

OUT OF FOCUS

Labour rights in Vietnam's digital camera factories

Swedwatch & SOMO
November 2011



COLOPHON

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This report is published as part of the makeITfair project. MakeITfair is a European wide project on consumer electronics industry, aiming to inform consumers about the human rights, social and environmental issues along the supply chain and ask multinational electronics brands to account for those issues.



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The Centre for Research on Multinational Corporations (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. Website: www.somo.nl.



Swedwatch is a watchdog organisation whose task is to critically examine Swedish business relations with developing countries focusing on environmental and social concerns. Swedwatch consists of six member organisations: The Swedish Society for Nature Conservation, Church of Sweden, Solidarity Sweden – Latin America, Fair Trade Center, Diakonia and Peace & Love Foundation. Swedwatch is mainly financed by the Swedish Development Aid Agency, SIDA. Website: www.swedwatch.org

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Fair Trade Center is a Swedish non-governmental organisation (NGO) that has been promoting fair trade with developing countries since 1996. Its intention is to increase consumer and company awareness of social and environmental responsibility. Website: www.fairtradecenter.se

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EXECUTIVE SUMMARY

Multinational electronics companies have been keen to invest in production facilities in Vietnam in recent years. However, in the past decade their biggest incentive – cheap labour – and laws restricting dialogue between workforce and employers have created conflict in Vietnam’s private sector. With up to 400-500 wildcat strikes for better pay each year, there is now an urgent need for companies to push for a functioning industrial relations system. In 2010, there were 423 registered wildcat strikes in the private sector, of which 8% (34 strikes) were at electronics factories.

In this report, makeITfair evaluates the corporate social responsibility (CSR) policies of seven digital camera companies in Vietnam. Particular focus is put on freedom of association and collective bargaining and the working conditions at four of the factories. The main question addressed is this: what due diligence processes should multinational electronics companies have in place to ensure they respect human rights (which include labour rights) in Vietnam, and to comply with the recently revised OECD Guidelines for Multinational Enterprises and the recently adopted UN Guiding Principles on Business and Human Rights?

One reason for companies to invest in Vietnam is to decrease their dependency on China, where production costs are rising. Vietnam’s low labour costs and its large emerging domestic market make it an attractive alternative. In 2011, minimum wage levels varied from 28.5–53.2 euros per month depending on the region. For 2012, the Vietnamese government has increased minimum wage levels to between 48–68.7 euros.

In Vietnam, freedom of association and the right to collective bargaining are restricted because the government grants a monopoly to the Vietnam General Confederation of Labour (VGCL) – which the party effectively controls – independent trade unions are prohibited. It is common practice that union officials at company level in Vietnam are also part of the management of the company. The VGCL has the right to collective bargaining on behalf of the workers at company level but since the union representatives are often linked to the management, the ability to bargain is limited.

Promoting workers’ rights is a risky business in Vietnam; during 2010 the government intensified its repression of activists and dissidents promoting workers’ rights. Many have been harassed, arrested or jailed, and workers leading strikes face reprisals from the authorities. It is not either possible to start up independent non-governmental organizations (NGOs) as they are required to work in cooperation with a government sponsor, which limits their ability to criticize labour conditions.

Experts say that after two decades of development and government investment incentives such as tax reductions and cheap land rent, Vietnam’s electronic sector remains in its infancy. It is still at the ‘first stage’ of development, importing components and assembling consumer products, which provides low added value, and only low-skilled and low-paid jobs. The labour force in the electronic (hardware) sector totaled 121,300 workers in 2009, and three out of four were female. Most of the employees in the sector are migrants from the provinces. The industry is dominated by foreign companies; in 2008, two thirds of the country’s 436 electronics companies were foreign and together accounted for 95% of the sector’s total exports.

The CSR policies of seven digital camera companies (Olympus, Sanyo Electric Co., Samsung, Pentax, Nikon, Fujifilm and Canon) include extensive environmental policies and good quality corporate governance policies. Every company has the environmental management standard ISO 14001 certifications for its operations and Green Procurement policies. These environmental policies are global corporate

policies and exceed Vietnamese law requirements. Three companies have adopted an international CSR business initiative (Samsung is member of the EICC and Olympus and Nikon are signatories to the Global Compact) and two companies have adopted a Japanese initiative. Although the principles of the Global Compact include freedom of association and the right to collective bargaining, the labour policies and Codes of Conduct of the two Global Compact signatories refer in this respect to the compliance with local laws, just like the other (non-signatory) camera companies investigated. In the CSR supplier requirements, freedom of association and the right to collective bargaining can hardly be found in any of the seven companies policies.

With only one legal trade union, all factories are out of compliance with the international labour standards on freedom of association and collective bargaining. The Workers' answers about wages are mixed. The biggest dissatisfaction with wages was expressed by workers at Sanyo's factory and most workers were concerned that their salary could not keep pace with rising living costs. But the overall conclusion is that workers' income covers basic needs and allows them to save some money. The practice with short-term contracts at the factories creates insecure employment. There are indications of discrimination against women when it comes to gender and pregnancy, meaning women get shorter contracts than men. Stating an age requirement in recruitment advertisements seems to be common practice in Vietnam. Frequent overtime was only found at Samsung's factory.

MakeITfair recommends electronics companies the following:

- Carry out assessments of risks and opportunities from a human rights perspective to gain information that makes it possible to proactively address concerns and opportunities.
- Bring the company Codes of Conduct and labour policies up to international labour- and human rights standards such as the OECD Guidelines, the UN Principles on Business and Human Rights and ISO 26000. The Code of Conducts and policies should include the ILO conventions 87 and 98 on freedom of association and the right to collective bargaining.
- Increase the awareness on the Code of Conduct among workers and provide training on workers' rights and responsibilities and the benefits of genuine workers' representation.
- Start auditing factories and link order placement to audit results.
- Establish genuine grievance mechanisms for the workers.
- Create a safe environment in which workers are not afraid of punishment for organizing to defend their rights.
- Improve dialogue and capacity building aiming on long term partnership with suppliers.

1. INTRODUCTION

Since 2007, makeITfair has released several reports about working conditions in the electronics' industry in China and other Asian countries, some of them revealing severe violations of labour laws and human rights. These findings have been used to raise the awareness of young consumers about the conditions under which popular IT products as mobile phones, MP3 players, games consoles and laptops are produced. MakeITfair has also started dialogues with 22 electronic brands selling these IT products to address the problems found and to discuss improvements. Some brands have shown transparency about the way they tackle the problems and some brands have been willing to invite local labour organizations, collaborating with makeITfair, into their supplier factories to discuss a corrective action plan. An external evaluation of MakeITfair's work concluded that electronics brands value the research reports of MakeITfair for their role in awareness raising, and confirmed that they have a clear impact on the CSR policies.

To enlarge the group of 22 electronics brands, makeITfair decided to include another popular electronics device found in almost every European household: the digital camera. At the same time makeITfair wanted to broaden its scope to a new production country: Vietnam. Although the major export product of Vietnam is still garments and textiles, it is also a country where the production of consumer electronics is growing.¹ The electronics industry is fairly new but the number of foreign electronic enterprises is rising steadily² and includes a number of factories producing digital cameras.

MakeITfair's demand that electronics companies take responsibility for the social, environmental and economic conditions within and beyond their direct supply chains are far from unique. In fact, they are increasingly shared by governments and companies. In 2011 there were a number of developments at international level in the form of 'soft law' voluntary normative standards: the revision of the OECD Guidelines for Multinational Enterprises, the adoption of the Guiding Principles for Business and Human Rights by the UN Human Rights Council (the 'Ruggie principles') and the launch of ISO 26000. The updated OECD guidelines now include a human rights chapter stating that firms should "respect human rights in every country in which they operate. Companies should also respect environmental and labour standards, for example, and have appropriate due diligence processes in place to ensure this happens." The Ruggie principles also point at the importance that enterprises outline a human rights due diligence process.³

There is also the growing trend that multinational companies should contribute to the sustainable development of developing countries; government policies give companies a central role in international development work, and industry associations such as The Japan Business Federation states in its Charter of Corporate Behaviour that its members 'should conduct business activities from a comprehensive viewpoint, encompassing economic, environmental and social aspects for the creation of a sustainable society'. And as Fujifilm – one of the digital camera companies included in this research – states, 'compliance is more than simply not breaking the law'. However, critical reports by NGOs show that in reality the contribution of companies is not always positive. They use and abuse the given situation in a country instead of using their leverage to push for a more democratic and sustainable environment in which to operate.

¹ Fang T, Gunterberg C, Larsson E, "Sourcing in an Increasingly Expensive China: Four Swedish Cases," *Journal of Business Ethics*, 2010. 2010. 97(1), 119-138

European Union, "Green Book 2011: EU Commercial Counselors Report on Vietnam."

² General Statistics office of Vietnam <http://www.gso.gov.vn>.

³ "The Electronics industry in Vietnam." ILO draft in 2010, still to be published

³ J. Ruggie. Human Rights Council. Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework. 2011

The interpreting and implementing of the UN guiding principles is still at an early stage but they are being put into practice by progressive companies. Electronics companies investing or expanding in Vietnam should adopt the increasingly accepted position that companies need due diligence processes in place to minimize the risk of abusing human and workers' rights, and at the same time assure remedy if harm has been done.

With this in mind, plus the ILO's core conventions and Vietnamese law requirements, makeITfair assesses the current CSR policies and practices of digital camera companies in Vietnam and works towards a set of recommendations for electronics companies when considering investing in Vietnam. The following research questions have guided the research:

- What policies do the digital camera companies have regarding labour standards and human rights, especially related to freedom of association and collective bargaining?
- What are the working conditions at factories making digital cameras in Vietnam?
- What progressive actions can electronics companies take to support workers' rights to organize, to real collective bargaining and to an improved industrial relations system in Vietnam?

The report has three major sections. The first describes Vietnam's electronic sector, its 'one union' system and its strikes, and maps the social risks of producing in Vietnam. The second section describes the findings from workers' interviews about the labour conditions at four electronic factories/companies producing digital cameras in Vietnam. The third part deals with the CSR policies and practices at seven multinational digital camera companies. The report concludes with makeITfair's recommendations for action to these companies.

2. METHODOLOGY

2.1. THIS REPORT IS BASED ON:

- a survey with seven electronic companies producing digital cameras
- workers' interviews, conducted at the four companies with production in Vietnam
- desk research and field research.

Initially, makeITfair selected seven digital camera companies on the European market and sent them a questionnaire to get a description of their work and policies on corporate social responsibility in their supply chain. In March 2011, the questionnaire was sent to Olympus, Pentax⁴, Samsung, Sanyo⁵, Nikon, Canon and Fujifilm. Among the seven camera companies, four have production facilities in Vietnam. Except for Olympus and Sanyo, all companies returned the questionnaire.

The four companies with production in Vietnam were subsequently selected for confidential worker interviews to assess the working conditions. Interviews with workers of Olympus, Pentax, Samsung and Sanyo were conducted by Global Standards during March–May 2011. The confidential off-site interviews were held after working hours, outside the factory grounds, at the workers' guest houses and living areas, without the presence of factory management.

Global Standards, headquartered in Ho Chi Minh City, is a consulting group specializing in CSR issues, international labour and environmental and safety standards for export manufacturers in Asia.⁶ In Hanoi a team of interviewers from the Center for Development and Integration (CDI)⁷, one of few NGOs in Vietnam working on labour issues, assisted Global Standards with the worker interviews.

Through the interviews it became clear that Samsung's factory in the northern province of Bac Ninh produces cell phones and not digital cameras. The factory was however kept in the study since the research also showed that Samsung is considering an expansion of products (including cameras) manufactured in Vietnam.⁸

To get a fair geographical spread, two plants were chosen in the industrial zones around Hanoi in northern Vietnam and two in the zones outside Ho Chi Minh City in southern Vietnam. In total 84 workers were interviewed individually or in small groups. The sample is small, especially at the Samsung factory with 12,000 employees, but the data gives indications of issues of concern.

Samsung Electronics Vietnam (SEV)	Yen Phong, Bac Ninh	~12,000 workers	20 interviews
Pentax VN	Long Bien, Hanoi	~1,000 workers	21 interviews
Sanyo DI	Bien Hoa city, Dong Nai	~1,000 workers	23 interviews
Olympus	Long Thanh, Dong Nai.	~2,000 workers	20 interviews

⁴ The Pentax camera business, part of the Hoya Corporation, was sold on 1 October 2011 to Ricoh Company Ltd.

⁵ Sanyo has merged with Panasonic. Panasonic announced that Sanyo had become a wholly owned subsidiary in December 2010.

⁶ See <http://www.global-standards.com/>.

⁷ See <http://www.cd vietnam.org>.

⁸ "Samsung expects high phone export revenues," The Saigon Times, 11 May 2011. <http://english.thesaigontimes.vn>
"Samsung Electronics to increase capital to US\$1.5 billion." Vietnam Today/Viet News, July 21, 2011. <http://www.dztimes.net>

Workers were selected by Global Standards on the basis of sex, age and type of job, so as to represent the workforce in the factory. All workers interviewed were informed about the purpose of the interview – to share the information with consumers in Europe in order to promote better understanding and improved working conditions in the future. They were also all informed that makeITfair and Global Standards would keep their identity confidential to avoid any form of punishment.

In addition to the local research, Swedwatch and SOMO travelled to Vietnam in May 2011 to visit factories and interview people in authority. Although all companies were asked for a factory visit, only Pentax gave their full cooperation with the questionnaire, the management interview and a factory visit. Having only one management interview has limited the findings⁹ regarding the implementation of the global CSR policies of digital camera companies in Vietnam. MakeITfair's researchers also met some of the interviewed workers at the factories.

Another challenge is the absence of freestanding and independent organizations and unions in Vietnam's civil society. NGOs in Vietnam are required to work in cooperation with a government sponsor, which limits their ability to criticize labour conditions. Also, very few NGOs are dealing with labour issues.

In Europe, the market saturation for digital cameras is causing average selling prices to drop and industry vendors are struggling to maintain profits. Digital cameras are under threat from smartphones and camera phones, which enable instant and easy sharing of photos. It is the expectation that emerging markets such as China will lead the recovery of the digital camera market as there is still low household penetration there.¹⁰

The fact that digital cameras do not have the same high demand as the best-selling mobile handsets and computer models is important. Workers producing consumer electronics that are in high demand might experience higher work pressures. This fits the case of Samsung which produces mobile phones, and where workers witness frequent overtime in all seasons.

The four camera companies included in the local research with workers' interviews have been given the opportunity to read and comment on the findings before publication. Their comments are included in the report.

⁹ A mitigating circumstance is that the earthquake and tsunami that hit Japan in 2011 prevented the Japanese companies we approached from commenting.

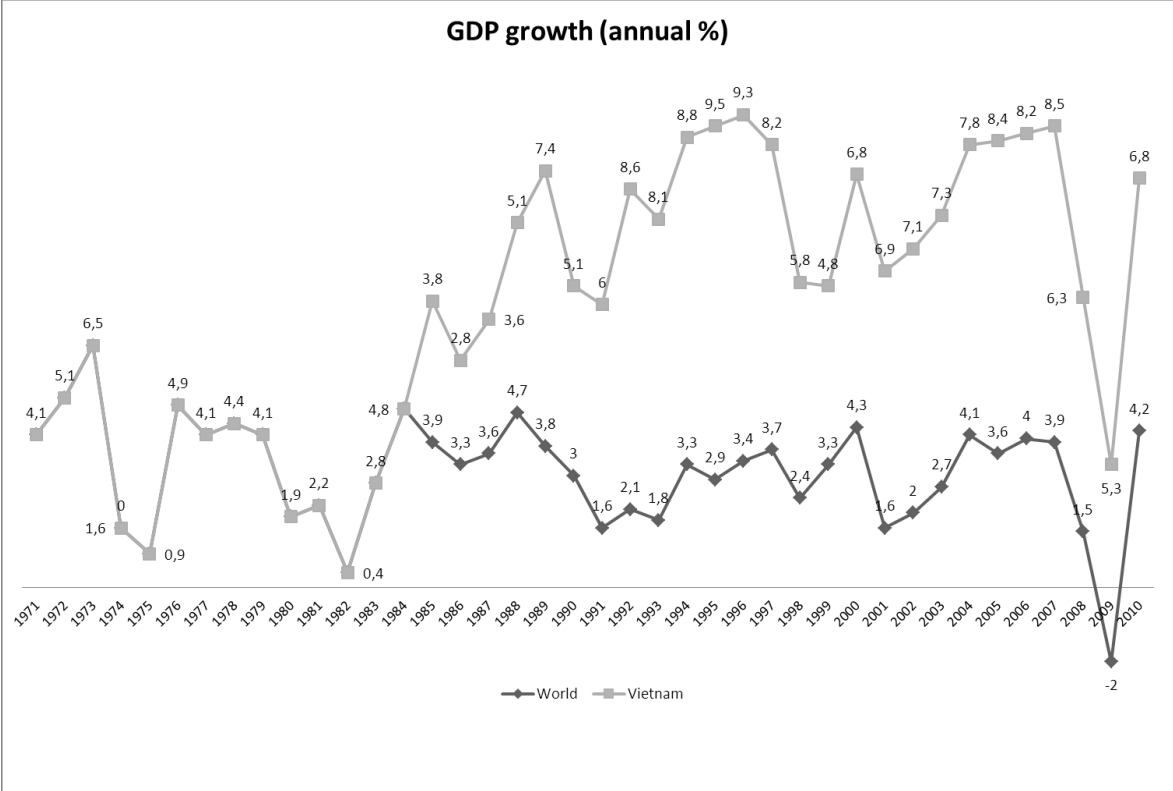
¹⁰ Emerging Markets Lead Recovery of Digital Camera Market, 2 February 2011, <http://www.infotrends.com/public/Content/Press/2011/02.21.2011.html>, assessed on 5 October

3. THE INVESTMENT CLIMATE IN VIETNAM

3.1. VIETNAM'S ECONOMIC LIBERALIZATION

Vietnam's economic reform, named the *doi moi*, was introduced in the mid-1980s when the communist one-party state started to shift from a centralized planned economy to a socialist-oriented market economy. Since the beginning of the 1990s the expansion of the Vietnamese economy has been one of the world's highest.¹¹

Vietnam's GDP growth (compared to the rest of the world)



Source: The World Bank.¹²

In 1995 Vietnam became a member of the trade organization called the Association of Southeast Asian Nations (ASEAN), and in 1998 it entered the Asia-Pacific Economic Cooperation (APEC)¹³. Almost a decade later it joined the World Trade organization (WTO).¹⁴ Because of the country's economic growth, the income per capita has risen over the last four decades.¹⁵ Statistics for 2010 show that Vietnam's economy performed relatively well, despite an unsafe global economy, and that export revenue and industrial production value increased.¹⁶ The key export commodities are textiles, footwear, crude oil, and products from the fisheries and electronics industries.¹⁷

¹¹ World Bank Country Brief, Vietnam, www.worldbank.org/vn.
¹² See <http://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG/countries/1W-VN?display=graph>.
¹³ See <http://www.aseansec.org/>.
¹⁴ See http://www.wto.org/english/thewto_e/countries_e/vietnam_e.htm.
M.L. Thaning, P. Lindblad "Landfakta Vietnam, Memorandum." Swedish Embassy Hanoi, 2010
¹⁵ UNDP, Human Development Report, 2011.
¹⁶ European Union, Green Book 2011: EU Commercial Counsellors Report on Vietnam.
¹⁷ Ibid.

The growth has widened the income gap between rich and poor, since the growth has not been equally shared. Twenty percent of the population still lives below the poverty line, according to UNDP's Human Development Index.¹⁸

As John Hendra, UN Resident Coordinator in Vietnam pointed out at the launch of the *Human Development Report 2010*: “One important finding from the *Human Development Reports* is that development progress cannot be measured simply by the level of national income. Economic growth alone does not automatically improve the quality of life of citizens.”¹⁹

According to Transparency International corruption is high in Vietnam. In the 2010 survey, Transparency International ranked Vietnam 116 of 178 countries.²⁰

The average inflation rate during 2010 was 9.2%, the highest in Southeast Asia according to the Asian Development Bank. High inflation, and especially rising food prices, is putting poverty reduction gains at risk according to the bank and other agencies.²¹ The loss of purchasing power is a big concern among the general population and in February 2010 the Vietnamese government indicated that it will prioritize stability before growth to end high inflation.²²

Inflation of consumer prices in Vietnam



Source: The World Bank.²³

¹⁸ J. Klugman. Human Development Report 2010 "The Real Wealth of Nations: Pathways to Human Development" UNDP, 2010. Statistical Tables, <http://hdrstats.undp.org/en/countries/profiles/VNM.html>.

¹⁹ UNDP. Launch of the *Human Development Report*, Hanoi, 9 November 2010. <http://www.un.org.vn>.

²⁰ Transparency International, Corruption Perceptions Index, 2010.

²¹ IMF, "Asia after the Recovery: Managing the Next Phase," Regional Economic Outlook, April 2011.

²² Asian Development Bank, Asian Development Outlook, 2011.

²³ See <http://data.worldbank.org/indicator/FP.CPI.TOTL.ZG/countries/VN?display=graph>.

3.1.1 WHY INVEST IN VIETNAM?

Exports are driving Vietnam's growth and private enterprises play a significant role in the country's commodity production. Foreign direct investment (FDI) in Vietnam is expected to be between US\$11–11.5 billion in 2011, unchanged or slightly higher than in 2010.²⁴

Vietnam has also become what companies and analysts call a 'China-plus-one solution'.²⁵ The China-plus-one concept was established several years ago by American corporations wanting to reduce dependence on Chinese goods.²⁶

Today, a China-plus-one strategy means that global brands seek to decrease their dependence on China as a production country by complementary manufacturing in other countries. Rising costs for wages, commodities, raw materials and energy in China have made Vietnam an attractive alternative, where most of these costs are lower. Statistics show that the cost of an average worker in Vietnam is lower than in several other countries in Asian. The total labour cost in 2010 was half the cost of China and a fifth of the cost in Malaysia.²⁷ Although shifting production between countries demands careful consideration –there is more in the equation than lower wage levels – low salaries in Vietnam are nevertheless a major draw for manufacturing in Vietnam.

The Vietnamese government offers different kinds of investment incentives to attract foreign investors and the industry lobby is mainly related to keeping the investment climate favourable for companies. In 2010 a lobbying letter written by the European Chamber of Commerce in Vietnam (Euro Cham) led to action from the European Trade Union Confederation (ETUC). According to the ETUC it was unacceptable that the Euro Cham wrote to the Vietnamese Ministry of Labour advising the government against a minimum wage increase and threatening to withdraw investment.²⁸

3.1.2 MINIMUM WAGE LEVELS IN VIETNAM

The minimum wage level in Vietnam is regionally based. There are four different regions and the highest minimum wage is paid in region 1 containing the urban districts of Hanoi, Ho Chi Minh City and other major production hubs in the country.²⁹ The legal minimum wages are regulated by the government and adjusted on a yearly basis but wage increases have not been able to match inflation, and according to the ILO there has not been any real growth in the minimum wage in Vietnam since 2007.³⁰ Hansson argues in her thesis *Growth without democracy: Challenges to authoritarianism in Vietnam* that the system of wage setting has developed in response to the sweeping strike waves in Vietnam. The lack of a functioning industrial relations system has created a nervous and unstable system in which wage rises are often a reaction by the Ministry of Labour, War Invalids and Social Affairs (MoLisa) to protest movements and strikes that may threaten to get out of control and then pose a threat to regime survival.³¹

High inflation caused a high level of conflict in the Vietnamese labour market. The Vietnamese government responded by increasing the minimum wage in October 2011, one quarter earlier than

²⁴ See <http://www.itpc.gov.vn>.

²⁵ Keith Bradsher, "Investors Seek Asian Options to Costly China," *New York Times*, June 18, 2008.

²⁶ C. Sang. "China-plus-one strategy, a plus for Vietnamese exports to U.S". *The Saigon Times*. February 21, 2011 <http://english.thesaigontimes.vn>

²⁷ IMF, *World Economic Outlook Database*, 2010. *Financial Times*, April 5 2011, <http://www.ft.com/cms/s/0/7b0da400-5f73-11e0-bd1b-00144feab49a.html#axzz1Pnc9cmf>. C Devonshire-Ellis, "China now has third highest labor costs in emerging asia", *China briefing*, [January 19, 2011](http://www.china-briefing.com), <http://www.china-briefing.com>

²⁸ Merk. "The structural crisis of labour flexibility: strategies and prospects for transnational Labour Organising in the Garment and Sportswear Industries", *Clean Clothes Campaign 2008* ETUC, Letter from Mr de Gucht, Commissioner for Trade European Commission, Brussels, 25 November 2010.

²⁹ Vietnamese Labour Code 1994 (as amended 2 April 2002), Translated by Globla Standards.

³⁰ ILO. "Global Wage Report 2010/11 – Wage policies in times of crisis," 2010.

³¹ Hansson, Eva (2011). *Growth without Democracy: Challenges to Authoritarianism in Vietnam*. (thesis), Stockholm University.

scheduled. The new minimum wage for 2012 varies between 1.4 and 2 million Vietnamese Dong (VND) depending on region. And for the first time the formal minimum wage levels in both FDI companies and Vietnamese companies' are the same.³² This means that in 2011, minimum wage levels varied from 28.5–53.2 euros per month depending on the region. For 2012, the Vietnamese government has increased minimum wage levels to between 48–68.7 euros.

Minimum wages in Vietnam 2011 and 2012

Region	Minimum wage in local enterprise 2011 (VND/month)	Minimum wage in foreign invested enterprise 2011 (VND/month)	Minimum wage in local enterprise 2012 (VND/month) from Oct 1, 2011 to Dec 31, 2012	Minimum wage in foreign invested enterprise 2012 (VND/month) from Oct 1, 2011 to Dec 31, 2012
1	1,350,000 (46 Euro)	1,550,000 (53 Euro)	2,000,000 (69 Euro)	2,000,000 (69 Euro)
2	1,200,000	1,350,000	1,780,000	1,780,000
3	1,050,000	1,170,000	1,550,000	1,550,000
4	830,000	1,100,000	1,400,000	1,400,000

Source: Better Work, Vietnamese Labour Code, ILO/Natlex

3.2. LABOUR LEGISLATION AND THE ROLE OF THE UNION IN VIETNAM

In 1992 Vietnam became a member of the ILO and the country has ratified five of the ILO's eight core conventions.

Status of ratified fundamental human rights conventions by Vietnam

Core Conventions	Ratified	Not Ratified
87 Freedom of Association and Protection of the Right to Organise		No
98 Right to Organise and Collective Bargaining		No
29 Forced Labour	Yes	
105 Abolition of Forced Labour		No
100 Equal Remuneration	Yes	
111 Discrimination (Employment and Occupation)	Yes	
138 Minimum Age Convention	Yes	
182 Worst Forms of Child Labour Convention	Yes	

Vietnam has not signed the ILO Core Conventions for Freedom of Association and Collective Bargaining (No 87 and 98) or the Convention on Abolition of Forced Labour (No105). However, the ILO declares that all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of their membership to promote and realize all principles concerning the fundamental

³² American Chamber of Commerce in Vietnam, Decree No. 70/2011/ND-CP, August 22 2011, <http://www.amchamvietnam.com/?id=4773>

rights which are the subject of those Conventions.³³ Vietnam has recently started a process to review the two Core Conventions – numbers 87 and 98.³⁴

According to Vietnamese law, there is only one legal trade union, the Vietnam General Confederation of Labour (VGCL). This means that workers can only join one trade union and cannot form and/or join trade unions of their own choice, and freely associate. As a result, all factories in Vietnam fail to comply with international core labour standards regarding the freedom to form or join the union of their choice. According to Vietnamese Trade Union Law, a union has to be formed at a new enterprise with more than ten employees within six months of the establishment. The VGCL has the right to bargain collectively on behalf of all the workers in a private company. At enterprise-level, trade union elections are held. But at many private enterprises VGCL representatives are considered to be loyal to the management. The most recent compliance report of the Better Work Program, a partnership between the International Labour Organization (ILO) and the International Finance Corporation (IFC), aiming for improved working conditions in the apparel industry, in Vietnam shows that in the majority of the assessed garment companies the management is trying to interfere with, manipulate or control the union. Meetings without a management presence are not possible in 75% of cases. These findings stem from the historical issue that most union officials at the company level in Vietnam are also part of the management of the company.³⁵ This dramatically reduces the ability of workers to bargain effectively with management.³⁶ Vietnamese labour law recognizes the right to strike³⁷ but the conditions it sets for calling a legal strike are highly restrictive.

Hansson writes that the laws and regulations relating to legal possibilities to call for strike was changed into an even more restrictive direction a couple of years ago. She writes that the new legislation levies a heavy responsibility on workers who organize a strike to compensate for economic damage in cases when strike action is considered illegal. The new regulations also make new stipulations when strikes are to be considered legal or illegal. An important aspect, she argues, is hidden in the new definitions and separation of ‘rights’ and ‘interests’ in judicial terms. Strikes are now legal if the strike relates to protests relating to ‘rights’ (which means the rights stipulated and codified in laws), strikes relating to ‘interests’ (defined as not stipulated in laws) are illegal. Hansson argues further that this effectively prevents a legal struggle for democratic rights, such as codified in the ILO Core Convention such the Convention on Freedom of Association. Another consequence of this change is that it effectively prevents the legal possibility of workers to define what their interests are. In legal terms workers interests are defined from above, by ministries and central trade union organization according to what they have decided should be codified in laws as legitimate interests.³⁸

3.3. FACILITATING PARALLEL MEANS WITHIN NATIONAL LEGISLATION

Leading social certification organizations such as Social Accountability 8000 (SA800), and multi-stakeholder initiatives such as the Ethical Trading Initiative (ETI), with its member companies, trade

³³ ILO Declaration on fundamental principles and rights at work, 86th Session, Geneva, June 1998, <http://www.ilo.org/public/english/standards/relm/ilc/ilc86/com-dtxt.htm>.

³⁴ The Ministry of Labor, Invalids and Social Affairs (MoLISA) recently approved a roadmap for ratifications of ILO Conventions, in which it plans to review two core Conventions (no. 87 and no. 98) on freedom of association and collective bargaining. Vietnamese constituents have sought ILO technical guidance on how Vietnam should consider these Conventions and Recommendations. See “Better Work Vietnam: Garment Industry, 3rd Compliance Synthesis Report,” 16 September 2011, <http://www.betterwork.org/sites/VietNam/English/resources/Documents/Better%20Work%20Vietnam%20-%203rd%20Compliance%20Synthesis%20Report.pdf>

³⁵ Better Work Vietnam, “Garment Industry, 3rd Compliance Synthesis Report,” 16 September 2011, p. 10, <http://www.betterwork.org/sites/VietNam/English/resources/Documents/Better%20Work%20Vietnam%20-%203rd%20Compliance%20Synthesis%20Report.pdf>

³⁶ ITUC-CSI Annual survey of violations of trade union rights 2009,

³⁷ Labour code of Socialist Republic of Vietnam, 23 June 1994, as amended 2 April 2002.

³⁸ See further, Hansson, Eva (2011). *Growth without Democracy: Challenges to Authoritarianism in Vietnam* (thesis), Stockholm University.

unions and organizations, and the Fair Wear Foundation (FWF) include provisions for ‘parallel means’, saying that ‘where the right to freedom of association and collective bargaining is restricted under law, the employer facilitates and does not hinder the development of parallel means for independent and free association and bargaining’.³⁹

Facilitating parallel means is the supporting of other forms of independent representative structures for workers, which could be a health and safety committee. If an ETI member believes that parallel means may apply to a country from which it is, or is considering, sourcing goods or services, it should obtain guidance from the relevant Global Union Federation and the ETI Secretariat before seeking to apply the parallel means provision.⁴⁰ In the case of the electronics industry guidance can be obtained by the International Metal Federation (IMF) before applying parallel means in Vietnam. In May 2009, the Vietnam Union of Workers in Industry and Trade (VUIT) became an IMF affiliate. In October 2011, the IMF had a two-day workshop on organizing and union building in Halong Bay. The VUIT sought IMF’s intervention to educate and equip Vietnamese unionists on collective bargaining.⁴¹ The IMF supports the capacity building of VUIT’s members, based on the union’s needs.

The Fair Wear Foundation (FWF) interprets the facilitation of parallel means of independent and free association and bargaining to mean that: ‘...even where these rights are restricted under law, the company needs to make clear to workers that they are willing to engage workers in collective dialogue through some representative structure and that they are willing to provide them with the opportunity to do so, if workers so wish’. And that, ‘they shall enable workers (if they so choose) to develop forms of collective representation and to engage in collective negotiation with management. Even in these cases, management shall not seek to influence or interfere with workers’ discussions, voting processes or related activities’.⁴²

Earlier makeITfair research noticed the danger of misusing the concept of parallel means by companies with the aim of preventing trade unions. It is therefore specifically only meant for those countries where either trade unions are banned completely, or where a single organization is run by the government and not independently by its members. The former would be the case in most of the Gulf States, while the latter would be the case, for example, in China, Burma, Vietnam, Syria or Cuba.

Case study: Better Work Vietnam

Better Work Vietnam provides another example of how improvements can be made within the frame of Vietnamese law. Better Work wants to improve social dialogue at the factories and the chance for workers to raise concerns with management. The main means to achieve this is capacity building – training workers, unionists, staff and management, in cooperation with the government and companies. Better Work is a partnership between the International Labour Organization (ILO) and the International Finance Corporation (IFC), and the official description of the project aim is ‘to improve the competitiveness in the apparel industry by enhancing economic performance at the enterprise level and by improving compliance with Vietnamese labor law and the principles of the ILO Declaration on Fundamental Principles and Rights at Work by offering enterprise assessments, advisory service and training’.

The working method of Better Work to deal with the trade union situation is through a factory-led Performance Improvement Consultative Committee (PICC). The PICC aims to improve collective representation of workers’ interests and separate management and workers representatives. This is a way

³⁹ Ethical Trading Initiative, article 2.4 of the Base Code.

⁴¹ P. Arunasalam, “Vietnamese unionists seek to improve collective bargaining,” International Metal Federation, October 19 2011, see <http://www.imfmetal.org/index.cfm?c=27844&l=2>.

⁴² Fair Wear Foundation, “Freedom of Association and the Right to Collective Bargaining; Fair Wear Foundation guidance document for auditors and member companies,” 2008, see <http://fairwear.org/images/2009-12/fwf-foa-policy-en.pdf>.

to enable effective labour dispute settlements and meaningful collective bargaining. And there is the Empowering Union Participation project, supporting Better Work Vietnam to improve worker, employer and public understanding of the role of trade unions, and strengthen the capacity of VGCL to represent workers at the enterprise level in the apparel sector. Training within this project includes, for example, the training of union representatives at participating factories to provide capacity building on worker representation and joint problem solving. The programme also develops mechanisms for the union to operate more independently from management. As a result, some factories have made changes to allow the union to meet without the presence of management or to spend union funds without consultation with the management.⁴³

3.4. IMPROVING WORKING CONDITIONS AND WORKERS' RIGHTS – A COMPARISON WITH THE GARMENT SECTOR

According to local experts such as the ILO, Global Standards, and the EU programme SWITCH-Asia, there is little or no external auditing in electronics factories in Vietnam. SWITCH-Asia is a project that aims to improve domestic auditing services in Vietnam by increasing the number of auditing consultants and improving their skills. One of the participants in SWITCH-Asia is the Vietnam Electronic Industries Association (VEIA). VEIA sees the main challenge of the project as helping Vietnamese electronics companies understand the various codes of conduct, since many of them misunderstand how to deal with these codes. VEIA's representative in the SWITCH-Asia project, Mrs Do Thi Thuy Huong, points out the need to create a better understanding among Vietnamese companies of how western companies think and how the European market works.

In theory, all companies in Vietnam are subject to inspections by government labour inspectors but this does not work in practice. The inspectors under Ministry of Invalid, Labor and Social Affairs are few and their inspections are legalistic and record-based. According to Ms Huong, director of the local NGO Center for Development and Integration (CDI), there are not sufficient numbers of inspectors so the inspectors have limited time to do on site inspections or interviews directly with workers. The shortcomings of labour inspectors are identified by the government, and training programs have been set up for a more efficient labour inspections with support from the ILO and US Agency for International Development (USAID).

Another indicator of insufficient external and internal auditing is that none of the workers interviewed for this study reported that they had been interviewed before by any auditor – neither from the companies nor from the government. By contrast, almost all garment factories in Vietnam are subject to regular audits.

So, compared to the electronics industry, the garment industry in Vietnam has come much further with regular auditing and monitoring. In the garment sector there are multi-stakeholder initiatives aiming for improved working conditions at the factories. The garment sector also signed an industry-wide collective bargaining agreement in 2010. The Better Work Program for the garment sector shows improvements for better working conditions and productivity can be identified and implemented in Vietnam.

3.5. POOR INDUSTRIAL RELATIONS AND THE STRIKES THAT FOLLOW

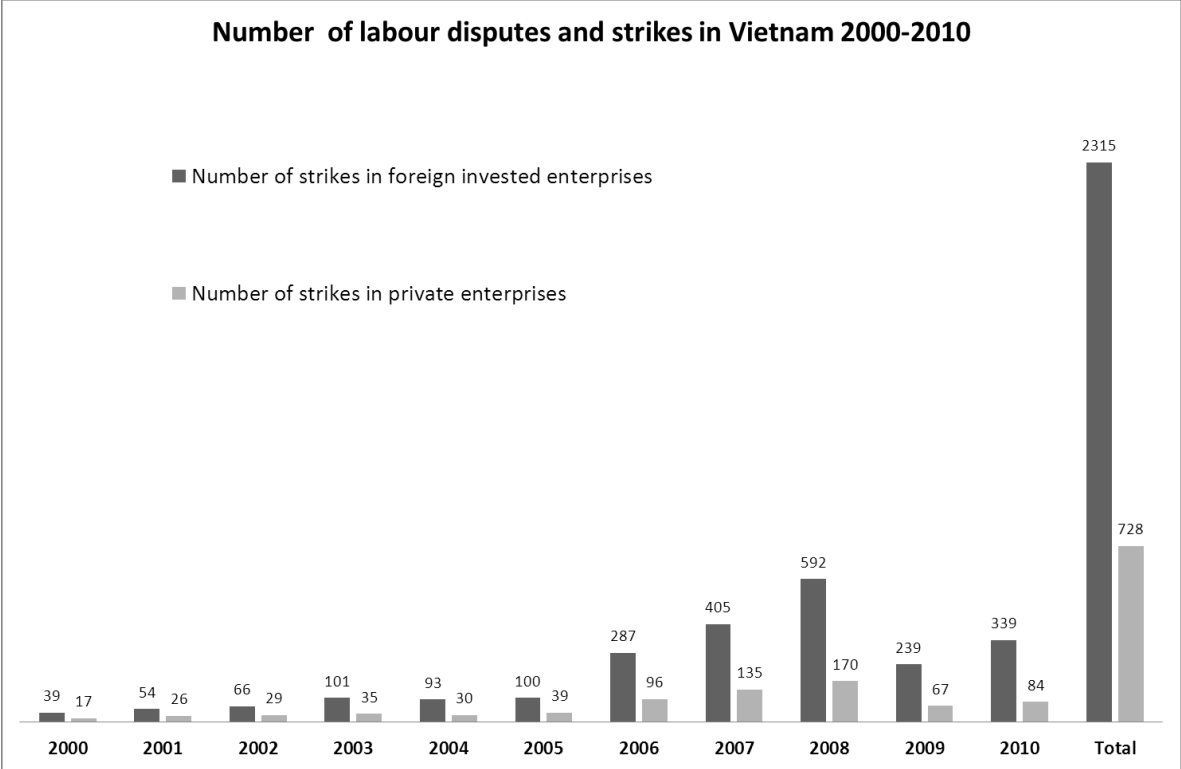
Not only international labour and human rights organizations see industrial relations in Vietnam as a problem. With over 400 work stoppages and strikes in the private sector during 2010, companies,

⁴³ See <http://www.betterwork.org/sites/VietNam/English/resources/Documents/Better%20Work%20Vietnam%20-%203rd%20Compliance%20Synthesis%20Report.pdf>

factories, the government and the VGCL have identified labour disputes and a poor industrial relations system as a major problem.⁴⁴

Vietnamese workers choose to turn their back to the formal system and instead try to be heard through informal means such as illegal ‘wildcat’ strikes. Also, many workers choose to walk away from ‘bad’ and/or low-paid jobs. This has led to a high turnover rate, creating labour shortages, lower productivity and low salary levels.⁴⁵ The wild cat strikes have been hitting foreign invested enterprises and private enterprises in Vietnam since 2005. The strike statistics vary but whether they are from the VGCL or government sources, the dramatic increase of strikes from 2003 onwards is clear.⁴⁶

Number of labour disputes and strikes in Vietnam 2000-2010



Sources: VGCL/MOLISA/ILO

Eva Hansson, a political scientist at Stockholm University who has followed the strike movement in Vietnam closely for many years, says that a dramatic increase of the number of strikes from 2005 to 2007 is clear, even with due consideration of the weaknesses in public statistics in Vietnam. The most recent statistics from VGCL show that the strikes rose to a high level in 2010. The electronics industry accounted for 8% of strikes in 2010, with 34 cases. Industrial relations are seen as less tense in the electronics industry since the average salary for workers is higher than the national average salary and the jobs have a higher status than in other industries such as textiles and food processing. Still, industrial relations are a problem in the electronic industry.⁴⁷ According to VGCL the majority of all the strikes in 2010 (8 out of

⁴⁴ VGCL, “Reseach report on membership development, work place union organizing and collective bargaining, 2011. United Nations Vietnam, “Vietnam moves towards a new industrial relations system,” <http://www.un.org.vn>. Vietnam Plus, “Party executive urges unionists to better protect workers’ rights,” 1 May 2011, vietnamplus.vn.

⁴⁵ Interview with Yoon Youngmo ILO, Hanoi Chief Technical Advisor, Vietnam IR Project.Hanoi, 20 May 2011. VGCL, “Reseach report on membership development, work place union organizing and collective bargaining,” 2011. ITUC-CSI Annual survey of violations of trade union rights, 2010.

⁴⁶ E Hansson, “Growth without Democracy: Challenges to Authoritarianism in Vietnam,” Department of Political Science, Stockholm University, 2011.

Labour and Social Trends in Viet Nam 2009/10. International Labour Organization, Hanoi, June 2010

⁴⁷ AFP “Vietnam strikes rising as inflation soars,” Vietnam Business/AFP, 21 May 2011.

10) took place in southern Vietnam and concerned disputes over wages..⁴⁸ Vietnam's booming private sector has become a breeding ground for disputes and has forced all stakeholders to address the issue.⁴⁹

When it comes to handling industrial relations and strikes, local governments play an important role. In a sector with little, or no, dialog between enterprises and workers⁵⁰ the local government can in some cases create a platform where workers and employees can have a dialog.⁵¹

3.5.1 PROMOTING WORKERS' RIGHTS – RISKY BUSINESS IN VIETNAM

Human Rights Watch declares in their World Report 2011 that during 2010 Vietnam's government intensified its repression of activists and dissidents. According to the report, those promoting workers' rights and independent unions are often harassed, arrested or jailed. The report also says that workers who are organizing work stoppages face reprisals from the authorities.

Due to the absence of local, independent organizations in Vietnam, information on the human rights situation in Vietnam has been collected from NGOs and other experts outside Vietnam with first-hand information on the issue.

The labour organization, Committee to Protect Vietnamese Workers (CPVW), formed by Vietnamese expatriates, helps workers in Vietnam to fight for their rights. CPVW's Mr Trung Doan, operating the organization from Australia, says that the situation for collective bargaining and free unions is as bad as it has ever been. Anyone who tries to form an independent union will be imprisoned and "you have no choice to organize, the police will stop you. That has been the reality for decades," Mr Trung Doan says.

Mr Trung Doan says the discussions about free unions are not on the agenda and that the ILO's Better Work Vietnam more or less accepts the fact that independent unions are not allowed, since Better Work Vietnam does not try to help workers organize independently.

He says that many young workers have never seen an independent union since this regime has been running the country in North Vietnam since 1945 and in the entire country since the reunification 36 years ago. Some Vietnamese workers go to work in countries such as Malaysia and then come across unions. "They then realize what a union is all about," says Mr. Trung Doan.⁵²

Eva Hansson describes in her dissertation, *Growth without Democracy: Challenges to Authoritarianism in Vietnam*, describes the period between 1999 and 2008 as a time of increased labour protests and strikes met by increased authoritarian rule from the Vietnamese regime. In the time period the tolerance of the early *doi moi* reform period disappeared simultaneously with a dramatic increase in economic growth and economic liberalization.. According to Hansson's analysis is that changes that will allow more autonomy to trade unions in Vietnam would threaten the very principles that the political regime is based upon. "[I]f mass organizations were granted more autonomy, such as allowing members to elect their own leaders instead of having them appointed by the Party, it would contravene the fundamental Article 4 of the Constitution". According to Hansson all moves towards organizational autonomy for key mass organizations would directly challenge the Party-state.⁵³

B Bland, "Vietnam to raise minimum wage by 14%," Financial Times, April 5 2011

⁴⁸ VGCL, "Research report on membership development, work place union organizing and collective bargaining," 2011.

⁴⁹ M.F. Martin, "US-Vietnam Economic and Trade Relations: Issues for the 112th Congress," CRS Report for Congress. 2011

⁵⁰ ILO. "The Electronics industry in Vietnam." ILO draft in 2010, still to be published.

General Statistics office of Vietnam. See <http://www.gso.gov.vn>.

⁵¹ United Nations Vietnam, "Viet Nam moves towards a new industrial relations system," 2 April 2010, www.un.org/vn.

⁵² Interview with Mr Trung Doan, Committee to Protect Vietnamese Workers (CPVW), 2 May 2011.

⁵³ Dr E.Eva Hansson, "Growth without Democracy: Challenges to Authoritarianism in Vietnam," Department of Political Science, Stockholm University, 2011.

Eva Hansson also criticizes the international community in her dissertation, saying that the major human rights organizations pay little, or no, attention to the women working in the industrial zones and the human rights abuses to which they have been and are continuously exposed.

Workers interviewed at Sanyo for this report say the police have been present when they have been on strike. Therefore, to avoid being arrested, they have put quiet collective sit-downs into practice. According to the ILO, police presence makes workers more hesitant and the ILO are to study how strikes in Vietnam take place to get more knowledge about the risks related to them. Nowadays workers avoid stepping forward as a spokesperson because they fear that the presence of the police could put them at risk.⁵⁴

⁵⁴ Interview with Yoon Youngmo ILO, Hanoi Chief Technical Advisor, Vietnam IR Project, Hanoi, 20 May 2011.

4. THE ELECTRONICS INDUSTRY IN VIETNAM

The electronics industry has a high priority in the Vietnamese government's strategy for strong economic growth. Since 2007 the government has had a 'master plan', singling out the electronics industry as important for the Vietnamese economy and the industrialization and modernization of Vietnam.⁵⁵

Experts say Vietnam's electronics sector is still in its infancy after two decades of development.⁵⁶ According to EU Commercial Counselors, Vietnam is still in phase one (importing components and assembling) while nearby countries like Thailand, Singapore, Malaysia, Indonesia and the Philippines are in phase three (research and development, high-tech, export-oriented). But EU Commercial Counselors state that low labour costs and a large emerging domestic market make Vietnam an interesting location for global vendors. They also point out the incentives provided by the government to encourage foreign companies to set up production in the country. One recent example is the special investment incentives offered to Nokia by provincial authorities to set up a factory in Bac Ninh province, northern Vietnam, during 2011. The special incentives for the development of the Samsung Complex in northern Vietnam are, according to the Saigon Times, worth 1.5 billion USD and will make Samsung Electronics the leading investor in electronics and electrical machinery in the country.⁵⁷

The industry is dominated by foreign companies. In 2008, two thirds of the country's 436 electronics companies were foreign, and together accounted for 95% of the total export of the sector.⁵⁸ The electronics industry's reliance on foreign-invested companies bothers the Vietnam Electronics Industry Association (VEIA).⁵⁹ In an open interview Mr Tran Quang Hung, General Secretary of VEIA, says the electronics industry, after 20 years of development, still is "hitchhiking". The foreign companies import parts for assembly and the majority of the electronics' export value belongs to the foreign enterprises. Mr Tran Quang Hung's conclusion in the news article is that the foreign electronics companies "came to enjoy investment incentives provided by the government, like tax reduction and land rent, and take advantage of cheap labour to make a thicker profit".⁶⁰

Facts and figures of Vietnam's electronics industry

- The industry is manufacturing products mainly for foreign markets and about 80% of the production consists of consumer electronics.⁶¹
- The industry is based on the production of electronics accessories and low-skill assembly functions, and is dominated by foreign investments, especially companies from Japan and Korea.⁶²
- Only small quantities of local raw materials are in use and most of the raw materials and parts are imported and processed in Vietnam.⁶³ Pentax, for example, only purchases package material in Vietnam. Production materials are mainly imported from Taiwan, China, Korea, Indonesia and

⁵⁵ Ministry of Information and Communications of the Socialist Republic of Vietnam (MIC), Legal document: 75/2007/QD-TTg, see <http://vietnamexport.com>.

⁵⁶ L.D.Binh, P.N.Thach. "The electronics industry in Vietnam. ILO 2010." Still to be published. European Union Green Book 2011: EU Commercial Counselors Report on Vietnam, 2011.

⁵⁷ Samsung Electronics to increase capital to US\$1.5 billion. July 21, 2011. The Saigon Times Daily. <http://english.thesaigontimes.vn>

⁵⁸ ILO. The Electronics industry in Vietnam. ILO unpublished report . Commissioned to Economica Vietnam in 2010

⁵⁹ Interview with Mrs. Do Thi Thuy Huong, Director of planning of Investment, Vietnam Electronics and Informatics Joint Stock Corporation (VEIC) and VEIA's representative in the SWITCH-Asia. 20 May 2011.

⁶⁰ "Electronics industry still hitchhiking", Vietnam Business News, 24 September 2010. <http://vietnambusiness.asia/electronics-industry-still-hitchhiking/>

⁶¹ ILO. The Electronics industry in Vietnam. ILO unpublished report . Commissioned to Economica Vietnam in 2010

⁶² See www.vnex.com.vn.

⁶³ www.vnex.com.vn, Vietnam Export Portal (VNEX) is an internet portal Authorized by the Ministry of Industry and Trade of Vietnam.

other Asian countries. Consequently, there are not many subcontractors to shift between for the major brands producing in Vietnam.⁶⁴

- According to government statistics, the labour force in the electronic sector comprised 90,746 workers in 2008, and three out of four were female.⁶⁵ According to statistics from the Ministry of Information and Communications, the employees in the hardware industry totaled 121,300 in 2009.⁶⁶ Most of the employees in the sector are migrants from the provinces and the majority live in rented rooms near the factories. Most workers employment contracts run between one and three years while some workers are unlawfully engaged in seasonal working contracts year after year.⁶⁷
- Most of the electronics companies are small in employee size; of the 436 electronics companies in 2008, only 14 employ between 1,000 and 4,999 workers and only 2 companies employ more than 5,000 workers.⁶⁸
- Vietnam earned 3.56 billion USD by exporting electronic products during 2010, an increase of 29% on 2009.⁶⁹ The electronics industry is concentrated in the industrial areas around Ho Chi Minh City in southern Vietnam and Hanoi in the north.



⁶⁴ Interview with Mr Kobayashi Yuichi, General Director Pentax Vietnam, 21 May 2011

⁶⁵ The General Statistics Office (GSO)

ILO. The Electronics industry in Vietnam. ILO unpublished report . Commissioned to Economica Vietnam in 2010

⁶⁶ Minister of Information and Communications, "Vietnam's Information and Communication Technologies White book 2010," see http://www.business-in-asia.com/telecommunication_in_vietnam.htm.

⁶⁷ International Trade Union Confederation's (ITUC). "Annual Survey of Violations of Trade Union Rights 2007",.

⁶⁸ ILO. The Electronics industry in Vietnam. ILO unpublished report . Commissioned to Economica Vietnam in 2010

⁶⁹ Vietnam Export. <http://www.vietnamimportexportnews.com/vietnam-statistics/vietnam-import-statistics/40146-vietnam-computer-electronics-product-imports-307-in-2010-gso.html>

European Union Green Book 2011: EU Commercial Counselors Report on Vietnam, 2011.

5. THE CSR POLICIES OF DIGITAL CAMERA PRODUCERS

Looking at the brands of digital cameras available on the European market it is evident they are mainly Japanese; only Samsung (South Korea), Kodak (USA) and Leica (Germany) are not. MakeITfair has studied the CSR policies of the following digital camera companies: Olympus, Sanyo Electric Co. (belongs to Panasonic), Samsung, Pentax (taken over by Ricoh),⁷⁰ Nikon, Fujifilm and Canon.

In general, the CSR policies of these seven companies are extensive with a strong focus on environmental policies, including Green Procurement Policies and codes for business ethics. In this report however, makeITfair concentrates on the inclusion of the international labour standards in the CSR policies/codes of conduct, and in the supplier requirements – especially the standard on freedom of association and collective bargaining.

Freedom of Association and collective bargaining are known as enabling rights, because they give the workers tools to monitor their own workplace and to negotiate with management on the improvement of working conditions. These rights are laid down in the ILO conventions 87 and 98.

WHAT IS FREEDOM OF ASSOCIATION?

- That workers can associate, and demand respect of their rights and the defence of their interests, without fear of having actions taken against them by the companies.
- It also means that their collective actions won't be blocked by the government, companies or other unions that don't represent them.
- Freedom of association also means that workers can decide if they join (or not) specific groups or unions, and that their choice won't be a reason for sacking them or a requirement for being hired.

Source: Presentation Cereal at stakeholder meeting of the EICC, Mexico, 2010.

In Vietnam there is only one legal trade union, and it is government controlled. This means that workers can only join one trade union legally accepted by Vietnamese law and cannot form and/or join trade unions of their own choice, or freely associate.

To create awareness and clarity about what commitments companies should make, best practice shows that ILO conventions 87 and 98 should be included in company codes of conduct covering the entire supply chain and also in the CSR requirements for suppliers. A multinational company should either comply with the applicable national law or with the international standard that offers the worker the best protection. In the case of Vietnam it is not the national law that offers the best protection related to the freedom to organize but ILO conventions 87 and 98. Therefore it is disappointing that the CSR policies of the researched companies, when it comes to labour standards, prioritize compliance with national labour laws and do not clearly include the ILO conventions. However, Fujifilm makes a clear statement and the signatories of the Global Compact (Olympus and Nikon) are also clear about their commitment to 'uphold the freedom of association and the effective recognition of the right to collective bargaining'.

⁷⁰ In March 2008, Pentax became part of the Hoya Corporation. On 1 October 2011, Hoya sold the Pentax camera business to Ricoh Company, Ltd. Although Hoya has sold Pentax's camera business, it will continue to use the Pentax brand name for the medical products such as endoscopes.

Such commitments should mean something in practice. But then looking at how they implement it down their supply chain, none of the researched companies have included freedom of association or collective bargaining fully in their supplier requirements. Samsung does require its suppliers to sign a commitment letter to the EICC Code in which freedom of association is included – but this is weak wording and collective bargaining lacks⁷¹. And Olympus and Nikon do require their suppliers to respect employee rights to organize as a means to enable employer-employee interaction but collective bargaining is lacking.

Except for Samsung endorsing the EICC code, which has a cap on working hours (and which is not undisputed by makeITfair), all other codes of the camera companies refer to local laws regarding minimum wages and maximum working hours, and do not take into account existing ILO standards. This is problematic in countries where minimum wages levels are too low for a basic living standard – as in the case of Vietnam where the inflation rate is high, nearly 12% in 2010, and where minimum wage increases did not keep pace with the inflation rate. It is therefore important that multinational companies include international standards on living wages and working hours in their codes of conduct.

This contrasts with the companies’ extensive environmental policies and Green Procurement Policies which exceed Vietnamese law requirements. All researched companies work with the ISO 14000 certifications and many integrated them in their supplier requirements. Also management systems on chemical substances are not based on national requirements but on global policies (and European laws). The researched – mainly Japanese – companies are strong in their environmental policies and implementation methodologies and they have set meaningful targets related to minimizing environmental impact, waste reductions, CO2 reductions, and water reduction without referring to national laws. If companies are prepared to do more than legally obliged by national laws in relation to environmental standards, it begs the question as to why it is not possible in relation to labour standards.

Digital camera company	Freedom of association and collective bargaining in their code of conduct and/or CSR policy?	Inclusion of Freedom of association and collective bargaining in their supplier requirements?
Olympus	The Olympus Human Rights and Labour policy states: ‘Olympus respects the rights of workers to organize in labor unions in accordance with <i>local laws and established practice</i> ’. As signatory of the Global Compact, Olympus is committed to ‘uphold the freedom of association and the effective recognition of the right to collective bargaining’.	Partly. Olympus Group Request to Suppliers: ‘Employee rights to organize shall be respected as a means of enabling labor/management consultation regarding the working environment, wage levels and other issues’.
Sanyo	Under the heading ‘fair employment’ (not part of a code of conduct) is stated: ‘in addition to observing the relevant laws and regulations in each country concerned, Sanyo respects the intent of the UN’s United Universal Declaration of Human Rights and	No: it only mentioned ‘ <i>observing all relevant laws and regulations and respect social norms</i> ’.

⁷¹According to makelfair, the weakness of the EICC code related to freedom of association is that it says yes to the concept but ‘in accordance with local laws’ which is contra productive in a country such as Vietnam.

	the ILO's International Labour standards'. ⁷²	
Samsung	EICC code: 'Open communication and direct engagement between workers and management are the most effective ways to resolve workplace and compensation issues. Participants are to respect the rights of workers to associate freely, join or not join labour unions, seek representation, join workers' councils in accordance with local laws. [...]' Samsung's Human Rights and Labor Policy however states that: ' Samsung strives to provide superior working conditions relative to its peers so that employees do not feel the need for a labor union'.	Partly. Suppliers have to sign a commitment letter to the EICC Code, which means that freedom of association is included (however in weak wording) but collective bargaining totally lacks.
Pentax (Ricoh)	The text of the Hoya Code of Conduct was not available.	No.
Nikon	As signatory of the Global Compact Nikon is committed to 'uphold the freedom of association and the effective recognition of the right to collective bargaining'. The Nikon Code of Conduct itself does not elaborate on freedom of association and collective bargaining, it only states: 'we comply with laws and regulations related to labor [...]'	Partly. On freedom of information it says: 'We expect our Procurement partners to respect employees' right to association as a means to affording employer-employee interaction to discuss such issues as the work environment, wage level, and other matters pertaining to work.'
Fujifilm	The Fujifilm Group code of conduct states that they: 'respect and protect basic labor rights, including workers' rights to organize and bargain collectively and we do not infringe on such basic labor rights'.	No. 'The Procurement Guideline is quite limited, only stating on labour standards that 'suppliers shall strive to respect diversity, individuality, and differences of their employees to promote safe and comfortable workplaces'.
Canon	The Charter of Corporate Behavior of Nippon Keidanren says only this: 'Engage in dialogue and consultation with its employees and their representatives in good faith'.	No. The Request for Suppliers is quite limited, stating that suppliers have to 'Comply with all applicable laws and regulations. (Human rights, labor, safety and health, and so on)'

Source: based on the publicly available CSR policies and questionnaire.

Olympus:

Olympus says on its website it has principle three of the Global Compact integrated into its Human Rights and Labor Policy. Principle three states: 'Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining.'⁷³ However, due to the addition of '*in accordance with local laws and established practice*', the phrasing of the policy is much weaker and clearly not in line with Olympus' membership of the Compact.

⁷² See <http://panasonic.net/sanyo/environment/en/society/employee/employee01.html> .

⁷³ Olympus Global's website, CSR activities section," Web Detailed Materials 2010 Edition: Comparative Table of the Ten Principles," see <http://www.olympus-global.com/en/corc/csr/wdata/2010/philosophy/globalcompact/table.html> .

Samsung:

As member of the EICC, Samsung has adopted the EICC Code. The EICC Code however has serious shortcomings related to freedom of information and lacks any mention of collective bargaining. Next to the EICC Code, Samsung has formulated a Human Rights and Labor Policy. In this policy the following is included about trade unions: *'Samsung Electronics strives to provide superior working conditions relative to its peers so that employees do not feel the need for a labor union'*.⁷⁴ Samsung is clearly not in favour of trade unions. Instead of unions Samsung prefers bodies such as labour councils, Great Work Place Committees or safety councils that serve as a forum for dialogue between management and workers.⁷⁵

For the implementation of the CSR requirements for suppliers, Samsung submitted the CSR agreement to 542 business partners;⁷⁶ 356 partners returned the EICC self-assessment questionnaire, 367 partners had an onsite audit carried out by Samsung on the CSR implementation, and companies with a high score on the assessment were given incentives as a way of promoting CSR.⁷⁷

Nikon:

As a signatory of the Global Compact, Nikon is committed to 'uphold the freedom of association and the effective recognition of the right to collective bargaining'. Nikon's CSR Guideline for Procurement Partners elaborates extensively on various labour standards, and even includes paragraphs on working hours and wages, which is exceptional among this group of companies. The paragraph on freedom of association, however, tones down the content of the Global Compact by saying that: 'We expect our Procurement partners to respect employees' right to association as a means to affording employer-employee interaction to discuss such issues as the work environment, wage level, and other matters pertaining to work', and 'respecting the employees' right to association means to give *consideration* for freedom of association, freedom to participate in labor unions in accordance with the labor laws', [etc...].⁷⁸ This means again that the local labour law prevails over the international standards, while the latter offer better protection.

Canon:

Canon endorses the Charter of Corporate behaviour as formulated by The Japan Business Federation (Nippon Keidanren). This charter is interesting for its inclusion of the responsibility of a company to contribute to the sustainable development of a country: *'Recognizing linkages between the growth of their business and the development of society, members should conduct business activities from a comprehensive viewpoint, encompassing economic, environmental and social aspects for the creation of a sustainable society.'* This is also in line with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles for Business and Human Rights. This shows a broader vision than just complying with local laws. It is transparent of Canon to make the self-assessment questionnaire for green procurement for suppliers publicly available on its website.⁷⁹ The table shows how freedom of association and collective bargaining are included in the codes of conduct and supplier requirements of the selected digital camera companies. Despite the fact that some companies have committed themselves to CSR business initiatives such as the EICC and Global Compact, their own CSR policies on labour subsequently tones down the principles to which they have committed

⁷⁴ See http://www.samsung.com/us/aboutsamsung/sustainability/talentmanagement/download/Labor_and_Human_rights.pdf.

⁷⁵ Samsung CSR report 2010, p.73.

⁷⁶ This is called the 'Declaration of Compliance with Samsung Supplier CSR Code of Conduct', 2009. In this declaration suppliers are requested to comply with the Code of Conduct enacted by the EICC, to submit the self-assessment questionnaire, to cooperate with Samsung or third party auditors and to actively take part in education activities related to social responsibility management systems organized by Samsung.

⁷⁷ Samsung CSR report 2010, p.73.

⁷⁸ Nikon Procurement Partner Guidelines, p.20, see http://www.nikon.com/about/info/procurement/pdf/csr-guideline_e.pdf.

⁷⁹ See <http://www.canon.com/procurement/green03.html>.

themselves. And when we look at supplier requirements we see that freedom of association and collective bargaining are even further toned down, and often not even mentioned.

6. PRACTICE: FINDINGS ABOUT THE FACTORIES

6.1. THE FACTORIES AND THEIR SURROUNDINGS

Slightly more than half of the interviews were conducted in the southern zones where the workers were identified by their uniforms since most of them live in rented hoses scattered around the area. The majority of the interviewed workers are women.

MakeITfair's researchers were told that the employers prefer female workers because of their skilled hand labour⁸⁰ and their willingness to work overtime. Even though the factories differ in size, the products manufactured and the daily life of the workers interviewed is similar. They are young, come from rural areas, live in shared rented rooms and work long hours.

Most of the industrial zones do not allow residential buildings, except from dormitories. Where factories do have dormitories, they are not very popular because of the lack of freedom and cultural activities. The high number of migrant workers from other provinces leads to many housing problems in the areas surrounding the zones. Accommodation is often poor quality, with small rooms, insanitary conditions and relatively high rents.⁸¹



In 2008 the Olympus factory – **Olympus Vietnam Co. Ltd** – in Dong Nai province started to manufacture digital camera lenses and parts for cameras, and medical equipment for the parent company Olympus Japan.⁸² The 20 interviewed female workers, migrants from other provinces, were in general open and willing to talk even though they had never before been interviewed.

⁸⁰ Interview with Mrs Do Thi Thuy Huong, Director of Planning of Investment, Vietnam Electronics and Informatics Joint Stock Corporation (VEIC) and VEIA's representative in SWITCH-Asia, 20 May 2011.

Interview with Mr Tran Khan Tuan, General manager, Pentax Vietnam, 21 May 2011.

⁸⁰ See <http://english.thesaigontimes.vn/Home/travel/movies/1426/>.

Sanyo's factory – **Sanyo DI Solutions Co. Ltd.** – is located 15-minutes' drive from the Olympus factory in another industrial zone in the Dong Nai province outside Ho Chi Minh City. Sanyo DI was established in 2004 and produces digital cameras both for its parent company and as an Original Equipment Manufacturer for other brands. One worker also said she has noticed the names of some other brands on the production line, e.g. Nikon and Olympus. None of the interviewed workers knew where their products are exported to. The parent company Sanyo has merged into Panasonic and according to the workers the factory might be renamed or reorganized during 2011. The merge with Panasonic seems to have created tension on the factory floor. Only 3 out of 23 workers reported that they heard from their supervisors that Sanyo had been sold to Panasonic and that not all workers will be retained by the new owner. Many workers said that they felt unsure about their future and future salary levels. Before the Tet holidays in January 2011 they went on strike to demand a salary increase.

Meanwhile the factories investigated in northern Vietnam were located in industrial zones but differed from each other. Pentax lens factory – **Pentax Vietnam** – has been based outside Hanoi for sixteen years. Since opening in 1995, Pentax VN has manufactured mainly interchangeable lenses for Pentax brand SLR cameras and CCTV lenses. In recent years, digital compact camera lenses and mobile phone camera lenses have been added to its product lineup, making it a main production base for Pentax lenses.⁸³ Even though there are migrant workers among the 1,000 employees in the factory, many of them have worked with the factory for several years. The factory is not far from Hanoi city centre, unlike the Samsung factory at Bac Ninh city, 40 km north east of Hanoi.



The management of Pentax was very cooperative with the interview and factory visit.

Samsung Electronics Vietnam Co. Ltd. (SEV) with its 12,000 workers and a total area of 100 hectares, it is by far the biggest plant in this study. It is a member of Samsung group and specializes in

⁸³ See <http://www.pentax.co.jp/english/news/2006/200604.html>.

manufacturing mobile handsets and other electronics.⁸⁴ The 20 interviewed workers all stayed in rented houses in the Yen Trung commune, approximately 25-35 minutes walking distance from the factory. As the production facility began to operate in May 2009, the average length of service is relatively short – around 7 months.⁸⁵ Asked about their work in the factory, 20% of the workers interviewed reported that working the night shift was most agreeable since the day shift supervisors were keeping watch on the workers more closely. Samsung commented on this that surveillance is not one of the tasks of the management and that the overtime payment of 30% may contribute to this preference.⁸⁶

6.2. HEALTH, SAFETY AND ENVIRONMENT

6.2.1 WORKING CONDITIONS UNDER INVESTIGATION

Hazardous working conditions in the electronics industry have been confirmed by the Vietnamese authorities. The Ministry of Labour, Invalids and Social Affairs (MoLISA) has identified problems with standing operations with no chance to sit down, working with chemicals, high working pressure and monotonous work.⁸⁷ During 2011, deeper research on hazardous working conditions in the electronics sector is being done by the Institute of Labour Science and Social Affairs (ILSSA) under MoLISA.

At Olympus some workers complained they have to stand all day at work, which makes their legs swollen. Most of the interviewed workers also reported that they must limit their toilet breaks since the company provides only one card per line (approximately 25 workers) for visiting the toilet. Meaning that only one person per line can visit the toilet at one time. In response Olympus explains that standing is a standard working style in manufacturing industry regardless in Japan, China, Vietnam or elsewhere. It normally takes time for workers in this industry to get accustomed to such work. Further, Olympus explains that it does not limit workers' toilet access. The company prepares a card for each line for visiting the toilet in turns in order to prevent many workers from visiting the toilet at the same time, which will make the line production unable to continue. If the number of cards is not enough at a particular point of time, a worker can borrow a card from a neighboring line and he/she is allowed to visit the toilet upon consent of his/her supervisor.⁸⁸

6.2.2 UNKNOWN CHEMICALS

Work involving handling chemicals was raised as a problem among the workers interviewed at Samsung and Sanyo. According to the workers at Samsung, their colleagues at the coating and mixing section complained a lot about air quality and paint smell. They said that the smell in that area is strong and “terrible”. But the workers were not aware of which specific chemicals are in use. They reported that they did receive safety training and personal protective equipment including chemical masks they must use while working. Besides gloves, protective clothing and shoes, workers in the mixing section are asked to use special solvent masks and workers in the control section use activated charcoal masks which are provided by the factory on a weekly basis (this is monthly according to Samsung). There is an automatic exhaust ventilation system in these sections.

⁸⁴ See http://www.samsung.com/vn/news/newsRead.do?news_seq=15403&page=1.

⁸⁵ See reaction by email on the draft of this report from Samsung Headquarters by Erik Johannesson, Senior PR Manager, dated 28 October 2011.

⁸⁶ Email Samsung Headquarters, 28 October 2011

⁸⁷ Interview with Ngo Van Hoai, Center for Environment and Working Conditions, Institute of Labour Science and Social affairs, 20 May 2011.

Embassy of Denmark, Hanoi, “Environmental pollution in industrial zones raises alarm,” 31 March 2011, see <http://www.ambhanoi.um.dk/en/menu/AboutUs/News/News+Archives+2010/EnvironmentalPollutionInIndustrialZonesRaisesAlarm.htm>.

⁸⁸ See reaction by email on the draft of this report by Olympus, provided by Masami Yazaki, General Director, Olympus Vietnam Co. Ltd., 30 October 2011.

“Inside the workshop, the air is so polluted and the paint smell is so terrible, but the manager said that it is not harmful. The factory is slow to resolve worker’s complaints about the polluted work environment.

Worker from coating and mixing section at Samsung

In its comment on the draft report, Samsung points out that a review in May 2011 measuring the handling of 27 chemicals used across work processes, including coating and mixing, demonstrated that the hygiene standards exceed Vietnamese legal requirements and international criteria. And that the coating and mixing areas of the facility feature local ventilation in addition to an overall ventilation system for the factory. Samsung offers every new employee safety training, including information on hazardous chemicals. For employees involved in the mixing process there are additional training sessions each month. Material Safety Data Sheets are available at the worksite to ensure employees have full access to information on the chemicals used in all processes. Samsung provides medical check-ups for all employees – the employees handling chemicals are checked twice a year. There is a safety and health committee composed of employee representatives and they meet every quarter with the head of the Vietnam subsidiary to discuss health and safety issues. Additionally Samsung installed a suggestion box for all employees to address issues.⁸⁹

None of the interviewed workers at Sanyo worked with chemicals but several said there was a solvent used in the cleaning department. However none of them knew the name of this solvent. They had heard that some workers had decided to leave the job because of the heavy smell of the solvent. They also said that all workers are provided uniform, mask and gloves free of charge.

6.3. DISCRIMINATION ISSUES

Vietnam has pro-worker legislation but the law is not well-enforced and national systems to address discrimination are fall short of their aim. However, the problem is that most workers are new from rural areas and they have limited knowledge about their rights and entitlements when they take a job in the factory. They also have limited access to information regarding update policies on their work and life, according to Ms Huong, Director of The Center for Development and Integration (CDI), dealing with labour issues and awareness raising on corporate social responsibility. In conducting worker interviews, Global Standards found a very low awareness about rights at work and that most workers were not aware of discrimination as an issue. Since the majority of the workers interviewed were women, pregnancy and maternity leave came up.

6.3.1 PREGNANCY

If a worker gets pregnant while on a definite term contract (6-months), the company will not renew the contract when it expires, the workers at Olympus reported. Most workers said they were aware of this practice. One worker at Olympus reported that there is gender discrimination against women. She reported that male workers will usually sign an initial one year labour contract after one month of training, while female workers are only offered an initial contract for six months, followed by a one year contract.

Offering female workers a 6 month contract creates a dilemma when it comes to maternity benefits. To be entitled to maternity leave benefits a female employee must contribute to the social insurance fund for at least 6 months during a 12-month period prior to her delivery. But with 6 months contracts the workers cannot qualify.

The female worker at Olympus also said if they get pregnant during either of these contracts, they will not be renewed according to most workers interviewed. In response, Olympus states it does not base its

⁸⁹ See reaction by email on the draft of this report from Samsung Headquarters by Erik Johannesson, Senior PR Manager, 28 October 2011.

decision to renew or not renew indefinite-term labour contracts based on whether workers are pregnant or not – the company only considers if a worker can fulfill their job as specified in their employment contracts. Therefore, if a pregnant worker is thought unable to fulfill the job as specified in her employment contract, the company may not renew her contract. According to Olympus, the employment policy of the company does not discriminate against employees on any basis, including gender; it was only due to a management mistake that the first employment contract of some male workers was for one year (instead of 6 months as for other workers), it does not reflect the company's standard policy. The company is currently considering standardizing the contract term in initial employment contracts to be one year for all employees. Such new term is planned to be effective from December 2011.⁹⁰ If Olympus proceeds to change to 1 year contracts also for female workers this will entitle them to maternity leave benefits and avoid the dilemma that happened to the female worker in the following case.

⁹⁰ See reaction by email on the draft of this report by Olympus, provided by Masami Yazaki, General Director, Olympus Vietnam Co. Ltd., 30 October 2011.



STORY OF AN OLYMPUS WORKER (ANONYMOUSLY CALLED TN)

TN was born in 1988 in Thanh Hoa province, in northern Vietnam. She married when she was 19 years old and had two daughters (4 and 2 years old). Her husband works as a construction worker and dreamed of having a son. Previously TN had worked as a maid, serving coffee, before she finally found stable employment as a production helper at Olympus.

She started working at Olympus in 2010 on a one-month training contract. After this, she signed a six month contract with the company.

Although she did not know it at the time, she was already pregnant with a baby boy when she started working at Olympus. She believes she was lucky that the factory did not detect her pregnancy or she would not have got the job and been given a 6-month contract.

However, soon after she signed, she realized she was pregnant as her condition began to show. In April 2011 she delivered a healthy baby boy, but her joy was tempered by the fear that she would likely lose her job. Since she was employed full time at the factory, she was able to receive treatment under the government medical insurance program, which covered most of the delivery costs for her baby.

After delivery she stayed at home in her small rented room, taking care of her newborn son, and waiting. She did not know what would happen at the end of her 4 months' maternity leave. She had sent all her documents to the factory to claim her maternity benefits.. Her 6-month contract was finished but TN kept her hope that Olympus would renew her contract and allow her to return to work so she can take care of her family.

TN was rehired at the factory from July 2011 but she did not receive any maternity benefits.

In reaction to this story, Olympus clarifies that according to the law⁹¹ on social insurance, in order to be entitled to maternity leave benefits, one of the conditions is that the female employee must contribute to social insurance fund for at least 6 months during the 12-month period prior to her delivery. This is not the case with this female worker and therefore she was not entitled to receive maternity benefits from the social insurance authority. Under this situation, Olympus collaborated with the labour union to collect donations to help her.⁹²

Workers who become pregnant at Sanyo's factory are allowed to sit in the office and do lighter jobs. Twelve out of 23 interviewed workers said that the factory allows pregnant workers to work shifts if they agree and volunteer. One worker said she knew of one case where a pregnant worker was not allowed to move from nightshift to dayshift.

At the other factories no cases of clear discrimination were raised. At Samsung the workers did not know exactly what the policies are for pregnant women. Female employees are entitled to prenatal and postnatal leaves and female employees performing heavy work, on reaching her seventh month of pregnancy, shall be transferred to a lighter work or have the daily working time reduced by one hour but still receive full wage.⁹³ The workers were also unsure about when their social insurance books would be returned to them after leaving their jobs.⁹⁴ According to the interviewed workers at Samsung, female workers who get pregnant can continue to work until their maternity leave and they can still come back to work after their leave. During pregnancy, until their child is one year old, they are not requested to work overtime or work the night shift (as per law).

6.3.2 INDICATORS OF AGE DISCRIMINATION

Olympus' hiring policy targets women aged 18–35. Only hiring those under 35 constitutes age discrimination, even if age discrimination is not legally enforced. Olympus' response to this is that it is a common practice in Vietnam that a recruiting advertisement includes an age condition.⁹⁵



Hiring announcement posted at factory

Hiring announcement from website:

<http://vieclamtiengiang.vn/Content.aspx?id=MgAAADMAAAA3AAAA>

⁹¹ The Law on social insurance, Article 114 of Decree 152/2006/NĐ-CP and Article 1, Section II of Circular 03/2007/TT-BLĐTBXH on implementing the Law on social insurance.

⁹² See reaction by email on the draft of this report by Olympus, provided by Masami Yazaki, General Director, Olympus Vietnam Co. Ltd., 30 October 2011.

⁹³ Legal reference on the policy for pregnancy. Article 114 & 115 of the labor code.

⁹⁴ Social Insurance Law – Article 109: “Social insurance books shall be granted to individual labourers for monitoring the payment and enjoyment of social insurance regimes and serve as a basis for settlement of social insurance regimes under the provisions of this Law. The form of social insurance books shall be set by the social insurance organization.”

⁹⁵ Email Olympus, 30 October 2011.

Interviewees said the Olympus factory would check their application forms, original ID cards and conduct interviews. For hiring interviews, workers are asked about their age, age of children, if they can work overtime and do shift work. The factory conducts a health check within one week of the worker joining. Workers are taken for a medical examination at the Dong Nai Province Hospital (government) for a blood test and urine tests. Workers do not really know what the tests are for, but they said if any worker is found to be pregnant she will not be hired by the factory. Olympus responded to this by stating that under Vietnamese labour laws, companies are required to conduct health checks for all employees at least once a year. Therefore, Olympus conducts such health check when hiring employees. Olympus also believes that conducting a health check when hiring employees is for the benefit of employees.⁹⁶

6.4. WORKING HOURS

According to both local and international NGOs working on labour issues in Vietnam, the general impression is that labour conditions in the electronics sector are better than, for example, in the garment industry. The workers in the electronic sector are usually happier because the working conditions are less tense and cleaner than when producing garments or shoes. Electronics companies do not require such long working hours as those in the garment industry and the wages are generally higher.

However, working hours are an issue for the workers interviewed. Either they want to work more overtime to make ends meet or they complain about having to work for months without a day off.

The conclusion makeITfair draws from the answers is that too much overtime is not a problem in general at all four factories. But these results may well reflect the situation in factories producing cameras – and it is unclear if they are representative for the electronics sector as a whole. Digital cameras are not in the same high demand as the best selling mobile handsets and computers, production of which may involve higher pressure. This is confirmed by the case of Samsung, which produces mobile phones and where workers witness frequent overtime in all seasons.

Samsung: Frequent overtime

At SEV 75% of workers interviewed confirmed they usually work overtime all year round, so they can earn more and save more to send back to their family. However, this happens so often they do not have time to take care of their health or socialize. On average they generally work 2 hours per day overtime, but during peak times the workers have to work 4-5 hours overtime every day, Monday to Sunday. Workers also reported that it is difficult to refuse to work overtime, even if they have other plans or do not want to work. On those days, the manager often stands in front of the door to monitor the workers leaving the factory. If the workers cannot give a reasonable reason for refusing to work overtime they are told to continue working so that their production line can continue operating. In order to be able to leave, some workers tell managers that they have to attend birthdays or weddings.

Samsung commented on this by explaining that Samsung operates a '44-hour week system' which is less than Vietnam's legal 48-hour working week. They have a bi-weekly Saturday off system. At least one day off per week is provided in principle, announced to employees in advance. When manufacturing output requirements necessitate overtime, each manager announces this in advance to minimize negative impacts to employees' schedules. Employees are asked to volunteer when overtime is required on Sundays and there is no penalty for employees who do not volunteer for overtime. Samsung emphasized that it is inaccurate and exaggerated that employees leaving without doing overtime are monitored by the management and employees did not receive any rest days for several months.⁹⁷

⁹⁶ Email Olympus, 30 October 2011.

⁹⁷ See reaction by email on the draft of this report from Samsung Headquarters by Erik Johannesson, Senior PR Manager, 28 October 2011.

Pentax: Less paid on Saturdays in low season

Workers do some overtime at Pentax but mainly in the second half of the year (from July to December), totalling 70–80 hours per month or 18–20 hours per week. From January to June their daily working hours are usually 8am–5pm. Workers sign no agreement or form for overtime, and overtime work is usually announced a half day to one day in advance. During peak production season, it is difficult to refuse overtime, but in the low season, workers can refuse if they want. All workers reported that they are normally allowed four Sundays and two Saturdays off per month. But in low season they often get four Saturdays off, and are paid 70% for those two days. According to Pentax this is in line with the law,⁹⁸ however, looking at labour code article 62, it seems that workers are entitled to the full wage.⁹⁹ If workers want to have a day off, they need to make a written request at least one day in advance, but in urgent situations they may call their supervisor for permission.

Olympus: Shifts changed on short notice

Workers report that the factory has a voluntary overtime system. When there is overtime, the line leader invites workers to sign the overtime registration sheet if they agree to work overtime, otherwise they can leave freely. Normally overtime is only available during peak season when workers may work 12 hours per day for four consecutive days and then they take the next two days off. Workers complained that the factory often changes their shifts on short notice, making it difficult for them to arrange their work and free time. There are no indications that workers don't get the proper overtime pay. In its response, Olympus says that it makes efforts to notify workers as early as possible. However, due to market changes, alterations to the production plan are usually unavoidable and unpredictable. Therefore, notification time might not have been as long as the employees would want.¹⁰⁰

Sanyo: Too little overtime creating worries

The factory's operating schedule is five days per week, i.e. weekly rest days are Saturday and Sunday. The factory pays time and a half for working on Saturday and double time for working on Sunday. Last year there were few orders, so workers worked less overtime. Just after the Tet (Lunar New Year) holidays in February workers must work overtime of 2 to 4 hours per day. Workers generally work 8.5 hours a day. Those who work in shifts may work overtime four hours per day, i.e. from 5.15am–4.30pm or from 1.15pm–9.30pm.¹⁰¹

Each worker is entitled to 12 days annual leave per year. If workers do not use all these days, the factory will pay them in cash in April the following year. Most workers confirm that they are clear on the policy and they can use their leave easily, without any restriction.

It is easy to ask for leave in Sanyo's factory, workers just need to send an application one day in advance to ask for leave, or even call the leader if they cannot come to the factory. However, it is hard to refuse overtime during week days. There is no system for workers to refuse overtime. If the factory has a

⁹⁸ See reaction of Pentax by email to the draft of this report by Ryu Aratama, 27 October 2011.

⁹⁹ Labour Code, Article 62: "In cases where the employee has to cease working, he shall be paid as follows:

If due to the fault of the employer, the employee shall be entitled to payment of the full wage;

If due to the fault of the employee, that employee shall not be entitled to payment of wage; other employees in the same unit who have to also cease work shall be paid wages agreed on by the two parties provided that those wages are not less than the minimum wage;

If there is a breakdown in electricity or water through no fault of the employer, or due to reasons of force majeure, the level of wages shall be agreed on by the two parties but shall not be less than the minimum wage.

¹⁰⁰ See reaction by email on the draft of this report by Olympus, provided by Masami Yazaki, General Director, Olympus Vietnam Co. Ltd., 30 October 2011.

¹⁰¹ See <http://vietbao.vn/Xa-hoi/Dong-Nai-1.800-cong-nhan-dinh-cong/45240346/157/>.

schedule to work overtime on Sunday, workers are free to stay at home if they do not want to work. All workers said they did very little overtime last year, therefore they never refuse overtime.

6.5. SHORT-TERM CONTRACTS AND INSECURE EMPLOYMENT

The Vietnamese labour law provides three types of contracts:

- Indefinite contract
- Fixed-term contract of 1–3 years
- Contract for seasonal work or a specific task of less than one year's duration.

Source: Vietnam Labour Code (LC)/ILO

The workers interviewed at Pentax had labour contracts signed only for one year even though many had been working in the factory for up to six years. This practice is against the local labour code,¹⁰² requiring companies to sign an indefinite term contract after two short-term contracts. Furthermore, most workers at Pentax do not receive a copy of their contract (19 out of 21 workers were not given a copy of their work contract). Pentax states the length of contract is definitely stated on paper.¹⁰³

According to Ms Huong, Director of labour organization CDI, Labor disputes often relate to labor contract and terms and conditions. Workers are more vulnerable at disputes because of the weak status of their contract and her experience is that they also have problems in claiming the unemployment insurance because of the contract status or because of no valid labor contract.

In rare cases, the labor disputes of individual workers are brought to court because the practice in Vietnam often consider the reconciliation between the workers, the trade union and employers before bringing the case to court

At Olympus, workers like their jobs and would like to work long-term with the company but they are uncertain about their near future at the factory. The company generally posts a list of workers whose contracts (fixed-term, seasonal or probation) will be renewed just one week before the date their contract expires, making their future employment status uncertain. Workers who are not listed for renewal must leave when their contract expires and they generally do not know why their contracts were not renewed. Olympus responds to this by saying that it has made an effort to notify the workers of the renewal decision as early as possible before the expiry date. The decision whether or not to renew employment contracts is based on the evaluation of workers performance and attitude.¹⁰⁴

Labour contracts with a definite term of one to three years are very common and becoming a problem according to Yoon Youngmo, ILO Chief Technical Advisor, Vietnam IR Project. The analysis he gives is that short contracts create a vicious circle of low productivity and high turnover rates. Because of low wages, workers keep looking for new contracts. This leads to high turnover rates and no seniority – essential for improving an individual's salary and productivity – is built up.

¹⁰² Labour Code, Article 27: "2. When labour contracts stipulated at Points b and c, Clause 1 of this Article expire but the labourers still continue working, within 30 days after their expiry, the two parties must sign new contracts; if new labour contracts are not signed, the old contracts shall become labour contracts with indefinite terms. Where the two parties sign new labour contracts which have a definite term, such labour contracts shall last for only one more term, then if the labourers continue working, the two parties must sign labour contracts with indefinite terms. 3. Labour contracts for seasonal jobs or specific jobs for terms of under 12 months must not be signed for regular jobs lasting for 12 months or more, except for the cases of temporary substitution of the labourers who are called up for military service, take maternity leave or other temporary leaves."

¹⁰³ Source: reaction of Pentax by email on the draft report, Ryu Aratama, email dated 27-10-2011

¹⁰⁴ See reaction by email on the draft of this report by Olympus, provided by Masami Yazaki, General Director, Olympus Vietnam Co. Ltd., 30 October 2011.

6.6. LOW AWARENESS OF THE CODE OF CONDUCT

The workers interviewed at all four factories reported that none had been interviewed before by any auditor, either from the company, the government or third party. It is possible that the workers were inspected but unaware of it. There may also have been external audits where none of the workers in our sample was chosen. But still it is fair to say that worker awareness of their rights, code of conduct issues and audits/inspections from the employer was very low.¹⁰⁵

According to Global Standards, experienced in auditing different sectors, awareness among workers interviewed is much lower than you would expect in garment or footwear factories of the same size. A high percentage of workers in the garment industry would at least know what a code of conduct is, and that they are being audited on it periodically. Some workers said they had seen regulations posted on the wall but could not remember what they said. At Sanyo, one of the workers interviewed was aware of the code of conduct but none of the workers at Sanyo had seen any code of conduct posted in their factory.

Most workers in the south felt fairly free and comfortable being interviewed, although it was a new experience for them. But in the north, workers were more cautious and suspicious. Some new workers wondered if their answers might get back to their employers. Senior workers were more sceptical and doubtful about the impact of this research in improving the situation.

6.7. TRADE UNIONS

Judged on the answers given by the workers in this report, freedom of association, independent unions, complaint mechanisms and collective bargaining are still a long way off. The unions at three of the camera companies mainly deal with social events and welfare and do not seem to see working conditions as within their scope.

When the interviews were conducted in March 2011, Samsung's factory management had long resisted creating a trade union although it is compulsory according to Vietnam's labour law. Workers interviewed said that they did not know why a trade union had not been formed at the factory. Although they wanted a union in the factory they didn't really understand the role and functions of it, but they believed that a trade union would be able to protect them against unfair conduct by the company. However the VGCL Labour Union of Bac Ninh province had been working on the issue for a long time and the Samsung factory finally agreed to establish a trade union in May 2011.¹⁰⁶ Samsung comments on this by saying that there are 4,996 union members in the factory. The union holds meetings with the management every quarter to discuss improvements in the working environment and welfare policy. The results of the meeting are posted on the company bulletin board.¹⁰⁷

« I would love that a trade union will be set up and I will certainly volunteer to join in. »

Female worker at Samsung factory

“We have worked with leaders of Samsung many times. We also put pressure on the company. Finally, the trade union will be established in the coming months, in April or May.”

Representative of Bac Ninh Labour Union

¹⁰⁵ According to Olympus, the government and the union confederation should be the driving forces in improving workers' law awareness and knowledge in general. The company is willing to assist with these efforts if necessary. Source: email from Olympus, 30 October 2011.

¹⁰⁶ See <http://laodong.vn/Tin-tuc/Can-xay-dung-moi-quan-he-lao-dong-hai-hoa/44007>.

¹⁰⁷ See reaction by email on the draft of this report from Samsung Headquarters by Erik Johannesson, Senior PR Manager, 28 October 2011.

At Sanyo most of the workers interviewed were aware of the existence of the trade union in the factory. They also knew that the Chairperson is a woman working in the production department as a supervisor; however none of them could give the name of the woman. The workers said they received applications to fill in and sign to join the union, after which 5,000VND per month is deducted from their monthly salary for union dues.

All workers confirmed they went on a so called sit-down strike before the Tet holidays in January 2011 to demand a salary increase. According to these workers, although the factory management had announced wage increases in accordance with the government's decree on the new minimum wage rate,¹⁰⁸ workers still did not agree with the increased amount and went on strike for two days. During the strike the local labour authorities and the labour union of the province came to reconcile the two sides, but the factory management did not allow them into the factory. Three out of 23 workers reported that the union leader was hit by angry workers because she only "takes side with the management". Workers only came back to work after the factory's General Manager promised to increase the basic salary by 300,000 VND, the Attendance Bonus by 150,000VND and Transportation Allowance by 150,000VND for all workers from January 2011. The workers interviewed were not aware of any collective bargaining agreement.

When makeITfair's researchers visited Vietnam, one of the workers at Sanyo shared detailed information about the strike. According to the worker there is a lot of anxiety among her colleagues because of irregular production and the merger with Panasonic. Over the past three years, orders have not been stable and workers have been asked to take from one to ten days' extra leave because of lack of orders. During this period they are paid their full basic salary according to the Labour Code.

On the day that makeITfair's researchers met the workers, the factory was closed due to delayed delivery of parts caused by the earthquake in Japan. She said workers at the factory had been fired because of the merger with Panasonic and at the same time many of her workmates had, or were planning, to seek new "better" jobs. The worker also described how the most recent strike was carried out. The workers clock in at the factory and then go and sit on the floor or on the ground outside. None of the workers step forward as a leader or spokesperson since they fear reprisals from the management or the police.¹⁰⁹

Enterprise labour conciliation councils are provided for in law. Their mandate includes reconciling both collective disputes and individual disputes. But none of the workers mentioned a functioning labour conciliation council or had experienced any alternative grievance mechanisms. This is an area within the law where companies can work for improvements.

At Pentax VN factory, workers must pay a monthly trade union contribution of about 15,000VND (0.5 euro). Most workers said they think that trade union staff salaries are paid by the employer, so they can not completely stand on the workers' side. The trade union runs several activities for workers, such as organizing a year-end party, holidays, sending gifts on women's day for female workers, and presents for weddings and for new babies.

"About 2 years ago, trade union represented workers to submit a request for salary and meal increases, and these requirements were accepted."

Female worker at Pentax for 4 years

¹⁰⁸ Decree No. 107/2010/ND-CP of the Government, effective since 1 Jan 2011, stipulates that the minimum wage rate applied to FDI enterprises in Bien Hoa City is 1,350,000VND (for the period from January to June 2011) and 1,550,000VND (from July 2011 onward).

¹⁰⁹ Off sight Interview with worker at Sanyo. *Long Thanh Industrial Zone 17 May 2011*

However, some workers interviewed who have worked at the factory for about four years said that the trade union has helped improve workers' lives. However, 20 or 21 workers did not know what a Collective Bargaining Agreement is and said this has not been signed in their factory.

At the Olympus factory, workers said they all automatically become a member of the union and pay union fees of 10,000VND (0.33 euro) every month, although it is *illegal to sign workers up without their consent* – normally workers sign a letter to register with the union. However, workers feel good about belonging to the union because it gives gifts to workers on holidays, at New Year, on trips etc. Workers were not aware of who the union chairman is or whether or not there was a collective bargaining agreement. No strikes have been reported at Olympus. Most of workers stated that co-workers and management are very friendly, and that the Vietnamese manager/leader never scolds workers. They also reported that the Japanese managers are very sociable and friendly.¹¹⁰

6.8. WAGES, COSTS AND LIVING CONDITIONS

Although wages, benefits and living costs vary among workers and between factories, most workers interviewed said that they earn enough to cover the cost of basic needs. But due to recent rising inflation, they find it harder to save money, and expressed concern that their salary cannot keep pace with the rapid rise in living expenses. The biggest dissatisfaction with wages was expressed by workers at Sanyo's factory. They complained that the salary in this factory is very low, but in fact it is in line with the other companies. All companies in the research comply with the applicable law on minimum wages, and the basic wage at all companies is well above the legal minimum.

Overview of wages and benefits as at 1 September 2011

	Sanyo DI Solutions Co. Ltd.	Olympus Vietnam Co. Ltd.	Samsung electronics	Pentax Vietnam
Location	Bien Hoa City, Dong Nai province in south-eastern Vietnam	Long Thanh, Dong Nai province in south-eastern Vietnam	Yen Phong, Bac Ninh in northern Vietnam	Long Bien, Hanoi in northern Vietnam
Products	Digital camera	Digital camera lens and parts for medical endoscopies	Mobile phone	Digital compact camera lenses and mobile phone camera lenses
Capacity/ month	5 million pcs	10 million pcs	6 million pcs	1.6 million pcs
Labels produced	Sanyo, Nikon, Olympus	Olympus	Samsung	Pentax
Number of workers	1,000	2,000	12,000	1,000
Legal monthly minimum in Region 1 (in 1,000 VND)	1,350 1,550 from July 2011	1,350 1,550 from July 2011 ¹¹¹	1,350 ¹¹²	1,350

¹¹⁰ Olympus clarifies that the management and labour union meet once a month to discuss improvement of the working environment. Currently, the labour union automatically enrolls employees as members of the union upon employment. The employees can refuse union membership if they want but no complaints have been raised against the enrolment. Source: Olympus email, 30 October 2011.

¹¹¹ Olympus adds that it has a salary review policy which takes inflation and market prices into consideration. The company believes that inflation and arguably corresponding insufficient wage increases are issues of macro-economic nature, impacted

Basic wage (in 1,000 VND)	1,650 – 1,950	1,659 – 2100	1,850	1,550 – 1,950
Bonuses (in 1,000 VND)	Attendance 250	Attendance 150	Attendance 150	Attendance 180
Allowances (in 1,000 VND)	Transport 250	Transport 250 – 450	Housing 150 Skill allowance 200 and transport 100 ¹¹³	Housing 200 Skill allowance 50 – 100
Av monthly income (in 1,000 VND)	2,200 – 2,500	2,500	2,200 – 2,700	2,200 – 2,700
Housing costs (in 1,000 VND)	500 – 800	450 – 550	500 – 650	600 – 1,000
Food costs (in 1,000 VND)	500 – 700	500 – 600	500 – 600	500 – 700
Wages and benefits	Not enough for living costs according to workers.	Living wage: Most workers said that they earn enough to live, meet the cost of basic needs. For single workers, they send between 500 and 1,000VND back to families in the countryside.	75% of the workers confirmed that they work overtime to save more to send back to their family. Many workers interviewed complained that wages are too low compared with the high cost of living. Wanting to look for a new job with higher salary.	The basic wage for least-skilled workers at Pentax VN factory was lower than in SEV, but the total with additional bonuses was higher. So in total, wages in Pentax VN factory and in SEV is not very different. They save only about 25 euros a month to send back to their families in the countryside.

Source: Based on workers interviews reflecting the wages and benefits in April-May 2011.

“Overtime is highly unstable. If there is no overtime one month, I only earn less than 2,500,000VND (83.3 euros), while I must pay 500,000VND (16.67 euros) for housing plus 100,000VND (3.33 euros) for electricity every month. It is not enough to live on. That is the reason why so many workers have left the factory to find a higher salary,” said one female worker at Sanyo.

by overall performance of the economy of Vietnam. The company by itself cannot resolve this problem satisfactorily for all employees. Source: Olympus email, 30 October 2011.

¹¹² Samsung commented on the table that the salaries are incorrect. Because of the fact that consumer prices increased more than 20% during 2010, Samsung increased the remuneration three times in 2011 (in February, April and September). This table is based on workers interviews held in April–May 2011 and therefore the increased remuneration during the year by Samsung is not reflected in this table. Samsung indicated that in October 2011 the legal monthly minimum was 1,780,000VND and the basic wage at Samsung amounts 2,500,000VND.

¹¹³ These amounts for the allowances are not based on the workers interviews but on the comments provided by Samsung.



Interviewing workers off-site has also given a good picture of their living conditions. The Samsung workers visited lived three people to a room measuring around 8–12m², with a shared, separate toilet. Depending on the number of rooms, there are one to four toilets. The cost of renting a house in the village around the factory is quite high so that is why workers generally share a room with one or two others. There are company dormitories for workers near the factory but these are located quite a long way from the nearest village. Therefore these dormitories are mostly used by supervisors, senior workers and new workers during their training and probation period. Workers living in dormitories have a number of benefits such as expenses for transport between the factory and dormitories, free meals, washing machines and water heaters free of charge. But many migrant workers find the discipline and rules of dormitories inconvenient, with strictly regulated times for bus trips, meals and reporting in. Samsung comments on this by saying that dormitory accommodation is offered to employees as a choice when joining Samsung, and that the dormitory also includes several recreational facilities including a library, internet room, cafeteria and supermarket, and that minimal regulations are set.¹¹⁴

Also Olympus has dormitories for workers, which house workers in rooms shared by six people. The factory provides this dormitory free of charge, including two free meals a day (18,000VND per meal or 0.6 euro). Around 100 workers stay at the dormitory. Most are single and frequently newcomers, who like the dorms because they are safe and free.

“Price for daily living now increases, while wages do not change, so our wage is not enough for living, I want to look for a new job with higher salary.”

Female worker from SEV

¹¹⁴ See reaction by email on the draft of this report from Samsung Headquarters ny Erik Johannesson, Senior PR Manager, 28 October 2011.

“The salary hasn’t been increased yet but the cost of all items has increased a long time ago. Since I went to work, seldom have I been able to save money to send back for my mother.”

Group of women workers

At the Pentax factory many workers feel relatively free compared to other factories. They say so after hearing stories from other workers and room-mates about hardships they have experienced at other factories in the area. When it comes to saving, the workers at Pentax say they can save about 25 euros per month after expenses. The saved money is sent back to their families in the countryside. At Olympus, most workers were satisfied with their salary and most single workers are able to set aside from 500,000VND to 1,000,000 VND (16.67–33.33 euros) to send back to families in the countryside.

“My salary is quite low, it is enough for my minimum needs and I always have to save maximally to send back to my parent and my younger sisters and younger brothers at home.”

Female worker at Pentax VN

“Worker hardly refuse, they always try to work overtime as much as possible.”

Male worker at Pentax VN

6.9. SUMMARY: FACTORY FINDINGS

In general the working conditions at the factories investigated are quite good compared to the conditions makeITfair found in the electronics sector in other countries. MakeITfair wants to emphasize here that Pentax has offered the highest level of transparency to the researchers of makeITfair by providing their full cooperation for the questionnaire on the global CSR policies, management interviews on local policies, the factory visit and their review of the findings in the draft report, which is highly appreciated. Samsung and Olympus also have provided extensive comments.

The choice of digital camera factories doesn’t allow makeITfair to draw general conclusions about the working conditions of all exporting electronics companies in the country. The fact that digital cameras do not experience the same high demand as smartphones and computers probably has an influence on the results related to overtime and work pressure. This theory fits the case of Samsung, which produces mobile phones. At Samsung, workers witness overtime all year round, and sometimes are also forced to do overtime.

MakeITfair’s earlier studies show that excessive overtime is common in most countries producing consumer electronics. This is not the conclusion of this study. Frequent overtime was found only at Samsung’s factory. Workers’ testimonies about the difficulties in refusing overtime, and the negative effect that the long working hours have on their health, are worrying.

With only one legal trade union, all factories are not complying with international labour standards. The major non-compliance issue in this report is the freedom of association and collective bargaining.

The workers’ answers about the wages are mixed, but the overall conclusion is that workers’ income covers their basic needs and allows them to save some money.

But there are indications that justify the need for social auditing. The practice with short-term contracts at the factories causes uncertainty among workers about their future work situation. The insecure working conditions that result from short-term contracts prevent workers from advancing their career and benefiting from the improved wage levels that come with seniority. The practice of short-term contracts can lead to high turnover rates.

There are indications of discrimination against women when it comes to pregnancy. Several workers at Olympus witnessed the companies' practice of giving women shorter contracts than men. Workers' awareness of policies and legislation relating to working conditions while pregnant and maternity leave was also low. Including age requirements in recruiting advertisements seems to be common practice in Vietnam.

None of the 84 interviewed workers had ever been questioned about social issues or workers' rights. The workers had no experience of real collective bargaining and they all described the union as closely connected to the factory management. The information about the sit-down strike at Sanyo (the result of worries about the merger with Panasonic and wages), in combination with an unreachable management, shows the need for improved industrial relations. It is also of concern that the conflict led to the union leader being beaten.

MakeITfair concludes that workers' lack of awareness of the code of conduct shows that the way it is implemented does not comply with international standards, and that workers' training on this issue is not adequate. MakeITfair sees an urgent need for the companies to improve their social dialogue.

7. CONCLUSIONS AND RECOMMENDATIONS

The major finding in this report is the lack of freedom of association and collective bargaining power in the Vietnamese factories. At the international level, ‘soft law’ normative standards such as the revised OECD Guidelines for Multinational Enterprises, and the recently adopted Guiding Principles for Business and Human Rights by the UN Human Rights Council, increasingly places obligations on all multinational companies to protect fundamental labour rights wherever they operate. The government now situates the companies in the difficult position of not being able to comply with the international normative standard for freedom of association because of the country’s restrictive law. This is a joint dilemma for all companies that choose to operate in Vietnam.

With over 400 work stoppages and wildcat strikes in the private sector during 2010, companies, factories, Vietnam’s government and the VGCL have identified labour disputes and a poor industrial relations system as a major problem. The government is already reconsidering its position on core ILO conventions 87 and 98; support for this from the side of multinational companies is welcome.

Foreign investors in electronics are in a position to exercise great leverage on the government; the electronics industry has a high priority in the Vietnamese government’s strategy for strong economic growth but it heavily relies on foreign-invested companies, which account for 95% of the total exports of the sector. Hence, electronics companies **should use their leverage to push the Vietnamese government for better functioning industrial relations.**

At the same time, companies **should act responsibly within the frame of Vietnamese law electronics companies and imitate the current best practices.** In this respect MakeITfair highlights as best practices the Better Work Program of the ILO in Vietnam for the garments sector, and the requirements of leading social certification organization Social Accountability 8000 (SA8000), multi-stakeholder initiatives EITI and Fair Wear Foundation’s. These requirements include the development of parallel means (within the national legislation) of independent and free association and collective bargaining, and request that companies subsequently refrain from interference with workers who choose to exercise these rights. The Better Work Program shows how improvements can be made within Vietnamese law by improving the social dialogue at factories and the opportunity for workers to raise any concerns to the management. The main instrument for this is capacity building – training of workers, unionists, staff and management in cooperation with the companies, the government and the VGCL.

Companies **should contribute to decent work and sustainable development in their host countries.** Electronics companies should not be trying to export poverty wages to Vietnam; decent incomes are central to economic growth and development. Companies should not exploit bad law as an excuse for the artificial suppression of wage costs. The lobby as done by Euro Cham (advising the government against a minimum wage increase and threatening to withdraw investment) is the opposite of what should be done.

Finally, electronics companies sourcing or producing in Vietnam **should have appropriate due diligence processes in place to prevent workers’ rights violations** according to the revised OECD Guidelines and the adopted principles of the UN Human Rights Council. Knowing and showing are the key words for due diligence.

MakeITfair recommends electronics companies the following:

- Bring the company Codes of Conduct and labour policies up to international labour- and human rights standards such as the OECD Guidelines, the UN Principles on Business and Human

Rights and ISO 26000. The Code of Conducts and supplier requirements should include the ILO conventions 87 and 98 on freedom of association and the right to collective bargaining.

- Carry out assessments of risks and opportunities from a human rights perspective to gain information that makes it possible to proactively address concerns and opportunities.
- Increase the awareness on the Code of Conduct among workers and provide training on workers' rights and responsibilities and the benefits of genuine workers' representation.
- Start auditing factories and link order placement to audit results.
- Establish genuine grievance mechanisms for the workers.
- In an country where promoting workers' rights is risky, the company has a role in creating an safe environment in which workers are not afraid of punishment for organizing to defending their rights.
- Improve dialogue and capacity building aiming on long term partnership with suppliers.

APPENDIX: COMPANY OVERVIEW

Digital camera company	Olympus	Sanyo Electric Co. (Panasonic)	Samsung	Pentax (Ricoh)	Nikon	FujiFilm	Canon
Headquarters	Japan	Japan	South Korea	Japan	Japan	Japan	Japan
Responded to makeITfair questionnaire?	no	no	yes	yes	yes	yes	yes
Cooperation for management interview and factory visit?	no	no	no	Yes, both management interview and factory visit in Vietnam	no	no	no
Production of digital cameras in Vietnam?	yes	yes	No (mobile phones)	Not complete cameras but only cameras lenses. ²	no	no	no ¹
Are their workers interviewed by Global Standard in Vietnam?	yes	yes	yes	yes	no	no	no
Adopting a CSR business initiative?	Global Compact	no	EICC	no	Global Compact	The Charter of Corporate Behavior of Nippon Keidanren.	The Charter of Corporate Behavior of Nippon Keidanren.
Green procurement policies?	yes	yes	yes	Yes, this includes control of treatment of waste and purchase policy.	Yes, and 32 Japanese suppliers were audited in 2011. In 2012 overseas suppliers will also be audited.	yes	yes
Labour standards in procurement policies?	yes	No. "Respect social norms" (in Basic Purchasing Policies).	yes		yes	yes	no
Freedom of association and collective bargaining	Phrasing is 'in accordance with local laws and	Under the heading 'fair employment' (not part of a code	As member of the EICC, Samsung has adopted the EICC	The text of the Hoya Code of Conduct was available in	As signatory of the Global Compact Nikon is committed	In the Code of Conduct: 'We respect and protect	The Charter of Corporate Behavior of Nippon Keidanren

in their code of conduct approaching the level of the ILO standards 87/98	established practice'. However, as signatory of the Global Compact Olympus is committed to 'uphold the freedom of association and the effective recognition of the right to collective bargaining'.	of conduct) is stated: 'In addition to observing the relevant laws and regulations in each country concerned, Sanyo respects the intent of the UN's United Universal Declaration of Human Rights and the ILO's International Labour standards'.	code. The EICC Code however has serious shortcomings related to freedom of association and totally lacks collective bargaining. In Samsung's Human Rights and Labor Policy it states: 'Samsung Electronics strives to provide superior working conditions relative to its peers so that employees do not feel the need for a labor union'.	Vietnamese, but it seems to be merely a business code of ethics.	to 'uphold the freedom of association and the effective recognition of the right to collective bargaining'.	basic labor rights, including workers' rights to organize and bargain collectively and we do not infringe on such basic labor rights'.	says: 'engage in dialogue and consultation with its employees and their representatives in good faith.'
Freedom of association and collective bargaining in their supplier requirements?	Not fully but present as : 'enabling labor/management consultation regarding the working environment, wage levels and other issues'.	No: only 'observing all relevant laws and regulations and respect social norms'.	Not fully, weak freedom of association and no collective bargaining. Suppliers have to sign a commitment letter to the EICC Code.	no	Not fully, Weak freedom of association ("respect employees' right to association as a means to affording employer-employee interaction [..]' and no collective bargaining.	No. The Procurement Guideline is quite limited, stating that 'suppliers shall strive to respect diversity, individuality, and differences of their employees to promote safe and comfortable workplaces.'	No. The Request for Suppliers is quite limited, stating that suppliers have to 'comply with all applicable laws and regulations (human rights, labor, safety and health, and so on)'
Implementation supplier requirements	Self-assessment survey for suppliers but so far only for Japanese suppliers.	Supplier Conferences and the Sanyo Quality Control Guidelines	CSR training based on the EICC Code, self-assessment surveys and signing	Signing compliance agreement on the Hoya Code of Conduct, chart of	2010 was the first year that Japanese suppliers were visited to discuss	Pilot surveys on CSR-orientated procurement, briefing sessions for	Green procurement suppliers have to submit self-assessment sheets

		for Suppliers to 'fulfill its CSR responsibility together with suppliers.' Has been distributed worldwide to suppliers.	of a compliance agreement. On-site inspections and guidance. Giving incentives to good performing suppliers. EICC Validated Audit program (VAP).	monthly achievements related to the environmental targets, site audit for waste treatment, site audit for purchased items.	their CSR performance (in total 37 suppliers); on-site inspections are considered. Participates in the Supply Chain subcommittee of the UN Global Compact.	new suppliers, helping suppliers make improvements through the self-check survey – suppliers are visited to confirm the self-check details. Fujifilm has included its major partner carriers.	and the management of chemical substances will be internally audited. Canon also held a briefing for suppliers around the world in 2010 to explain the supplier requests.
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¹ Canon produces inkjet printers, laser printers, scanners and toner cartridges in Vietnam, where it employs 15,000 workers.

² Pentax cameras are assembled in the Philippines.

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