

Royal Philips Electronics N.V.

Unresolved CSR issues in 2010



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SOMO

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Introduction

This company profile has been drafted by SOMO (Centre for Research on Multinational Corporations) and provides an overview of unresolved corporate social responsibility issues that occurred or were addressed in 2010. In the context of the upcoming annual general meeting (AGM) of shareholders of Royal Philips Electronics N.V. (further referred to as Philips), this overview aims to provide additional information to shareholders and other stakeholders of Philips regarding unresolved CSR issues. By highlighting such issues, the overview can be used to identify areas of the company's corporate responsibility policies and practices that need improvement and to formulate a more informed assessment of the company's corporate responsibility performance.

The range of sustainability and corporate responsibility issues included in this overview is broadly based on issues and principles that are present in global normative standards for responsible business behaviour, such as the OECD Guidelines for Multinational Enterprises. Rather than an exhaustive analysis of Philips' corporate responsibility policies, operational aspects of corporate responsibility management, implementation systems, reporting and transparency, or total performance on any issue, the overview provides a descriptive depiction of a limited number of corporate-responsibility-related issues and cases that might merit further attention or reflection. Philips' positive sustainability achievements in 2010 are not addressed here. Information on positive achievements can usually be found in a company's annual and/or sustainability report and on the company's website.

The research methodology for this overview primarily involved desk research methods, relying on information from SOMO's global network of civil society organisations, Philips' own website and publications, media reports, and company information databases. All sources are cited in footnotes in the text. As per SOMO's standard research methodology, Philips was informed about the research in advance and was given two weeks to review a draft report and provide comments and corrections of any factual errors in the draft version prior to publication.

This company profile is part of a joint project of SOMO and the VBDO (*Vereniging van Beleggers voor Duurzame Ontwikkeling* - Dutch Association of Investors for Sustainable Development).

About SOMO

SOMO is an independent, non-profit research and network organisation working on social, ecological and economic issues related to sustainable development. Since 1973, the organisation investigates multinational corporations and the consequences of their activities for people and the environment around the world. SOMO supports social organisations by providing training, coordinating networks and generating and disseminating knowledge on multinational corporations in a context of international production, trade, financing and regulation.

Unresolved CSR issues in 2010

In this report four issues are highlighted:

1. Lack of transparency regarding Philips' internal sites and its supply chain.
2. Poor quality of social dialogue on the European level
3. Company infringement upon the independent functioning of the European Works Council Philips (EWCP)
4. Lack of involvement with trade unions on a global level.

We do not pretend to present an exhaustive overview of labour and/or environmental issues, but made a selection of issues that we deem interesting to raise with Philips at this point in time and in this manner.

For all issues a number of recommendations are formulated.

Commenting upon the draft report, Philips informs SOMO '*not to agree with the findings and conclusions stated in the report since they are nearly all factual incorrect and rather based on assumptions*'.¹ In this reaction, Philips does, however, not provide factual corrections. Philips counters the analyses and views in the report with its own views and beliefs.

¹ P. Wiesenekker, Sr. Director HRM International Employee Relations, Philips, E-mail to VBDO 14 March 2011.

1. Lack of transparency regarding Philips' internal sites and its supply chain

Summary

In its external communication and in its contacts with civil society stakeholders Philips is insufficiently transparent about its internal sites, including production locations. The same holds true for its supplier base. Up-to-date information about Philips' internal sites and Philips' suppliers is hard to come by despite statements about the importance Philips attaches to transparency. Philips does not provide such information. In the public domain such information may be found, but often for a cost and it is not up to date. For civil society stakeholders, including trade unions, to be able to play their designated roles as social partners, researchers or watchdogs, updated and detailed information about Philips' operations, including the internal sites as well as its supplier base, is crucial. Philips does not fully live up to the requirements set by widely accepted standards pertaining to disclosure and transparency.²

Context and role of company

Philips claims to attach importance to transparency and to sustainable supplier management. In its annual report of 2009, Philips makes a number of statements regarding its supplier network and supplier management. Under 'Our planet, our partners, our people', 'Supplier sustainability', the following references are made:

- ❑ 'We believe in asking our suppliers to share our commitment to sustainability. This includes sound environmental and ethical standards as well as providing working conditions for their employees that reflect both the Philips General Business Principles and the Electronic Industry Citizenship Coalition (EICC) Code of Conduct. We continue to focus on the Philips Supplier Sustainability Involvement Program, closely collaborating with our supplier partners and relevant stakeholders to drive progress. It's about improving conditions in the chain.'
- ❑ 'As a member company of the Electronic Industry Citizenship Coalition (EICC) our goal is to improve conditions in the electronics supply chain. To do just that, we conducted a record total of **858** supplier audits to identify and resolve issues in 2009.'
- ❑ 'The Global Supplier Rating System (GSRS) was further deployed in 2009, providing structured measurement of supplier performance and rigorous tracking of improvement actions. GSRS covered over **85% of Philips' total spend in 2009**.'

² In December 2010, Philips was awarded the VBDO Responsible Supply Chain Management Award, with a total score of 53 points out of a total of 57. <http://www.vbdo.nl/nl/nieuws/persberichten/470/philips-wint-%27vbdo-verantwoord-ketenbeheer-award-2010%27>. Benchmark criteria that are at the basis of this award look into Governance and Vision, Policy, and Management (distinguishing Upstream, Midstream/Company, and Downstream Level). Full transparency about internal (production) sites and the supplier base is, however, not included in the VBDO benchmark criteria. <http://www.vbdo.nl/files/download/498/VBDO%20Ketenbeheer%20Benchmark%202010.pdf>.

- ❑ 'In 2009, Philips continued to develop the Partners for Growth strategic supplier network, bringing together its top **36** suppliers to identify and exploit joint business opportunities with a focus on together coming out of the crisis stronger. This initiative accompanies our supplier sustainability initiative, which ensures mandatory auditing of all suppliers with spend above EUR 100,000 in risk areas.'³

On the Philips website some more figures are disclosed:

- ❑ 'Most of our top 20 suppliers are Electronic Manufacturing Services (EMS), Original Design Manufacturers (ODMs) or Original Equipment Manufacturers (OEMs).'

However, a complete overview of suppliers with relevant details including for example contact information is lacking.

Information about production sites is equally hard to come by. The Philips 2009 annual report provides a minimal clue:

- ❑ 'At the end of 2009, Philips had **127** production sites in 29 countries, sales and service outlets in approximately 100 countries, and 115,924 employees.'

But, again, a complete overview of internal sites with relevant details is not disclosed.

Philips' production is becoming more and more outsourced. According to the Philips 2009 annual report, 'Overall, some 90 percent of Philips' Bill of Materials comes from outsourcing, long-term partnerships, Original Equipment Manufacturers and Original Design Manufacturers.'

At the same time Philips is actively making new acquisitions. In the 2009 annual report, under the heading 'Philips' acquisitions' a very short overview of the announced acquisitions in 2008 and 2009 is provided.

These processes are continuously ongoing. For civil society stakeholders, including trade unions, to be able to play their designated roles as social partners, researchers, watchdogs, etc., updated detailed information about Philips' operations, including internal sites as well as the supplier base, is crucial.

With respect to disclosure and transparency about its operations and its supplier base, Philips is clearly lagging behind. Several corporations in the garment sector as well as in the electronics sector have long ago taken the initiative to disclose factory lists. Here are four examples:

³ Philips, Annual Report 2009, Performance by key function, 'Our supplier network', January 2010, http://www.annualreport2009.philips.com/pages/our_group_performance/management_discussion_and_analysis/performance_by_key_function.asp (February 2011).

⁴ Philips website, About Philips' Supply Management, 'Supply Markets', no date, <http://www.philips.com/about/company/businesses/suppliers/aboutsupplymanagement.page> (February 2011).

⁵ Philips, Annual report 2009, Our structure, 'Organizational chart', January 2010, http://www.annualreport2009.philips.com/pages/our_sector_performance/our_structure.asp#top?origin=search (February 2011).

⁶ Philips website, about Philips Supply Management', no date <http://www.philips.com/about/company/businesses/suppliers/aboutsupplymanagement.page> (February 2011).

⁷ Philips, Annual report 2009, Investor information, 'Philips' acquisitions', January 2010, http://www.annualreport2009.philips.com/pages/investor_information/philips_acquisitions.asp (February 2011).

- In 2005, sportswear producer Nike disclosed its factory base as the first company in its industry. Nike's commitment to supply chain transparency is shown by updating public disclosure of the more than 700 contract factories worldwide that produce Nike branded product. This list includes country, company name and full address.⁸ In 2000, Nike responded to college requests to disclose publicly the names and locations of the active contracted factories that produced collegiate licensed products, with the understanding, as Nike puts it, that the benefits of doing so would outweigh the risks. This list includes country, products produced, factory name and full address as well as contact information, including email addresses.⁹ As of September 2010, Nike is moving towards more real-time reporting. This includes increasing the frequency with which Nike discloses the list of factories making collegiate licensed products from a semi-annual to a quarterly basis.
- As part of its commitment to transparency Dell discloses a list of 95 percent spend and key supply chain partners. The list represents suppliers directly and indirectly managed by Dell.¹⁰ This list gives names of supplier companies, but not any information on where these companies are based or how they can be contacted.
- Canon makes overviews of manufacturing, R&D and marketing subsidiaries and affiliates, including detailed contact information, available on its global corporate website.¹¹ Canon's supplier base is not disclosed.
- Hewlett-Packard (HP) discloses a list online of its contract manufacturers, electronic manufacturing services providers, design manufacturers and commodity suppliers. These suppliers account for 95% of HP's procurement expenditures.¹²

Philips, however, fails to make a comprehensive list of its suppliers or its internal sites publicly available. Data regarding location, size, volume and value of production, size of, and other details regarding the labour force, whether or not a trade union is active or if other forms of worker representation exist, etc., are not shared. In conclusion, there is no question of easy and economical access to this type of information.

What is more, such information is not shared with trade union or civil society stakeholders. Over the past years, FNV representative (*vakbondsbestuurder*) and IMF coordinator Ron van Baden has made repeated and explicit requests to Philips to make information about Philips' internal sites available. The last time he asked for this was during a meeting hosted by Philips in January 2010. This meeting was attended by a number of Philips representatives in charge of employee as well as supplier relations. In May 2010, Mr van Baden reiterated this request, now by email, addressing Philips' Corporate Sustainability Office. In response, Philips' Senior Director HR Philips Real Estate & International Employee Relations Peter Wiesenekker answered that the request would be considered

⁸ Nike, Nike Contract Factory Disclosure List, 2009,

<http://www.nikebiz.com/responsibility/documents/FactoryDisclosureList6.1.09.pdf> (February 2011).

⁹ Nike, Inc. Collegiate Factory Disclosure (includes Nike Brand, Affiliates, Agents, Licensees manufacturing college product), January 2011, http://www.nikebiz.com/responsibility/documents/collegiate_factory_report.pdf (February 2011).

¹⁰ Dell website, Supplier responsibility, 'Dell's current suppliers (FY 2010)', no date, <http://content.dell.com/us/en/corp/d/corp-comm/cr-ca-list-suppliers.aspx> (February 2011).

¹¹ Canon website, Corporate info, 'R&D, Manufacturing and Marketing Subsidiaries and Affiliates', 31 December 2009, <http://www.canon.com/corp/list01.html> (February 2011).

¹² HP, HP Suppliers, 22 May 2008, http://www.hp.com/hpinfo/globalcitizenship/environment/supplychain/supplier_list.pdf (February 2011).

and that Philips would shortly come back to the question. This, however, was the last heard on the matter – Philips has not followed through.

The 2008 OECD Guidelines for Multinational Enterprises emphasise the importance of disclosure and transparency. The OECD Principles of Corporate Governance call for timely and accurate disclosure on all material matters regarding the corporation, including the financial situation, performance, ownership, and governance of the company. The Guidelines also encourage a second set of disclosure or communication practices in areas where reporting standards are still emerging, such as social, environmental, and risk reporting. The second type pertains to ‘information on the activities of subcontractors and suppliers or of joint venture partners.’¹³

Further references include the following:

‘12. The purpose of the chapter on disclosure is to encourage improved understanding of the operations of multinational enterprises. Clear and complete information on enterprises is important to a variety of users ranging from shareholders and the financial community to other constituencies such as employees, local communities, special interest groups, governments and society at large. To improve public understanding of enterprises and their interaction with society and the environment, enterprises should be transparent in their operations and responsive to the public’s increasingly sophisticated demands for information.’¹⁴

‘16. The OECD Principles of Corporate Governance support the development of high quality internationally recognised standards of accounting, financial and nonfinancial disclosure, and audit, which can serve to improve the comparability of information among countries. The transparency and effectiveness of non-financial disclosure may be enhanced by independent verification. Techniques for independent verification of non-financial disclosure are emerging.’¹⁵

‘17. Enterprises are encouraged to provide easy and economical access to published information and to consider making use of information technologies to meet this goal. Information that is made available to users in home markets should also be available to all interested users. Enterprises may take special steps to make information available to communities that do not have access to printed media (e.g. poorer communities that are directly affected by the enterprise’s activities).’¹⁶

Recommendations

- ❑ Philips is encouraged to engage with local and international trade unions and civil society organisations around the question of disclosure and transparency regarding both Philips’ internal sites and its suppliers.
- ❑ Philips is advised to regularly disclose detailed information about its internal sites, including production sites.
- ❑ Philips is recommended to provide detailed information about its supplier base, on a regular basis, beginning with all first tier and/or strategic suppliers in risk countries.

¹³ OECD, OECD Guidelines for Multinational Enterprises, 2008, p. 41-43. <http://www.oecd.org/dataoecd/56/36/1922428.pdf> (February 2011).

¹⁴ Idem, p. 41.

¹⁵ Idem, p. 43.

¹⁶ Idem, p. 43.

Such information should include facts and figures regarding products; production sites, including contact information; size and composition of the labour force; type of contracts (fixed, term, temporary, outsourced labour, interns), etc.

Philips comments

Commenting upon the draft of this report, Philips acknowledges the lack of transparency and writes that *'In order to protect our competitive position in the market, Philips cannot give full disclosure on Philips' internal sites and its supply chain. However, in view of transparency we are seriously investigating to which extent we can disclose the locations of our major sites per country in the next Annual report'*.¹⁷

¹⁷ P. Wiesenekker, Sr. Director HRM International Employee Relations, Philips, E-mail to VBDO 14 March 2011.

2. Poor quality of social dialogue

Summary

Poor quality of social dialogue is noted at Philips in Europe. Philips workers' representative bodies may have a say in implementing reorganisations, but meaningful involvement of such bodies in strategic decision making is limited. At a time when employees of Philips sites in Europe are frequently confronted with the effects of restructuring and reorganisations, such limited involvement hinders the effective protection of workers' rights and interests. This is a matter of concern to the European Metalworkers' Federation (EMF), the European Works Council Philips (EWCP), as well as national trade unions representing Philips employees and plant-level Works Councils in Europe. The corporate centralised decision making structures are not matched by sufficiently weighted worker representation.

Context

At Philips, restructuring processes are ongoing. Outsourcing, relocations, reorganisations, divestment, mergers, acquisitions, etc., seem to be in progress forever. The economic downturn that shook up the world in 2008 also had its effect on Philips. Within the last decade, Philips has drastically reorganised its business activities. The business structure was reorganised on a division basis. Overall employment decreased significantly – within the past 6 years from approximately 165 thousand to 119 thousand employees. Early 2009, at the presentation of Philips' 2008 annual report, Philips announced its plans to cut 6,000 jobs globally across all divisions in 2009, to counter the consequences of the economic crisis. At the end of 2009, Philips had 127 production sites in 29 countries, sales and service outlets in approximately 100 countries, and 115,924 employees.¹⁸ In other words, Philips had succeeded in shedding 5,474 jobs.¹⁹ By the 4th quarter of 2010, Philips reported an increase of jobs, reaching 119,001, 'driven by a higher headcount in emerging markets.'²⁰ Production is increasingly outsourced and off-shored to Eastern Europe and Asia.

Complex restructuring programmes are often part of centrally developed management strategies. Their main aim seems to cut costs in order to streamline business and enhance profits; maintaining employment on national or plant level is not an objective in itself.²¹ The harsh effects of central and global strategies are mostly felt locally.

Labour force employment relations and workers participation at Philips are severely affected by these strategies, as well as union dialogues and the proper functioning of Works Councils on different levels. Philips' decision making structure is highly centralised, and increasingly so. The corporate centralised decision making structures are not matched by sufficiently weighted worker representation.

¹⁸ Philips, Annual report 2009, Our structure, 'Organizational chart', http://www.annualreport2009.philips.com/pages/our_sector_performance/our_structure.asp (February 2011).

¹⁹ Associated Press, 'Philips turns profit on job cuts, charges', Moneynews.com, 25 January 2010, <http://www.moneynews.com/Companies/EU-Netherlands-Earns-Philips/2010/01/25/id/347867> (February 2011).

²⁰ Philips, Quarterly report Q4 2010, 2011, http://www.newscenter.philips.com/main/corpcomms/resources/corporate/Q4_2010/R_4Q10.pdf (February 2011).

²¹ M. van Huijstee, R. van Os, P. Overeem, Social dialogue at Philips Lighting (SOMO, June 2010), p. 49, http://somo.nl/publications-nl/Publication_3537-nl/at_download/fullfile (February 2011).

Role of company

According to the European Metalworkers' Federation (EMF), Philips is purposefully minimising the influence of Works Councils and trade unions at all levels of participation in Europe. Ron van Baden, FNV officer and EMF coordinator for Philips, says: 'Philips sets the agenda, decides the scope of discussion and silences critical voices. The fact that European negotiations are handled by the Dutch country manager demonstrates how seriously European dialogue is taken. Employee representatives hardly ever get to a dialogue on a strategic level.'²² The EMF speaks of a structural problem when it comes to information and consultation of unions and works councils.

The EMF and FNV views are supported by research undertaken by SOMO in 2010 on the issue of social dialogue at Philips Lighting regarding restructuring. This research focused on the involvement of European employees in the development and implementation of restructuring plans at Philips Lighting by means of 'social dialogue.' The perception of the quality and the effectiveness of the social dialogue by workers representatives was subject of the research.²³

Conclusions reached by SOMO regarding Philips' role in social dialogue include:

- ❑ Respondents interviewed in the context of the research generally find that considerations with regard to employment are not (sufficiently) taken into account in the development of Philips strategies and restructuring plans. Workers' representatives at all levels are involved only after the major decisions have been taken. Pertaining to its legal obligations, Philips respects the letter but not the spirit of the agreements. Works Councils - European and local - experience that exercising their consultation and information rights does not substantially influence the decision making that affects employment at the company most.
- ❑ When local works councils do attempt to discuss restructuring from a broader viewpoint, Philips is perceived to frustrate these efforts, claiming such issues fall beyond the works council's competence.
- ❑ Information asymmetries appear at all levels. While representative bodies are entitled to be informed and consulted in a timely matter by several agreements, such as the Dutch central bargaining agreement or the EPF agreement, respondents did not perceive that Philips fulfilled this right in an appropriate manner. In many cases the wording of the agreements leaves much room for interpretation, creating major disagreements about the meaning of these texts. In general, the discontent of labour representatives about the quality of social dialogue is in the first place caused by the lack of timely information. Respondents expressed that if they would be involved earlier on in the restructuring process, the interests of workers could be better represented.
- ❑ Philips' secretive attitudes – resulting in strategies being designed behind closed boardroom doors – create a major barrier. Philips' lack of interest in collaborating meaningfully with trade

²² European Metalworkers' Federation, 'Philips makes a mockery of workers participation', 11 June 2010, <http://www.emf-fem.org/Press/Press-releases/Philips-makes-a-mockery-of-employee-participation> (February 2011).

²³ M. van Huijstee, R. van Os, P. Overeem, Social dialogue at Philips Lighting (SOMO, June 2010), http://somo.nl/publications-nl/Publication_3537-nl/at_download/fullfile (February 2011).

unions is another obstacle. Recent reorganisations have has a negative impact on trust and confidence, the essential building blocks for effective social dialogue policies.

- ❑ On the European level, Philips refuses to engage in meaningful dialogue with the European Metalworkers' Federation (EMF).²⁴

The SOMO research also revealed a number of failings on the side of the national Works Councils and the European Works Council Philips (EWCP), adding to the strained communication between Philips and the worker representatives, but these fall outside the scope of this report.

Recommendations

- ❑ Philips is recommended to make sure that social dialogue platforms are in line with the existing corporate structure, by establishing formal social dialogue at sector level (Lighting, Healthcare, Consumer Lifestyle).
- ❑ Philips is encouraged to include existing European and international trade unions, in particular the European Metalworkers' Federation (EMF) and the International Metalworkers' Federation (IMF), into ongoing social dialogue.
- ❑ Philips could improve the quality and the timeliness of information provided to worker representatives.
- ❑ Philips is advised to commit to consulting Works Councils and trade unions as full and equal discussion partners.
- ❑ Philips could elaborate a 'Social Manifesto' in collaboration with trade unions and Works Councils.
- ❑ Philips is suggested to utilise the Sectoral Social Dialogue Committee for the metal, engineering and technology-based industries to engage with European level union organisations, defending and promoting shared industrial interests vis-à-vis European authorities, and building trust with the EMF in the same breath.²⁵

²⁴ Idem. Main research findings, p. 49-51.

²⁵ Idem. Recommendations, p. 53-54.

3. Company infringement upon the independent functioning of the European Works Council Philips (EWCP)

Summary

Philips is not fully respecting the independent functioning of the European Works Council Philips (EWCP). Two examples of the company interfering on the level of the EWCP in the past two years are provided here to support this view. Local Philips management in European countries is interfering in the election process of national representatives of the EWCP. Over the past two years, in six documented cases described below, national candidates for the EWCP have been directly or indirectly appointed by the national management of Philips facilities. This emerges from an internal survey carried out by the EWCP in 2010 and from research undertaken by the European Metalworkers' Federation (EMF). Moreover, in the Swedish case, the legitimate national delegate to the EWCP was put under enormous pressure to resign as a consequence of her EWCP activities. EMF is highly concerned about the level of infringement enacted by Philips upon the independent functioning of the EWCP.

Context

The European Works Council Philips (EWCP) was established in 1996 as an EWC under article 13 of the EU 94/95 Directive.²⁶ Like other EWCs, its mandate is focused on information and consultation. The EWCP is also known as the European Philips Forum (EPF). The agreement currently in force is the revised Agreement on the European Philips Forum of 23 May 1996, amended on 19 February 2001, and is effective as of 16 November 2006, between representatives of employees of Philips Group and the company. Representatives from Poland, Hungary and Czech Republic joined the EWCP in July 2004. According to the formation agreement of 1996, the number of seats is determined by the number of employees per country.

In 2009, the EWCP consisted of 23 members, of which 15 are trade union representatives. The remaining eight are not members of any union. Of the 15 trade union representatives, 13 belong to unions which are affiliated to the European Metalworkers' Federation (EMF). The 14th trade union representative in the EWCP is a member of a small independent industrial union. The Austrian trade union representative in the EWCP is a member of a media union (*Gewerkschaft der Privatangestellten* – GPA), in fact a case of an erroneous affiliation, according to the EMF.²⁷

Election procedures for candidates to European Works Councils are subject to local legislation and differ from country to country.

²⁶ European Union, Council Directive (CD) No. 94/45/EC, 22 September 1994, 'On the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees', <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31994L0045:EN:HTML>.

²⁷ E. Stam, Policy Advisor, EMF, E-mail February 2011

Twice a year, the group of employee representatives meets with Philips management in the context of the EWCP to discuss business developments that are of importance to employees of the Philips Group companies in the European Union, Switzerland and Norway. Apart from these central forum meetings, there are committee meetings, exclusive meetings in case of exceptional circumstance and the possibility to set up working group meetings. In some cases teleconferences are organised. The working language is English which in some cases is an obstacle as not all EWCP members fully master that language. Unfortunately, Philips does not provide translation facilities.

Company infringement upon the EWCP

An internal survey of the EWCP carried out in 2010 shows that the EWCP seats for the Czech Republic, Denmark, Ireland, Italy, and Norway were held by persons directly or indirectly appointed the management of the Philips plants in their respective countries of origin. To the question 'EPF membership decided by?', 'Management' is given as a response. This is not in accordance with the formal procedures within the EWCP and in violation of national legislation governing workers representation. EMF representative Eddy Stam strongly denounces Philips' infringement upon the independent functioning of the EWCP as a 'clear breach of normal democratic principles and local legislation.'²⁸

In the case in Sweden, the legitimate national delegate to the EWCP has been put under enormous pressure to resign due to her critical stance vis-à-vis decisions carried through by the Philips Sweden management.

Philips is not fully respecting the independent functioning of the European Works Council Philips (EWCP). Below two cases are described: the interference of Philips in the succession of the EWC Philips secretary in October 2009 as well as in the election of a new chair to the EWC Philips, in April 2010.

□ Denmark

Unions are central to workplace representation in Denmark. Local union representatives take up employees' concerns with management and are often also members of the main information and consultation body – the cooperation committee.²⁹ At the Philips plant in Denmark there is such cooperation committee. Members of the special negotiating body (SNB) for the EWC are appointed by the cooperation committee, or if that does not exist, by the trade union representatives or by a ballot of all employees. Only employees may be members.³⁰

Nevertheless, in 2009, a Philips employee was handpicked and directly appointed to the EWCP by the management of the Danish Philips plant. The Danish Society of Engineers (IDA), a trade union affiliated to the European Metalworkers' Federation, frowns upon this move. In consultation with IDA, it has been agreed to formally propose this employee in retroaction as a candidate to the EWCP to rectify this unacceptable irregularity. It is thanks to the flexibility of IDA that this situation was resolved.

□ Sweden

²⁸ E. Stam, Policy advisor, EMF, E-mail 26 January 2011.

²⁹ National Industrial Relations. Denmark. Workplace Representation. <http://www.worker-participation.eu/National-Industrial-Relations/Countries/Denmark/Workplace-Representation>

³⁰ European Trade Union Institute (ETUI) website, National Industrial Relations, Denmark, 'European-level representation', 2009, <http://www.worker-participation.eu/National-Industrial-Relations/Countries/Denmark/European-level-Representation> (February 2011).

This case starts off in March 2009, when a conflict erupted at Philips Sweden over the participation of the elected delegate to the EWC-Philips in a meeting organised by the European Metalworkers' Federation. The president of the local branch of the Unionen trade union did not want to allow the EWCP delegate to join the EMF meeting, but the Unionen headquarters decided differently. Unionen is an EMF affiliate. After the summer break, however, the management of Philips Sweden overruled the trade union decision and once more and forbade the EWCP delegate to participate in the EMF meeting.

During the summer of 2009, Philips Sweden appointed new managers and changed working times, without properly observing consultation procedures. The EWCP delegate tackled the Philips management about this. As a direct reaction to her raising this matter, on 10 September 2009, she is suspended (with pay) from her function by the management. Next, on 30 September, she gets reinstated, but in a lower qualified job.

In November 2009, the Swedish EWCP delegate was elected as secretary of the EWCP (see below). The day after her election, she was again suspended from her job, threatened with dismissal, and locked out of internal (EWCP) communication. She was no longer allowed to participate in EWCP activities.

In early December 2009, Philips Sweden attempted to organise EWCP elections to replace the sitting EWCP delegate, regardless of the Agreement on the European Philips Forum that stipulates that EWCP membership only ends before term when employment ends, which is not the case. Moreover, Philips Sweden initiated these elections without involving the union and presented a list of non-union candidates. After intervention of Unionen headquarters these elections were postponed. In January 2010, the local branch of Unionen authorised the re-opening of the EWCP elections, but still without authorisation of the Unionen headquarters. The same list of unaffiliated candidates was presented, and as a result a new non-union EWCP delegate was announced. Only after interventions of the European Metalworkers Federation and Unionen headquarters, did Philips Sweden change its tactics by claiming that the elections were not aimed at replacing the existing EWCP delegate, but to elect a deputy delegate. Following this incident, the legitimate EWCP delegate is no longer mentioned on the EWC Philips intranet pages. On the Nordic EWCP pages it is presented as if there are two delegates. Philips Sweden management engages in harassment of the legitimate delegate, for instance by intentionally stalling approval for EWPC related travels.

In May 2010, the employment of the Swedish EWCP delegate was ended, after negotiations, by mutual agreement between the employee and Philips Sweden. During the whole course of events and during the negotiations over the contract rescission, her performance as a Philips employee was never questioned. Philips Sweden did not bring up any accusations that would objectively justify the sanctions or the opposition she has faced. To Unionen and EMF this clearly shows that the whole course of events is directly related to her activities as EWCP delegate.³¹

The 'deputy' delegate pushed forward by Philips is accepted as her replacement in the EWCP.

EMF repeatedly attempts to make contact with Philips over this case, but contact is declined with the argument that it concerns a local matter in which EMF has no role. EMF and Unionen reject this view explicitly.³²

³¹ E. Stam, Policy advisor, EMF. E-mail 18 February 2011.

³² Idem.

❑ **Succession of EWC Philips secretary, October 2009**

When in October 2009 the elected EWCP secretary retired, Philips tried to impose a company-appointed secretary upon the EWCP. The EWCP did not accept this, and only allowed the Philips hand-picked secretary to be present at the meetings with management, but not at employees-only meetings and trainings. Early November 2009, the EWCP elected the Swedish delegate (the same as above!) as an alternative EWCP secretary, following confirmed procedures.

On 9 November 2009, in apparent direct reaction to her election as EWCP secretary, Philips Sweden, suspended the Swedish delegate from her function, threatened her with dismissal, and locked her out of internal (EWCP) communication. She was no longer allowed to participate in EWCP activities.

❑ **Ireland**

There is no statutory system for permanent employee representation in Ireland. Those who work in unionised workplaces – about half of the total – have representation through the union. Irish members on European bodies are normally elected by the workforce as a whole in a special ballot.³³ Irish members of a European Works Council are elected or appointed by the employees, or appointed by the central plant management, but necessarily with the agreement of the employees of the plant. Both employees and full-time trade union officials can be chosen.³⁴

However, in the internal survey by EWCP, the Irish (non-union) representative indicated that his membership of the EWCP was decided by the management.

❑ **Italy**

The main employee representative bodies in Italy – the RSUs – are essentially union bodies, even if they are largely elected by all employees. The unions nominate the candidates for the two-thirds of the members directly elected by the whole workforce, and choose the remaining third themselves.³⁵ Italian representatives at European level bodies are generally chosen by the unions and the local union body at the workplace, the RSU, although the rules vary slightly depending on the body. Italian members of the special negotiating body (SNB) for the EWC are appointed by the unions which signed the industry agreement covering the company and the union representative body in the company – the RSU – where this exists. If there is no RSU, the union and management must agree an appropriate procedure to choose SNB members. The situation is the same for Italian members of an EWC set up under the annex to the directive.³⁶

However, in the EWCP internal survey, the Italian (non-union) representative stated that his membership of the EWCP was decided by management.

³³ European Trade Union Institute (ETUI) website, National Industrial Relations, Ireland, 'Workplace Representation', 2009, <http://www.worker-participation.eu/National-Industrial-Relations/Countries/Ireland/Workplace-Representation> (February 2011).

³⁴ European Trade Union Institute (ETUI) website, National Industrial Relations, Ireland, 'European-level Representation', 2009, <http://www.worker-participation.eu/National-Industrial-Relations/Countries/Ireland/European-level-Representation> (February 2011).

³⁵ European Trade Union Institute (ETUI) website, National Industrial Relations, Italy, 'Workplace Representation', 2009, <http://www.worker-participation.eu/National-Industrial-Relations/Countries/Italy/Workplace-Representation> (February 2011).

³⁶ European Trade Union Institute (ETUI) website, National Industrial Relations, Italy, 'European-level Representation', 2009, <http://www.worker-participation.eu/National-Industrial-Relations/Countries/Italy/European-level-Representation> (February 2011).

□ Czech Republic

The local union grouping is still the primary method of employee representation at the workplace in the Czech Republic. In addition, a works council, which has slightly fewer rights, can be set up. In practice works councils are rare. In most cases there is either a union or nothing.³⁷ Czech members of a European works council (EWC) are chosen from employees at a meeting of all employee representatives (which can be both local union organisations or, where they do not exist, works councils). Where there are no existing employee representatives, the employees elect someone for this specific purpose.³⁸

Answering to the EWCP survey, the Czech (non-union) representative stated that his membership of the EWCP was decided by management.

□ Norway

Union representatives are the most important element of workplace representation in Norway and play the primary role in information and consultation, employee representation and local negotiations. Larger unionised companies also have works councils, but their role is mainly to make companies more competitive and efficient through encouraging workplace cooperation.³⁹

Norwegian members of the special negotiating body (SNB) for a European Works Council (EWC) are elected by the employees. The elections are either conducted in the same way as those for employee members of national works councils, that is through a written secret ballot in an election organised within the different groups of the company by the appropriate union representatives, or, if this is not appropriate, they are chosen using the method for the election of employee board-level representatives, which also give the union representatives an important role. They must be employees.

The Norwegian (non-union) representative stated, however, that his membership to the EWCP was decided by management. According to EMF, this was also confirmed by the Norwegian unions.

□ Election of a new chair to the EWC Philips, April 2010

In April 2010, the chair of the European Works Council Philips stepped down. The Philips site he worked for was sold, so he was no longer a Philips employee. Obviously, the EWCP cannot function without a chair, so internal elections are organised. At the moment of the election, three representatives are absent. They are not voting by proxy or replaced. The EWCP members present at the meeting, as well as those who cannot make it, decide to continue with the intended election. No EWCP members lodge any objection to the procedure. Some EWCP members explicitly state to have no objection to the course of events. As a result of the election, the positions for secretary and chair of the EWCP are both taken by trade union members.

Philips, however, does not accept the election of the chairman, and expresses its discontent about the procedure in strong terms. The EWCP is strongly urged to re-do the election.

³⁷ European Trade Union Institute (ETUI) website, National Industrial Relations, Czech Republic, 'Workplace Representation', 2009, <http://www.worker-participation.eu/National-Industrial-Relations/Countries/Czech-Republic/Workplace-Representation> (February 2011).

³⁸ European Trade Union Institute (ETUI) website, National Industrial Relations, Czech Republic, 'European-level Representation', 2009, <http://www.worker-participation.eu/National-Industrial-Relations/Countries/Czech-Republic/European-level-Representation> (February 2011).

³⁹ European Trade Union Institute (ETUI) website, National Industrial Relations, Norway, 'Workplace Representation', 2009, <http://www.worker-participation.eu/National-Industrial-Relations/Countries/Norway/Workplace-Representation> (February 2011).

The European Metalworkers' Federation points out that Philips is overstepping its mandate here, and qualifies it as direct and unacceptable interference in the internal affairs of the EWCP. The EWPC is an independent body. It is up to the EWPC members to watch over the correct implementation of procedures.

In the recent past, the European Metalworkers' Federation has spoken with Philips management in general terms about the flaws in employee representation and participation on a European level, and the role the EMF could play to improve this. During the spring of 2009, an informal consultation between EMF and the late Chief Strategy Officer Gerard Ruizendaal, leads to a formal consultation with Philips Electronics Benelux CEO Harry Hendriks and Philips Senior Director HR Philips Real Estate & International Employee Relations Peter Wiesenekker on 3 September 2009. At that occasion Philips states that from a company perspective workers representation is well organised; when needed trainings are organised. Philips indicates that it sees no role for EMF in this context.⁴⁰

Recommendations

- ❑ Philips needs to treat the European Works Council Philips as an independent body and to refrain from interfering in its internal functioning.
- ❑ Philips should respond to calls by the EMF to engage in a general discussion about the quality of employee representation and employee participation, including the functioning of the EWC Philips.
- ❑ Philips needs to respect the letter and the spirit of the Agreement on the European Philips Forum, in particular where it pertains to the election of representatives of national Philips sites.
- ❑ Local Philips management must respect national legislation pertaining to European workers representation.

⁴⁰ E. Stam, Policy advisor, EMF, E-mail 18 February 2011.

4. Lack of involvement with trade unions on a global level

Summary

Philips fails to effectively engage with global level trade unions. Philips' contact with the International Metalworkers' Federation (IMF) is very limited. Philips has not signed an International Framework Agreement (IFA) with the IMF. There is no Philips World Works Council in place. Philips brandishes its General Business Principles when it comes to engagement with the global trade union, but these are insufficient. In this respect, Philips is clearly not a frontrunner.

Context

As said above, corporate strategic decision making at Philips is centralised on a global level. The corporate centralised decision making structures are not matched with sufficiently weighted workers representation.

International Framework Agreements (IFAs) or Global Framework Agreements are negotiated between transnational enterprises and Global Union Federations (GUFs). IFAs are a global instrument with the main purpose of ensuring the international labour standards in all of the target company's locations and in its supply chain.

Company-based World Works Councils (WWC) are Works Councils on a global level, complementing European Works Councils. Because of their global scope World Works Councils can be useful as part of the machinery for monitoring and follow-up of IFAs as well as offer an appropriate platform for resolving interpretation or implementation of disputes, provided of course that such councils are clearly mandated to do so.⁴¹

The International Metalworkers' Federation (IMF) represents the collective interests of 25 million metalworkers from more than 200 unions in 100 countries. The IMF is a federation of national metalworkers' unions - a 'union of unions' at world level, and one of the oldest Global Union Federations (GUF).⁴² Among the IMF affiliates there are numerous trade unions both in Europe and beyond which represent workers at Philips or which have Philips companies in their area of responsibility.

In its mission statement, IMF indicates it is focused on improving workers' wages, conditions and defending the rights of metalworkers on a global level. Negotiating International Framework Agreements (IFA) is an important element of the IMF approach. Among all tools to further workers rights and conditions, IFAs are considered a relatively soft mechanism.

IMF identified a number of principles to guarantee an effective IFA negotiation process, here are a few of them:

⁴¹ ILO, CROSS-BORDER SOCIAL DIALOGUE AND AGREEMENTS: An emerging global industrial relations framework?, 2008, <http://www.ilo.org/public/english/bureau/inst/download/cross.pdf>.

⁴² IMF website, 'For a strong international labour movement', <http://www.imfmetal.org/index.cfm?n=616&l=2> (February 2011).

- ❑ IMF should be involved from the start.
- ❑ The agreement must cover all of a company's plants or facilities in the world, as well as its supply chain.
- ❑ An IFA should be negotiated by IMF and management at global level.
- ❑ Home country unions and, where they exist, World Councils should play a leading role in negotiations.
- ❑ Host country unions should be consulted.
- ❑ The IFA must reference the ILO Core Labour Standards and include some engagement by the company to pressure suppliers to implement the principles of the IFA.
- ❑ Implementation must include trade unions.⁴³

From 6 to 9 February 2001, the first IMF world conference for Philips was held. At this meeting some 60 participants from 18 countries (where, at that time, Philips was represented with production sites) discussed joint trade union strategies and activities. The establishment of a World Works Council to complement the existing European Works Council Philips was viewed as necessary. The main argument was that as Philips is increasingly gearing its decision making to the global level, workers representation and participation should also be lifted to a higher level.

It should be noted that such sporadic meetings do not lead to lasting and sustained engagement between unions and the company at the global level.

Over the past years, quite a number of IFA have been concluded in sectors that are relevant for the electronics sector, such as the automotive and metalworking industry and the telecommunication sector.⁴⁴ An example:

- ❑ In 2006, the International Metalworkers' Federation (IMF), the European Metalworkers' Federation (EMF) and PSA Peugeot Citroën signed a framework agreement which provided that the parties would 'meet every three years to review the measures taken and plan adjustments as needed through riders to the agreement' to take into account the global changes in the corporation's business. The new agreement signed on 20 May, 2010, in Paris strengthens PSA Peugeot Citroën's commitments to the international core labour standards and stresses the extension of the Group's requirements to its business partners. In addition it incorporates new commitments to environmental protection and sustainable development. The main improvements to the agreement are:
 - Strengthening the provisions on occupational health and safety.
 - The application of the principle of equal pay for work of equal value, regardless of the contractual arrangement under which workers are employed.
 - The promotion of environmental protection and commitments to reduce greenhouse gas emissions.
 - The involvement of trade unions in the audits carried out as part of the monitoring process.
 - The setting up of a World Works Council to follow up the agreement implementation.

IMF qualified the agreement as 'an essential tool for promoting sustainable industrial relations and decent working conditions in PSA Peugeot Citroën, its suppliers and subcontractors'.

⁴³ IMF, International Framework Agreements: A Progress Report, 2006, http://www.imfmetal.org/files/06091210511779/WEB_sp_report_3-06.pdf (February 2011).

⁴⁴ International Labour Foundation for Sustainable Development website, 'International Framework Agreements Full list', 2007, http://www.sustainlabour.org/index.php?option=com_content&task=view&id=431&Itemid=329 (21 February 2011).

Role of company

Philips has drafted policies regarding stakeholder engagement. In Philips General Business Principles, for instance, under Commitment towards employees, and Right to organize, Philips recognises and respects 'the freedom of employees to choose whether or not to establish, or to associate with, any organization. Philips respects – within the framework of (local) law, regulations and prevailing labour relations and employment practices – the right of its employees to be represented by labour unions and other employee organizations, and Philips will engage in negotiations, either on its own behalf or through employers' associations, with a view to reaching agreement on employment conditions.'⁴⁵

One of the five pillars of the Philips Supplier Sustainability Involvement Program is engaging with stakeholders. In 2009, Philips established a Professional and Public Affairs team to further steer and professionalise its stakeholder engagement activities.⁴⁶

Despite Philips overblown statements regarding stakeholder engagement and references made to freedom of association, trade unions are not often mentioned as relevant stakeholders. In the Philips annual report 2009, for instance, the term trade union or labour union is not used even once, not even in the 'Our planet, our partners, our people' section.⁴⁷

Philips fails to effectively engage with trade unions on a global level. Philips' contact with the International Metalworkers' Federation (IMF) is very limited. FNV official Ron van Baden is currently representing IMF, but the – infrequent – consultations are mostly limited to discussing Philips' annual sustainability reports.⁴⁸

IMF stresses that the Philips' General Business Principles General dealing with freedom of association do not fully meet the ILO standard.⁴⁹ Philips has not signed an International Framework Agreement (IFA) with IMF. There is no Philips World Works Council in place.

In these respects, Philips clearly does not present an example worthy of a market leader.

Recommendations

- ❑ Philips is encouraged to upgrade its interaction with the global trade union, by actively engaging with the International Metalworkers' Federation (IMF).
- ❑ Philips is encouraged to invest in improving tools and mechanisms that govern effective and continuous dialogue between the company and employee representation on a global level.

⁴⁵ Philips, General Business Principles, December 2003, http://www.philips.com/shared/assets/Investor_relations/pdf/businessprinciples/GeneralBusinessPrinciples.pdf (February 2011).

⁴⁶ Philips, Annual report 2009, Approach to sustainability reporting, 'Stakeholder engagement', January 2010, http://www.annualreport2009.philips.com/pages/sustainability_performance/approach_to_sustainability_reporting.asp#section3 (February 2011).

⁴⁷ Philips, Annual Report 2009. Financial, social and environmental performance, 'Our planet, our partners, our People', p. 39-56, http://www.annualreport2009.philips.com/downloads/pdf/PhilipsAnnualReport2009_FullVersion.pdf (February 2011).

⁴⁸ R. van Baden, Trade union official, FNV, E-mail February 2011.

⁴⁹ ILO, Convention No. 87, 'Freedom of Association and Protection of the Right to Organise Convention', <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C087> (February 2011).

- ❑ Philips is advised to investigate the feasibility of establishing an International Framework Agreement, by engaging with the IMF.
- ❑ Philips is advised to investigate the feasibility of establishing a Philips World Works Council, by engaging with both EMF and IMF.

Philips comments

Commenting upon the draft of this report, Philips writes that '*Philips is taking social dialogue with its employees and representatives, both on national and international level, very seriously. Our way of involving our employees and their representatives goes beyond the legal obligations as defined by the applicable national and international laws*'.⁵⁰ This is, however, not further substantiated, except for the Employee Engagement Survey 2010 showing '*promising engagement scores*'.

Philips writes that it was '*one of the first companies to set up a Europe-wide consultative structure, in 1996 – Euroforum (European Philips Forum – EPF)*'. Philips does not mention that the first EWC agreements date from 1995, and that by that time at least 18 voluntary works council agreements were already in place.⁵¹

Regarding consultation of employee representatives on restructurings, divestments or acquisitions, Philips writes, '*It is understandable that employee representatives always would like to be informed in and consulted earlier. However, we are taking care to do this in a timely manner and in close contact with the Philips countries concerned in view of local/national consultation procedures with local/national employee representatives*'. Philips presents a contrasting view to what is argued in the report, but does not present edifying arguments or facts. In this context it is interesting to note that the European Works Council Philips agreement was concluded under article 13 of the EU 94/95 Directive. The mandate of the European Works Council Philips is information and consultation. Consultation is in the agreement described as the exchange of views and establishment of a dialogue between Employees' Representatives and the Management. This is consistent with the definition of consultation in the 94/95 EWC Directive. This definition, however, has been extensively criticised for not being precise enough, as for example it does not mention the timing of such an 'exchange of views'. In addition, there is no definition of 'information' in the 94/95 Directive, which is seen by many as one of the major flaws of this regulation. In 2009, the European Union revised the legal framework of the EWCs to more precisely formulate the provisions on information and consultation, but the EWC Philips falls outside the scope of the new directive.⁵² The EWC Philips does, in other words, not necessarily offer such a robust framework for information and consultation of social partners as Philips seems to suggest.

Philips writes that '*The employee representatives of the various countries are elected in accordance with the applicable legislation and customs in the country, which they represent, management of Philips does not play a role*', and '*The relationship within the EPF between management and employee representatives may be seen as good, open and transparent*.' Meanwhile, Philips does not reflect in any detail upon the infringement cases that are presented in this report.

⁵⁰ P. Wiesenekker, Sr. Director HRM International Employee Relations, Philips, E-mail to VBDO 14 March 2011.

⁵¹ E. Stam, Policy advisor, EMF, E-mail 18 March 2011.

⁵² M. van Huijstee, R. van Os, P. Overeem, Social dialogue at Philips Lighting (SOMO, June 2010), p. 40-41, http://somo.nl/publications-nl/Publication_3537-nl/at_download/fullfile (February 2011).

Philips further mentions that *'Although the EPF is not a global forum, Mr. G. Duliné, member of the Board of Management, is present once a year during a plenary session of the EPF to express the international character of the EPF.'* Philips also writes that *'On an international level, a restart of the social dialogue with international trade unions took place in September 2009. In 2010, we organised 2 workshops on supply sustainability for trade unions and other NGO's/Good Electronics.'* Granting this information, SOMO fails to see how this answers to the concerns and suggestions regarding global interaction between the company and employee representatives that are voiced in the report. The presence of Mr Duliné at the EPF once a year or the workshops on supply sustainability do not make up for effective, continuous and timely dialogue, for instance regarding restructurings, divestments or acquisitions, between the company and the trade union movement on a global level.