



About this information sheet

This information sheet is about temporary agency work in the electronics sector. It is part of a series of information sheets by the Centre for Research on Multinational Corporations (SOMO) that aim to support Responsible Investors in their critical engagement with the electronics companies in their portfolio. In previous sheets three phases in the electronics industry value chain are discussed: the mining of metals used in electronics, the production in low-wage countries, and the disposal of electronic waste. A recent sheet deals with the impaired right to organise in the global electronics industry. This information sheet looks into the human rights abuses experienced by temporary agency workers, both those working at electronics companies' own factories and those working at their suppliers. The sheet presents specific demands to the electronics industry with regard to this topic.

SOMO coordinates the makeITfair project – a public awareness campaign involving European and Southern NGOs, with the goal of enhancing sustainability throughout the electronics supply chain. SOMO is involved in the Procure IT Fair project, and is host to the GoodElectronics Network.

Particular issues and concerns

IndustriALL Global Union expressly defines temporary work as a human rights issue. Temporary agency work is seen as a form of precarious employment.

Temporary agency workers:

- ❑ are subject to discriminatory recruitment and employment practices;
- ❑ receive lower wages and entitlements (e.g. medical care, health insurance, maternity leave);
- ❑ miss out on trainings;
- ❑ experience more health and safety problems;
- ❑ face constant job insecurity as they are never guaranteed consistent employment;
- ❑ are effectively denied the right to organise and to bargain collectively.

Student workers and trainees make out a particularly vulnerably group of temporary workers. As a result of outsourcing, the employment situation for large groups of workers in electronics production countries is deteriorating.

Temporary agency work in the electronics supply chain

Increasingly, electronics companies outsource human resource tasks to employment agencies. Companies want a flexible workforce to improve their competitiveness and to be able to respond to business cycle fluctuations and varying consumer demand. The costs of downsizing the workforce are generally lower when workers are hired via an agency. Companies rely on employment agencies to take care of the administrative and legal responsibilities of hiring workers. Workers are employed by the temporary work agency, and then hired out to perform their work at (and under the supervision of) the user company. The labour contract is of limited or unspecified duration with no guarantee of continuation. Temporary contracts may range from one-week to one-year-contracts. The user company pays fees to the agency, and the agency pays the wages.

It has become widespread practice in the electronics industry to use temporary agency workers to fill previously permanent and direct positions, including 'core' jobs. Nonetheless, temporary agency workers are not given any opportunity to move over to direct permanent employment. According to IndustriALL Global Union, overall, 60% of electronics employment is outsourced to agencies. In Mexico, some brand companies are known to outsource up to 90% of their workforce.¹ Leading global employment agencies are Adecco, Kelly Services, Manpower, Randstad, USG People and Vedior.

¹ Workers' rights in the global electronics sector. Report of the May 2012 makeITfair and GoodElectronics Round Table. May 2012. http://somo.nl/publications-en/Publication_3892/at_download/fullfile

Position of the industry

- ❑ Generally speaking electronics companies refuse to see an issue with increasing outsourcing practices. Labour flexibilisation is hailed as the solution for globalised production.
- ❑ User companies refuse to negotiate with temporary agency workers claiming there is no formal employment relationship; labour agencies refuse to negotiate claiming to have no control of terms and conditions of employment.
- ❑ Corporate codes of conduct are not geared towards detecting or addressing excessive use of temporary agency labour.

Legislation, Norms and Standards

The **International Labour Organization (ILO)** has formulated two relevant conventions: C.181 Private Employment Agencies Convention, 1997, and C.158 Termination of Employment Convention, 1982. Both conventions stress that safeguards and measures shall be taken to ensure that the rights of temporary agency workers are protected, in particular the right to freedom of association and the right to bargain collectively. The ILO Tripartite Declaration on Multinational Enterprises states, among other things, that multinational enterprises should endeavour to provide stable employment for their employees.

The **UN Guiding Principles on Business and Human Rights** detail the corporate responsibility to respect human rights. Business enterprises should act with due diligence to avoid infringing on the rights of others and to address adverse impacts that occur through their own activities or as a result of their business relationships, including in their supply chains which obviously includes labour agencies. Temporary agency workers fit the definition of 'vulnerable groups' as used in the Guiding Principles. The **OECD Guidelines for Multinational Enterprises** incorporate these same principles.

European Union member states are subjected to EU Directive 2008/104/EC on Temporary Agency Work which came into effect on the 5th of December 2011. The Directive aims to ensure that the principle of equal treatment is applied to temporary agency workers and requires the user company to provide the agency with sufficient up-to-date information on basic pay and employment conditions so that the agency, as the employer, can make sure that agency workers are getting equal treatment, as if they had been recruited directly to the same job.



Civil society demands to the electronics industry with regard to temporary agency work

The following demands are based on the positions of SOMO, the makeITfair project and the GoodElectronics Network.

- ❑ Companies should make an effort to understand the human rights risks connected with temporary agency work. Companies should have proper due diligence processes in place, which integrate a focused country-specific pre-investment/pre-sourcing risk assessment looking into to the laws and practices relating to temporary agency work.
- ❑ Companies should strive to gain insight in the use of temporary labour at the level of their suppliers, and develop and apply effective methods to detect and address the use of excessive, improper and/or illegal temporary labour. Company codes of conduct need to include a section on employment relationships acknowledging the principle of '*Equal Pay for Equal Work*'.
- ❑ Companies should address discriminatory practices against temporary agency workers in their supply chain. Audit systems should be adapted accordingly.
- ❑ Companies should reduce the incidence of temporary work to genuine operational requirements. Companies should set and apply maxima per temporary workforce during, as well as outside, peak production periods.
- ❑ Companies should report on this topic, for instance in their annual CSR reports, disclosing detailed data regarding the use of temporary agency labour
- ❑ Companies should allow and facilitate unionisation and collective bargaining in their own production locations as well as at the level of their suppliers, and see to it that temporary agency workers are included in these processes. Companies should engage with civil society stakeholders in improving working conditions, in particular for vulnerable groups such as temporary agency workers.



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Publications

- Temporary agency work in the electronics sector. Discriminatory practices against agency workers. SOMO paper. May 2012. http://somo.nl/publications-en/Publication_3805
- Freedom of association in the electronics industry. SOMO paper. May 2012. http://somo.nl/publications-en/Publication_3804/at_download/fullfile

Links

- www.somo.nl
- www.makeITfair.org
- www.goodelectronics.org

