necessary because the company will give them everything that they should have. In San

⁵³ Interview with Reynaldo Rasing, Labor Education and Research Network (LEARN), Manilla, 21 May 2008, by the authors

Technology the workers are told before starting to work at San Technology that they cannot join a union⁵⁴.

A majority of the workers mentioned having been questioned about their knowledge of and sympathy for unions when they applied for a job. At Fujitsu workers are asked if there is a union would you like to join? If workers would say yes they will not be hired. This is conformed by all workers; those who joined the company years ago, but also workers recently hired, even contract workers⁵⁵.

SUPPRESSING EFFORTS TO FORM A UNION⁵⁶

In 2003, a union was established at a factory in Technopark in Laguna, as workers were experiencing harsh treatment and there were lots of complaints regarding low salaries, compulsory overtime and other issues. The management did, however, not accept the union and complained to the Department of Labour, which finally reversed the approval of the union. The workers in turn appealed to the Supreme Court, where they won the case in April 2004. Still, the factory management refused to acknowledge and negotiate with the union.

Since April 2004, the workers have staged protests against the management's anti-union tactics on several occasions. The management hired fully armed guards that patrolled inside the production areas, accompanied the workers on buses and followed those who were active union members.

On 16 November 2004 the workers organised a protest at the back of the company, outside the factory. The security guards accused five active union members of having stolen a camera and those workers were dismissed. On 30 November 2004 there was yet another protest, this time against the dismissal of the five workers. What started as a picket during lunch hour turned into a strike – provoked by management who closed all the production lines and sent workers outside the production area. The workers were kept inside the factory premises and were not allowed to leave. The police arrived, both national police and private police working for the EPZ, and workers were beaten by the security guards and caught in nets. Moreover, water cannons were used against the protesters. After 44 hours the workers could leave the factory premises and they went home.

Later on more than 120 workers were not allowed to enter the factory. They were sent on forced leave and ultimately dismissed. Several workers have since sought redress. The case is still pending; four years later, there is still no union at the factory. The company produces appendage parts for mobile phones, computers and other products⁵⁷.

ANOTHER WAY OF DOING IT: WORKERS INFLUENCING CONDITIONS IN LAGUNA

Where there are unions in the factories who negotiate Collective Bargaining Agreements (CBA), the conditions are generally better regarding wages, overtime, consultations of workers in important changes for the company, etcetera. One factory has had a union for 25 years. Until 2006 the company was owned by Philips (Netherlands), who sold the semiconductor activities at the beginning of 2006.

The union has 1,500 members at present, composed of quality inspectors, laboratory assistants, assembly material controllers, technicians and production operators. In April 2008 the union concluded its 9th CBA negotiations for the time period 2008-2010.

In the park, in Laguna, as in other export processing zones in the Philippines, there is a “no-union, no-strike” policy. This factory used to be in Manila but later moved to this specific zone, just as two other unionised companies in this zone did.

In an interview with several union members they mention that the relationship with management is quite good. They have their disagreements, of course, and there are outstanding issues. The union has, however, been able to negotiate several of these issues through the CBA and regular monthly meetings with human resources management. For example, the latest CBA stipulates that the company will not employ more than 10% of the

⁵⁴ In their review of the company profile San Technology denies this.

⁵⁵ FCPP comments on this that in 2008 FCPP totally eliminated any questions regarding unions.

⁵⁶ This section is based on SOMO interviews with former members of the union and ex-workers of the company in July 2008.

⁵⁷ WAC's research study from 2006. SOMO has not been able to get more detailed information about this factory's customers

workforce on a contract basis, plus have a maximum time of six months for the contract workers and four months for workers on probation. After this time period workers will become regular workers.

The starting wage is now the minimum wage, about 4 euros per day, and there is a yearly increase. Overtime is voluntary. There was a disagreement last year about introducing working days of 12 hours, and the union stopped the introduction. Moreover, there is a Management Safety Committee with regular monthly meetings, in which four union representatives are allowed to attend.

Nokia, Apple, Bosch, Dell, Ericson, Flextronics, Foxconn, Philips, Samsung and Siemens are among the company's clients.

6.3. CONTRACT LABOUR

In the Philippines there is a growing trend towards 'contractualisation' in the electronics industry. In interviews conducted by SOMO with workers, NGOs and trade unions, it became clear that different forms of contract labour are on the rise. In several companies new workers are only hired as contract workers, with no chance to become regular workers at the company. These contract workers are either hired directly by the companies or through labour agencies. In some cases workers first get a 6-months contract directly with the electronics company, then a 6-months contract with the agency and then become a permanent worker of the agency. This trend works out badly for the workers as the agency workers do not have the same rights and benefits as the other workers in the factory. Several workers who were interviewed in May and June 2008 were longing desperately to become regular workers and thus get paid sick leave and paid vacation days as well as allowances and bonuses and annual increases of wages.

On the whole, this trend seems to lead to a deterioration of the working conditions in the electronics sector in the Philippines and this is accelerated by the financial crisis because workers lose regular contracts in these times due to closures and it will be very difficult to get a new regular contract with a new employer.

By hiring workers on a contractual basis the company can terminate the services at any time. The workers have no security of employment and will be kept on their toes; they have to perform at 120% just to keep their job. Workers who are employed will consequently be reluctant to complain or refuse overtime work. In most of the companies workers hired on a temporary basis, either directly or through an agency, do not get paid vacation days or paid sick leave. They do not get incentives like production and attendance bonus or allowances for meals and transportation.

For contract workers, due to their short term contracts and their position in the company, it is hard to organise in an union. The law further sets out a number of clear conditions limiting use of contract workers – including limits on the duration of the contract and not allowing such workers to perform the functions of regular employees – but those conditions are commonly ignored by employers⁵⁸.

In several of the interviews workers mention that the percentage of contract workers, either directly employed or employed through an agency has increased in the last years. At San Technology, workers estimate that 25% of the workers at one of the facilities are employed through a labour agency; for new workers it is simply not possible anymore to become a regular worker directly employed by San Technology. Also at Tsukuba half of the workers are employed through a labour agency, this will only grow in the near future because it is the company policy now that all new regular employees will get a

⁵⁸ ITUC-CSI-IGB, 2008 Annual survey of violations of Trade Union rights, ITUC-CSI-IGB, 2008
<<http://survey08.ituc-csi.org/survey.php?IDContinent=3&IDCountry=PHL&Lang=EN>>

contract through a labour agency. At PTon about 30% of the workers are contracted through the labour agency.

Workers are employed by Epson for years as contract workers, on half year contracts, without becoming permanent workers. More recently the workers are no longer employed by the company on short term contracts but are hired through an agency. There are differences in payments, bonuses and rights between regular workers and contract workers; contract workers get less rice, less bonuses, and have no right to paid sick leave.⁵⁹

A few years ago Epson dismissed 3000 workers at the same time because the management said the model it was working on was no longer produced. However, at the time of the mass dismissal workers were protesting their labour conditions and asking to be hired as regular workers after years and years of being employed as contract workers. The dismissed workers organised themselves and filed their case at the Department of Labour which case they lost and against which they appealed. Of the dismissed workers most accepted the severance payment, which amounted to 10,000 PHP for 6 years of service, way below the amount the company would have to pay for regular workers⁶⁰. Only 330 workers refused the separation fee and went to court. They asked to be hired again by Epson as regular workers and they asked for back pay. In the end 31 workers still refused to accept the compensation. In the cases filed before labour courts by the project employees whose contracts had ended, the labour Arbiter, in his Decision dated 11 March 2008, upheld the validity of the project employment arrangement implemented by the company. On appeal, the National Labor Relations Commission, in its decision dated 16 February 2009, affirmed again the validity of the company's decision to hire on project basis⁶¹.

After the massive dismissal, about 1,000 new workers were employed by Epson and another group of 1,000 employees through a labour agency. According to the workers, a big sign was placed outside the factory saying that ex-employees of Epson cannot apply for a job at Epson. Epson denies this in their response. Related to this mass dismissal Epson explains that due to an 'unusual increase' in demand EPPI decided to address this temporary problem through hiring workers on project basis. The workers were hired on varying periods depending on the duration of the 'unusual increase'.

⁵⁹ The company comments on this by saying that Philippine law permits difference in the salary and benefits between the two groups of employees provided that the project employees should receive the minimum wage and benefits provided in the labour Code of the Philippines. The project employees received the following benefits that are not required by law: two sacks of rice per year, mid-year and December bonus; and additional paid leave of seven days. Email by Shirwani van Amstel, Public Affairs Specialist Legal and Corporate Affairs, Epson Europe B.V., 23 April 2009

⁶⁰ Seiko Epson says it offered 1,5 month salary per year of service while there is no legal obligation on the part of the employer to do this for project employees. Email by Shirwani van Amstel, Public Affairs Specialist Legal and Corporate Affairs, Epson Europe B.V., 23 April 2009

⁶¹ Email by Shirwani van Amstel, Public Affairs Specialist Legal and Corporate Affairs, Epson Europe B.V., 23 April 2009

7. IMPROVING LABOUR CONDITIONS IN FACTORIES IN THE PHILIPPINES

7.1. SUPPLY CHAIN RESPONSIBILITY AND CODES OF CONDUCT

Companies have in the last decade been increasingly put under pressure to make sure that the products they are selling are made under good social and environmental conditions. They should not only do so for their own companies but also for the companies that supply them with parts and products. These standards – which are called standards of engagement, supplier standards, codes of conducts, etc. – should be communicated clearly and companies should monitor and verify how suppliers are implementing them.

Standards should be based on conventions and recommendations from the International Labour Organisation (ILO) to meet internationally accepted standards. The ILO is the international tripartite (employers, governments and workers' representatives) organisation responsible for setting labour standards. None of the over 180 Conventions or 190 recommendations are ratified by all governments, but what are called the core labour standards should always be practiced, even when they are not ratified. When asking companies to implement good labour standards in their supply chain most organisations and trade unions focus on the core labour standards – freedom of association, right to collective bargaining, no discrimination of any kind, no forced or slave labour, a minimum employment age – and several other generally accepted labour standards – health and safety measures, a maximum working week of 48 hours and voluntary overtime of 12 hours maximum, a right to a living wage and the establishment of an employment relationship⁶².

Most of the codes of conduct for the supply chain of computer companies are referring to the national law, to non-discrimination, no child and forced labour, health and safety conditions, and minimum wages. Standards such as a precise cap on working hours (no more than 48 hours) and overtime hours (no more than 12 hours and not on a regular basis) and living wages are absent in the codes of the electronics companies, and part of the codes do not mention freedom of association, or define freedom of association very narrowly and do not include collective bargaining.

Part of the companies subscribe to the Electronics Industry Citizen Coalition (EICC) code, a coalition of 45 companies⁶³ that have come together to voluntarily improve working and environmental conditions throughout the electronics supply chain. They have a common code of conduct that the members adopt. The code does not cover all labour issues that are commonly accepted and some of the members having extra amendments to the code on for example freedom of association.

Behind the consumer brands, which are widely known, the manufacturing sector is dominated by large production companies that are hardly known to the public, such as the hard disk manufacturers, and other hidden giants like Flextronics and Foxconn, which are playing an important economic role, producing for all the major computer brands. An increasing number of these companies have adopted their own codes of conduct, detailing their responsibilities, and they have become members of companies' sustainability initiatives such as the EICC as well. They can be important players when looking at supply chain responsibility, implementing responsibility further down the chain. As most of the computer companies so far only make efforts to implement their code in the first tier of the supply chain, they expect these first tiers themselves to take this further.

⁶² Based on J. Wilde & E. de Haan, *The high cost of calling. Critical issues in the mobile phone industry*, SOMO, November 2006, page 66

⁶³ In December 2008, from: EICC, *Electronic Industry Citizenship Coalition 2008 Annual Report*, EICC, 2009

7.2. COMPUTER CONNECTIONS

SOMO's briefing paper *Computer Connections*⁶⁴ followed up on several research projects focusing on policies of computer brands; how companies responded to labour issues that were brought to their attention; how these computer companies tried to remedy poor labour conditions found in factories that are producing (parts of) their computers; and how transparently companies reported about labour issues and remediation efforts.

The paper concluded among others that policies of the 7 researched computer brands (Dell, Apple, HP, Acer, Fujitsu Siemens Computers, Toshiba, Sony) were falling considerable short of what is viewed as the threshold standards for codes of conduct. As these standards are communicated to the suppliers, not having freedom of association in the code or not having a clear cap on working hours sends a clear message to suppliers that this is thus not expected. The paper further concluded that quite a few companies make very meagre to mediocre efforts to implement their code of conduct. Some of the companies only carry out reviews while others rely on paltry industry efforts. The absence of civil society organisations in almost all efforts stands out. Most of the companies are not auditing beyond the first tier or are expecting their first-tier suppliers to implement the code down the supply chain, sometimes without further training and mostly without further auditing. As only HP has been transparent in sharing its efforts to improve the situation in the researched factories it is very difficult to assess exactly what has been done to improve on the labour issues that were reported.

The paper saw some positive issues among which the efforts of several companies to work more intensively with their suppliers, through training for example, or forums organised for their suppliers. Some of the companies reported that they are training their suppliers to start auditing their suppliers.

This report on the Philippines will take the efforts of the *Computer Connections* report further and look beyond the codes to see if the implementation efforts have led to improved labour conditions. This part of the report, chapter 7 and 8, will look at what efforts have been taken by the computer brands and the supplier companies on improving labour conditions in the factories that were researched, as well as in general among electronics suppliers in the Philippines, and if and how the efforts taken by the different companies translate into improvements on the factory floor.

It is not within the scope of this report to comment extensively on the supply chain responsibility programmes of the different brand companies. For detailed information on responsibilities taken by several of the computer brands mentioned here we refer to *Computer Connections*⁶⁵.

7.3. THE REACTIONS OF THE COMPUTER COMPANIES

SOMO started researching labour issues in the supply chains of computer companies in the Philippines in 2004 with the publication in 2005 of SOMO's research report *CSR Issues in the ICT Hardware Manufacturing Sector*⁶⁶ with information on working conditions in the Philippines and China and in the same year company profiles on Acer and Fujitsu Siemens Computers. Subsequently, SOMO published research

⁶⁴ E. de Haan & I. Schipper, *Computer Connections. Supply chain policies and practices of seven computer companies*. SOMO, May 2009

⁶⁵ E. de Haan & I. Schipper, *Computer Connections. Supply chain policies and practices of seven computer companies*, SOMO, May 2009

⁶⁶ I. Schipper & E. de Haan, *CSR Issues in the ICT Hardware Manufacturing Sector*, SOMO, September 2005, <http://somo.nl/publications-nl/Publication_476-nl/?searchterm=CSR%20Issues%20in%20the%20ICT%20Hardware%20Manufacturing%20Sector>

reports written by WAC on the Philippines⁶⁷ as well as reports on China⁶⁸ and Thailand⁶⁹ and company profiles on 8 computer brands detailing labour issues in their supply chain and policies to deal with improving supply chain responsibility. SOMO has stayed in contact with the computer brands, asked companies to review research findings and company profiles and asked companies to give feedback on how they followed up on the issues reported by SOMO and other organisations⁷⁰.

As described in the methodology chapter, several of the companies researched in 2006 by WAC were visited by SOMO in May 2008⁷¹ and additionally interviews with workers took place in May and June 2008. SOMO talked to the management of 6 factories in the Philippines, after contacting many more for appointments – including most of the companies that were researched by WAC in 2006. SOMO and WAC talked to over 100 workers. The information from the different interviews was collected in factory profiles and these have been sent to the respective supplier companies that were interviewed and to the different brands and production companies purchasing components from these suppliers, according to information given by workers and/or management of the researched suppliers. Among these were, besides computer brands, several mobile phone companies and several production companies that are using component suppliers, such as Hitachi GST. This part details the reactions of the companies, the brands and the production companies.

7.3.1 SUPPLY CHAIN RESPONSIBILITY PROGRAMMES OF COMPUTER COMPANIES IN THE PHILIPPINES

SOMO asked several companies that have a programme on supply chain responsibility in place if they could give specific information on the implementation of that programme in the Philippines. NEC mentions that they have not done any surveys in the Philippines. Samsung mentions that it has not implemented its code yet in the Philippines but that there are plans to request their suppliers to sign the code of the EICC. Sony mentions that it implements its programme globally, which will include the Philippines. Apple mentions in its supplier responsibility report of 2009⁷² that it has given training to 27,000 employees for example, but no training was provided in the Philippines. Apple gives a breakdown of violations found in its supply chain in their Supplier Responsibility Report 2009, but it does not report on country specific findings. Philips mentions that it has analysed its findings for different countries but due to the relatively small portion of audits (6 audits) in the Philippines as well as the diversity among the suppliers base it cannot conclude on any trend or characteristics in the non-conformances in the Philippines. HP started giving attention to suppliers in the Philippines after being approached with research reports in 2007 and it conducted audits as well as follow up audits with first-tier as well as sub-tier suppliers, and is continuing work on this. HP's approach is that they support their first-tier suppliers working with their suppliers on corrective action plans.

⁶⁷ WAC, *Producing Computer Hardware: An Investigative Report on Labour Conditions in the Supply Chain of the ICT Sector, in the Philippines*, SOMO, April 2007

⁶⁸ SACOM, *An Investigative Report on Labor Conditions of the ICT Industry: Making Computers in South China*, SOMO and SACOM, November 2006

⁶⁹ E. de Haan & I. Schipper, *Hard (Disk) Labour. Research Report on Labour Conditions in the Thai Electronics Sector*, SOMO, May 2007

⁷⁰ SOMO produced a briefing paper in 2009 on how companies have taken up the issues and improved their policies and practices:

E. de Haan & I. Schipper, *Computer Connections. Supply chain policies and practices of seven computer companies*, SOMO, May 2009

⁷¹ The following interviews with management were conducted by the authors. Interview with FCCP was conducted with the management on 22 May 2008, they also send their PowerPoint presentation; Interview with the Human Resource manager of Maxim was conducted on 22 May 2008; Interview with the management of Hitachi GST was conducted on 26 May 2008; Interview with the management of Tsukuba was conducted on 27 May 2008; Interview with the management of San Technology was conducted on 27 May 2008; Interview with the management of TIP was conducted on 2 June 2008.

⁷² Apple, *Supplier Responsibility 2009 Progress Report*, Apple, February 2009,

<http://images.apple.com/supplierresponsibility/pdf/SR_2009_Progress_Report.pdf> (27 May 2009)

As becomes clear from the above, so far not all of the brands have put efforts into implementing labour standards in the Philippines. Although information from the different suppliers suggests that they have been extensively audited, as described further in chapter 8, these efforts are not shared by all companies that are purchasing components in the Philippines. The reactions from the different companies in the following chapter have to be seen in that light.

7.4. REVIEW OF THE FACTORY PROFILES BY THE DIFFERENT BRANDS

The factory profiles were sent to the different companies, suppliers and brands, for a review of the information. The factory profiles, the responses of the suppliers and the brands and the answers to the follow up questions are the basis for this part of the report.

We focus in this report primarily on computer brands that are purchasing components from the researched suppliers. As mobile phone companies purchase components from several of the same suppliers as computer companies, SOMO also asked these mobile phone companies for their reactions. Also several manufacturers, such as Intel and Celestica as well as hard disk manufacturers were approached. SOMO reports on these reactions in this chapter as well, in order to give an overview of all known customers of the different suppliers as well as the actions taken.

Computer brands that were approached are IBM, Lenovo, Asus, Toshiba, Fujitsu, Apple, HP, Sony, Dell, Philips, Acer, Hitachi, NEC.

Hard disk manufacturers approached about their suppliers were Seagate, Samsung, Hitachi GST.

Mobile phone companies approached were Nokia, Nokia Siemens Network, LG, Motorola, Sony Ericsson.

Additionally Intel, that produces processors, motherboards, chips sets, desktops etc.; and Celestica that provides design and engineering, electronics manufacturing and supply chain management services; and Sun that provides network computing infrastructure solutions that include computer systems, software, storage and services were approached.

Most of the brand companies and producers responded to the review. No reactions were given by IBM, Lenovo, Asus, Toshiba, Seagate, LG and Fujitsu even after several requests for follow up. Reactions on suppliers were received from Apple⁷³, HP⁷⁴, Sony⁷⁵, Sony Ericsson⁷⁶, Intel⁷⁷, Dell⁷⁸, Sun⁷⁹, Nokia⁸⁰, Nokia Siemens Network (NSN)⁸¹, Samsung⁸², Philips⁸³, Acer⁸⁴, Hitachi⁸⁵, Hitachi GST⁸⁶, Motorola⁸⁷, NEC⁸⁸, and Celestica⁸⁹.

⁷³ Emails by Bob Bainbridge, Apple, Director Supplier Social Responsibility, 20 April 2009 and 6 May 2009

⁷⁴ Emails by Lindsey Ridgeway, Supply Chain Social & Environmental Responsibility Procurement Engagement Program Manager, HP, 17 April 2009 and 1 May 2009

⁷⁵ Emails of Asako NAGAI, Corporate Social Responsibility Dept., Sony Corporation, 24 April 2009 and 1 May 2009

⁷⁶ Email of Kazumi Ichiba, Sony Ericsson, 28 April 2009

⁷⁷ Email of Steve Viera, Supplier Corporate Responsibility Manager, Intel, 28 April 2009

⁷⁸ Email of Deborah Albers, Sr. Manager, Corporate Responsibility, Dell Inc, 21 April 2009

⁷⁹ Email of Leann Speta, Global Supply Chain Social and Environmental Responsibility Program Manager, Sun, 28 April 2009

⁸⁰ Email of Pekka Isosomppi, Corporate Social Responsibility Director, Nokia, 17 April 2009

⁸¹ Email of Tula Puutkinen, Head of Content Services, Corporate Communications, Nokia Siemens Networks, 20 April 2009

⁸² Email from Seija Saynevirta, European Sustainability Affairs Manager, Samsung Electronics, 26 May 2009

⁸³ Emails from Jan Roodenburg, Supply Management, Philips, 20 April 2009 and 5 May 2009

⁸⁴ Emails from Grace Liu, Corporate Sustainability Office, Acer Inc., 17 April 2009 and 27 May 2009

⁸⁵ Email from CSR Promotion Department, Hitachi, 9 April 2009

7.4.1 RESPONSES FROM THE BRANDS TO RESEARCH IN THE PHILIPPINES IN 2008

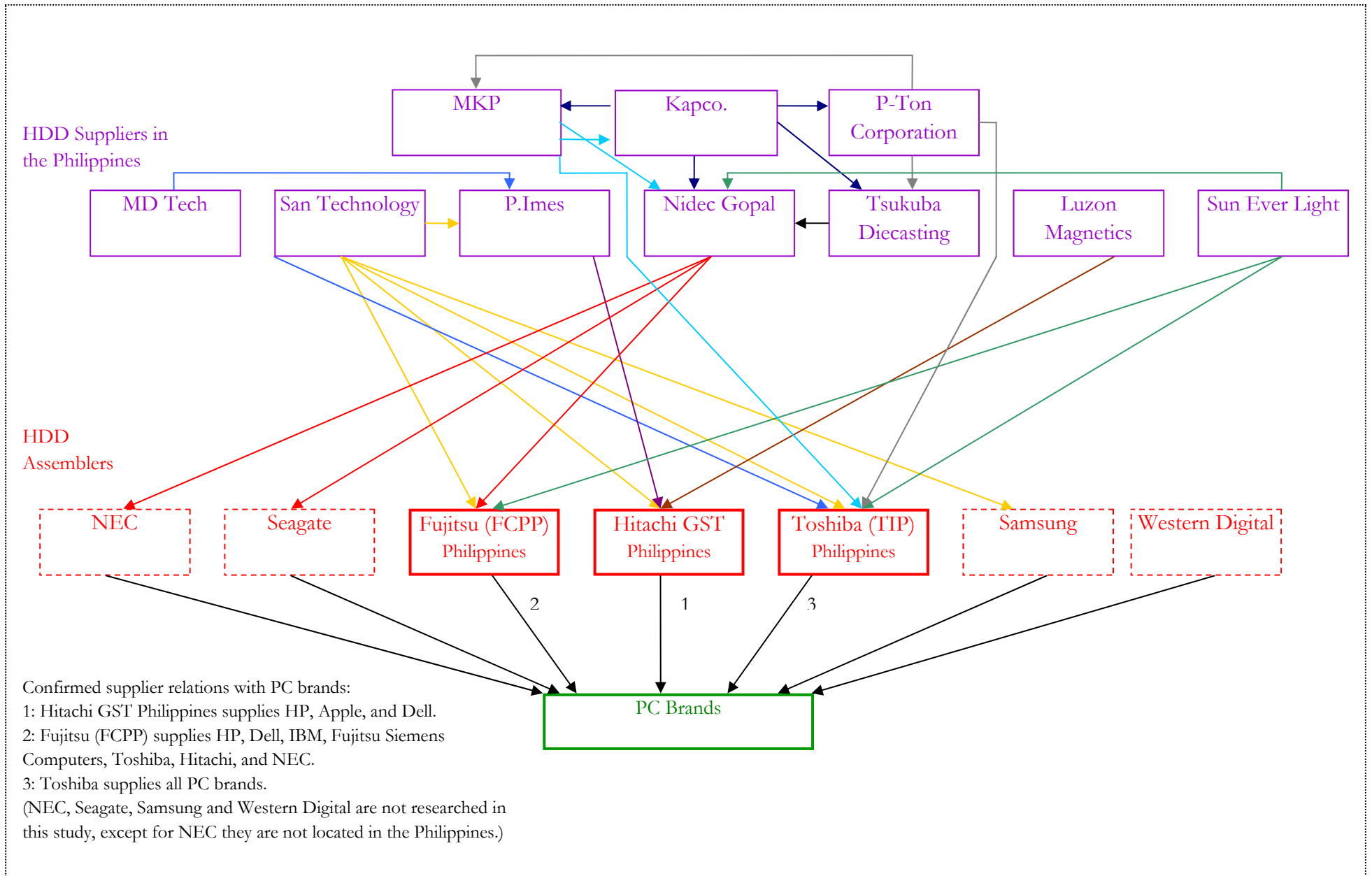
The majority of the computer companies that were approached about the labour conditions in their supply chains in 2006 and were then asked what issues have been tackled in 2008, did not respond with specific information to the questions asked regarding the labour conditions in their supply chains, but referred instead to their policy and confidentiality agreements. Some of the companies answered with explanations of their general policy instead of reacting to the labour issues that were brought forward. Only HP commented extensively and transparently on the issues brought forward in the various reports and on how it worked with its first-tier and sub-tier suppliers on audits and remediation. HP responded with an extensive overview of the audits done, sent summaries of audits, follow up audits and remediation. HP commented on SOMO's findings, reported other issues that the auditors discovered and gave information on the suppliers' response as well as reporting on the follow up of HP.

⁸⁶ Email from Windsor Chan Jr., Corporate Social Responsibility (CSR) Office, Hitachi GST, 16 April 2009

⁸⁷ Email from Mike Loch, Director EHS Strategic Initiatives and John Plyer, Manager Supply Chain Corporate Responsibility, Motorola, 17 April 2009

⁸⁸ Emails from Naoko Morizane, NEC, 17 April 2009 and 11 June 2009

⁸⁹ Email from Todd Melendy, Chief Compliance Officer, Celestica, 26 May 2009



7.4.2 TRANSPARENCY IN THE SUPPLY CHAIN

It is difficult to assess the supply chain of the different companies and the efforts taken so far by the different companies as companies are mostly not transparent regarding their suppliers or efforts taken on how to deal with the labour issues reported by SOMO and other organisations in supplier factories.

The following companies did respond to the review, and several detailed the actions they were taking, but they did not give specific information on which of the suppliers produce for them. Dell mentions that three of the researched suppliers are its first tier suppliers but gave no information on the names of the suppliers. Dell sent the profiles to these suppliers for comments and mentions that some of these suppliers had already received the profiles directly from SOMO. Other suppliers might be sub-tier suppliers and Dell has asked its first-tier suppliers to communicate directly with them and engage with a third party auditor when necessary. Apple mentions that it uses one of the factories, but gave no information on which suppliers, and sent the company profile to this supplier. It audited this factory in 2009 and is working on a corrective action plan. It did not answer further questions about locating the suppliers further down its supply chain. Sony mentions only that there are no direct business relationships and that it implements its general programme with all its suppliers. Sony Ericsson states that it cannot comment on individual suppliers due to non-disclosure agreements with each supplier. It will however follow up on the cases being brought forward and ask for further information. Intel commented that due to contractual obligations it is not allowed to reveal its suppliers. Nokia and Nokia Siemens Network answered for their direct suppliers, see below, and mention that they require their suppliers to manage and monitor the next tiers; therefore they have no knowledge about sub-tier suppliers.

7.4.3 SPECIFIC BRAND RESPONSES

For the specific information given by the different brands and production companies per supplier see Annex 1. Some of the answers from the brands and production companies concentrated on stating if there is a (direct) relationship with the supplier and some of the companies indicated how they will follow up on the reported issues. Brands are often not looking beyond their first-tier and most have difficulties finding suppliers in their sub-tier supply chain. Therefore most answers refer to only the first-tier suppliers.

A brand that only commented on the relationships was Nokia Siemens Network, which confirmed Maxim as its supplier. Nokia did not find any direct relationship with suppliers P.IMES and Maxim. Hitachi GST says it has no current business relationship with San Technology, Inc, MD Tech, Tsukuba and P.Ton, but that San Technology is a second-tier supplier. Sony mentions that it has no direct business relationships with the suppliers sent to them. Celestica mentions that Tsukuba is a supplier of its customer NEC and that NEC chooses and manages this supplier.

There were general responses from several companies, outlining their programmes on supplier responsibility but not indicating how they would follow up. NEC mentions that in general it has asked all its suppliers to adhere to its CSR guidelines, including the Fujitsu headquarters in Japan. As no surveys have been done by NEC in the Philippines it cannot review the company profile. Hitachi responded with information on Thailand, but no specific information on the Philippines.

Only a few companies commented specifically on the issues mentioned in the company profiles. Sun mentioned that it agrees with the issue that workers should be allowed to refuse overtime – as stated in the Fujitsu Computer Products Corporation of the Philippines (FCPP) profile. It further sees the other findings of SOMO at FCPP as similar to what it found to be non-adherences to its code in its supply

chain. Samsung also responded that the profile of San Technology seems accurate. San Technology, a subsidiary of Hitachi Metals, is an assembly manufacturer of Voice Coil Motor which supplies to Samsung Electronics.

Several companies indicated that they will follow up with their suppliers. Motorola was asked about Maxim and answered that Motorola has followed up with Maxim and requested full cooperation in a thorough review, which will start with a self assessment questionnaire and subsequent assessment if further investigation is required. Philips mentioned about Maxim that it is a small supplier and does not pass the standard criteria for requiring an audit, but that, given the lack of leverage, Philips will align with other EICC customers to set up next steps. Acer did not find any direct relationship with the suppliers that were sent to them, but it requested its hard disk suppliers to reply and verify the business relationships and provide action plans based on the company profiles.

Only HP gave specific information on the relation with all suppliers. In its response to the profiles HP researched its relationships and reported on the different relationships, from first-tier to third-tier suppliers. It will work with the suppliers to address the issues in the company profiles. HP mentions that its approach in Southeast Asia has been to audit its first-tier suppliers and it has a direct business relationship with the Fujitsu factory in the Philippines which it audited in 2006 and 2008 and the ASTEC factory in the Philippines which it audited in 2005, 2007 and 2008. It feels, based on its follow up audits, that ASTEC and Fujitsu have addressed and corrected the majority of their non-conformances and are making steady improvement. It will continue to work with them to correct any remaining non-conformances.

Regarding the other sub-tier suppliers, HP mentions that as many of its first-tier suppliers are supplied by Maxim it is possibly a sub-tier supplier; Hitachi GST has confirmed P.IMES as a supplier, and so they are second tier to HP; PTon is a third-tier supplier through the first tier Toshiba; Nidec and Kapco are second-tier suppliers and Tsukuba is third tier (supplier of these second tiers). In 2009 HP will revisit Tsukuba together with its first-tier supplier and check progress of corrective actions. HP mentions that Hitachi GST and Toshiba use San Technology, and that San Technology is thus a second tier to HP. San Technology is one of the suppliers who were part of a forum for suppliers of HP that was organised in Thailand by HP and the company was visited by HP in 2008 to review non-conformances found during third party audits at sub-tier suppliers. In general, HP noted the following about San Technology and several other suppliers: “Through these audits, we recognize that there are non-conformances with the code that are yet to be fully addressed in areas of working hours, awareness of the code, benefits, and freedom of association although there has been some improvement. It is HP’s expectation that our 1st tier suppliers manage corrective actions for any identified non-conformances with their suppliers.” In 2009 it will revisit San Technology together with its first-tier supplier and check on the progress of corrective actions.

8. EFFORTS TAKEN TO IMPROVE LABOUR CONDITIONS

8.1. RESPONSIBILITY EFFORTS OF THE PRODUCTION COMPANIES

Although SOMO interviewed workers from 9 of the 12 factories that were researched in 2006, interviews were not secured with each company's management. In total, six management interviews were conducted and four of the six were factories from which workers were interviewed by WAC in 2006. All four were aware of the factory profiles that were researched in 2006, which their buyers sent to them. San Technology said Hitachi Japan send them the report; "Such a thing happened never before. They checked every single thing to check. HP came in directly to check the situation. Customers were asking us questions".

The management of the different factories were quick to point out the improvements they made to their policy, the changes in rules and responsibilities taken. San Technology for example set up a CSR promotion team in April 2008 to work towards better working conditions, in compliance with the EICC code requirements. It mentioned it would start working on defining CSR after which it planned to work on the supplier code. Toshiba Information Equipment (Phils.), Inc. (TIP) has obtained SA8000 certification, which is a global accountability standard that incorporates third party monitoring as well as a management system. It states that every six months it conducts SA8000 audits through external auditors, which include workers interviews in which they randomly select several dozen employees who are interviewed without management. Since the EICC code has been implemented, TIP is audited against the EICC standards.⁹⁰ FCPP conducted an internal audit on labour and ethics on March 23 to 27, 2009. And it mentions continuously monitoring the working hours per week (60 working hours and a rest day) through discussions in the weekly management meeting, with very positive results.⁹¹

Some of the companies expressed differences between their code and the policy of the headquarters or the standards they are allegedly implementing. The code of conduct of San Technology will be modified from the Code of Conduct of its parent company, Hitachi Metals Ltd., and the code will be based on the EICC, the ILO convention, and the Philippine labour law. Hitachi Metals Ltd. has its own Code of Conduct which cannot be directly applied in the Philippines according to the management interviewees as they see it as "problematic" that the EICC has a much higher level of demands than the Philippine labour law. There will be a process of a year to gradually set up the CSR policy. TIP's policy does not mention certain standards of the SA 8000 standard; for example TIP does not specifically mention the right to form and join trade unions and bargain collectively nor does it mention the working week of no more than 48 hours with at least one day off for every seven day period; and voluntary overtime not exceeding 12 hours per week on a regular basis. TIP remarked when reviewing the company profile: "Though it is not mentioned in the policy, it is already in place and is practiced with full compliance to Philippine law. We believe that policy should be simple and the detail should be stated in the detailed regulation."

8.2. SUPPLIERS TRAINING AND AUDITING

Several of the researched suppliers mention that they are training and/or auditing their own suppliers. Both Tsukuba and San Technology mentioned that they were invited by FCPP to a seminar on the EICC code. The training was given by FCPP who gave training on both the EICC code and the Labour and

⁹⁰ Note should be made that the EICC standards are much weaker on labour issues than the SA 8000 standards.

⁹¹ email with reaction on company profile by Ernesto G. Espinosa, Vice President, FCPP, 14 April, 2009

Ethics Management System to its suppliers. Tsukuba added when interviewed that they went to the training but did not fully understand the EICC code.

Hitachi GST mentions that there is a regular supplier meeting once per year and that it is working on quarterly meetings. The company mentions that they want to strengthen its own audits. So far it checks pay sheets - do its suppliers pay their workers enough -, and ask suppliers - especially manpower contractors – to submit proof of accurate payments of salaries and of statutory contributions to government, and it is checking overtime.

TIP mentions that it promotes supplier CSR activities based on the SA8000 concept. It selects and ensures compliance of parts and service providers on “environmental consciousness, prohibition of child labour, and other CSR-related matters in addition to the costs and contents of those services”. It also conducts audits of existing suppliers and it has requested improvements from certain suppliers on working environment, working hours, and other aspects.⁹² So far TIP has audited between 2005 and 2007, 33 direct suppliers; 18 chemical suppliers; 11 second- tier suppliers.⁹³ For the supplier audits TIP works with the purchasing group that has the list of TIPs suppliers. It first targeted the first-tier suppliers. It gave them a briefing on the purpose of the audit and then introduced the SA 8000 and EICC requirements. Then TIP conducted the audit, which lasts one day. At the end of the day comments are given to the supplier and the written report and a submission of a corrective actions plan is required after 7 days. The auditors of TIP are trained for two days and then have one day of practice. Supplier meetings take place every 6 months, in April and October.

Tsukuba indeed mentions that its clients, TIP and FCPP, are auditing, either through own personnel or through a third party auditor, SGS. The clients make recommendations on the basis of the audits and they check the improvements after remediation. For Tsukuba the only problem that was noticed, according to the management, was the overtime.

Also San Technology mentioned that TIP, FCPP, Samsung and Hitachi GST conduct audits. The buyers give information about the labour conditions expected and they check on these labour conditions. The buyers audit the labour system and the environmental and safety issues, they check the pay roll, check the signatures. FCPP checked on freedom of association. It interviewed about 20 employees who were selected at random. It used a third party audit firm for the audit. There were no major findings, and the companies that audited requested to improve the issues that were found. These issues are discussed with the employees. San Technology says that CSR started at this point. Training on CSR is the first thing in the CSR programme. It provides this training itself.

The companies that are mentioning to be auditing and training their suppliers are overall local subsidiaries of HDD brands. The training is given by personnel of the company itself. For the audits of the suppliers it seems partly own personnel is used, as well as third party auditors. In certain cases only a few labour issues (for example only pay sheets and overtime) are monitored. No efforts seem to be made to inform the workers and not much work is being done on including them in audits, such as interviewing workers outside of the factory premises etc, although there are some favourable exceptions. Although it is part of implementation of a code of conduct to inform the suppliers and regularly check on progress, further

⁹² Toshiba, *Corporate Social Responsibility Report 2008*, p. 18, Toshiba <http://www.toshiba.co.jp/csr/en/report/pdf/report08_all.pdf> (08-06-2009)

⁹³ Interview with the management of TIP, 2 June 2008.

efforts would be required to make sure that suppliers are indeed improving labour conditions where needed.

8.3. SUPPLIERS ON AUDITING EFFORTS

In the interviews with the management of the different factories SOMO asked how they perceived the implementation of codes of conduct by the different brands. All of the interviewed companies mentioned being audited by brands on labour conditions, several mentioned increased efforts after the WAC research findings from 2006 were sent to several brands. One of the managers of San Technology mentioned that their factory was audited seven times in the last year - of which three follow up audits - pointing to the need for his company to take on CSR in a more integrated way.

The management of Maxim mentioned that although buyers, like Intel and Samsung, do audits they do not check the wages or working hours or check the books. This was confirmed by the workers who see audits from the customers every month. The workers mention that the auditors inspect how clean the areas are, the safety, and the quality of the products; as even a small amount of dust can influence the process. They ask the employees about the testing procedures. They do however not ask about overtime and other labour issues, “the product is central, not the working conditions”.

In Hitachi GST the workers do not know any buyers codes of conduct. Hitachi GST has given a handbook in which only discrimination is covered as far as one of the workers is aware. Hitachi denies this in its response on the 15th of April to the company profile and mention that the workers get training “and certify annually to the company’s code of conduct, which covers all customary topics, not just workplace discrimination”.

Also TIP mentions being audited but feels that not all efforts are on the same level. It states that of its customers, HP is coping with these matters the most seriously.

FCPP was audited by HP and was audited again in 2008. According to FCPP HP is the most active customer when it comes to social audits. The outcome of the HP audit was that there were only two ‘observations’ and only one minor problem left that related to rendering of overtime; some of employees feel that overtime is forced. They also mentioned an audit by IBM.

Hitachi GST mentions that customers have different environmental requirements which makes it complicated to meet all of them. Almost all of the computer brands have specific requirements in regard to labour. They do audits, either together, on their own directly, or through a third party. Some of the requirements cannot be changed overnight. Most challenging are the working hours. Legal requirements are less stringent than what the customers are demanding so they are now looking how they can comply with the customers demands, for example on working hours. According to the law the normal working hours are 48 hours per week, and there is no ceiling for overtime. There are not many other challenges according to the management.

8.4. PURCHASING PRACTICES

As was mentioned in the report *Silenced to Deliver*⁹⁴, which detailed labour conditions in Chinese and Philippine factories producing for mobile phone companies, tensions arise when suppliers are asked to raise labour and environmental standards without offering a good compensation for the product or when companies even at the same time ask for lowering of the production costs. In *Silence to Deliver* references are made to one manager who says that the buyers calculate labour costs at a far too low level, while CSR managers demand better working conditions. The pressure can already be felt at the first-tier suppliers, let alone further down the supply chain where negotiation room is very limited.

Several brands were asked how responsibility was taken up in their purchasing practices. Only Apple and Samsung responded. Apple mentioned that its supplier responsibility programme is closely integrated with the Operations and Procurement functions and that audits and corrective action plans are being worked out in detail with the supply base managers. Through Key Performance Indicators (KPIs), that look at overtime, training, injuries, complaints, turnover etc. they monitor results⁹⁵. Samsung mentioned that it includes a CSR section in its suppliers evaluation.

From the suppliers Hitachi GST states that it strives to balance the competing interests of keeping the costs low and being a good corporate citizen⁹⁶. The company mentioned during the interview that it does not see a comparative advantage in improving social standards in the company, as customers will not pay more for the products. As Hitachi does not see itself as a global giant on the hard disk market it does not have the economy of scale that some other companies have. It was present at the forum HP organised in Bangkok for its suppliers and HP also invited SOMO and local NGOs and Trade Unions. At the forum it felt that HP “is raising the bar” on implementing labour standards but is not offering anything in return.

When talking to the managers of the different suppliers it became clear that they perceive gaps between the CSR and the purchasing practices of the companies that purchase their products. One of the issues that was communicated strongly by the management of the different suppliers is that the most serious problems discovered by the audits are related to overtime. But overtime is very much related to orders, or changes in orders, from the buyers. The management of one of the researched factories, Tsukuba, remarked that the overtime that workers need to do depends on customer needs; sometimes they need to have overtime as otherwise they cannot catch up with the shipments; “We cannot reject the customers demands otherwise we are out of business”. The buyer gives them a forecast of how much they need, but due to market demands this can change.

The costs paid for the products and especially the constant negotiating to lower the price can even further influence the minimal space suppliers have to implement improvement on labour conditions, especially when they only see the implementation as costs and do not see the benefits. Tsukuba mentions that one of its suppliers (NEC) comes every three months to negotiate about the prices. The prices they are getting for the product is only half of what they used to get, as there are two competitors for the same product.

⁹⁴ J. Chan, E. de Haan, S. Norbrand & A. Torstensson, *Silenced to Deliver*. Mobile phone manufacturing in China and the Philippines, SOMO and Swedwatch, September 2008

⁹⁵ In an email by Bob Bainbridge, Apple, Director Supplier Social Responsibility, 6 May 2009

⁹⁶ Email with reaction to the report by Windsor Chan Jr, Corporate Social Responsibility (CSR) Office, Hitachi GST, 14 April 2009

It is no wonder that another supplier, San Technology, is sceptical about if putting more efforts into CSR will eventually pay back. They do not think that customers will pay more for its products when they comply. Compliance is thus seen as a cost only and not connected to incentives. Only TIP sees comparative advantages in improving social standards, in getting SA8000 certification and implementing the EICC code. It feels that applying the standards makes it more competitive as many customers are asking for compliance.

The perception of TIP that there are advantages is a positive one, and efforts should be made to work towards an overall perception and reality whereby there is comparative advantage and possibilities, and improvements are not hindered by purchasing practices from the same companies that are asking for improvements.

There is clearly a need for an integrated policy in which incentives are being brought in to promote efforts by suppliers to improve the conditions. When efforts are only seen as costs there is a high chance that suppliers will not make lasting improvements on CSR.

8.5. MANAGEMENT'S PERSPECTIVE ON LABOUR RIGHTS

8.5.1 FREEDOM OF ASSOCIATION

As was described in part 7.2 organising unions in the Philippines is certainly not without danger and the government fails to protect union activists. Most of the overall foreign owned electronics companies in the Philippines are making use of this policy and are repressing union activities in their companies or are not making any positive efforts towards unionisation so that workers in their company do not feel free to organise and bargain collectively. As described earlier in this report most workers know that one has to deny any knowledge of unions and that organising is dangerous. Most workers interviewed did not think their management would allow workers to organise, most knew examples of workers being dismissed for organising activities, and several mentioned explicit statements by management against unionisation. Workers who have knowledge of trade unions and express this are not hired and during the orientation period workers are explicitly told that organising is prohibited.

There is a clear discrepancy between the perception of workers on what the company stance is regarding organising and what companies express during the interviews. Overall the interviewed companies state that they do not deny workers the right to organise. The Human Resource manager of Maxim mentions that workers at Maxim will decide for themselves if they need a union and there is no discouragement at all by the management. In Maxim however workers are very vocal about the anti-union policy of the management and mention that “everyone knows that organising is forbidden” they are asked during the interviews if they have knowledge about unions and know that workers that started organising back in 2002 were dismissed. Also in San Technology the workers mention a clear stance of the management during the orientation period regarding not having workers organise in their company⁹⁷. FCPP workers mention that they are asked about this in job interviews and that any positive reference to trade unions leads to workers not being hired. In its reaction on the company profile FCPP mentions that in 2008 it totally eliminated any questions regarding unions. “Today, we do not ask such questions anymore. Applicants are hired based on their qualifications, interview assessment and results of written examination”.⁹⁸

⁹⁷ San Technology has reacted to this in the company profile and has remarked that this is not the case.

⁹⁸ Email from Ernesto G. Espinosa, Vice President FCPP, 14 April, 2009.

In general the companies express the opinion that there is no real need for trade unions in their factory and that workers are probably satisfied with the company. In Tsukuba the general manager mentions during the interview that he has no problems with unions; “nowadays the relationships between union and management is understanding, the unions are not so radical anymore”. The Philippine law says that there is freedom of association so workers can form a union. The manager thinks the reason that there is no union in the factory is that people are probably satisfied with the company so they do not want a union. In TIP the management says that having a union is a choice of the employees; if they need one then maybe they will establish one.

Even though most of the managers mention they have no problems with unions, still they see no need for them in their factory. Tsukuba states that the workers have no proper knowledge of what a union is. The workers do not want a union because the workers do not want the factory to close. There are good unions here but also unions that in his opinion are not doing their work well.

Management of the interviewed factories suggests other ways for workers to express their opinions and discuss grievances. San Technology mentions for example that they are not against freedom of association but that there are enough possibilities within San Technology to address issues and “the president has an open door policy”. In P.IMES, where workers were being told during the orientation period that a union is not necessary because the company will give them everything that they should have, P.IMES commented that there is no union “however, there is an employee cooperative where regular employees are members for mutual gain”⁹⁹. During the review process of the company profile of FCPP the management of FCPP informed SOMO about the establishment of a Committee that includes representatives from top management to production operators. “The Non-Management Representatives are elected by their own peers in an election process which was facilitated by HR. They participate in all meetings of the LEMS Committee. The committee prepared written policies on labour and ethics covering the Electronic Industry Code of Conduct (EICC) provisions”. In Hitachi GST the managers see no obstacle to freedom of association as this is already company policy. There has not been a union in the company for the past 12 years, which the managers guess is because the workers are happy with the working situation “and because they have many opportunities and venues to express their ideas and concerns which are directly and speedily addressed, often times by the President himself”¹⁰⁰.

8.5.2 WAGES

Overall, the minimum wage is seen as the basic wage over which by several companies seniority pay will be paid. The manager of Tsukuba for example mentions that they “cannot increase the wage because there is the minimum level”. Governments often keep the minimum wages at a low level to attract foreign investments (see chapter 3.1.1 on incentives). TIP mentions that the minimum wage is decided by the government together with labour unions representatives and “if the minimum wage is not enough to live on then the government should decide to increase the minimum wage”.

Some of the suppliers do realise that the minimum wage is by far not enough to live on but do not draw any conclusions with regard to their own company and workers. The general manager of Tsukuba for example relates that workers lend money through the cooperative which they have to pay back in monthly instalments. Some of the workers really have no salary left after these payments. Some have only 77 PhP

⁹⁹ Email with reaction to the company profile by Margie C. Enriquez, Human Resource Department, P.IMES Corp., 29 April 2009

¹⁰⁰ Email with reaction to the report by Windsor Chan Jr, Corporate Social Responsibility (CSR) Office, Hitachi GST, 14 April 2009

left of their 14-days salary. The management acknowledge that the workers need the extra money for food, shelter, and educational fees for their children. But he adds that, “We cannot increase the wage because there is the minimum level. So the people ask for overtime. Every day they have a request for doing overtime.”

8.5.3 OVERTIME

As the minimum wage is being set at such a low minimum workers will not be able to make a living thus will need a lot of overtime to make ends meet. “So the people ask for overtime. Every day they have a request for doing overtime”. TIP mentions that therefore it is complicated to change this issue. Hitachi GST responded on the 15th of April 2009 to the company profile that “The workers raise concern when there is not enough overtime work as this is a major source of additional income for them. Some opt to resign in favour of companies with more overtime work opportunities”.

In the chapter 7.4 detailing the buyers conducting audits, overtime is mentioned as one of the main findings in the audits and a hard nut to crack. Tsukuba already identifies working hours as an issue, which is also brought to its attention through auditing efforts of its customers. Interviews with workers both in 2006, and still in 2008 showed the working hours to be often 12 hours a day, including an extra 4 hours overtime per day, 6 days a week. Also the workers will work regularly on Sunday as well, so the whole week through without having a day off.

Most of the workers were reporting excessive overtime at the time of the research. Although most of the workers mentioned that because of the low wages they would want to do overtime, most of the workers complained about compulsory overtime. For example FCPP has as a policy that workers can refuse overtime when they have a good reason, still when there are urgent orders and no replacement can be found workers cannot refuse the overtime. In its comments on the profile, FCPP acknowledges that it should improve on this scheme especially because SOMO also found some operators who feel that overtime is being forced. FCPP therefore promises to improve on this aspect.¹⁰¹

8.6. RESPONSIBILITY WHEN FACTORIES CLOSE DOWN

In general, with factories closing or threatening to close, the workers are placed in a complicated position. You have no real bargaining power when you expect your factory to pack up and leave at any time, and the threat of closure can always be used by the management, whether implied or real. In this situation, it is unlikely that workers will negotiate for better wages and improvement of labour conditions. As more and more factories are closing down, the possibility of finding employment elsewhere is also decreasing.¹⁰²

As can be read in earlier chapters of this report, the impact of the financial crisis on the electronics sector of the Philippines is huge. But instead of pushing corporate social responsibility into the background, it is of great importance to act responsible especially in times of crisis. The GoodElectronics¹⁰³ network has

¹⁰¹ Email with reaction on company profile by Ernesto G. Espinosa, Vice President FCPP, dated 14 April, 2009.

¹⁰² Esther de Haan & Myriam Vander Stichele, *Footloose Investors: Investing in the Garment Industry in Africa*, SOMO, Amsterdam, August 2007

¹⁰³ GoodElectronics is a coalition of human rights organisations, labour rights organisations, environmental organisations, trade unions, universities and individuals from Brazil, Canada, China, Congo, Europe, Hong Kong, Hungary, India, Indonesia, Malaysia, Mexico, Thailand, the Philippines, Singapore and the USA, with the common aim to contribute to human rights and sustainability in the global electronics sector. See also the GoodElectronics website at <<http://goodelectronics.org/about>>

drawn up a statement to urge companies to act responsibly.¹⁰⁴ For example, companies should not lay off workers as an easy means to restore their financial balance. In the case of bankruptcy accountancy files should be disclosed to be able to verify that companies have acted in the interest of their work force and companies are expected to pay back wages and bonuses without delay and supply fair compensation schemes for their work force. The financial crisis should not be used as an excuse to drop basic standards in order to cut expenses and brand name companies should refrain from shoving financial risks down their supply chains.

The ILO has drawn up international instruments for regulating the conduct of multinational enterprises (MNEs) and defining the terms of their relations with host countries, mostly in the developing world, including how to deal with security of employment¹⁰⁵ (see the text below: *ILO guidelines in the area of security of employment*). These guidelines as well as the statement of the GoodElectronics network offers guidance regarding what is reasonable to expect from electronics companies in the Philippines.

ILO GUIDELINES IN THE AREA OF SECURITY OF EMPLOYMENT.

Guidelines to Multinational Enterprises, governments, and employers' and workers' organizations in the area of security of employment as formulated in the 'Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy' of the ILO.

Governments should carefully study the impact of multinational enterprises on employment in different industrial sectors. Governments, as well as multinational enterprises themselves, in all countries should take suitable measures to deal with the employment and labour market impacts of the operations of multinational enterprises.

Multinational enterprises equally with national enterprises, through active manpower planning, should endeavour to provide stable employment for their employees and should observe freely negotiated obligations concerning employment stability and social security. In view of the flexibility which multinational enterprises may have, they should strive to assume a leading role in promoting security of employment, particularly in countries where the discontinuation of operations is likely to accentuate long-term unemployment. In considering changes in operations (including those resulting from mergers, take-overs or transfers of production) which would have major employment effects, multinational enterprises should provide reasonable notice of such changes to the appropriate government authorities and representatives of the workers in their employment and their organizations so that the implications may be examined jointly in order to mitigate adverse effects to the greatest possible extent. This is particularly important in the case of the closure of an entity involving collective lay-offs or dismissals.

Arbitrary dismissal procedures should be avoided.

Governments, in cooperation with multinational as well as national enterprises, should provide some form of income protection for workers whose employment has been terminated.

¹⁰⁴ GoodElectronics, *Electronics sector hit by economic crisis – Companies to take responsibility*, Statement issued by the GoodElectronics Round Table – Jakarta, Indonesia, November 2008. Available at the GoodElectronics website <http://goodelectronics.org/publications-en/Publication_2823/at_download/fullfile>

¹⁰⁵ ILO, *Tripartite Declaration of Principles concerning multinational enterprises and social policy*, International Labour Office, Geneva, 2006. From the section Security of employment, article 25-28 <http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/documents/publication/wcms_094386.pdf>

9. CONCLUSIONS

The economic crisis is affecting the computer market and thus the Philippines that is supplying components. Especially seeing the importance of the electronics industry for the Philippines: In 2008 the electronic products continued to be the top earner for the country, good for 58 percent of the total exports. Through the economic crisis several companies have already dismissed part of their workforce and/or closed down facilities. This might have a downwards impact on labour conditions as companies might decide not to put any money in improvements of labour conditions, and workers do not have much bargaining power when they fear there may be dismissal at any given moment. Still, at times of economic crisis it is important that companies act responsibly.

As described in chapter 6.1 the company profiles detail excessive overtime, enormous problems with freedom of association, wages too low to live on and a surge in workers employed through agencies.

When looking at the interviews that were done by WAC in 2006 and in 2008 it becomes clear that working conditions have not changed much in the intervening years. Even though the issues were communicated to the buying companies, any efforts taken have not led to much improved conditions, especially not regarding freedom to organise, wages and overtime. Some aspects of the situation have become even worse, looking at the growth of contract labour through agencies in which workers are worse off considering exactly these issues: wages and benefits and possibilities to organise. The economic crisis might have an even further negative effect on issues such as wages and organising, with workers losing their jobs.

The discrepancy between what workers mention about the freedom of association and what management reports is startling. Workers that apply for a job will be asked about unions and will be refused when they express any knowledge, background checks are done, workers are told in orientation periods that any union activity will not be accepted. As was mentioned in chapter 6.2 it is common knowledge among workers that one has to deny any knowledge of unions and that organising is dangerous. Most workers interviewed said they did not think that their management would allow workers to organise, most knew examples of workers being dismissed for organising activities and several mentioned explicit statements against unionisation being issued by management. The management of the suppliers is however stating that they do not deny the workers the right to organise, but that workers have other means of discussing grievances with management.

The only issue that was addressed by both suppliers and brands as a violation were the hours of work, that were in many cases above the 60 hours (the amount which is mentioned in codes from different buyers), is not always voluntary, and suppliers did regularly not provide one day off in a seven day work week. Suppliers mention that workers will want the extra hours to earn extra money. Certainly there is a need for workers to make extra hours to be able to live on what they earn. Wages paid are below a living wage and basic living costs for an average Philippine family are not covered even if both parents work full time in the electronics sector and earn the minimum wage, according to the information of the National Wage and Productivity Commission (NWPC) and confirmed by NGOS and trade unions in the Philippines. Only referring to the minimum wage, as suppliers and computer companies are doing, will thus not provide workers that make computer parts with a decent wage. Brands and suppliers are encouraged to look at the wages and make sure that workers can earn a decent wage in a normal working week (without overtime).

Several of the buying companies have let SOMO know that they have taken up the issues with their suppliers but there has hardly been any transparent communication on how changes will be implemented. Making it even more difficult to assess this is that several of the companies will not acknowledge suppliers in their supply chain.

What becomes clear from the management interviews with the suppliers is that there have been quite some efforts by management to set up systems around CSR and work has been done around improving labour conditions, feed back systems for workers etc. Also buyers have audited the suppliers and have asked for improvements and several companies have signalled that they are working on decreasing working hours. It is encouraging that these steps have been made and that companies are making the effort to design their policy; for several suppliers major changes have been made in this regard. Several of the computer brands as well as HDD manufacturers have put efforts into auditing their suppliers and remediation efforts haven been taken. This has no doubt led to changes on such issues as health and safety and employment of young workers. Still all these efforts have not lead to substantial improvement of the labour conditions in the suppliers, with respect to wages, freedom of association, and working hours.

The reasons for this are among others;

- Some of the suppliers have no clear understanding on what is expected from them. Forums for suppliers and trainings are encouraging and will support more knowledge for suppliers on what is expected but definitely more work is needed in this.
- Buyers are not addressing the root causes of the labour issues such as freedom of organisation and wages. The codes of conduct do not address issues like the right to a living wage and overtime, and often do not address freedom of organisation or collective bargaining completely. The absence of clear standards on these issues results in suppliers not easily addressing these and the growing trend towards 'contractualisation' enhances the problems with these issues. Management of factories are not denying freedom of association openly in interviews but in practice do communicate to workers that they cannot organise trade unions in the factories.
- Efforts taken by some of the suppliers on facilitating dialogue between workers and management does not replace freedom of association and could even undermine this.
- Suppliers are referring to the government to point out that the minimum wage is not their responsibility without looking at their own possibilities to increase the wage above the minimum.
- No real efforts from the brands/buying companies on implementing the standards in the supply chain. Not much work has been done in the Philippines yet by the different computer brands on implementing labour standards down the supply chain. When efforts have been made they are mostly limited to the first tier of production. HP seems to be one of the only computer companies that is looking at suppliers beyond the first-tier and works with its first-tier suppliers on monitoring conditions in sub-tiers.
- Companies are relying too much on; 1. self assessment questionnaires, filled in by the suppliers themselves without further auditing; 2. only monitoring with own personnel without having a credible audit system which checks if improvements are really made. To work towards real and lasting changes companies will have to have a credible monitoring and auditing system, interviewing workers outside of the factory premises and do more than merely auditing their first-tier suppliers. Also it is important that companies will audit on all issues, including freedom of association and collective bargaining. When violations are found companies should engage in remediation efforts. It is important to work with local NGOs and Trade unions to be aware of the issues in the sector in

general in different countries and in specific factories. They can involve audits, complaints handling and remediation as well as workers training.

- Workers have no knowledge of Codes of Conduct; they are not being discussed and explained to workers. Workers notice that audits are done but see these focus on product quality and processes, not on labour rights. In most audits workers are not interviewed on labour rights.
- Companies are asking for improvements while at the same time not making it attractive for suppliers to implement changes. Buyers are negotiating down on the product price, without taking into account the costs of good labour conditions and are changing orders without paying much attention to what this would mean for the working time in the factories. The suppliers have to pay for the adjustments that are required themselves as well as sometimes for the audits that are being done. The interviews with suppliers showed clearly that there is scepticism as to what benefits efforts in improving labour conditions will bring. Comparative advantage and possibilities should be created for suppliers that make efforts, and improvements should not be hindered by purchasing practices from the same companies that are asking for improvements.

In an atmosphere where it is dangerous to undertake union activities and where the government fails to protect union activists and even seems to justify violence against them, there is more needed from both the suppliers and the computer companies than just mentioning freedom of association in a code as computer companies do, or even for suppliers to mention that they are not denying workers the right to organise. Positive efforts will be needed, both by the brands and the suppliers to make sure that workers are informed about their right to organise and will be able to do so. Companies, both brands and suppliers should recognise that all workers have a right to form or join trade unions and to bargain collectively. Companies should adopt a positive approach towards the activities of trade unions and an open attitude towards the organisational activities of workers. They should take steps to make sure that employees are not dismissed, discriminated, harassed, intimidated because they join a trade union or participate in trade union activities. Union organisers should have access to the factory premises.¹⁰⁶

¹⁰⁶ Based on: Jeroen Merk, *Full package approach to labour Codes of Conduct. Four major steps garment companies can take to ensure their products are made under humane conditions*, Clean Clothes Campaign, 2008

10. ANNEX 1 SPECIFIC BRAND RESPONSES PER SUPPLIER

Maxim

Philips, Motorola, Nokia Siemens Network (NSN) confirm that Maxim is one of their suppliers. HP mentions that as many of its first-tier suppliers are supplied by Maxim it is possibly a sub-tier supplier. Philips mentioned about Maxim that it is a small supplier and does not pass the standard criteria for requiring an audit, but that, given the lack of leverage, it will align with other EICC customers to set up next steps. Motorola has followed up with Maxim and requested full cooperation on a thorough review, which will start with a self assessment questionnaire and following assessment if further investigation is required. Also HP mentions that it will continue to work collaboratively with its suppliers in the region to address issues that the factory profiles have highlighted. NSN did contact Maxim and according to Nokia got a satisfactory response on its activities and actions, based on the SOMO profile. Further follow-up will be done as part of normal supplier management practices. Nokia mentions that it is not on the Nokia supplier list. However, it also mentions that it has no knowledge about its sub-tier suppliers.

Fujitsu Computer Products Corporation of the Philippines (FCPP)

Sun agrees with the issue that workers should be allowed to refuse overtime and see the other findings of SOMO as similar to what it found to be non-adherences to their code in their supply chain. NEC mentions that in general they have asked all their suppliers to adhere to their CSR guidelines, including the Fujitsu headquarters in Japan. As there have not been any surveys done by NEC in the Philippines they cannot review the company profile. Acer mentions it is not purchasing any hard disk drives from FCPP. HP mentions that its approach in Southeast Asia has been to audit its first-tier suppliers and it has a direct business relationship with the Fujitsu factory in the Philippines which it audited in 2006 and 2008. It feels, based on the follow up audits, that FCPP has addressed and corrected the majority of its non-conformances and is making steady improvement. It will continue to work with FCPP to correct any remaining non-conformances.

P.IMES

Several of the companies did not acknowledge P.IMES as one of their suppliers, among which Nokia Siemens Network. As most of the companies do not look at the supply chain beyond the first-tier this information is not conclusive. Only HP mentions that Hitachi GST has confirmed P.IMES as a supplier, and so it is 2nd tier to HP.

PTON

Hitachi GST mentions that there is no current direct business relationship. However it has not been commenting on suppliers further down the supply chain. HP has PTON as a third-tier supplier through the first tier Toshiba.

San Technology, Inc

Samsung mentions that the profile of San Technology seems accurate. San Technology is an assembly manufacturer of Voice Coil Motor which supplies its parts to Samsung Electronics. Hitachi GST mentions that it is a second tier supplier. HP mentions that Hitachi GST and Toshiba use this supplier, and that San Technology is a second-tier to HP. San Technology is one of the suppliers that was part of the forum for suppliers that was organised in Thailand by HP and was visited by HP in 2008 to review non-conformances found during 3rd party audits at sub-tier suppliers. In general, about San Technology

and several other suppliers HP mentioned: “Through these audits, we recognize that there are non-conformances with the code that are yet to be fully addressed in areas of working hours, awareness of the code, benefits, and freedom of association although there has been some improvement. It is HP’s expectation that our 1st tier suppliers manage corrective actions for any identified non-conformances with their suppliers.” In 2009 it will revisit San Technology together with its first-tier supplier and check progress of corrective actions.

Tsukuba

HP mentions that Nidec and Kapco are second-tier suppliers and that Tsukuba is third-tier. In 2009 it will revisit Tsukuba together with its first-tier supplier and check progress of corrective actions.

Celestica mentions that Tsukuba is a supplier of its customer NEC and that NEC chooses and manages this supplier. Hitachi GST mentions it has no current direct relationship

MDTech Phils., Incorporated

Hitachi GST mentions it has no current direct relationship. Further information on how mobile phone brands responded to questions about this supplier can be found in the report *Silenced to Deliver*¹⁰⁷ which has been published by makeITfair.

Astec Power Philippines Incorporated

HP mentions that its approach in Southeast Asia has been to audit its first-tier suppliers and it has a direct business relationship with the Astec factory in the Philippines which it audited in 2005, 2007 and 2008. It feels, based on their follow up audits, that Astec has addressed and corrected the majority of its nonconformances and is making steady improvement. HP will continue to work with Astec to correct any remaining non-conformances. Further information on how mobile phone brands responded to questions, also about this supplier, can be found in the report *Silenced to Deliver*.

¹⁰⁷ J. Chan, E. de Haan, S. Norbrand & A. Torstenson, *Silenced to Deliver*. Mobile phone manufacturing in China and the Philippines, SOMO and Swedwatch, September 2008



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