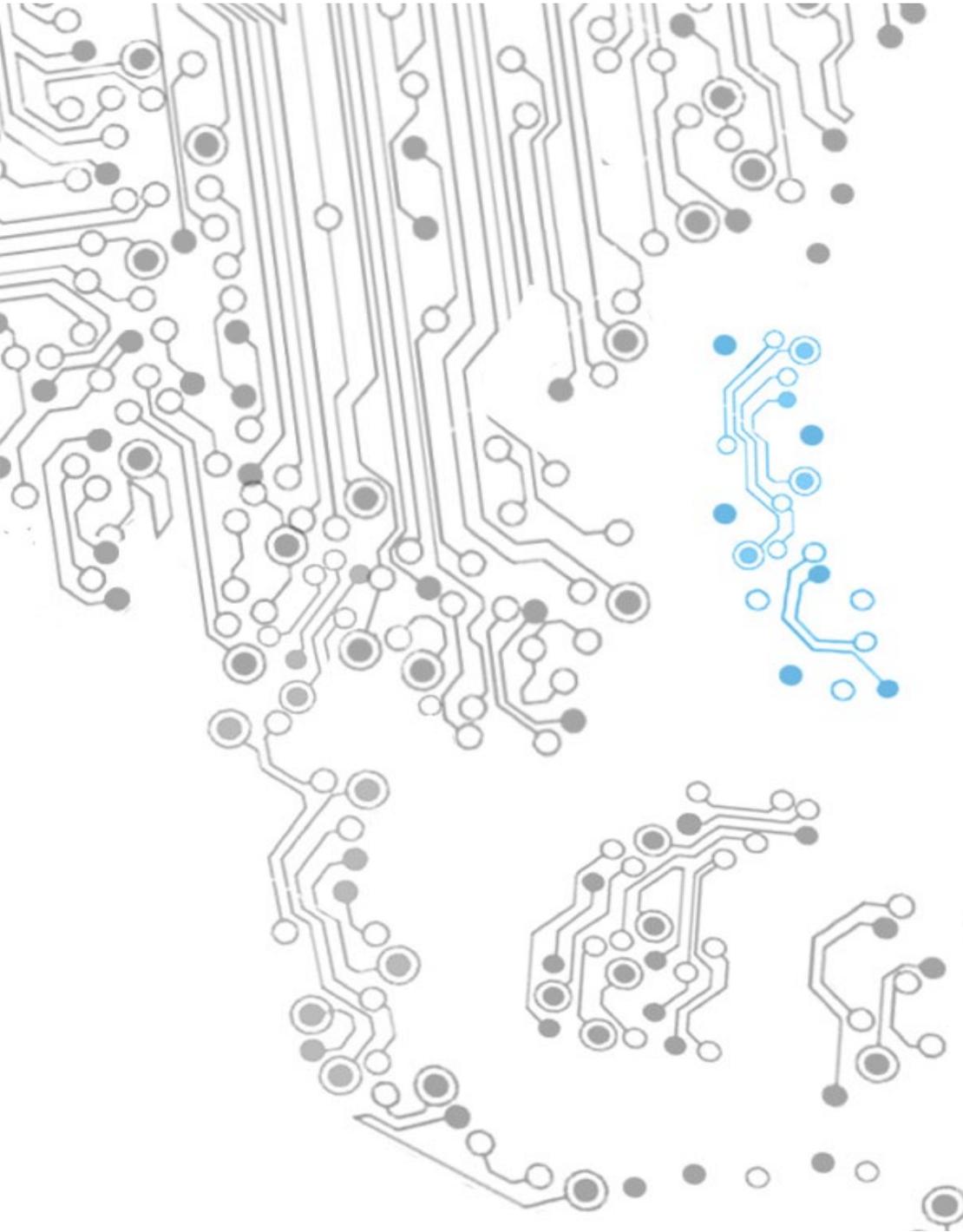


# Regional Risk Assessment Semiconductor and Electronics Industry, Philippines

Contributing organisation: Center for Trade Union and Human Rights

December 2016



## This risk assessment is made possible by the dues of Electronics Watch affiliates.

Electronics Watch is an independent monitoring organisation that assists public sector buyers to meet their responsibility to protect the labour rights of workers in their global electronics supply chains more effectively and less expensively than any single public sector buyer could accomplish on its own. Electronics Watch works with an international network of local civil society organisations that conduct worker-driven monitoring, with the goal of strengthening workers' own voices to report on and address labour and safety issues in their factories. The Center for Trade Union and Human Rights (CTUHR) conducted the research and monitoring for this risk assessment in collaboration with Metalworkers Alliance of the Philippines (MWAP) and Visayas Institute for Human Development Agency (VIHDA).

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## 1 Summary

This regional risk assessment of the semiconductor and electronics industry in the Philippines is intended for Electronics Watch affiliates' internal education and contractor education. It can be used to promote dialogue on steps that contractors, brand suppliers, and contracting authorities (affiliates) can take to avoid practices that may cause or contribute to breaches of labour rights and safety standards.

The Center for Trade Union and Human Rights (CTUHR) in the Philippines conducted the research for this risk assessment, including interviews with 34 electronics workers in all major electronics industry regions, and analysis of a range of secondary sources, including industry and academic reports and previous CTUHR research.

This assessment suggests that risks of breach of the following standards are of particular concern:

- **Freedom of association and the right to collective bargaining.** Trade unions are largely absent in the Philippines semiconductor and electronics industry. Employment agencies and factories sometimes openly tell job applicants during orientation that they do not tolerate trade unions. Twenty-four workers interviewed for this study categorically stated that unions are not allowed in their companies.
- **Forced labour.** Workers reported mandatory overtime, without the legally required rest days, as a condition for continued employment or contract renewal, a risk factor for forced labour.
- **Working hours.** Workers interviewed reported an average of 3.1 hours of overtime, from two to four hours per day, often seven days a week, in excess of legal limits.
- **Child labour.** While the industry generally does not employ workers under the age of 18, on-the-job trainees (OJT's) who are between 16-17 years of age are at risk of hazardous working conditions, raising concern about breach of the ILO standard and the Philippine law on "worst forms of child labour." Workers also report that OJT's are vulnerable to exploitation, sometimes working unpaid extra hours and being denied the premium pay for nighttime or holiday work.
- **Health and safety.** Workers reported using toxic chemicals without proper training on health hazards and prevention. Workers also associated a range of health problems—from frequent urinary tract infections to fatigue and fainting—to their working conditions.
- **Termination.** Workers report that suspensions and termination are used as disciplinary tools when workers are absent due to overwork and fatigue, or to punish those who join or seek to organise a union.

Electronics Watch recommends that affiliates share this risk assessment with contractors and request that they discuss the Risk Assessment Table and Discussion Guide (Appendix) internally and with brand suppliers, and provide written responses to the discussion questions.

## Methodology



The Center for Trade Union and Human Rights (CTUHR) is an independent non-governmental organisation engaged in labour rights monitoring, research, education, capacity-building, campaigns and advocacy.

This risk assessment is based on first-hand research and analysis of secondary sources. CTUHR prepared a questionnaire, addressing all areas in the Electronics Watch Code of Labour Standards, and interviewed 34 workers in the major electronics industry regions from April 16 to June 11, 2016. This report also includes information from online Philippine newspapers; government, industry and academic papers, reports and presentations; NGO research (published and unpublished), and previous CTUHR research reports.

CTUHR worked with the Metalworkers Alliance of the Philippines (MWAP) and Visayas Institute for Human Development Agency (VIHDA) to conduct the interviews. MWAP is an alliance of different local unions in the metal and electronics industry. VIHDA is an NGO based in Cebu City, engaged in organising, research, labour education and training. Staff and volunteers of these three organisations carried-out the interviews in workers' homes, boarding houses, union offices and restaurants.

CTUHR relied on "snowball sampling" to identify workers to interview; that is, researchers asked the workers to recommend other workers to interview. However, many workers were reluctant to talk or to introduce co-workers, fearing reprisals by the factory or the agency employer should they be discovered. In addition, it was difficult to access workers close to the economic zones as workers were only available to talk while waiting for the shuttle service that transports them from the factory to their homes. While it was possible to talk to workers in the community where they live, the workers usually required an endorsement from somebody they know before agreeing to an interview. Many workers were also too tired after a long day of work to talk with the researchers. In several cases, several visits were required to arrange for a single interview.

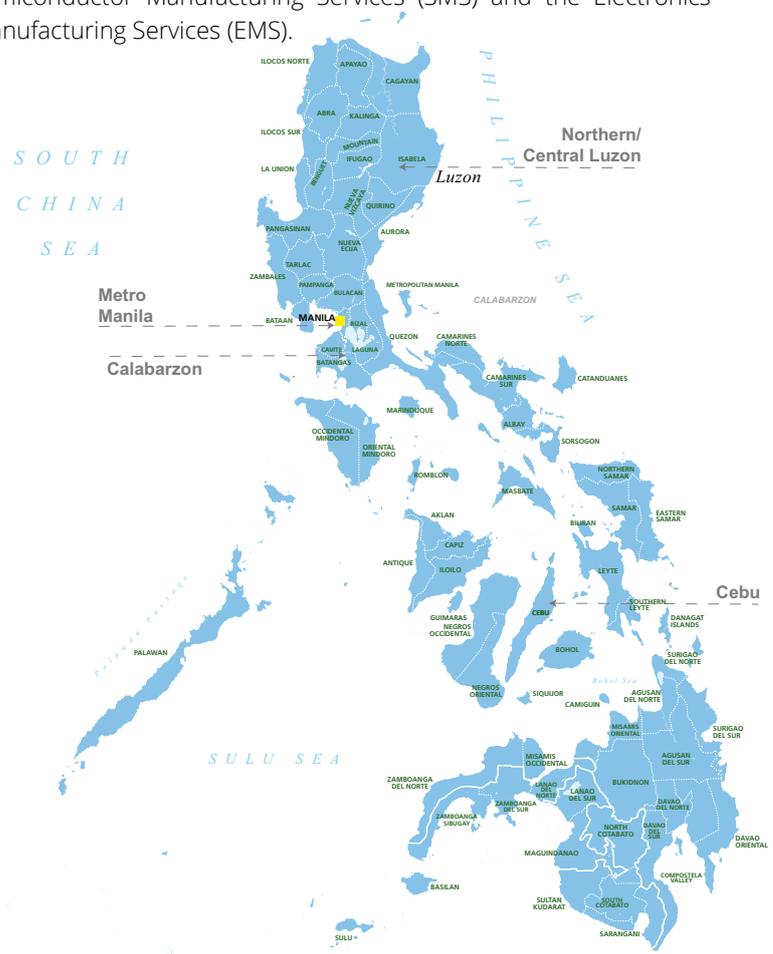
### Characteristics of workers interviewed:

- Workers were between 19 and 41 years old, including 18 workers between 25 and 34 years old.
- Twenty-two of the 34 workers were women.
- They had worked for as little as four months and as long as 21 years. Four workers had worked for less than a year; 10 workers had worked between one and five years; eight workers had worked between five and 10 years; and 12 workers had worked 10 years or more.
- Half of the interviewed workers had regular permanent employment contracts; nine of them were contractual workers; and eight were on-the-job trainees (OJTs).

## 3 Background

### Production Regions

This risk assessment covers the semiconductor and electronics industry in the Philippines, including its two main subsectors, the Semiconductor Manufacturing Services (SMS) and the Electronics Manufacturing Services (EMS).



Source: <http://www.seipi.org.ph/profile/about-the-industry>

Most SMS and EMS companies are concentrated in four regions:

- Central Luzon (Clark Special Economic Zone-Pampanga and Subic BayFreeport Zone in Zambales);
- CALABARZON or Region IV-A with about 40 special economic zones (for example, Laguna Industry Science Parks I & II, Laguna Techno Park, Gateway Business Park, Carmona Industrial Park, Cavite Export Processing Zones in Cavite First Philippine Industrial Park and Lima Technology in Batangas);
- Metro Manila; and,
- Cebu (Mactan Export Processing Zones I & II and MRI Eco Zone).

The workers interviewed spanned all regions, except Metro Manila. They were employed at 20 different factories with workforces ranging from 400 to 30,000 workers. The factories manufacture:

- Parts for smartphones (iPhone, Samsung, Oppo, and Nokia), such as cameras, screens, and casings;
- Spindle motors for all types and brands of computers and Toshiba tablets;
- Glass disks for hard drives; and
- Office equipment, such as Canon and Epson printers.

The main clients of these companies are multinational companies and brands such as Apple, ASUS, Bosch, Continental, Epson, Go-Pro, Huawei, Lenovo, Motorola, Nexus, Oppo Camera phone, Panasonic, Samsung, Sanyo, Sharp, Sony, Toshiba, and ZTE.

## Type of Industry and Products

The semiconductor and electronics industry (referred to hereafter as the industry) in the Philippines is divided into two categories: Semiconductor Manufacturing Services (SMS) account for 73% of the industry; Electronics Manufacturing Services (EMS) account for 27% of the industry.<sup>1</sup> The industry employed 351,000 direct workers in 2015<sup>2</sup>, and provided indirect employment to 2.3 million workers. Additional or indirect industry workers include shuttle bus drivers, canteen workers, and security guards.

**Semiconductor Manufacturing Services (SMS)** consist of companies manufacturing integrated circuits, transistors, diodes, resistors, capacitors, coils, transformers, PCBs and other components. Companies in this sub-sector are subsidiaries of some of the world's largest semiconductor companies, such as Texas Instruments, MST Micro, NXP, ON Semiconductor, Analog Devices and Maxim.<sup>3</sup> As of

<sup>1</sup> SEIPI, Profile About the Industry, <http://www.seipi.org.ph/profile/about-the-industry/> (accessed August 9, 2016).

<sup>2</sup> Lazo, Krystyn Nika, "Electronics Sectors seen \$31b sales in 2016," Manila Times, June 15, 2016, <http://www.manilatimes.net/electronics-sector-sees-31b-sales-in-2016/268013/> (accessed August 9, 2016).

<sup>3</sup> The Philippines in Electronics and Electrical Global value Chain, May 2016, Duke University Center on Globalization, Governance and Competitiveness (Duke CGGC), [http://www.cggc.duke.edu/pdfs/2016\\_Philippines\\_Electronics\\_Electrical\\_Global\\_Value\\_Chain.pdf](http://www.cggc.duke.edu/pdfs/2016_Philippines_Electronics_Electrical_Global_Value_Chain.pdf) (accessed August 9, 2016).

2011 (the latest available figures) the Philippines had a market share of around 10% of the world's Semiconductor Manufacturing Services, including components for mobile phone chips and microprocessors.<sup>4</sup>

**Electronic Data Processing (EDP) equipment is an EMS sub-sector**, consisting of companies engaged in the manufacture of computers, peripheral storage and input/output devices. Among the finished products are laptops, desktop PCs, printers, computer monitors, and hard disk, optical, ZIP and CD-ROM drives. Companies engaged in the manufacture of EDP are Toshiba, Wistron InfoComm (formerly Acer), Western Digital, Samsung, Epson, Canon, Fujitsu, Ionics and Sampo Technologies. According to the latest available figures, the Philippines supplies 50% of the world demand for 2.5" hard disk drives and 10% of world demand for 3.5" hard disk drives.<sup>5</sup>

#### **EMS sub-sectors, in addition to Electronics Data Processing, include:**

- Office equipment, including fax machines, photocopiers and electronic calculators. Some companies under this subsector are Masushita Business Machines, Sharp and Seiyo Electronics;
- Telecommunications equipment, including telephone sets, modems, copper communication cables and fiber optic cables. Manufacturers include ETSI Technologies, Eupen Cable and NEC Technologies;
- Control and Instrumentation, test and measuring instruments such as oscilloscopes, signal generators, ammeters, voltmeters, ohmmeters, cross talk meters, instrumentation/testing equipment, digital thermometers, microscopes, automotive test equipment and multi-testers. Manufacturers include Precision Microcircuits, Sara Digital Network, Phil Makoto Corporation, and Insung Philippines Electronics.
- Medical and Industrial equipment, including equipment used for X-ray and other medical applications, railway signalling, security and fire alarms. Philippine-based companies are involved in the production of spiro analysers and smoke detectors. One of the leading manufacturers is P. Imes Corporation.
- Automotive Electronics Companies, including car stereos, Anti-Skid Brake Systems (ABS), and Car Body Electronics (CBE). Major manufacturers include Temic Automotive, Fujitsu Ten, Muramoto Audio-Visual Philippines, and Clarion Manufacturing.

<sup>4</sup> Lema, Karen, "Philippine electronics body: Hard to hit export goals," Thomson Reuters, June 1, 2011, <http://www.reuters.com/article/philippines-electronics-exports-update-idUSL3E7H11FC20110601> (accessed August 9, 2016).

<sup>5</sup> SEIPI, *ibid.*

- Consumer Electronics manufacturing, including TV sets, VCD players, electronic games, radio cassette players and karaoke machines. Major manufacturers include Panasonic Manufacturing Philippines Corporation (PMPC), Sony, Sharp, LG –Collins and JVC.
- Solar/ Photovoltaics, an emerging subsector consisting of devices that make use of solar cells in producing electricity for practical use. Major manufacturers include SunPower Manufacturing Ltd. (SPML) and Solaria Corporation.<sup>6</sup>

The industry is export-oriented and dominated by multinational companies, 72% foreign-owned and 28% Filipino-owned.<sup>7</sup> Seventy percent of the industry exports, including components, go to Asia, 22% to the US and the EU, and 8% to other places.<sup>8</sup>

Thus, the industry is vulnerable to economic downturns and crises of importing countries and the global economy. The vulnerability is reflected in the industry's fluctuating number of companies in the Philippines, and export revenues. For example, in 2007 the Philippines exported US\$31.1 billion worth of electronics products.<sup>9</sup> A year later, dragged down by the global financial crisis, exports stood at US\$26.3 billion.<sup>10</sup> By 2010 the industry had recovered, but declined again in 2013 to US\$21.9 billion,<sup>11</sup> only to rebound in 2015 to US\$28.9 billion.<sup>12</sup>

### Legal and Policy Environment

The Philippines has ratified all ILO core conventions, which are reflected in the country's policy declarations and laws, including:

- Article XIII, "Social Justice and Human Rights," of the 1987 Philippine Constitution, which guarantees basic workers' rights including the right to gainful employment, security of tenure, humane conditions of work, a living wage and the right to organise a union and to strike.<sup>13</sup>
- Articles 211 and 248 of the Labour Code, which guarantees the right of workers to legally mandated basic labour standards, including the right to "free trade unionism," collective bargaining and non-discrimination.<sup>14</sup>

However, lack of state enforcement capacity results in severe and widespread breaches of labour standards guaranteed by law.

For example, the Labor Department's Order 131-13 aims to "inculcate and foster a culture of voluntary compliance, where there is less government intervention."<sup>15</sup> This order is similar to the one it superseded, Department Order 57-04, which promoted company self-assessment of compliance with labour standards rather than government inspections. The new labour law compliance system

<sup>6</sup> Board of Investment, Department of Trade and Industry, "The Philippines Semiconductors and Electronics Industry Profile," February 23, 2011, [http://www.philexport.ph/c/document\\_library/get\\_file?uuid=8659b363-97ff-4ffd-b7e8-364fa03c492f&groupId=127524](http://www.philexport.ph/c/document_library/get_file?uuid=8659b363-97ff-4ffd-b7e8-364fa03c492f&groupId=127524) (accessed August 9, 2016).

<sup>7</sup> Agarwalla, Gokul, "Philippines: Electronics Equipment Manufacturing and Production," <http://www.iteresources.worldbank.org/INTPHILIPPINES/Resources/Agarwalla-word.pdf> (accessed August 9, 2016).

<sup>8</sup> SEIPI, *ibid*.

<sup>9</sup> Philippine Foreign Trade Statistics 2007, Special Release No. 337, June 12, 2008, <https://psa.gov.ph/old/data/sectordata/sr08337tx.html> (accessed August 9, 2016).

<sup>11</sup> Department of Trade and Industry, "Securing the Future of Philippine Industries," 2013, <http://industry.gov.ph/industry/electronics/> (accessed August 9, 2016).  
Department of Trade and Industry, *ibid*.

<sup>12</sup> Mercurio, Richmond, "Electronics exports on track level," June 16, 2016, <http://www.philstar.com/business/2016/06/16/1593272/electronics-exports-track-record-level> (accessed August 9, 2016).

<sup>13</sup> The 1987 Constitution Of The Republic Of The Philippines – Article XIII, <http://www.gov.ph/constitutions/the-1987-constitution-of-the-republic-of-the-philippines/the-1987-constitution-of-the-republic-of-the-philippines-article-xiii/> (accessed August 9, 2016).

<sup>14</sup> Labor Codes of the Philippines, [http://www.dole.gov.ph/labor\\_codes](http://www.dole.gov.ph/labor_codes) (accessed August 9, 2016).

<sup>15</sup> ILO, Labour Inspection in the Philippines, [http://www.ilo.org/manila/areasofwork/WCMS\\_382777/lang-en/index.htm](http://www.ilo.org/manila/areasofwork/WCMS_382777/lang-en/index.htm) (accessed August 9, 2016).

replaces self-assessments with three linked approaches:

- Joint assessments with unions and the employer.
- State compliance visits when there is a complaint filed against a company.
- OSH state investigations when there is an imminent danger, disabling injury, and/or violations in “plain view.”

However, joint assessments can only be effective when workers can freely exercise their associational rights; in the case of the electronics industry there are few unions and in some cases, workers are not genuinely represented in the unions involved in the inspection. Complaints-based investigations also depend on worker access to an effective grievance mechanism. However, workers often choose not to file a complaint even when they have been injured at work unless they are union members or the incident attracts so much attention that other organisations offer support.

At the same time, macroeconomic policies to attract international investors have also compromised workers’ ability to call attention to labour rights abuses and to gain remedy. For example, the Special Economic Zone Act of 1995, or the Republic Act 7916,<sup>16</sup> spurred the increase of special economic zones (SEZs) from four in the 1980’s to 327 as of June 2015.<sup>17</sup> SEZs, which boast “fast turn-around especially for electronics,”<sup>18</sup> now host nearly all semiconductor and electronics manufacturing firms in the Philippines. Most of them are located outside the Metro Manila Region to take advantage of lower wage in other regions. Investors also receive a combination of tax holidays, fiscal incentives, and security services through the national military forces.<sup>19</sup> Notably, several informal mechanisms and unwritten policies serve to quell labour unrest. For example, workers interviewed for this report stated that unions are in effect prohibited in their factories or in their SEZs. The industry organisation, Semiconductor and Electronics Industries in the Philippines (SEIPI), notes that the industry is “non-unionized” in its promotional literature.<sup>20</sup>

To increase the availability of a flexible and low cost workforce electronics companies use students as learners, apprentices or trainees. Under the Dual Training System Act of 1994 technical and vocational school students may combine training programs in the school and in the factory for the purpose of developing job qualifications of the students. While companies receive tax benefits for participating in the training programs, the learners, apprentices, or trainees—called On-the-Job Trainees or OJT’s in this report—are entitled to an allowance which cannot be lower than 75% of the applicable minimum wage but no other benefits. These training periods may last a maximum of three months.<sup>21</sup>

<sup>16</sup> RA 7916 provides a legal framework and mechanisms for the creation, operation, administration, and coordination of special economic zones in the Philippines. See, <http://www.peza.gov.ph/index.php/about-peza/special-economic-zone-act> (accessed August 9, 2016).

<sup>17</sup> Crispin B Beltran Resource Center, Rapid Assessment on Magna Carta of Women and Other Laws for Women in Electronics Industry in the Export Processing Zones, December, 2015, <http://goodelectronics.org/publications-en/rapid-assessment-of-the-magna-carta-of-women-and-other-laws-for-women-in-the-electronics-industry-in-export-processing-zones-in-the-philippines/> (accessed December 11, 2016).

<sup>18</sup> See PEZA website, <http://www.peza.gov.ph/index.php/homepage/2-uncategorised/29-the-peza-edge>, (accessed August 9, 2016).

<sup>19</sup> See, Sections 9-10 of RA 7916.

<sup>20</sup> SEIPI, *ibid*.

<sup>21</sup> Article 721, Art 751, Book II, Human Resource Development Program, Labour Code of the Philippines.

## Findings

### 4

#### 4.1. Forced labour

Workers reported mandatory overtime, without the legally required rest days, as a condition for continued employment or contract renewal.<sup>22</sup> One worker stated:

*Our overtime is forced work, forced overtime. When you refuse, there is a penalty, a suspension. You have to meet the target output they gave you.... Many workers are threatened with termination if they refuse overtime.*

Workers alleged four reasons why they cannot refuse overtime:

- They are required to meet the target for immediate shipping (six workers).
- There is no worker available to replace or relieve them (two workers).
- A client is visiting (one worker).
- They may get poor performance evaluations if they refuse to work overtime (one worker).

In addition, the OJTs reported that their low wages force them to work extended hours to increase their take home pay.

Article 89 of the Philippine Labour Code provides that any employee may be required by an employer to perform overtime work only in limited and extraordinary circumstances, such as when there is a national emergency, when it is necessary to prevent loss of life, or when it is necessary to prevent serious obstruction to the business.<sup>23</sup> These circumstances did not apply to the mandatory overtime reported by workers.

The International Labour Organisation has explained that the imposition of overtime does not constitute forced labour under the Forced Labour Convention (No. 29) as long as it is within the limits permitted by national legislation or collective agreements. However, beyond those limits, overtime that is imposed “under the menace of a penalty,” such as dismissal or wages below the legal minimum, is forced labour.<sup>24</sup> Workers reported excessive overtime hours under the threat of dismissal.

In the words of the prominent Philippine legislator and trade union leader, Ernesto Herrera, “Admittedly, for many of our workers, working overtime is the only way to make ends meet, but they also have to be able to decide for themselves when enough is enough.”<sup>25</sup>

<sup>22</sup> Article 91 of Philippine Labour Code requires a rest period of not less than twenty-four consecutive hours after every six consecutive normal work days.

<sup>23</sup> Article 89 states that overtime may be required only in the following circumstances: a) When the country is at war or when any other national or local emergency has been declared by the National Assembly or the Chief Executive; b) When it is necessary to prevent loss of life or property or in case of imminent danger to public safety due to an actual or impending emergency in the locality caused by serious accidents, fire, flood, typhoon, earthquake, epidemic, or other disaster or calamity; c) When there is urgent work to be performed on machines, installations, or equipment, in order to avoid serious loss or damage to the employer or some other cause of similar nature; d) When the work is necessary to prevent loss or damage to perishable goods; and, e) Where the completion or continuation of the work started before the eighth hour is necessary to prevent serious obstruction or prejudice to the business or operations of the employer.

<sup>24</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, General Survey concerning the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105), [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_089199.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_089199.pdf) (accessed December 11, 2016).

<sup>25</sup> Ernesto F. Herrera, “Forced overtime is forced labor,” *The Manila Times*, 9 October 2003, <http://www.hartford-hwp.com/archives/54a/185.html>, (accessed December 11, 2016).

## 4.2. Freedom of association

Trade unions are virtually absent in the industry. As the industry organisation, SEIPI, notes, the “typical electronics company” is non-unionised.<sup>26</sup> Two key factors in the low unionisation level are:

- Extensive employment of contractual workers with no job security who are often told they may not organise or join trade unions; and,
- The location of companies in the Special Economic Zones where the unwritten “no union, no strike” policy is enforced by both the state and the corporate sector.<sup>27</sup> Trade union representatives have virtually no access to workers inside the SEZs as only employees are allowed entry except when “outsiders” have an official appointment or business with the Zone authority.

Workers interviewed reported several incidents that indicate significant risk of breach of freedom of association, which is guaranteed by Articles 211 and 248 of the Philippine Labour Code.

- **Anti-union discrimination.** Workers reported manpower agencies, factory human resource personnel, management, supervisors, and foreign managers telling them during work orientation that they do not allow or tolerate trade unions.
- **Factory prohibition on unions.** Twenty-four workers stated that unions are not allowed in their factories. Workers from two companies reported that their contract states explicitly that they should not join or form unions. Contractual workers at one company, where regular employees are unionized, reported that human resource personnel told them during orientations that “they should not join activities like rallies and meetings of the union.” When asked if unions are allowed, workers at two factories in the First Philippine Industrial Park (FPIP) responded, “*Bawalsa FPIP yan,*” (It is prohibited in the FPIP).
- **Tactics to frustrate attempts to organize unions.** A community leader recalled that on the day of a scheduled union election at one factory in 1994, government officials bribed tricycle and jeepney operators—the means of transportation for many workers—to shut down for the day. As a result, many workers were unable to report to work, and the Department of Labour and Employment declared the election a failure. Since that time workers have not attempted to organise a union. Those interviewed for this study said they believed the factory would close if workers formed a union and that they would lose their jobs. They added, “Lagot kami kay Durano” (We’ll face severe consequences from the Duranos). The Duranos are the local politicians and alleged warlords in Danao providing protection to the factory. Currently, the Congressman, Mayor and Vice-Mayor are all Duranos. Workers in another factory noted that in the first attempt to organise a union, management bribed the union leaders, and in the second attempt, fired them.

<sup>26</sup> See, <http://www.seipi.org.ph/profile/about-the-industry/>.

<sup>27</sup> Workers and Trade Union Situation in the Philippines [Powerpoint Slides] presented during the Good Electronics Workshop, Rosario Cavite, (CTUHR November 2012).

- **Dismissal of union officers to undermine unions.** The most notable case was the dismissal of 24 union officials of NXP Semiconductors Workers Union in 2014, a case which received international notoriety.<sup>28</sup> After several protests, NXP reinstated 12 of the dismissed officers and signed a new collective bargaining agreement.

### 4.3. Discrimination

Twenty-five of the 34 workers interviewed affirmed that their respective companies do not discriminate based on gender, ethnicity, religion or political views when hiring workers. However, workers reported discrimination against workers associated with unions (see Section 4.2). According to the ILO, one of the recognised bases of discrimination is trade union membership or activities. The ILO explains: "All workers have the right to form and join trade unions, and to participate as members or leaders in trade union activities and should not be discriminated against for lawfully exercising this right."<sup>29</sup>

### 4.4. Child labour

Generally, the industry does not employ workers below 18 years old. However, interviewed workers reported that three factories hire OJTs between 16-17 years old from partner schools or training centres. These factories risk violating the ILO standard and the Philippine law on "worst forms of child labour" if conditions are hazardous to their health and safety.

The Republic Act 9231 sets the legal minimum age at 15 years of age. However, a child under the age of 18 is not allowed to work for more than eight hours a day, and forty hours a week, or to perform night work, between ten o'clock in the evening and six o'clock in the morning of the following day.

The Act further defines "worst forms of child labour" to include "work which, by its nature or the circumstances in which it is carried out, is hazardous or likely to be harmful to the health, safety or morals of children." This hazardous or harmful work include "the use of dangerous machinery, equipment and tools" or work "performed in an unhealthy environment exposing the child to hazardous working conditions, elements, substances, co-agents or processes involving ionizing, radiation, fire, flammable substances, noxious components and the like, or to extreme temperatures, noise levels, or vibrations."<sup>30</sup>

### 4.5. Working hours

The Labour Code of the Philippines limits the regular working day to eight hours, including short rest periods.<sup>31</sup> In addition, it requires a rest

<sup>28</sup> IndustriALL, Philippines: Entire union executive sacked for not working on national holiday, <http://www.industriall-union.org/philippines-entire-union-executive-sacked-for-refusing-to-work-on-national-holiday> (accessed December 11, 2016).

<sup>29</sup> ILO: Q&As on business, discrimination and equality, [http://www.ilo.org/empent/areas/business-helpdesk/faqs/WCMS\\_DOC\\_ENT\\_HLP\\_BDE\\_FAQ\\_EN/lang-en/index.htm#F9](http://www.ilo.org/empent/areas/business-helpdesk/faqs/WCMS_DOC_ENT_HLP_BDE_FAQ_EN/lang-en/index.htm#F9) (accessed December 11, 2016).

<sup>30</sup> An Act Providing For The Elimination Of The Worst Forms Of Child Labor And Affording Stronger Protection For The Working Child, <http://hrlibrary.umn.edu/research/Philippines/RA%209231%20-Elimination%20of%20Worst%20Forms%20of%20Child%20Labor.pdf> (accessed December 11, 2016).

<sup>31</sup> Article 83, Right to weekly rest day, and Article 84, Hours Worked, Labor Code of the Philippines.

period of not less than 24 consecutive hours after every six consecutive regular work days.<sup>32</sup> Overtime is limited to two hours per day.

However, the workers interviewed reported an average of 3.1 hours of overtime, from two to four hours per day, often seven days a week. Workers at six factories noted that they could not refuse overtime work. Contractual workers at these factories stated that they literally do not have days off. Workers in another factory reported only one day off in a month. At another factory, workers reported that they must stand up to operate tall machines for their 11-hour shifts. They can sit only during a 30-minute lunch break and for two five-minute snack breaks. But the canteen is located too far from their work stations and they cannot walk back and forth and rest during a five-minute break. Thus, they simply sit by their machines for the short breaks.

One contractual worker stated she had not had a single day off in five years of work, even when working 12 hours a day, seven days a week. She is able to rest only when she is sick, but has to have a doctor's certificate to avoid having her leave marked as absence. She explained that attendance counts for 50% of the performance evaluation at the end of each contract for contractual workers. An adequate performance evaluation is a requirement for contract renewal.

## 4.6. Health and Safety

### 4.6.1. Reported illnesses and injuries

Long working hours and lack of rest days take a toll on workers' health and safety. Factories in this study all have clinics, doctors and nurses. The clinics make available basic medicines such as pain relievers and first aid, and equipment such as beds, blood pressure readers, nebulizers, oxygen, stethoscopes, stretchers, and wheel chairs. But workers complained of a range of injuries and illnesses they associated with the tough working conditions. These illnesses and injuries, including the number of workers reporting them, were:

- wounds and burns (4)
- cough (3)
- urinary tract infection (7)
- eye strain (4)
- ulcer (1)
- leg pain/strain (4)
- headache or dizziness (14)
- varicose veins (1)
- joint pain (3)
- allergy (1)
- collapse (3)
- colds (4)
- reproductive problems (1)
- back pain (2)
- fever (1)
- neck pain (1)
- high blood pressure (2)
- asthma or shortness of breath (4)
- cramps (1)
- fatigue (4)

- One worker stated that she suffers from headaches, coughs, chest pain and deteriorating eyesight due to prolonged use of the

<sup>32</sup> Article 91, Chapter II, Right to Weekly Rest Day, Labor Code of the Philippines.

microscope. She also said she suffers from leg pains as she must stay on her feet, assisting 20 machines at a time.

- At one factory, workers reported several cases of workers collapsing at work due to hunger, fatigue, and headaches.
- Workers from seven factories report workers losing fingers when they were stuck in or were pierced by machines.

The most common complaints included frequent headaches and urinary tract infections as a result of insufficient breaks and difficulty leaving the assembly lines for bathroom visits. Research conducted by the Institute for Occupational Health and Safety Development (IOHSAD), a non-government organization, noted that 50% of respondents in a study of more than 350 women at two of the factories covered in this study said that they suffered from urinary tract infections that could stem from delayed toilet visits.<sup>33</sup>

Finally, a study conducted by IOHSAD notes particular health risks faced by women electronics workers. In one study, 50 women workers out of 200 surveyed had to take at least one leave of absence from work because of reproductive health issues, such as ovarian cysts, uterine fibroids, dysmenorrhea during menstrual periods, and urinary tract infections.<sup>34</sup>

#### **4.6.2. Workers' awareness of chemicals and health hazards**

Workers reported that they are generally provided with the necessary personal protective equipment such as masks, overalls, gloves, goggles, ear plugs, respirators, finger catch and safety shoes. Chemicals, they stated, are stored separately with clear labels.

The Electronics Watch Code of Labour Standards states that workers also have the right to know about the hazards to which they are exposed: they must receive understandable information, and participate in regular comprehensive trainings related to the specific hazards to which they are exposed.<sup>35</sup> Similarly, under the Philippine Occupational Health and Safety Standards, Rule 1005, Duties of Employers, Workers and other Persons, an employer must: "furnish his workers a place of employment free from hazardous conditions" and "give complete job safety instructions to all his workers, especially to those entering the job for the first time, including those relating to the familiarization with their work environment, hazards to which the workers are exposed to and steps taken in case of emergency."<sup>36</sup>

While workers could name many of the chemicals being used in their factories (acetone, granite, isopropyl alcohol (IPA), lead, methanol, nitrite, solder paste, soldering lead, resin, solmix, metanine, ethel, and kethon), they were not aware of effects and possible hazards of these chemicals. For example, workers appeared to be unaware of the toxic effects of isopropanol, commonly known as isopropyl alcohol

<sup>33</sup> IOHSAD, "Survey on the Reproductive Health and Sexual Harassment Issues of Women Workers in the Philippine Electronics Sector," Reproductive health in Electronics Industry, Manila, Philippines, Asia Monitor Resource Centre, Hong Kong, 2016.

<sup>34</sup> IOHSAD, *ibid.*

<sup>35</sup> Section 9, Electronics Watch Code of Labour Standards.

<sup>36</sup> Occupational Safety and Health Standards, as amended 1989, [http://www.oshc.dole.gov.ph/UserFiles/oshc2010/file/OSH\\_Standards\\_Amended\\_1989\\_Latest.pdf](http://www.oshc.dole.gov.ph/UserFiles/oshc2010/file/OSH_Standards_Amended_1989_Latest.pdf) (accessed December 11, 2016).

(IPA), used in applications for degreasers and cleansers. According to Reed Group MD Guidelines, IPA can affect the skin (irritant and allergic contact dermatitis), respiratory system (asthma, irritation), and central nervous system (neuropsychological impairment).<sup>37</sup>

#### 4.7. Termination of Employment

Workers report that suspensions are common sanctions due to absences and poor performance. Twelve workers interviewed stated that they knew of cases of suspension in their own factories for the following reasons:

- Leave without proper and prior notice (common to all);
- Causing trouble (brawls or fights) inside the workplace (common to all);
- Frequent absences (common to all);
- Frequent late and/or poor performances (common to all);
- Eating inside the production area (one factory);
- Noise barrage in the canteen (one factory);
- Too many rejects or process errors in the production (two factories); and,
- Use of lipstick and face powder, nail polish and jewellery (four factories).<sup>38</sup>

Workers in one factory can reportedly also be sanctioned if they fail to follow the “swipe in, swipe out” policy wherein workers must swipe their IDs entering and leaving the factory. According to one worker, on the first offence, the worker gets a verbal warning; on the second offence, an incident report is made, and on the third offence, the worker will be terminated.

Workers interviewed believe that suspensions on the grounds cited above are unjust. For example, suspensions because of absences may be triggered by overwork and fatigue. Workers are not given opportunity to explain their absences, and they only learn of the disciplinary actions when they report to work.<sup>39</sup>

#### 4.8. Legal Wages and Benefits

The Wage Rationalization Act of 1989 abolished the national minimum wage and established different minimum wage levels in towns, cities and regions according to the cost of living. Workers in the Metro Manila or National Capital Region receive the highest wage, while those in locations further away from this region receive lower wages, with those in the most distant areas relative to the capital region receiving the lowest wages.

Semiconductor and electronics companies generally comply with legally prescribed minimum wages in their locations. The wage rates of the interviewed workers range from 315 Philippine Pesos (Pph)

<sup>37</sup> Toxic Effects, Isopropyl Alcohol, Reed Group MD Guidelines, accessed from <http://www.mdguidelines.com/toxic-effects-isopropyl-alcohol> (accessed December 11, 2016).

<sup>38</sup> Lipstick and facepowder may be prohibited because of small particles found in cosmetics that can affect the materials used in the production. One worker interviewed reports that they undergo a daily “facecheck” in which a sensor is placed on their faces to detect powder, make-up, or lipstick. At one factory, workers must pass an air shower, tie their hair and put on a head cap, and put on special protective suit and boots before beginning work.

<sup>39</sup> In *Manila Pavilion Hotel, etc. vs. Henry Delada*, G.R. No. 189947, January 25, 2011, the Philippine Supreme court clarifies that “the penalty of suspension refers to the disciplinary action imposed on the employee after an official investigation or administrative hearing is conducted.” In the cases that interviewees cited, the penalty of suspension was imposed prior to investigation.

to Php450 per day. Eighteen of the 34 interviewed workers earn between Php315 and 364 per day. The legal minimum daily wage ranges from Php315 in Laguna to Php491 in Manila.<sup>40</sup> OJTs in this study received 75% of the minimum wage, according to law. Twenty-nine of the interviewed workers said they receive bonuses based on perfect attendance (no absences, no tardiness), performance and productivity, and/or year-end bonuses. Union members appeared to receive higher pay. At one factory, regular workers who are union members reported wages ranging from Php500 to 1,300 per day as a result of a collective bargaining agreement. In the same factory contractual workers are paid the minimum wage of Php315 per day. Wage rates are computed on a daily basis and salaries are normally issued every 15 days through payslips and/or ATM cards. Deductions in salaries include mandatory social, housing, and health insurance payments for regular and contractual workers. OJTs are not covered.

Workers reported the following irregularities:

- No factory compensated workers for their length of service with the exception of the unionised workers. By law, a worker employed for more than a year must receive a service incentive leave equivalent to five days with pay, which is commutable to cash at the end of the year.<sup>41</sup>
- OJTs at one factory reported having received no additional holiday pay, in violation of the law which requires twice the daily rate on holidays.
- Contractual workers and OJTs reported that they are not covered by any accident or life insurance policy as required under Section 15 of the Republic Act 7686.
- Ten workers said their respective companies do not provide separation pay for contractual employees. If the employee voluntarily resigns or completes the contract, there is no legal requirement for separation pay. However, separation pay of 13 days' pay per year of service is mandatory if the employer dismisses the employee.

Twenty-three of the 34 interviewed workers affirmed receiving a food allowance from their employers, while 10 workers said their companies do not provide it. Eighteen workers also said they receive a transportation allowance, and nine workers said they do not receive it. These benefits are discretionary by the employers.

#### 4.9. Living Wages

The IBON foundation, an independent think tank, estimates that a family of five members need at least Php1,088 per day to cover food and non-food requirements excluding education and medical emergencies. IBON estimate the cost of a nutritionally adequate one-

<sup>40</sup> The minimum wage by region is available at <http://www.nwpc.dole.gov.ph/rtwpb.html> (accessed December 11, 2016).

<sup>41</sup> Article 95, Right to service incentive leave, Labor Code of the Philippines.

day menu to be Php130 per person or Php750 for a family of five persons. The legal minimum wage in Metro Manila, the highest in the country, is only Php481 per day, which is not sufficient to cover even the cost of food for a family of five.

Workers interviewed reported that food could cost up to Php300 per day and transportation as much as Php100 a day. Housing and utilities costs varied widely, but could amount to as much as Php200 and Php100 daily. Education and childcare is another large expense item, amounting to as much as Php100 daily. Most workers reported that they could not save any of their earnings and that their wages were just barely enough to support survival.

#### 4.10. Other Domestic Labour Standards

OJTs must be paid at least 75% of the legal minimum wage, and may be employed as trainees only for three months, after which they must be offered regular employment. They may only be hired when no experienced workers are available and their employment is necessary to prevent curtailment of employment opportunities. Furthermore, employment of trainees may “not create unfair competition in terms of labour costs or impair or lower working standards.”<sup>42</sup>

However, OJTs are vulnerable to exploitation. Workers reported that the three-month limit is sometimes not respected and that in one factory the trainee status lasts one year. In another factory, trainees worked nine hours daily, including an extra unpaid hour. In yet another factory they received no additional holiday pay, in violation of the law which requires twice the daily rate on holidays. In addition, OJTs report only an extra Php1-5 for nighttime work, but should by law receive a 10% premium.<sup>43</sup>

<sup>42</sup> Articles 73-77, Labour Code of the Philippines.

<sup>43</sup> Article 86, Night shift differential, Labour Code of the Philippines.

## Recommendations for Affiliates

**5**

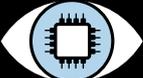
The Electronics Watch Contract Conditions require the contractor to take steps to avoid causing or contributing to breaches of the Electronics Watch Code of Labour Practices in the production of the goods affiliates buy, and to exercise its leverage to address practices of its suppliers that may contribute to or cause breach of the Code.

Electronics Watch recommends that affiliates use this risk assessment for internal education and contractor education, and to promote dialogue on steps that contractors, brand suppliers, and affiliates themselves can take to avoid practices that may cause or contribute to breaches of labour rights and safety standards. The risk assessment suggests that risks of breaches of particular concern include the standards on freedom of association, forced labour, worst forms of child labour, working hours, health and safety, and termination.

Suggested actions:

- Discuss the risk assessment internally among staff.
- Share the risk assessment with the relevant contractors and ask them to report on steps that they take to mitigate risk and prevent breach in the areas identified in this risk assessment.
- Introduce the Risk Assessment Table and Discussion Guide (Appendix) and request that contractors discuss it internally and with brand suppliers, and fill in the Risk Assessment Table. Discuss conclusions and follow-up steps with contractors.

Note that most electronics factories in the Philippines are not likely to be direct suppliers of brand companies, but upper tier suppliers of components of products that are assembled elsewhere. Seventy-three percent of the industry consists of the Semiconductor Manufacturing Services, which manufacture components such as integrated circuits, transistors, diodes, resistors, capacitors, coils, and transformers. Seventy percent of the components are exported elsewhere in Asia for assembly. As a first step, brands and their resellers (contractors to public buyers) should trace their supply chain to identify Philippine factories.

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Rights of electronics workers.