

# Social Dialogue at Philips Lighting

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Pauline Overeem**

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## Colophon

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## Acronyms

<b>ABVV</b>	Algemeen Belgisch Vakverbond
<b>ACLVB</b>	Algemene Centrale der Liberale Vakbonden van België
<b>ACV</b>	Algemeen Christelijk Vakverbond
<b>BBTK</b>	Bond voor Bedienden, Technici en Kaderleden
<b>CBA</b>	Collective Bargaining Agreements
<b>CFDT</b>	Confédération Française Démocratique du Travail
<b>CNV</b>	Christelijk Nationaal Vakverbond
<b>EMF</b>	European Metalworkers Federation
<b>EPF</b>	European Philips Forum
<b>ETUC</b>	European Trade Union Confederation
<b>FNV</b>	Federatie Nederlandse Vakbeweging
<b>GBP</b>	General Business Principles
<b>ILO</b>	International Labour Organisation
<b>IMF</b>	International Metalworkers' Federation
<b>LBC-NVK</b>	Landelijke Bedienden Centrale – Nationaal Verbond voor Kaderpersoneel

## Acknowledgements

We would like to express our gratitude to our respondents for their willingness, time and efforts to participate in this research. We sincerely hope this research will contribute in one way or another to improving the social dialogue at Philips Lighting.

## Preface

It is very tempting on the basis of this report to characterise the social dialogue at Philips Lighting as 'bad practice'. At this time, however, especially since real comparison material is missing, this would be going too far and would be missing the aim of this report. After all, the goal of this report is to demonstrate the current state of the social dialogue at Philips Lighting, on the basis of several case studies and interviews with stakeholders.

The results of this report may be disturbing, but at the same time they are hardly surprising. The general outline reveals that Philips is unwilling to cooperate, while the trade unions are powerless to lift the social dialogue to a higher level. I use the term 'unwilling' because, as was the case decades ago, Philips refuses to regard the domain of strategic decision-making as a topic for social dialogue, in the sense that employees can or are allowed to exercise real influence. And 'unwilling' because Philips, despite the increased internationalisation, stubbornly continues to view the social dialogue exclusively from a national perspective. A high quality social dialogue with the international trade unions is still lacking.

Another notable aspect is the powerlessness of trade unions. Powerless in formulating and implementing a strategy that can lead to a productive dialogue with Philips. Powerless in working together on international topics. Powerless in discovering the interconnections between the various challenges that the increased internationalisation poses to the trade unions.

But above all it is the combination of this 'unwillingness' and 'powerlessness' that I believe provides an explanation for the current deplorable state of the social dialogue at Philips. What is more, it must be noted that the present situation is not a temporary, fleeting phenomenon, but has been practical reality for many years now.

Implementing improvements is a long-term process. This report may serve as a starting point. Philips refused to contribute to this report. We could see this as a sign of 'unwillingness'. Perhaps it is even a sign of 'powerlessness'. For the outsider it is impossible to know who at Philips made the decision not to cooperate. But despite their unwillingness to contribute to this report, Philips can regard this report as an invitation. An invitation to keep social dialogue in line with new developments.

Above all, the report shows the common ground that exists between the trade unions and shows how this can be used to overcome their own powerlessness. The basis for a good, high-quality social dialogue lies in strength of the unions' organisation. This is a necessary condition to ensure that it is not Philips who leads but the unions themselves. And on the basis of this strength in unity we can formulate and implement an effective strategy. Philips' unwillingness will not pose any obstacle to this.

In closing, the words of a Greek philosopher, who said: 'Power is finite, because it is given to you by others. Strength is infinite, because it comes from within.' This is true not only for individuals but certainly also for unions. And this conviction can also help to raise Philips' awareness of its social responsibility to a higher level.

I hope you enjoy reading this report,

Yours faithfully,

Ron van Baden  
Union negotiator for FNV Bondgenoten at Philips



# 1. Introduction, research question and methods

## 1.1 Context of the research

Within the last decade, Philips has drastically reorganised its business activities: it changed its business structure on a division basis; production was outsourced and offshored to Eastern Europe and Asia; and overall employment decreased significantly, from approximately 165 thousand to 118 thousand employees within the last 5 years. These developments have heavily influenced different forms of workers' participation at Philips, including union dialogue and the functioning of works councils at different levels. Philips is not an exception; its structure is comparable to many multinational companies. They often operate in multiple countries and continents, commonly with complex holding structures and dozens of subsidiaries, including many joint ventures. The processes of global trade liberalisation and European integration create conditions that fuel restructuring processes, such as increased competitive environments and possibilities to move production more easily. Restructuring, relocating and reorganising appear to be ongoing features of modern-day multinationals. These processes can take many shapes such as transfers, closures and openings of production, mergers, takeovers, divestments, etcetera. Despite these different forms, a general characteristic is that they all have consequences for employment.

While contemporary multinational businesses have complex geographic and organisational structures, these business groups can also be characterised by a high level of vertical as well as horizontal integration. Decisions regarding finance, administration, long and short term strategy and employment are often centrally designed and taken unitarily. Related to these developments, workers interest participation within multinational companies has been a topic of both interest and concern for many years, increasingly so in times such as the current economic downturn. Often, workers (and their representatives) are not involved in the social dialogue on development of corporate strategies. Workers' representatives experience that employers, who are often focused on serving shareholder interest, are in control of the central decision making, while the main cost of restructuring is paid by workers with job losses and insecure employment conditions.

### **Social dialogue**

The ILO defines social dialogue as: "all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy. It can exist as a tripartite process, with the government as an official party to the dialogue or it may consist of bipartite relations only between labour and management (or trade unions and employers' organisations), with or without indirect government involvement. Concertation can be informal or institutionalised, and often it is a combination of the two. It can take place at the national, regional or at enterprise level. It can be inter-professional, sectoral or a combination of all of these."<sup>1</sup>

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<sup>1</sup> ILO, Social Dialogue, <<http://www.ilo.org/public/english/dialogue/themes/sd.htm>>, (January 2009)

Consistent with the general description above, Philips labour representatives remarked during union strategy meetings organised by the European Metalworkers Federation (EMF) in 2009 that Philips involves employee representatives in the implementation of restructuring plans, but that workers' representative bodies are not seriously consulted during the development stage. Although the specific characteristics and quality of the social dialogue may differ between production locations, generally speaking, the impression is that employee representatives from the different production locations lack oversight of the broader picture and longer term strategy of Philips Lighting, even though the fate of the different production locations scattered over Europe is often closely interlinked, as can be seen, for example, in Belgium where the closure of a factory may mean expansion of production in Poland.

FNV Bondgenoten commissioned SOMO to conduct a research project on the issue of social dialogue at Philips Lighting surrounding restructuring. Over the last few years this division of Philips has been subject of almost continuous restructuring processes. The Lighting division was selected for various reasons, but most importantly because it is the focus of the EMF.

## 1.2 Research objectives and questions

The central focus of this research is the involvement of European employees in the development and implementation of restructuring plans at Philips Lighting by means of 'social dialogue', and more specifically the perception of the quality and the effectiveness of this social dialogue by workers' representatives. The research looks into possible discrepancies between the relevant Philips policies concerning workers' participation and the implementation of these policies in practice. As there is increasingly more restructuring involving lay-offs in Europe, the goal of this research is to gain a better understanding of workers involvement in restructuring plans, and thereby identify power imbalances between employers and employees on decision making on issues regarding restructuring and opportunities for coordinated action between different players at the local, national and international level. The central research question is formulated as follows:

- ❑ How have employee representatives been engaged in the recent restructuring at Philips Lighting in Europe?

This research question is addressed by answering several sub questions:

- ❑ How has employment at Philips Lighting developed over the past several years, and how have recent restructuring decisions impacted this employment? (Chapter 2)
- ❑ What are the policies with regard to and affecting social dialogue at Philips Lighting if we look at the different forms of social dialogue, legal provisions/status of these bodies and level of engagement? (Chapter 2)
- ❑ How have the different workers' representative bodies been informed of, consulted about and involved in recent management strategies and restructuring? (Chapter 3, 4 and 5)
- ❑ How do the different workers' representative bodies perceive the quality and the effectiveness of the social dialogue? (Chapters 3, 4 and 5)
- ❑ How could the social dialogue be improved to enhance quality and a more effective protection of workers' interests? (Chapter 7)

### 1.3 Research process

Initially, the research was intended to examine the processes of social dialogue around specific cases of restructuring at several European production locations of Philips Lighting. Because of information needs, the participation of Philips management was crucial for this approach; many of the key documents could not be disclosed without approval of local or central management. Unfortunately, Philips decided not to partake in the research. Besides a subsequent lack of important documents, this implies that the perceptions of Philips management on the social dialogue are not included in this report. As a result of this decision by Philips, the initial research outline had to be adapted. In its current form, the research examines the perception of the quality and effectiveness of social dialogue by workers' representatives from three different angles a) the local, production site level, b) the trade union perspective and c) the European level.

The final draft of the report was sent to Philips to provide Philips with the opportunity to comment on or contribute to the report. Unfortunately, Philips management responded that it did not recognise the conclusions drawn in the report, and refrained from providing an opening to collect further data to include the employer's perception on the quality and effectiveness of the social dialogue at Philips Lighting. In the context of an evaluative study of social dialogue, the fact that the dialogue partners disagree on the quality of the dialogue in itself raises questions about this very quality. Because it lacks a balance in employers and employees perspectives, this report should be read as an evaluation of the social dialogue at Philips Lighting from the perspective of selected workers' representatives at several levels in the Philips organisation.

### 1.4 Methods

The study focuses on the Philips Lighting Division, and includes three levels of analysis: a) the local, production site level, b) the trade union perspective and c) the European level.

The data collection methods that were used:

- ❑ Document analysis: analysis of available documents (public and in possession of FNV, involved trade unions and works councils)
- ❑ Questionnaires for selected workers' representative bodies (local Workers' Council, European Workers' Council, national trade unions, European Metal Federation)
- ❑ On the basis of outcomes of the questionnaires, a selected number of interviews were conducted with relevant stakeholder groups.

The stakeholder groups that were involved:

- ❑ Local Works Councils
- ❑ National trade unions
- ❑ European Works Council
- ❑ European Metalworkers Federation

In total, thirteen workers representatives have participated in the research. For confidentiality reasons, the respondents are kept anonymous in this report. They are nevertheless known to the researchers.

## 1.5 Structure of the report

The report is structured in the following way. Chapter 2 starts with a short overview of the restructuring process and consequences for employment at Philips, more specifically focussing on Philips Lighting. This chapter also includes an outline of Philips policies with regard to restructuring process and workers participation. The next chapters deal with social dialogue practices at the various levels: Chapter 3 with the local level, Chapter 4 with the trade union level and Chapter 5 with the European level. The last chapter provides a conclusion and several recommendations aimed at improving workers' participation at Philips.

## 1.6 Information about SOMO

SOMO's activities and research on corporations and their international context focus on sustainable economic and social development and are aimed at promoting sustainable development and the structural eradication of poverty, exploitation, and inequality. SOMO has the following primary goals:

- ❑ Societal change through knowledge building: The research SOMO carries out is aimed at stimulating change. This means that on the one hand, SOMO fulfils a 'watch dog' function; SOMO collects the necessary information and carries out analyses to reveal unsustainable corporate conduct and contradictions in economic and political systems. On the other hand, SOMO contributes to the policy development of governments, international organisations, civil society organisations (CSOs) and corporations by providing analyses and alternative proposals.
- ❑ Strengthening of civil society in the global North and South: By providing information and facilitating cooperation, SOMO helps to strengthen civil society in the global North and South. SOMO's activities focus on disclosing previously fragmented information, building CSO networks and training CSOs. SOMO concentrates its efforts on CSOs that work with multinational enterprises and international trade, such as labour unions and human rights, consumer, environmental, gender and development organisations.
- ❑ Increasing the impact of civil society organisations: Through its research and cooperation with partners from the South, and joint initiatives with other NGOs and unions, SOMO contributes to the debate on Corporate Social Responsibility (CSR). SOMO targets its policy influence, workshops, and public meetings at opinion leaders and decision makers from governments, civil society organisations and the media. SOMO promotes the interests of the global South when participating in policy dialogues, lobby activities, conferences, expert meetings, and other fora.

## 2 Philips: Restructuring and social dialogue policies

### 2.1 Company profile

Headquartered in the Netherlands, Koninklijke Philips Electronics N.V. (Philips) is one of the largest electronic companies in the world with 116 thousand employees, production facilities in around 30 countries and sales of EUR 23 billion in 2009.<sup>2</sup> Starting January 1, 2008, Philips' organisational structure was simplified, and its activities categorised on a divisional basis, with each operating sector – Healthcare, Consumer Lifestyle and Lighting – responsible for the management of its own businesses worldwide. Next to these three operational sectors, the Philips Group comprises of two other sectors (i.e. divisions): the Innovation & Emerging Businesses sector and the Group Management & Services sector.<sup>3</sup> Koninklijke Philips Electronics N.V. is the parent company of the Philips Group. In its two-tier corporate structure, the executive management is entrusted to the Board of Management under the supervision of an independent Supervisory Board.

In 2009, Philips' sales amounted to 23.2 billion EUR, 11% lower than in 2008. The losses are visible in all sectors, with Lighting accounting for 13%, Heathcare for 3% and Consumer Lifestyle for 17%. As can be seen in Table 1, Philips has been heavily impacted by the economic downturn. However, in light of the crisis, the company is satisfied with the 2009 results, and expects 2010 to be more profitable.<sup>4</sup>

**Table 1: Revenue and Net Income in millions of Euros: last 5 years (annual report 2008 & 4<sup>th</sup> Quarter report 2009)**

Year	Revenue	Net Income (loss)
2009	23.189	424
2008	26.385	(186)
2007	26.793	4.160
2006	26.682	5.381
2005	25.445	2.861
2004	24.488	2.835

### 2.2 Workforce

The total number of employees of the Philips Group stood at 115,924 at the end of 2009, compared to 121,398 at the end of 2008. Approximately 46% was employed in the lighting sector. In 2009, the decrease in employee numbers, due to reductions in the permanent headcount in all sectors, was

<sup>2</sup> Philips, Quarterly Results 4Q 2009, January 2010, <[http://www.newscenter.philips.com/main/confidential/resources/corporate/quarterly\\_results/R\\_4Q09.pdf](http://www.newscenter.philips.com/main/confidential/resources/corporate/quarterly_results/R_4Q09.pdf)>, (January 2010)

<sup>3</sup> Philips, Annual Report 2008, February 2009, <[http://www.philips.com/shared/assets/Downloadablefile/Investor/Philips2008\\_AnnualReport.pdf](http://www.philips.com/shared/assets/Downloadablefile/Investor/Philips2008_AnnualReport.pdf)> (January 2010)

<sup>4</sup> Philips, Annual Report 2008, February 2009, <[http://www.philips.com/shared/assets/Downloadablefile/Investor/Philips2008\\_AnnualReport.pdf](http://www.philips.com/shared/assets/Downloadablefile/Investor/Philips2008_AnnualReport.pdf)> (January 2010)

partly offset by a slight increase in temporary employees at Lighting and Healthcare. Table 2 shows that while overall employment decreased significantly, Lighting showed a small increase in the same period. This increase is the result of reorganisations and acquisitions within Lighting. Philips is focused on strengthening its business activities in LED and home luminaries. In August 2005, for example, Philips Lighting had gained a controlling 96% interest in Lumileds. In February 2007, Philips acquired Partners in Lighting (PLI), which markets home luminary products under brand names such as Massive, Cucina and Aqua.

**Table 2: Philips Employees beginning/end of year and Lighting sector**

<b>Employees Philips</b>					
	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
Employees at December 31	159,226	121,732	123,801	121,398	115.924
Lighting	45,649	47,739	54,323	57,166	51.653

With regard to geographical scope, 2009 employment figures are not yet available. In 2008, approximately 58% of Philips' workforce was located in mature markets and 42% in emerging markets.<sup>5</sup>

**Table 3: Number of employees per region (in FTEs at year-end)**

	<b>2008</b>	<b>2007</b>	<b>2006<sup>6</sup></b>	<b>2005</b>	<b>2004</b>
Western Europe	37,452	40,244	39,722	X <sup>7</sup>	X
North America	31,336	21,682	22,169	X	X
Other mature markets	1,633	1,850	1,831	X	X
Key emerging markets	32,084	33,377	31,893	X	X
Other emerging markets	18,893	20,945	19,477	X	X
	115,092	118,098	115,092	X	X
Discontinued operations	–	5,703	6,640	X	X
<b>Total</b>	<b>121,398</b>	<b>123,801</b>	<b>121,732</b>	<b>159,226</b>	<b>161,586</b>

At the presentation of Philips' 2008 annual report, Philips announced plans to cut 6000 jobs globally across all divisions in 2009 to counter the consequences of the economic crisis. The first quarter results over 2009 did indeed reveal that 5000 jobs had been lost in the first quarter, predominantly in the Lighting sector. Another measure taken by Philips was to limit salary increases for 2009. The company states the following: "While all collective labour agreements in place will be fully respected, we will be very restrictive with respect to further increases".<sup>8</sup> By taking these measures, the company aimed and indeed realised savings of fixed based costs of EUR 400 million in 2009, compared to 2008.

<sup>5</sup> Philips, Annual Report 2008, February 2009, <[http://www.philips.com/shared/assets/Downloadablefile/Investor/Philips2008\\_AnnualReport.pdf](http://www.philips.com/shared/assets/Downloadablefile/Investor/Philips2008_AnnualReport.pdf)> (January 2010)

<sup>6</sup> The relatively large decline in 2006 compared to 2005 of the total number of employees was mainly caused by the sale of a major share of Philips' semiconductors business.

<sup>7</sup> Because of discontinued operations, the employment figures over 2005 and 2004 cannot be derived from older annual reports as comparable to 2006-2008 figures.

<sup>8</sup> Opening remarks by Gerard Kleisterlee Annual Report 2008, Philips, Annual Report 2008, February 2009, <[http://www.philips.com/shared/assets/Downloadablefile/Investor/Philips2008\\_AnnualReport.pdf](http://www.philips.com/shared/assets/Downloadablefile/Investor/Philips2008_AnnualReport.pdf)> (January 2010)

## 2.3 Restructuring

Outsourcing practices are not only attributed to the economic crisis, but also to the effectiveness of Philips' processes. For example, IT projects are increasingly outsourced to India, where Philips has a large IT centre. In the meantime, a growing number of employees are being made redundant in the European production locations. The large extent to which Philips is cutting jobs is evident from the following statement in their annual report 2008: "Compared to the third quarter of 2008, the number of employees decreased by 9,786, primarily in Lighting (down 8,431) and Healthcare (down 1,091)". The lay-offs in the Lighting sector account for 86% of the total number of job losses in 2008.<sup>9</sup> Despite this high number, figures from Philips' annual reports show a small increase in overall employees. This small rise in overall employees was due to a number of acquisitions, adding 12,673 employees.<sup>10</sup> The main acquisition-related increases were within Healthcare and Lighting, the same areas that were hit most by lay-offs. Related to the cutting of jobs is the large shift in sourcing, witnessed by a reduction of employees in the Western European market cluster. In 2006, Philips had 39,722 employees in Western Europe as opposed to 37,452 in 2008.<sup>11</sup>

### **Delight and Fast Forward<sup>12</sup>**

Philips has embraced a strategic programme within the Lighting division; the "Delight" programme. Mainly due to the economic crisis, Philips adopted an additional programme, "Fast Forward", to speed up activities to maintain profitability.

With the introduction and implementation of "Delight" and "Fast Forward" it is expected that the employment situation in Lighting will undergo drastic changes in the near future. Different observations (annual reports, policy statements and social dialogue) point towards the following outlooks:

- High-cost country manufacturing mainly assembly and high tech
- Increase of outsourcing (currently 22%) and relocation (and transferring experience) to emerging markets
- 2/3 of 57,000 lighting workforce in low-cost countries
- Phase out incandescent lamps (EU 2012)
- Move towards Solid State Lighting Solutions (SSL)
- Move from bulbs to applications (systems)

As the implementation of the Delight strategy and the effects of the economic crisis have enormous consequences on the Lighting workforce in Europe, it was decided that trade union focus on Lighting was an apparent choice. Additional reasons to focus on Lighting are the relatively high union density in that sector and the interdependency between the sites in the different countries.

In 2008, the restructuring projects in Lighting were, according to Philips, aimed at further increasing organisational effectiveness and reducing the fixed cost base – and mainly centred on Lamps (primarily North America and Poland), Professional Luminaires (primarily Germany), Special Lighting Applications (primarily the Netherlands and Belgium), Automotives (primarily Germany and Korea) and Lighting Electronics (primarily the Netherlands). The most prominent changes consisted mainly of the

<sup>9</sup> Philips, Annual Report 2008, February 2009, <[http://www.philips.com/shared/assets/Downloadablefile/Investor/Philips2008\\_AnnualReport.pdf](http://www.philips.com/shared/assets/Downloadablefile/Investor/Philips2008_AnnualReport.pdf)> (January 2010)

<sup>10</sup> Largely attributed to the Genlyte and Respironics acquisitions.

<sup>11</sup> Philips, Annual Report 2008, February 2009, <[http://www.philips.com/shared/assets/Downloadablefile/Investor/Philips2008\\_AnnualReport.pdf](http://www.philips.com/shared/assets/Downloadablefile/Investor/Philips2008_AnnualReport.pdf)> (January 2010)

<sup>12</sup> EMF, EMF draft position paper on the situation in Philips with a focus on Philips Lighting, 2009

exit from the fluorescent lamp-based LCD backlighting business and several projects in the Lamps business.

In 2007, Philips announced 'Vision 2010', a set of plans constituting a strategy to fuel growth and achieve higher levels of operational profitability. One plan was to simplify Philips' business structure by creating three core sectors: Healthcare, Lighting and Consumer Lifestyle. The financial goals of Vision 2010 were put on hold when it became clear that the economic downturn would prevent the attainment of these goals. In January 2009, Philips CEO Gerard Kleisterlee announced that Philips would cut 6000 jobs.<sup>13</sup> Renier Vree, CFO of Philips Lighting, announced in June 2009 that restructuring projects and action plans are necessary in order to overcome the crisis.<sup>14</sup>

In early 2010, Philips declared it was slightly more confident about its profitability in 2010, however, the company also said that especially Lighting will remain a vulnerable sector: "visibility beyond the short term remains low and so we will continue our focus on cost (we expect limited restructuring in the range of 150-250 million for the year [2010], predominately in Lighting) and on cash."<sup>15</sup>

## 2.4 Philips policies with regard to restructuring

Philips' employee-related policies can be found in its General Business Principles (GBP) and GBP directives. In the GBP, the section 'Commitment Towards Employees' specifies the company's standpoints regarding employee rights to organise, health and safety, equal and fair treatment and wages and payments. Philips refers to the GBP as its guideline for business decisions and actions throughout the world, and stresses that these apply equally to corporate actions and to the behaviour of individual employees. The intention of the GBP is to ensure compliance with laws and regulations and with Philips' norms, values and standards. "The GBP Directives are adapted as needed to reflect ongoing developments in codes of conduct and business integrity legislation (e.g., Philips' endorsement of the UN Global Compact and the ILO Core Conventions, the company's policies on HIV/AIDS, Health and Safety, integrity and ethics in advertising, and directives related to the giving and receiving of gifts)."

With regard to the treatment of employees during restructuring, Philips Electronics published in June 2003, after consultations with the European Philips Forum (EPF), a document titled 'Responsible Transformation within Europe'.<sup>16</sup> However, this document was eventually not adopted by the EPF and is currently not publicly available. The most recent document in which Philips refers to the Responsible Transformation approach is its Sustainability Report 2006. While the relevance and status of this document are unclear, it provides insights into some of Philips' reorganisation principles, including:<sup>17</sup>

- Dealing with any reorganisation in a **socially responsible way**, safeguarding the interests of its employees.

<sup>13</sup> BBC News. "Philips cuts jobs as profits fall" 26-01-2009 <http://news.bbc.co.uk/2/hi/business/7850484.stm>, (January 2010)

<sup>14</sup> Philips, A crisis is a terrible thing to waste, CFO Renier Vree, [http://www.fdewb.unimaas.nl/permanente\\_educatie/pdf/FFF5\\_RdeVree.pdf](http://www.fdewb.unimaas.nl/permanente_educatie/pdf/FFF5_RdeVree.pdf), (January 2010)

<sup>15</sup> Philips, Quarterly Results 4Q 2009, January 2010, <[http://www.newscenter.philips.com/main/confidential/resources/corporate/quarterly\\_results/R\\_4Q09.pdf](http://www.newscenter.philips.com/main/confidential/resources/corporate/quarterly_results/R_4Q09.pdf)>, (January 2010)

<sup>16</sup> Philips, GeneralBusinessPrinciples, 2008 Update <[http://www.philips.com/shared/assets/Investor\\_relations/pdf/businessprinciples/GeneralBusinessPrinciples.pdf](http://www.philips.com/shared/assets/Investor_relations/pdf/businessprinciples/GeneralBusinessPrinciples.pdf)> (January 2010)

<sup>17</sup> Philips, Responsible transformations within Europe, 2003

- ❑ Coined **employability**, measures offered include re-education, assisted relocation, planned career alterations, and outplacement. All of these scenarios are designed in collaboration with employee representatives.
- ❑ Reorganisation must be **communicated** by management **in an accurate manner**. In that respect, issues of long-term profitability, growth potential, employee and community relations and how the business fits into the future company vision are all major factors in the decision making process.
- ❑ **Divestment**, if an option, generally has **preference over closure**. Divestment may lessen the negative effects on the local economy by keeping business in the region.
- ❑ When Philips sells certain business parts, the company **attempts to identify a buyer** – or multiple buyers – **that is committed to the business and the people** that make it up, including terms and conditions of employment, pensions and social plans.
- ❑ In case of closure, Philips aims to **provide adequate information to and consultation with the affected employees, trade unions and employee representative bodies** (depending on local legislation, practices, culture and circumstances) to mitigate the negative consequences of such restructuring activity.
- ❑ **Clear communication**: Management's duty is to present the facts and reality of the situation in a responsible manner, to help its stakeholders understand reasons for the change and to ensure that the stakeholders feel that their key concerns are being addressed.
- ❑ During reorganisations, **local management must be active and vocal**. Local faces are trusted voices and should be engaged in dialogue with key workers' council representatives and unions.

In light of current restructuring programs, Philips refers to responsible restructuring in its latest annual report.<sup>18</sup> It commits to informing and consulting works councils and employees before announcements on specific restructuring programs are made. Furthermore, the company conveys to seek responsible and respectful treatment of affected employees (e.g. alternative employment, social plans etc.). However, measures may vary depending on local work conditions and regulations. No specific distinction is made between consultation and information and no information is given on notification periods, except that employees are to be informed prior to press and public.

## 2.5 Philips policies with regard to workers' participation

Philips' commitments with regard to employees' rights to organise and collective bargaining are set out in its GBP directives. These include the topics addressed in the fundamental International Labour Organisation (ILO) conventions. In its GBP directives, Philips states that it "recognises and respects the freedom of employees to choose whether or not to establish or to associate with any organisation of their own choosing (including labour unions) without Philips' prior authorisation. Philips will not make the employment of a worker subject to the condition that he/she shall not join a union or shall relinquish trade union membership. Furthermore, Philips will not cause the dismissal of – or otherwise prejudice – a worker by reason of union membership. Philips will not interfere with or finance labour

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<sup>18</sup> Philips, Annual Report 2008, February 2009, <[http://www.philips.com/shared/assets/Downloadablefile/Investor/Philips2008\\_AnnualReport.pdf](http://www.philips.com/shared/assets/Downloadablefile/Investor/Philips2008_AnnualReport.pdf)> (January 2010)

organisations or take other actions with the object of placing such organisation under the control of Philips”<sup>19</sup>.

With regard to collective bargaining the company declares that it “respects – within the framework of law, regulations and prevailing labour relations and employment practices – the right of its employees to be represented by labour unions and other employee organisations. Philips will engage in negotiations, either on its own behalf or through employers’ associations, with a view to reaching agreement on employment conditions.”<sup>20</sup>

Performance on these subjects is reported in the annual report under ‘Social Indicators’. Although Philips follows the GRI reporting guidelines, it does not address all GRI indicators regarding labour practices and decent work.

## 2.6 Levels of workers’ participation

Within Philips several levels of workers’ representation can be distinguished.

- ❑ **Global:** Currently there is no International Framework Agreement or Global works council covering Philips
- ❑ **European:** Since 1996, Philips has a European Works Council (European Philips Forum) in place. It consists of 23 members of 19 different European countries. The European Metalworkers Federation, of which all local Philips unions are members, is the European level union covering Philips. The EMF is a member of the European Trade Union Confederation and the globally operating International Metalworkers’ Federation.
- ❑ **National and company level:**
  - National trade unions
  - Central works council (Netherlands)
  - Company level works councils and trade union

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<sup>19</sup> GBP Directives, p.11- Philips, GeneralBusinessPrinciples, 2008 Update  
<[http://www.philips.com/shared/assets/Investor\\_relations/pdf/businessprinciples/GeneralBusinessPrinciples.pdf](http://www.philips.com/shared/assets/Investor_relations/pdf/businessprinciples/GeneralBusinessPrinciples.pdf)> (January 2010)

<sup>20</sup> GBP Directives, p.1, Philips, GeneralBusinessPrinciples, 2008 Update  
<[http://www.philips.com/shared/assets/Investor\\_relations/pdf/businessprinciples/GeneralBusinessPrinciples.pdf](http://www.philips.com/shared/assets/Investor_relations/pdf/businessprinciples/GeneralBusinessPrinciples.pdf)> (January 2010)<sup>1</sup>

## 3 Case study: Social dialogue at Philips Turnhout

*“This reorganisation has been forced down our throats.”*

*“We all have a strong stake in Lighting being a healthy division within the Philips Group. Philips should commit to decent consultation (‘deftig overleg’) with the trade unions as full partners.”*

### 3.1 Introduction

In the course of 2009, a rigorous reorganisation was carried out at Philips Innovative Applications NV in Turnhout. 489 regular jobs were cut, which equals about 20% of the total workforce. Preceding restructuring measures between June and October 2008 had already resulted in the loss of more than 300 staff with fixed term contracts. Due to the size of the reorganisation, the law Renault – the Belgian labour legislation governing mass redundancy – was applicable. On 11 December 2008, the management of Philips Turnhout formally informed the plant’s Works Council (‘Ondernemingsraad’) of the imminent reorganisation. Subsequently, the Trade Union Delegations (‘Syndicale Delegaties’) active at Philips Turnhout were involved in the development and the implementation of the social plans. Two separate Collective Bargaining Agreements (CBAs) including detailed social plans were negotiated between the Turnhout management and the Trade Union Delegations for workers and cadre respectively. A CBA for workers was signed for the period of 1 April 2009 until 31 March 2010. The CBA for cadre took effect on 20 April 2009 and will be in force until 30 September 2010.<sup>21</sup> In this round of the restructuring, 264 jobs were cut. On 20 April 2009, Philips announced another restructuring round, which resulted in the loss of another 225 jobs, 111 workers and 114 cadres (white collar workers, further explained in section 3.2.2). The reorganisation included a number of forced dismissals.

SOMO conducted a case study on the social dialogue surrounding the reorganisation in 2009 at Philips Turnhout. By means of questionnaires and additional interviews, the perspectives of five workers’ representatives were collected from four different unions that represent the Turnhout labour force, ACV, ABVV, BBTK and LBC-NVK.<sup>22</sup> All five respondents are active trade unionists. At the time of the research, three were members of the Philips Turnhout Works Council; two were members of the Trade Union Delegation for workers, and two were members of the Trade Union Delegation for cadre.<sup>23</sup>

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<sup>21</sup> According to Belgium labour law, workers and cadre have different statutory status. Within the cadre group, three subgroups are distinguished: lower cadre (‘bedienden’), technicians and higher cadre (‘kader’).

<sup>22</sup> The last time Philips Turnhout was confronted with a reorganisation on this scale was in the early nineties. For most of the trade unionists it was the first time to engage upon this type of social dialogue with the Turnhout management.

<sup>23</sup> Respondent 1.

Respondent 2.

Respondent 3.

Respondent 4.

Respondent 5.

The distinct roles of the Works Council and the Trade Union Delegations in the social dialogue will be explained in more detail below.

## 3.2 Background Philips Turnhout

### 3.2.1 Plant data

Philips Innovative Applications NV, or in short Philips Turnhout, falls under the Lighting division of Philips, and specialises in lighting technology, specifically High Intensity Discharge lamps (HID lamps) and metal components, from development to production. Philips Turnhout is composed of a number of business units, including General HID, Advanced Metal Solutions, Special Lighting, Digital Projection Lighting (DPL) and Global Technology Development.<sup>24</sup>

Employment before restructuring was around 2,500. This is maintained as the current labour force on some pages at the Philips Turnhout website.<sup>25</sup> But in fact, the number of people employed on 30 November 2008 amounted to 2,116.<sup>26</sup> The official employment figures for November 2009, provided by a trade union representative, stood at 1,670 workers (969 workers and 701 cadres).

### 3.2.2 Trade unions

Trade union density in Belgium is estimated at about 50%–60%.<sup>27</sup> Trade unions are organised on the basis of denomination ('Christian', 'socialist', 'liberal') and on the basis of the type of workers they represent, distinguishing 'workers' and 'cadre'.

This compartmentalisation complicates the social dialogue, both on plant and national level.

Workers and cadre have different types of contracts. Generally speaking, workers' employment terms are less favourable. Terms of notice for workers are less strict, and workers receive significantly less severance pay. Trade unions have for years stressed the need to harmonise the statutory arrangements for workers and cadre. The Belgian government has however, made it clear that they have no intention of looking into this matter before mid-2010. Moreover, not all unions have this issue equally high on their agendas. Workers unions are more concerned about this issue, because of an anticipated loss of trade union jobs. But the cadre unions fear that a harmonisation may result in worse conditions for their members. The dossier has created tension within the trade union families – leaders of worker and cadre unions are not necessarily on common ground. At the employer's level,

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<sup>24</sup> Philips Turnhout produces between 30 and 40% of all HID-lamps on the global market. Philips Advanced Metal Solutions is a specialist in the production of tungsten and molybdenum components for a wide range of applications and industries. AMS is the global refractory metals development centre for Philips and other companies. Special Lighting stands for innovative new light sources and groundbreaking technology for the optical and entertainment industry. Philips Lighting in Turnhout forms the centre for Ultra-High Performance (UHP) lamp technology. In the mid-90's, the production and development centre for UHP lamps was established in Turnhout. This new technology has promoted growth in a number of market segments, including digital projection applications, such as beamers, video-wall and projection television. The assignment of the GTD unit is to monitor the global lighting markets, to come up with pro-active responses and to translate new trends in new products. Source: Philips, 'Turnhout', <<http://www.philips.be/sites/philipsbe/about/company/belgium/turnhout/index.page>> (2 February 2010)

<sup>25</sup> Philips, 'Lichtjaren Voorsprong op Korte Afstand', <<http://www.philips.be/about/company/belgium/turnhout/article-14390.page>> (12 January 2010).

<sup>26</sup> Information provided by the Turnhout management in a meeting with the Works Council on 13 January 2009.

<sup>27</sup> European Industrial Relations Observatory Online, 'Belgium, Industrial Relations Profile', <[http://www.eurofound.europa.eu/eiro/country/belgium\\_3.htm](http://www.eurofound.europa.eu/eiro/country/belgium_3.htm)> (2 February 2010)

there is very limited enthusiasm for statutory harmonisation. All this puts a brake on the process towards harmonisation.

The ACV (*Algemeen Christelijk Vakverbond*) has a distinct catholic background and around 1.7 million members.<sup>28</sup> Workers union ACV Metaal and the cadre union LBC-NVK (*Landelijke Bedienden Centrale – Nationaal Verbond voor Kaderpersoneel*) fall under the ACV and are active at Philips Turnhout. LBC-NVK has more than 300,000 cadre members in Brussels and Flanders alone. The workers union ABVV (*Algemeen Belgisch Vakverbond*) and the cadre union BBTK (*Bond voor Bedienden, Technici en Kaderleden*) make up the socialist ‘family’. ABVV counts around 1.4 million worker members.<sup>29</sup> The BBTK has about 360,000 cadre members spread over Belgium, which makes the LBC-NVK the biggest cadre union. The ACLVB (*Algemene Centrale der Liberale Vakbonden van België*), with a liberal signature, does not distinguish between worker and cadre. With about 265,000 members ACLVB is the smallest union in Belgium.<sup>30</sup>

### **3.2.3 Labour regulations governing works councils in Belgium**

In Belgium, workers’ representation and the functioning of the Works Council is governed by labour law, specifically the ‘*Wet op de Ondernemingsraden*’. Enterprises with more than 50 employees are to establish a Committee for Prevention and Labour Protection, focusing on labour conditions. Enterprises with 100 or more employees have to establish a Works Council. Works Councils are jointly composed, which means that employer and employees are equally represented. The Works Council is chaired by the employer.

Every four years, the so-called ‘social elections’ take place all over Belgium to elect members of Works Councils and Committees for Prevention and Labour Protection. The number of members of a Works Council depends on the total number of employees in an enterprise. All employees have the right to vote, regardless of union membership. The turnout at the voting is generally high (as participating in the vote equals a half an hour break, as is pointed out by a Works Council member). Workers vote for worker candidates; cadres vote for cadre candidates. Candidates have to be member of a trade union, with the exception of higher cadres who can run independently. Trade unions nominate and campaign for their candidates, who have to have been employed at the company for at least six months. The last national elections for Works Councils and the Committees for Prevention and Labour Protection took place in May 2008, which includes the elections at Philips Turnhout.

In Belgium, Works Councils have the right to be informed about social and economic issues and are to be consulted prior to decisions made by the employer on a limited number of topics. Topics include the economic and financial condition of the enterprise, terms of employment and the organisation of labour. The Works Council is to be informed and consulted in case of closure, mass redundancy and restructuring. The Works Council has power of decision over labour regulations, working hours, holidays, social projects, the criteria for mass redundancies and study leave. The Works Council monitors the implementation of social and industrial legislation on plant level.

Besides the Works Council, Trade Union Delegations (*‘syndicale delegaties’*) – for workers and for cadre respectively – play an important role in the social dialogue. In contrast to the Works Council, Trade Union Delegations are not jointly composed and employers are not represented. The number of

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<sup>28</sup> Idem.

<sup>29</sup> Idem.

<sup>30</sup> Idem.

seats for the different trade unions on a delegation depends on the number of votes the unions won during the social elections. Works Council members are often a part of the Trade Union Delegation as well, but this is not necessarily the case.

### **3.2.4 Law Renault**

Belgium has a legal framework that describes procedures in case of mass redundancies, including an obligatory consultation between management and the social partners, that is the Works Council and the Trade Union Delegations. This legal framework is called the 'law Renault' as it came into being after the relocation of a production site of the Renault car company in 1997-8. If more than 10% of the work force is involved in a reorganisation, the law Renault prescribes comprehensive procedures, including information, consultation and negotiation phases. The law Renault aims to shield workers from hasty dismissal in case of relocation or restructuring. The flip side, however, as the law Renault defines no maximum time frame, is the risk that restructuring becomes a prolonged process before a satisfactory social plan is defined. As a consequence, companies may choose to implement restructuring processes in a series of smaller lay-off rounds, each involving less than 10% of the work force to avoid the law.

The roles and responsibilities of the social partners vary per phase. First of all, the company has to inform the Works Council of an upcoming reorganisation. The law Renault prescribes consultations between Works Council and management. In this phase, the union representatives in the Works Council may question management delegates in the Works Council about the presented plans and offer alternatives for these plans. This phase is rounded off with a concluding document signed by all parties to the Works Council. This document is sent to the Minister of Labour, and includes accounts of all talks between management and Works Council and a clearly formulated intention. As explained by the trade union members of the Turnhout Works Council, signing does not necessarily mean agreeing, but may merely indicate that the trade unions recognise the need to continue with the process. An experienced trade union negotiator explains that it is not feasible for the trade unions on the Works Council to keep on raising the same questions, however relevant and urgent they may be, if management refuses to properly answer them. The next phase concerns the negotiations on the collective bargaining agreements including the social plans between the Trade Union Delegations and the management. The regional secretaries of the relevant unions are also involved in this phase.

### **3.2.5 Unionisation at Philips Turnhout**

About 75% of the overall work force of Philips Turnhout is member of a trade union. Trade unions active at the moment at Philips Turnhout are ACV and ABVV, representing workers, and LBC-NVK and BBTK, representing cadres.

At the May 2008 social elections, the ACV obtained about 80% of the votes from the Turnhout workers, with the ABVV getting 20%. For the cadre votes, the percentages were 81% and 19% for LBC-NVK and BBTK respectively. The Trade Union Delegations were formed on the basis of these results. The Trade Union Delegation for cadre at Philips Turnhout consists of 6 mandated representatives, 5 from LBC-NVK and 1 from BBTK, plus the regional secretaries of these unions. The Trade Union Delegation for workers consists of 10 representatives, 7 from ACV and 3 from ABVV, plus the regional secretaries of both trade unions.

BBTK has been absent from the social dialogue at the plant until fairly recently. In the early nineties, at the occasion of a previous massive reorganisation, BBTK was forced out of the plant. It took until 2004 before the management of Philips Turnhout accepted BBTK back among the social partners. LBC-NVK backed the management in this line. At the May 2008 social elections, BBTK obtained 1 seat on

the cadre Trade Union Delegation. BBTK is now carefully rebuilding its position. Especially in its dealings with the management, BBTK is currently treading a fine line. The contact with LBC-NVK, on the other hand, has rapidly improved.

A similar situation occurred in the workers Trade Union Delegation. The bigger union ACV was never much inclined to collaborating closely with the (socialist) ABVV, and this situation has continued until today. Collaboration between ACV and ACVV within the workers Trade Union Delegation is not yet ideal. “A waste of energy”, as one of the more critical respondents puts it.<sup>31</sup>

These are consequences of the earlier mentioned historical compartmentalisation of the Belgian trade union. An additional feature of the Kempen, the region where Turnhout is situated, is that about 75% of the population is of catholic stock, as are in general the local members of the Philips Turnhout management. The ACV and LBC-NVK have a clear majority position in the region compared to their socialist counterparts. Traditionally, contact between catholic trade unions and the Philips Turnhout management has been easier than between management and ABVV.<sup>32</sup>

Close teamwork among the unions active at Philips Turnhout across denominational and professional lines is a fairly new phenomenon, but the recent restructuring has given collaboration a huge boost. This said, it should be noted that the two Trade Union Delegations held separate negotiations with the Turnhout management, for separate CBAs and social plans. There was no formal contact between the two delegations during the negotiations; contact was only maintained behind the scenes. Some respondents are especially critical about the solitary way in which ACV operated during the CBA negotiations, which opened the door to Philips’ divide and rule tactics.

### 3.3 Social dialogue at Philips Turnhout

Generally speaking, until mid-2008 social dialogue had always been fairly positive. In retrospect, the respondents point out that all was fine as long as trade unions did not touch upon any costly issues. A feature stressed by all the respondents is the habitually constructive approach of the unions in the dialogue with Philips Turnhout, be it in the Works Council or in the Trade Union Delegations. Respondents draw attention to the fact that trade unions have generally been reluctant to settle labour disputes in court, despite a number of instances where Philips Turnhout has clearly shown open disrespect of the law.

An example concerns the way unions have dealt with the hiring of temporary staff at Philips Turnhout. Labour law stipulates that social partners are to give their authorisation for hiring staff with fixed term contracts (except in situations where such staff is needed for an exceptional work load). The Philips Turnhout management, however, has ignored this stipulation. The unions have the possibility to call in the labour inspection, but have always chosen not to do so, as this was considered a non-constructive way of addressing the management.<sup>33</sup> Another example concerns the forced dismissals during the recent reorganisation. Trade unions did not encourage workers to go to court over the employer’s decisions. This has very pragmatic reasons. According to the social plan, Philips Turnhout is to provide support to dismissed workers in finding alternative employment. Workers who take a confrontational course fear they may not get the assistance they need. Also, labour law stipulates that

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<sup>31</sup> Respondent 5.

<sup>32</sup> Respondent 1.

<sup>33</sup> Respondent 1.

once a worker has accepted his/her severance pay, fighting the ex-employer in court is no longer an option.

Meetings of the Works Council, in which the Turnhout management has half of the seats, are by comparison more formal than meetings between the Trade Union Delegations and the management. Detailed notes are taken of the discussions in the Works Council. As a consequence, some say that open and frank exchanges are lacking in this body. It was further pointed out that management members regularly fail to show up for Works Council meetings, or that high-level management members are represented by delegates without power of decision. According to one respondent, the Turnhout management displays a clear lack of interest in serious consultation with trade unions

The agreements that are made in meetings between the Trade Union Delegations and management are often verbal, informal agreements. For the implementation of such agreements mutual trust is an important factor. The recent reorganisation has badly shaken the unions' confidence. Trade union representatives have now indicated that they face a dilemma: formalisation of the procedures of the meetings between Trade Union Delegations and management would most likely put an end to all meaningful exchange of views and information, but to lack the means to enforce the implementation of informally reached agreements is an equally unacceptable source of frustration for the Trade Union Delegations.<sup>34</sup>

Communication between Works Council and Trade Union Delegations is far from flawless, despite a number of people who have double functions in both bodies and the weekly and monthly meetings that are organised between the bodies. Trade Unions Delegations rely to a large extent on their colleagues in the Works Council for information from the management, but this information is not always communicated. On the other hand, issues brought up by the work floor and passed on by the members of the Trade Union Delegations are not often effectively taken on by the Works Council.<sup>35</sup> Despite weekly and monthly meetings between Works Council and Trade Union Delegations which are open for all employees, there are distinct flaws in the communication between these bodies.

According to one respondent, people from the Kempen are typically hardworking and non-complaining. They are focused on consultation, not confrontation. In contrast, the typical Philips corporate mentality is non-communicative and arrogant.<sup>36</sup>

### 3.4 Social dialogue on the 2009 reorganisation

In September 2008, the Turnhout Works Council was informed about an upcoming divisional restructuring entitled Philips Delight by means of standard emails and video messages posted on the intranet by René Provoost, Executive Vice-President and CEO of Philips Lighting. In the first instance, Delight was presented as a simplification of the organisational structure at division level. However, further information presented by Provoost painted a different picture, pointing at job losses at the plant level.

The assessment of the quality of the information provided to the Works Council by Philips concerning the background and the objectives of Philips Delight is not unanimously positive. Qualifications range

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<sup>34</sup> Respondent 1.

<sup>35</sup> Respondent 1.

<sup>36</sup> Respondent 3.

from “meagre and vague” to “fairly extensive, but insufficiently substantiated”. Especially the video messages from Rudy Provoost were described as “incomprehensible” and “of pitiful technical quality”. Worse even was when Provoost mentioned looming lay-offs; this was done without providing any hard facts, which in turn created confusion and unrest on the Turnhout work floor. The information was presented in bits and pieces and in an untimely manner. Delight was to be carried out in a number of steps, or tiers, but the information concerning tier 1 only came through when implementation of this phase had already started. Nevertheless, trade unions stress that the need to adapt the company’s structure and strategies to the changing economic climate was well understood.

What is most contended is that business strategies such as Philips Delight are communicated only after vital decisions have been taken. Unanimously, the Turnhout respondents explain that they have in no way been involved in the development of corporate strategies. There is no formal policy that allows for this. No official role for trade union or Works Council has been defined. The Works Council was informed of Delight, but no meaningful discussion has been possible. The Works Council is treated as a mere advisory body without power of decision regarding the development and the implementation of corporate strategies such as Philips Delight. The Trade Union Delegations were also informed of Delight, but informally, and again questions went unanswered.

Subsequently, in December 2008, the Turnhout management presented the works council with a new message about measures necessitated by the economic downturn. The reorganisation announced by the Turnhout management in December 2008 was entirely attributed to the economic downturn and replaced the previously announced measures in the context of Philips Delight. Trade unions conclude that the 2009 Turnhout reorganisation was a financial operation to counter the effects of the economic downturn – enforced at Philips Turnhout regardless of, or even in spite of, the local situation, for the benefit of the Lighting division and the Philips Group. A common and bitter remark is that apparently it was more important to please shareholders than to consider the interests of local employees.

As uncertainty and unrest at the work floor were great, the trade unions were unmistakably under pressure to quickly meet the needs of the employees and quench their anxiety. Unions were in a way obliged to collaborate with the management in elaborating a social plan as quickly as possible.

### **3.4.1 “This reorganisation was forced down our throats.”**

Legal provisions detailing the functioning and the competence of the Works Councils in Belgium stipulate that the economic and financial condition of an enterprise should be subject of consultations between management and Works Council. Philips Turnhout may have respected the letter of the law Renault while going through the motions of the reorganisation, but the respondents are united in their opinion that genuine discussion with the plant management of Philips Turnhout regarding the reorganisation was impossible. When the trade union representatives in the Works Council asked questions, at best unilateral presentations were made and meaningless answers given. None of their suggestions have been accepted by the management. According to a trade union representative the Works Council has been cut cold, despite its constructive approach. Trade unions are just called in to help solve the social consequences of restructuring and reorganisation, it is said.

It soon became clear that Philips Turnhout had to restructure, at all costs, not because the local situation demanded it, but rather to conform to strategic division decisions. The main feature of the social dialogue between management and social partners was that all contributions by Works Council or Trade Union Delegations had to conform to the corporate targets Philips has set itself, which greatly limited the scope and the quality of the discussion. Unions made it clear that they did not agree with the analysis presented by Philips.

The reorganisation of 2009 resulted in the lay-off of 20% of the total workforce, including a number of imposed dismissals. Many other employees opted for an early retirement arrangement. The social plans were concluded on 3 and 20 April 2009. Not all provisions have yet been implemented. A number of employees are yet to take leave. Respondents criticise the negative and unnecessary hard positions taken by the Turnhout management. The management has cut deeper in the labour force than the situation required. Many stress that the Turnhout management has overdone the implementation of the reorganisation and has failed to see where to draw the line. The organisation has been stripped down on the basis of figures only, reducing a complex reorganisation to a simple headcount, which is considered unwise. As a result of the 2009 reorganisation, experience and expertise were wiped out on one single day, and functions have been changed.

Since mid-2009, however, at least 50 skilled workers have come in, all on temporary contracts, to fend off a situation of understaffing. This is more than the number of forcibly dismissed workers. At the time of writing, Philips Turnhout was in the process of hiring 'industrial trainees'<sup>37</sup> and respondents indicated that the work load was increasing. Respondents pointed out that the Turnhout R&D department recently sounded out the social partners with regard to raising productivity and working hours (by means of overtime and weekend work) for this particular unit to cope with the demand. Respondents also report that they have heard that the management intends to install a pool of temporary workers. This stands in sharp contrast to the imposed lay-offs and the large number of people who had to leave. Respondents stress this was entirely incomprehensible for the work floor. In most cases, the newly hired employees have not had the chance to benefit from an introduction training by the recently departed colleagues. "This will cause problems for years to come", says one respondent.<sup>38</sup> Another speaks of "the bleeding of Philips Turnhout".<sup>39</sup> Respondents are also concerned about the stripping of the Turnhout management. This is considered highly worrisome for the future prospects of Philips Turnhout. The lack of a long term vision within the Turnhout management is strongly deplored.

According to some respondents, verbal agreements regarding the terms of dismissal of individual employees made between the management and the Trade Union Delegations in the course of negotiating the social plan were deliberately misconstrued by the management to the detriment of the workers' interests.

Several respondents share the feeling that the Turnhout management has made use of the reorganisation to settle accounts with certain people, in particular with local trade unionists and other outspoken people. Even legally protected employees, for example those who are (candidate) members of the Works Council, have fallen victim to the heavy pressure exerted by the management, and were readily laid off. "The restructuring was a retaliation", say some respondents.<sup>40</sup>

### **3.4.2 Negotiating social plans**

In the course of the negotiations, the cadre Trade Union Delegation launched the suggestion to work less for less money (cut out bonuses, for instance) with a view to save jobs and to keep expertise on board. The Turnhout management has refused to look into this possibility. Respondents consider the outcome of the reorganisation below par, but they believe that, despite the hard terms imposed by the

<sup>37</sup> Philips Website. 'Vacancies', <[https://careers.peopleclick.com/careerscp/client\\_philips/external/nl/search.do](https://careers.peopleclick.com/careerscp/client_philips/external/nl/search.do)> (12 January 2010).

<sup>38</sup> Respondent 3.

<sup>39</sup> Respondent 2.

<sup>40</sup> Respondents 1 and 3.

local management, they have done a good job in negotiating decent social plans and in supporting and counselling those who had to leave. Compared to other social plans recently negotiated in Belgium in the same period in other sectors, however, the Philips Turnhout social plan does not stand out positively. On the contrary, it falls behind social plans in the automotive (Opel, Volkswagen) and pharmaceutical industries.<sup>41</sup>

One of the successes claimed by the respondents relates to the discussion on wage restraint. At the start of the reorganisation discussions, early 2009, the Turnhout management announced in the Works Council that they could possibly consider a slighter wage increase than foreseen by the applicable Collective Bargaining Agreements. The trade union delegates rejected this suggestion and insisted on sticking to the CBAs. They maintained that wage restraint was out of the question, especially as this had been no guarantee for safeguarding jobs in the past. Recent experiences in Belgium show that enterprises have had to shut down despite such measures. As severance pay is calculated on the basis of an employee's last wage, this strategy is not in the interest of employees. All workers and lower cadres covered by the valid CBAs have been protected against this proposed measure by the trade unions' position. For the higher cadres, however, from grade 60 onwards, wage increase moderation did take place and was unilaterally imposed by the employer.

Two further successes are: a) the agreement that Philips Turnhout will cover two years of health insurance costs for the workers who accepted early (bridged) retirement,<sup>42</sup> b) 50+ workers will be able to continue working part time without loss of income because of joint contributions made by Philips Turnhout and the government.<sup>43</sup>

To accompany laid-off workers, a re-employment task force has been created. This cell is made up of external partners, such as the governmental labour reintegration and training office VDAB (*Vlaamse Dienst voor Arbeidsbemiddeling en Beroepsopleiding*), outplacement bureaus and trade unions. The Turnhout management is not involved, except for providing expertise from the Eindhoven Employability Centre. The Employability Centre propagates the slogan "Life-Time-Employability not Life-Time-Employment", in which critical trade unionists find proof of Philips' limited loyalty towards its employees. Given the difficult situation, however, the Turnhout re-employment task force is doing a good job, according to the local union representatives.

In negotiating the social plans with the Turnhout management, the Trade Union Delegations did not succeed in forming a closed front. One of the points of contention between the workers and the cadre trade unions concerns lay-off criteria. The cadre unions disapprove of the workers unions for having assisted in the selection of workers to be dismissed, which was based on type of contract (regular, temporary) instead of individual competence. Another point where a joint strategy proved impossible concerned the option to work less (at 80%) for less money (cut out bonuses, for instance) with a view to save jobs and to keep expertise on board. LBC-NVK and BBTK agreed on this strategy, but ACV did not support it.

Some respondents deem the social plan for cadres to be better than the social plan for workers. They blame the union within the workers Trade Union Delegation for failing to collaborate properly.

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<sup>41</sup> Respondents 1 and 2.

<sup>42</sup> Respondent 2.

<sup>43</sup> Respondent 2.

### 3.4.3 *Role Local management*

In general, respondents conclude that decisions are no longer taken on plant level, not even decisions directly bearing upon the work force of a given production location. Local management as much as trade unions are confronted with decisions taken 'higher up'. A good example is the tendency to outsource production activities.

Concerning the 2009 reorganisation, some of the respondents say they are convinced of the good intentions of the local management with the Turnhout plant and its employees, despite the tough reorganisation. The reorganisation has as much been forced down the unions' as the management's throat, they say. Other views are heard as well, however. In their contact with the Philips higher management, the Turnhout managers have failed to bring up any countervailing arguments for the harsh restructuring. Instead of trying to alleviate the impact of the imposed reorganisation for the Turnhout workforce, members of the Turnhout management have merely looked after their own vested interests and individual careers, is the harsher view.

In the middle of the reorganisation process, on 1 January 2009, the plant manager Dominiek Plancke left, to become the CEO of Philips Automotive Lighting. Many had the strong unpleasant impression that he was fleeing a sinking ship.<sup>44</sup> His successor, Johan Weyns, is now to be followed up by Arjan Boerema, who will only be with Philips Turnhout part time, alongside a part time position within Philips Lighting. Respondents assess this situation in different ways. Some see it as an opportunity for Philips Turnhout to be better tuned to corporate developments, while others see it as a confirmation that the Turnhout plant manager will not only have the interests of his own plant at heart.<sup>45</sup>

An external consultant was hired to assist the Turnhout management in carrying out the implementation of the social plan. His input was judged a mockery by some. Nevertheless, the Turnhout HRM manager played a secondary role, leaving it to the consultant to do a bad job.<sup>46</sup>

In contrast to the general approach, the management of the Digital Projection Lighting (DPL) unit has shown more vision. Before the 2009 crisis broke out, DPL had pre-empted the upcoming changes by moving some of its personnel to other units. When the overall reorganisation was imposed, the damage at this unit was limited.

### 3.4.4 *Broader picture – interests of other Philips production locations*

The trade unions in the Turnhout Works Council have little insight into the interests of other European or international Philips Lighting production locations. Neither the corporate information nor the information provided by the Turnhout management relate to the possible links of the Turnhout reorganisation with other production locations. The trade unions have not actively pursued such information.

### 3.4.5 *Role of the European Philips Forum*

Critical Turnhout trade unions representatives mention that the European Philips Forum (EPF) was informed of Philips Delight but has failed to correctly assess the consequences for the local production locations. The EPF has failed to effectively link up to the Turnhout trade unions. Trade unions may

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<sup>44</sup> Respondent 3.

<sup>45</sup> Respondents 2 and 5.

<sup>46</sup> Respondent 3.

have received the official English EPF accounts, but only months after meetings had taken place. Part of the problem was that the 2009 representative for Philips Belgium in the EPF was not a team player, and that he failed to adequately share information with the local trade union colleagues.

### **3.4.6 Role of Belgian government**

Some respondents point the finger at the Belgian government for its overly lenient approach towards Philips. Philips Belgium has benefited from a package of measures, including tax reductions, deduction of notional interests, and other favours; all were intended to safeguard employment, but apparently Philips has not felt compelled to make this a priority.<sup>47</sup>

## **3.5 Evaluation of social dialogue**

The Turnhout respondents have brought up a number of points of critique and concern regarding the quality of the social dialogue during the 2009 reorganisation. The main points are:

- ❑ Corporate strategies do not take into account the qualities and the needs of the local plants.
- ❑ Local management is overruled by corporate strategies.
- ❑ Local unions are ignored when it concerns corporate development and strategising. This is a counterproductive approach, as the input of the trade unions may well raise constructive and valuable views.
- ❑ Concerning the 2009 reorganisation, local legislation (law Renault) has been respected, no more, no less.
- ❑ The outcome of the reorganisation was an imposed outcome, rather than the result of negotiations, and was certainly not the best outcome possible. If the trade unions had been allowed to play a more constructive role, the outcome would have been better for the labour force, as well as cheaper. Now all involved have had to pay a high price, both the workers who lost their jobs and Philips Turnhout, who has had to deal with the high costs of the social plan and the destructive effects of the reorganisation for the longer term.
- ❑ Trade unions feel their constructive engagement in this social dialogue has not been rewarded. On the contrary, respondents say that they have been too trusting.
- ❑ Trade unions feel that the Turnhout management has treated the social partners at best as a necessary evil, not at all as a full partner who brings added value to the discussions.
- ❑ Meeting procedures differ greatly between Works Council and Trade Union Delegation. The former may be too formal, while the latter may rely too much on informal verbal agreements.
- ❑ Philips Turnhout has made use of the reorganisation to dismiss of a number of employees who did not fully answer to their profile of suitable employees.
- ❑ Communication and joint strategising within Trade Union Delegations and between workers and cadre trade unions is not yet optimal. This gives the employer ample opportunity for divide and rule tactics.

## **3.6 Suggestions for improvement**

At the same time, the respondents see scope for improvement, on a number of areas:

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<sup>47</sup> Respondent 2.

- ❑ Improve communication within and between Trade Union Delegations. Ensure the prevailing differences do not undermine joint action towards the management.
- ❑ Smoothen the communication between Works Council and Trade Union Delegations.
- ❑ Trade Union Delegations and the Works Council to take a tougher line in social dialoguing.
- ❑ Improve information towards the work floor – or put pressure upon the management to do so.
- ❑ Make use of available expertise within the trade union movement – such large scale reorganisations and mass redundancies are far too complex for local trade union representatives to manage on their own.
- ❑ Research and learn from social plans as agreed upon in other plants and in other sectors.
- ❑ Improve communication with EPF and other parties involved such as trade unions and other Philips Lighting locations.

### 3.7 Conclusion

In all, the reorganisation has claimed a high price – not only among the dismissed workers, but equally among the trade unionist negotiating the social plans. Some respondents mentioned having felt utterly sick with the proceedings and the outcome of the reorganisation; once the process was concluded one of them even reported ill for five weeks.<sup>48</sup>

The main concerns now centre on how to protect the remaining labour force. Respondents are disappointed and bitter about the social dialogue regarding the 2009 reorganisation and have little faith in the future. They express a strongly felt insecurity about the future of the plant as the plant management refuses to make concrete promises regarding the continued existence of the plant. For the medium term future, it is feared that an increasing part of the staff will be made up of fixed term contracts. Respondents stress that the quality of the dialogue between trade unions and management needs to be boosted for trade unions and management to play their respective roles in facing the challenges that lay ahead. They also acknowledge that trade unions need to overcome their internal differences and improve their joint performance to be able present a stronger front towards the employer.

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<sup>48</sup> Respondents 1 and 3.

# 4 Trade union perspectives on the quality of social dialogue

## 4.1 Introduction

This chapter considers the perspectives of trade union representatives on the quality of social dialogue at Philips Lighting. It is based on experiences of representatives of the Dutch trade unions FNV Bondgenoten and CNV, the Belgian trade union LBC-NVK, the French trade union CFDT and the European Metalworkers Federation, the umbrella organisation of metalworkers unions in Europe. Their experiences were gathered by means of five questionnaires and two additional interviews.

The chapter is structured as follows. After giving some background information on European trade unions in the next section, we will discuss the formal role of trade unions during reorganisations at Philips Lighting. Then, we will examine how trade unions perceive their own and other stakeholders' involvement in reorganisations at Philips Lighting. Next we will examine how trade union representatives evaluate their own role in reorganisations, and what improvements they envision. The chapter ends with a summary of the most important findings.

## 4.2 Background

### 4.2.1 Trade unions across Europe

Large differences exist between trade unions of the different countries in the European Union.<sup>49</sup> These differences relate to the membership base of the unions and cultural traditions in industrial relations, and translate into differences in the mandate of trade unions in reorganisations across Europe.

While in general membership of trade unions is declining, the membership base of trade unions varies greatly per country. The OECD statistics over 2007 show that of the countries considered in this chapter, Belgium has the highest trade union density with 52.9%, followed by the Netherlands with 19.8%, and France with only 7.8%. In comparison, Sweden has an extremely high trade union density figure of 70.8% of the workforce.<sup>50</sup>

The precise mandate of trade unions in reorganisation also differs per country. For instance, in Belgium and the Netherlands it is common practice that trade union representatives negotiate the contents of a social plan with the employer and describe how the effects of restructuring for employees will be mitigated. In France, in practice the role of trade unions is mostly indirect; the works council is the major partner in the negotiations on the social plan, but when works council members are also trade union members, the trade union is still indirectly involved. In Belgium, trade unions have both an indirect and a direct role in reorganisations; as works council members are chosen from the trade union membership base, works council members are *de facto* trade union representatives. In the law Renault, roles and responsibilities of both works councils and trade unions are outlined (see

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<sup>49</sup> See for an overview of some of these differences Practical Law Company, 'Employee representation and co-determination rights in the EU', <http://crossborder.practicallaw.com/0-500-3324>, (21 January 2010)

<sup>50</sup> OECD.StatExtracts. Trade union density. <http://stats.oecd.org/Index.aspx>, (19 January 2010)

Chapter 3). In the Netherlands, Works Councils are involved in restructuring at an earlier stage than trade unions. Works Councils in the Netherlands have the right to advise the company about reorganisations. But, as is the case in France, because Works Council members can also be trade union members, trade unions are indirectly involved in the restructuring, through their members who are also Works Council members.

Although these and other differences will most certainly influence the precise characteristics of the social dialogue at different locations of Philips Lighting across Europe, such national variations did not stand out in the responses of the different trade union representatives. The present paper intended to compare perspectives on the quality of social dialogue among European countries, and as it turns out, these perspectives show remarkable resemblance.

#### **4.2.2 European Metalworkers Federation**

The European Metalworkers Federation (EMF) is an umbrella organisation and has 75 affiliated organisations from 34 countries across Europe (including Turkey, the Balkans and Iceland)<sup>51</sup> with a combined total of 5.5 million members. The EMF was established in 1971. All unions that are active within Philips in Europe are members of the EMF. In 2009, the EMF started to focus on Philips. The federation organised two trade union coordination meetings with workers representatives who were active within Philips to discuss possible joint strategies and information sharing possibilities. At the first meeting, participants concluded that the dialogue with the company, especially with regard to information and consultation, was not of the level expected from a company such as Philips and should be improved. To improve workers' participation within Philips they agreed to set up an international platform (network) to improve the coherence of responses from both works councils and unions towards Philips, and to exchange information and to facilitate workers' representation. In addition, there was a meeting with Philips International Employee Relations. A draft position paper was produced by the EMF incorporating elements discussed during the meeting.<sup>52</sup> The document should serve as a basis for further steps. Significant elements include:

- ❑ Workers' participation within Philips should be improved at all levels. Consultation processes must start at an early stage to ensure that the input of workers' representatives is factored into the decision-making process. Workers' participation should take place on the decision-making level. Workers' participation must not be confined to national boundaries. Workers' participation means involvement of works councils and trade unions.
- ❑ The EMF should concentrate on improving the social dialogue within Lighting Europe; once experiences have been gained on this level they could be used to promote discussions to a company-wide level.
- ❑ The EPF (European Philips Forum) could take action to increase and improve their involvement, thus enhancing the influence of the European trade union movement. The EPF could, as a starting point, invite trade union representatives to their pre-meetings. As the EPF also concerns itself with matters beyond the Lighting sector, an EPF delegation would help to improve the social dialogue.
- ❑ Training workers' representatives on networking.

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<sup>51</sup> EMF, 'Affiliated Organisations', <http://www.emf-fem.org/Affiliated-organisations> (accessed 22 February 2010). Note that the EMF takes geographic Europe as its working area, while the European Philips Forum has the European Economic Zone as its sphere of action.

<sup>52</sup> EMF, EMF draft position paper on the situation in Philips with a focus on Philips Lighting, A sustainable strategy 2009

On the European level there is no structural or formal relation between Philips and the EMF. On the contrary, the relation is described in quite negative terms: "The EMF is regarded by Philips as a necessary evil. Contact should be as minimal as possible; the EMF is not supposed to be present at any meetings with Philips."<sup>53</sup> Only the threat of negative publicity restrained Philips from severing all ties.

While the EMF has close ties with all unions active in Philips, there is no contact between the EMF and the works councils across Philips Lighting. However, the EMF explicitly aims to strengthen its collaboration with the EPF.<sup>54</sup>

### **4.2.3 European experiment**

Philips was involved in a short-lived experiment with consultation on the European level in the late 1960s and early 1970s. This involvement echoes the same topics of concern that are still relevant now, forty years later. In 1967, the International Metalworkers' Federation (IMF) established a European Committee of Metal Trade Unions, as a coordinating body of the IMF. The Committee's task was to set up bargaining rights with several multinationals, but attention was mainly directed towards Philips.<sup>55</sup> Its main objective consisted of launching an agreement that could secure equal treatment of Philips workers in different countries. Longer term objectives entailed creating an international collective bargaining agreement covering working conditions, union rights and representation in the plants.

From 1967 to 1970, three meetings were held between Committee representatives and Philips management officials on the following topics: how changes in the production process affected employment and wage rates, prior notification of unions regarding important international transfers of production, work organisation and future developments of the company's economic activities and the establishment of a permanent labour-management committee. Philips' management decided to discontinue the dialogue with the unions about their labour relations at international level. A fourth meeting was planned for in 1971, but was postponed indefinitely due to Philips increasing hesitancy.<sup>56</sup> After this brief try-out, Philips was, like many other Dutch multinational companies such as Unilever, unyielding in its opposition to European works councils.<sup>57</sup>

After the establishment of the Philips European works council (EPF, see chapter 5) in 1996, the IMF organised a Philips World Conference in 2001, with participants from 18 different countries. During the conference the establishment of a World Works Council was considered necessary "to complement the existing European Works Council", because "Philips gears its decision-making to the global level. The emerging trend whereby production plants are moved to low-wage countries requires a global organisation of trade unions and company employee representatives."<sup>58</sup> However, until now these efforts have not led to the formulation of a Philips International Framework Agreement, the present instrument most similar to a World Works Council. The conference did result in an annual dialogue

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<sup>53</sup> Respondent 6.

<sup>54</sup> EMF, EMF draft position paper on the situation in Philips with a focus on Philips Lighting, A sustainable strategy 2009

<sup>55</sup> K. Papadakis (eds), Cross Border Social Dialogue and Agreements. An emerging global industrial relations framework?, International Institute for Labour Studies, 2008,

<<http://www.hrpolicy.org/WPC2009Material/documents/learning/ILO%20Study%20May%202008.pdf>> (January 2010)

<sup>56</sup> Global Labour Institute, Cross-Border Social Dialogue and Agreements: an Emerging Global Industrial Framework?", ILO, Geneva, 2006. <[http://www.globallabour.info/en/2008/06/international\\_framework\\_agreem\\_2.html](http://www.globallabour.info/en/2008/06/international_framework_agreem_2.html)> (January 2010)

<sup>57</sup> J. Visser and B. Ebbinghaus, Making the most of diversity. In J. Greenwood, J. Grote and K. Ronit (eds), Organised interest and the European Community, London Sage, 1992, pp. 206-237

<sup>58</sup> IMF, Agreements from the Philips World Conference, 2001, <<http://www.imfmetal.org/files/steiert1.pdf>>, (January 2010)

meeting between Philips and the IMF, but the main point on the agenda was Philips' annual CSR report.

#### 4.2.4 *European sectoral social dialogues*

One of the instruments in the social policy and employment area of the European Unions is the European social dialogue.<sup>59</sup> The institutional basis for social dialogue can be found in the EC Treaty. Article 138 of the EC Treaty gives the European Commission the role to promote social dialogue, gives recognition to social dialogue at European level and obliges the Commission to consult the European social partners in two phases before submitting proposals in the employment and social policy field. The autonomous bipartite dialogue takes place in social dialogue committees (SDCs). The bipartite dialogue takes place at cross-industry level and within sectoral social dialogue committees. European social partners have the right to be consulted by the Commission, and may decide to negotiate binding agreements. To date, 37 sectoral social dialogue committees exist at EU level. They are coordinated on the trade union side by the European Industry Federations such as the EMF. The European Trade Union Confederation (ETUC) finds these agreements: "an important tool for tackling industry-specific questions at a European level."<sup>60</sup> Almost 300 joint texts have been adopted, including joint opinions and agreements, guidelines and codes of conduct.<sup>61</sup>

Through social dialogue, the EMF aims to collaborate with employers organisations to work on global competition and industrial change affecting the metalworking sector across Europe. "The EMF strives to improve the economic and social situation of workers by reconciling the legitimate social interests of workers and the need for competitive industries. The EMF strives to improve the economic and social situation of workers by reconciling the legitimate social interests of workers and the need for competitive industries."<sup>62</sup>

After almost ten years of discussion, a Sectoral Social Dialogue Committee was set up in early 2010 for the metal, engineering and technology-based industries by the Council of European Employers of the Metal, Engineering and Technology-based Industries (CEEMET)<sup>63</sup> and the EMF. Philips is a member of the Dutch employers organisation in the electronics industry FME-CWM, which is affiliated to the CEEMET. In the agreement founding the committee, a two-year work programme has recently been adopted and will serve as a guideline for CEEMET and the EMF in their future discussions and activities.<sup>64</sup>

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<sup>59</sup> Social dialogue refers to the discussions, consultations, negotiations and joint actions undertaken by the social partner organisations representing the two sides of industry (management and labour) at European level European Commission, Industrial Relations in Europe 2008, EC, Luxembourg: Office for Official Publications of the European Communities, 2009, < <http://ec.europa.eu/social/BlobServlet?docId=141&langId=en>>, (February 2010)

<sup>60</sup> ETUC website, sectoral social dialogue, < <http://resourcecentre.etuc.org/Sectoral-social-dialogue-44.html>>, (February 2010)

<sup>61</sup> All joint texts of the European social partners can be found in the social dialogue texts database, <[http://ec.europa.eu/employment\\_social/dsw/dspMain.do?lang=en](http://ec.europa.eu/employment_social/dsw/dspMain.do?lang=en)>, (February 2010).

<sup>62</sup> EMF website, Social Dialogue, < <http://www.emf-fem.org/Areas-of-work/Social-Dialogue>>, (February 2010)

<sup>63</sup> CEEMET represents the interests of employers' organisations in the metal, engineering and technology-based industries from 22 countries with a particular focus on social policy issues. CEEMET's member organisations currently represent approximately 200,000 companies, employing some 12.7 million people. <[www.ceemet.org](http://www.ceemet.org)>, (February 2010)

<sup>64</sup> CEEMET and EMF joint declaration, CEEMET and the EMF put their social dialogue on a new footing: 14 January 2010 – Sectoral Social Dialogue Committee set up for the metal, engineering and technology-based industries, < <http://pr.euractiv.com/files/Joint-Decl-kick-off-fin.doc>>, (February 2010)

The EMF and CEEMET have identified the following subjects as possible topics for future discussions within their Sectoral Social Dialogue Committee:

1. International competitiveness
2. Anticipating skills requirements
3. Managing an ageing workforce
4. Worker mobility
5. Research & development and innovation

Since the conception of the committee is quite recent, it remains to be seen whether outcomes will be satisfactory and beneficial to the parties involved.

### 4.3 Formal role of trade unions during reorganisations at Philips Lighting

The respondents indicate that within Philips there is no formal role for trade unions in the *development* of business strategies that lead to reorganisations. The formal role of trade unions in the *implementation* of business strategies is largely constrained to direct (in the Netherlands and Belgium) or indirect (in France) involvement in the development of social plans, at the point in time when the planning and decision-making stages of reorganisations have already taken place. In the countries under research, trade unions even lack the formal right to be informed by Philips about business strategies; this is a works council right.

In the Dutch Philips collective bargaining agreement (CBA) – which can be considered formal policy for Philips Netherlands – an additional trade union role is formulated next to the negotiation of social plans. This function is a formal consultation role in cases of collective dismissal of employees: “During the length of this agreement, employer shall not decide to collective dismissal of employees who are employed at the point in time the agreement is signed, or who will come into employment during its duration, unless extraordinary circumstances necessitate this. **In this latter case, employer will not make a decision on collective dismissal before thorough and insistent consultation with the organisations [i.e. trade unions] and the involved works council.** In this consultation most attention will be directed to the extraordinary circumstances.”

### 4.4 Functioning of social dialogue regarding reorganisations

#### 4.4.1 Involvement of trade unions in reorganisations

The formal role of trade unions in the development and implementation of business strategies within Philips Lighting is minimal. Nevertheless, in the Dutch Philips CBA, there is a provision that requires Philips to consult trade unions in the case reorganisation implies collective dismissal (see above). The Dutch trade union representative indicates that in strict correspondence with this policy, these consultations take place before formal decision making, but that in actual practice decisions are already taken by then. The trade union representative is not perceived to have any influence at the stage of consultation. Therefore, the perception is that the written policy does not have much significance, as Philips seems to follow the letter but not the spirit of the policy: “One can wonder: does Philips take her own policy seriously? What is the value of such a policy?”<sup>65</sup>

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<sup>65</sup> Respondent 7.

Whether trade unions are timely and adequately informed about reorganisations largely depends on the willingness of local management to inform trade unions, as they are not obliged to do this. The only substantial role that trade unions actually play in the implementation of business strategies is right at the very end of the process when they are needed for dealing with the consequences of decisions that have been already made. This means that together with the relevant works council and Philips management they co-design social plans, which are intended to cushion the negative effects of reorganisation for employees.<sup>66</sup>

Several trade union representatives have pointed out a tension between the quality and coverage of social plans and the effectiveness of trade union organisation. With regard to the quality of the social plans at Philips, they indicate that the compensation packages for ‘redundant’ workers are generally quite acceptable, although probably not significantly better than what other multinationals offer. A factor that comes into play here is that the average Philips employee has many years of service on his/her name, especially in the Netherlands. Older workers who are made redundant may receive considerable severance pay on the basis of their accumulated years of service. For these workers it is often attractive to accept dismissal and compensation and ‘sit it out’ until their pension, instead of continuing to work under stressful circumstances. Another element is a certain ‘reorganisation fatigue’ on the work floor, which results in a relative passiveness among workers. These factors influence the ‘protest willingness’ of employees, which means trade unions may have a harder time finding support for strong protest against Philips’ restructuring plans.

Furthermore, there is a tension between the coverage of social plans at a national level, and the effects of reorganisation at a local level. Social plans are negotiated at a national level and should therefore please the average Philips worker, while for specific sites, confrontational trade union organising may be more desirable. These trade-offs tend to eventually frustrate the purpose of trade unions, as trade unions principally aim to conserve employment, instead of having their members leave their jobs with a large bag of money.

Social plans are worked out locally and/or nationally and often miss out on the broader, international picture of reorganisations throughout Philips Lighting. The workers’ representative bodies active at the different production locations hardly connect, even though the development of the production locations may be interlinked. Philips sustains the limited deliberation among works councils by carefully setting the agenda of social dialogue exclusively on local issues. This local/ national focus results in trade unions representing national workers’ interests only, while the employment situation of workers all across Philips Lighting is interrelated. In some instances, national interests between workers may be conflicting – for instance in the shifting of production from the Netherlands to Poland –, while in other cases they might be aligned – for instance when production is outsourced to third parties. Whether national interests are conflicting or aligned, national trade unions would benefit from international linkages to increase their overall effectiveness in workers’ representation. However, traditionally, the working area of trade unions is constrained by national borders. The EMF, as an umbrella organisation of trade unions that represent metalworkers, has been attempting to address this gap. However, attempts to upscale trade union work to the international level meets with resistance from Philips. While the works councils of European Philips facilities have an international counterpart with a formal, information and consultation right – the EPF (see chapter 5) –, trade unions lack such an

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<sup>66</sup> The exact role of trade unions and the division of tasks with the relevant works council in the development of social plans may vary per country because of national customs and laws, but these national variations were not further researched. In general, each of the trade union representatives questioned for this chapter, indicates trade unions are involved in some way in the development of social plans.

international counterpart as Philips denies EMF a role as a formal dialogue partner, notwithstanding that the EMF is involved in more than 300 other European Works Councils and negotiates with many multinationals.

A barrier for international collaboration among trade unions is that trade unions traditionally unify the interests of their national workers, while the coherence between Philips workers within national borders is often limited; multiple, relatively unrelated Philips activities take place within one country. As the coherence within one country is already limited, the coherence between countries is even harder to find. However, the unifying element in interest representation for Philips workers is not the national context, but rather the Philips division in which the workers are employed (i.e. Lighting, Healthcare and Consumer Lifestyle).

Acknowledging this mismatch between one of their organising principles (national boundaries), and that of their members (divisional boundaries across borders), trade unions are currently in the process of strengthening their collaboration on division level, starting with the Lighting division. In fact, the need for this report arose within this context. One of the respondents noted that the success of such international trade union efforts is also dependent on personal interests of trade union representatives. After the IMF world conference in 2001 (see above), efforts towards international trade union organising declined partly because of personnel changes. The success of the current renewed interest in the internationalisation of trade union may thus be dependent on the personal interests of trade union representatives as well.

#### **4.5 Roles played by different stakeholders**

Next to commenting on their own role in reorganisations, trade union representatives were also asked to comment on the role of other stakeholders in decision making about and implementation of reorganisations. The image that arises is that reorganisation processes are exclusively designed at senior management level, while all other involved stakeholders – local management, local works councils, trade unions and the EPF – are informed after the fact and expected to carry out what was decided by superiors.

All respondents question whether local management at production facilities has any influence in decision making about reorganisations at their facilities. The general impression is that local management is often not consulted in these matters. Nevertheless, local management has an information advantage over the different workers' representative bodies. According to one respondent, the timing and scope of information provision towards works council and trade unions may vary per production location. In general, works councils are informed better and more timely, and depending on the willingness of local management, trade unions are either informed or not. Trade unions are mostly informed through their works council contacts. Furthermore, access to people within Philips Lighting that are influential in strategy development (e.g. the Global Industrial Board Lighting) provide for an information advantage.

Works councils are more involved in the reorganisation processes than trade unions, according to their role and rights as transcribed in legislation.<sup>67</sup> According to the Dutch trade union representative: "Philips clearly distinguishes between works councils and trade unions. Works councils have to provide strategic advice before reorganisations are decided; trade unions are there to develop social

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<sup>67</sup> National variations exist here, but an investigation into these variations was beyond the scope of the research.

plans". This does not mean works councils have real influence in the reorganisation process: the general impression is that the strategic advice provided by the works councils rarely succeeds in altering the route that was envisioned. Nevertheless, in the jurisdictions under study, works councils have an information right, which they can use to require extensive background information on the need for the reorganisation. While works councils have a more substantive role than trade unions earlier in the implementation process than trade unions, trade unions can play an indirect role when they are represented in the works council, or when they have close linkages with the works council.

A further insight that arises from the responses to our questions on the roles played by different stakeholders is that there seems to be a mismatch between the different levels of employee representation: of all employee representative bodies, work councils have the most influential role in reorganisations, but these bodies normally lack the oversight of reorganisations across Philips Delight. On the other hand, the EPF has a better oversight, but no influence on reorganisations, as these are implemented at the local level.

## 4.6 Evaluation of social dialogue

The trade union representatives were asked to evaluate their involvement in reorganisations through social dialogue. Their response should not be surprising by now: no one is satisfied with the way they are involved in the development and implementation of business strategies involving reorganisations. Some quotes to illustrate the discontent:

*"Philips doesn't like so much to deal with unions".<sup>68</sup>*

*"We can never be satisfied. Our horizon should always be further ahead. We have been able to arrive at a good social plan [in the context of recent restructuring]. We have had a large influence on this plan because of the pressure we were able to realise [translated from Dutch]".<sup>69</sup>*

*"No I am not satisfied [with our involvement in the development of Philips Delight]. Although one could question how much influence we could have had, as we can't take the place of the employer. However, with the development of such programs [Philips Delight], enormous investments and employment considerations are concerned. If we could think along with Philips management at an early stage in the change process, for example about employee competences that are required in the future and how to develop these, this would influence the way we can find solutions in a later stage."<sup>70</sup>*

The discontent of trade union representatives with the social dialogue is determined by the perceived lack of timely information and of influence on the reorganisation process. This is partly caused by the mismatch and lack of coherence between the different levels on which social dialogue takes place: "the level of information is different for each party. On the European level you have just global information on the project, no detail on consequences because this has to be dealt with by local or central works councils. Works councils are informed about reorganisation when it's time to deploy it. We never know when factory management is informed. Anyhow, trade unions are not directly

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<sup>68</sup> Respondent 8.

<sup>69</sup> Respondent 5.

<sup>70</sup> Respondent 7.

informed". Some respondents have indicated that the lack of coherence between the different levels of social dialogue is actively maintained by Philips, as Philips keeps several dialogue trajectories separated and prefers to talk about consequences of reorganisation at the local level.

It should be noted that Philips is not an exception in its limited involvement of trade unions in the development and implementation of business strategies; these tasks generally belong to the realm of (senior) management. Nevertheless, Philips' approach to involving trade unions in reorganisations is experienced as extremely stringent compared to some other companies in its line of industry (e.g. Siemens, ArcelorMittal). The general impression is that Philips involves workers representatives only where it is required to do so, and follows the letter of regulations instead of the spirit of it, resulting in a social dialogue that has no clout.

Respondents do not exclusively blame Philips for the disappointing quality of social dialogue. They assume some of the responsibility themselves, as they indicate that workers representative bodies, both works councils and trade unions, may lack some of the necessary capacities and resources to live up to their tasks.

## 4.7 Suggestions for improvement

As a final question, respondents were asked to provide their vision on ways that the social dialogue at Philips Lighting could be improved. With regard to the role of trade unions, the following ideas were provided:

- ❑ Collaboration between trade unions should be improved to better the dialogue at European level in the EPF.
- ❑ Give trade unions a formal role as a dialogue partner on division level, including timely information when influence is still possible.
- ❑ Agree on a social manifest within Philips Lighting that all trade unions can appeal to.
- ❑ Deal with reorganisations integrally instead of separately per site, since all site reorganisations are related. Trade unions should also organise this way.
- ❑ Trade unions should try to improve their powerbase by recruiting new members.
- ❑ Trade unions should investigate internationally where their influence is strongest, and use these centres of power to represent the interest of less powerful unions.

## 4.8 Conclusion/ Summary

The research into the perspectives on the quality of social dialogue at Philips Lighting of several trade union representatives across three countries and at the European level has revealed a stable image: trade union representatives are generally discontented with their involvement in reorganisation, since they do not feel they have any influence on decision making regarding these processes until the very end, when they are allowed to help 'clean up the mess'. Business strategies for Philips Lighting are developed and implemented at central and/or division level. Increased influence through social dialogue is considered desirable because trade union representatives feel that early involvement in reorganisation processes may help maintain employment in Europe.

Along with trade unions, local management, works council, and the EPF are not perceived to have any real influence. The lack of influence of workers' representation bodies is aggravated by the disconnect between the different levels of social dialogue, a situation which is actively maintained by Philips management. Trade union representatives feel the only way to increase their effectiveness and

influence is by up-scaling their work to the international level. European level organisation in the form of the EMF is aimed at regaining control over international mobile capital. The success of such an organisation at European level partly depends on whether national trade unions perceive the EU as an effective framework for joint action. The very diverse national environments in which unions operate can cause problems for collective action. Another important success factor is the willingness of Philips to engage with the unions at the European level. This willingness has been completely absent; social dialogue between Philips management and workers' representation has been limited to the discussion in the EPF, which is the focus of the next chapter.

## 5 Social dialogue in the European Philips Forum

### 5.1 Introduction

This chapter describes the functioning of social dialogue in the European Philips Forum (EPF) and the perspectives of members regarding DPF's role in social dialogue. The focus is more in general on restructuring at Philips, since the topic of restructuring at Delight has not appeared often on the agenda of the EPF specifically.

The chapter is structured as follows: First the framework and establishment of the EPF is outlined, with EPF's formal role and mandate discussed next. Next, the role of the EPF in the development of management strategies is discussed. And finally, representation within the EPF, cooperation with other stakeholders and some recommendations are discussed.

### 5.2 Framework and establishment of the EPF

In 1994, the European Union established a legal framework for European Works Councils (EWC) to ensure information and consultation rights for employees of multinational companies.<sup>71</sup> The procedure makes it possible for employees to request negotiations with a company's management to set up either an EWC or an alternative information and consultation procedure. Currently, 841 EWCs are in operation, covering around 60% of workers in the EU.<sup>72</sup> The EWC directive stipulates that companies with more than a 1,000 employees in the European Union, Liechtenstein, Iceland and Norway and at least 150 employees in at least two of the three countries mentioned here are required to have an EWC or alternative structures or procedures functionally equivalent to an EWC. The EWC or alternative structure should be set up at the group level of the undertaking. In 2009, the European Union revised the legal framework of the EWCs to more precisely formulate the provisions on information and consultation, the two primary functions of EWCs.<sup>73</sup>

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<sup>71</sup> European Trade Union Institute website, worker participation, European Works Council, frequent questions, <<http://www.worker-participation.eu/European-Works-Councils/frequent-questions>>, (November 2009)

<sup>72</sup> European Trade Union Confederation website, our activities, social dialogue and industrial relations, workers' rights to information, consultation and participation, <<http://www.etuc.org/r/57>>, (November 2009)

<sup>73</sup> Article 2 of the 2009 EWC directive provides the following definitions: (f) "Information" means transmission of data by the employer to the employees' representatives in order to enable them to acquaint themselves with the subject matter and to examine it; information shall be given at such time, in such fashion and with such content as are appropriate to enable employees' representatives to undertake an in-depth assessment of the possible impact and, where appropriate, prepare for consultations with the competent organ of the Community-scale undertaking or Community-scale group of undertakings; (g) "Consultation" means the establishment of dialogue and exchange of views between employees' representatives and central management or any more appropriate level of management, at such time, in such fashion and with such content as enables employees' representatives to express an opinion on the basis of the information provided about the proposed measures to which the consultation is related, without prejudice to the responsibilities of the management, and within a reasonable time, which may be taken into account within the Community-scale undertaking or Community-scale group of undertakings. European Union website, DG Employment, Social Affairs and Equal Opportunities, rights at work, labour law, employee involvement, <<http://eur-ex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32009L0038:EN:NOT>>, (November 2009)

The European Philips Forum (EPF) was established in 1996 as an EWC under article 13 of the EU 94/95 Directive.<sup>74</sup> Like other EWCs, its mandate is information and consultation.<sup>75</sup> The agreement currently in force is the revised Agreement on the European Philips Forum of May 23, 1996, amended on February 19, 2001 and effective as of November 16, 2006 between representatives of employees of the Philips Group and Philips itself. The establishment of the EPF was primarily guided by Philips, which is expressed by the name given to the EWC. “The name articulates a less unruly concept to the outside world; it incorporates the council in the company. In the statutory document, the company marks are clearly visible. For example the EPF meetings are only open to employees.”<sup>76</sup>

Representatives from Poland, Hungary and the Czech Republic joined the EPF in July 2004. According to the formation agreement dated 1996, the number of seats is determined by the number of employees per country. The European Works Council database reports that the forum counts 27 employee representatives. This group meets with Philips management twice a year to discuss business developments of significant importance to employees of the Philips Group companies in the European Union, plus Switzerland and Norway. In general, the frequency of meetings is regarded by most respondents to be too low for the EPF to have the importance required. “Two times a year is too little to put topics meaningfully on the agenda”, as one respondent formulates it.<sup>77</sup> Apart from these central forum meetings, there are committee meetings, extraordinary meetings in case of exceptional circumstance and possibilities to set up working group meetings.

### 5.3 Formal role and mandate of the EPF in restructuring

The mandate and role of EWCs in restructuring depends on the formulation of the specific provisions in the agreement establishing it. The Philips agreement, as virtually all agreements, defines the council's purpose as trans-national information and consultation of employees. Consultation is described in the agreement as the exchange of views and the establishment of a dialogue between Employees' Representatives and the Management.<sup>78</sup> This is consistent with the definition of consultation in the 94/95 EWC Directive: “the exchange of views and establishment of dialogue between employees' representatives and central management or any more appropriate level of management.”<sup>79</sup> This definition has been extensively criticised for not being precise enough, as for example it does not mention the timing of ‘exchange of views’ (prior to any decisions being made or/and implemented). Within the 2009 EWC Directive, as can be read above, these limitations have

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<sup>74</sup> Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees, EWC Directive 94/45, < <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31994L0045:EN:HTML>> (January 2010)

<sup>75</sup> “Article 13 agreements are agreements providing for cross border information and consultation of employees that were entered into before 22 September 1996. The voluntary agreements are often referred to as an ‘Article 13 agreement’, the relevant article of the 94 Directive. EWC arrangements negotiated after this time are often called ‘Article 6 agreements’.

Article 13 agreements must cover a company's entire workforce in the EU, and provide for transnational information and consultation about the company or group in the EU. Article 13 agreements can be renewed. Companies that opted for Article 13 agreements believed that they could secure more flexibility than if they negotiated under the Directive's provisions. An Article 6 agreement is the only route now open to companies seeking to establish an EWC, or a similar procedure. The Directive prescribes the negotiating arrangements that companies must follow, and sets out the minimum content of a transnational information and consultation procedure, or EWC.” In Freshfields, Revisions of the European Works Council Directive, Briefing September 2009, <<http://www.freshfields.com/publications/pdfs/2009/sept09/26758.pdf>>, (January 2009)

<sup>76</sup> Respondent 9.

<sup>77</sup> Respondent 10.

<sup>78</sup> Article 1.2 of the EPF 1996 Agreement, updated in 2006

<sup>79</sup> Article 2 point f

been adapted to require consultation to take place prior to decision making. However, this does not apply to the EPF, which falls outside the scope of the new directive. In addition, there is no definition of 'information' in the 94/95 Directive, and this is seen by many as one of the major flaws of this regulation.<sup>80</sup> The unsound definition of information and consultation appears to be converted into the daily practice of the EPF as one of the respondents states that in practice "the EPF has no clear mandate or powers. It is not allowed to say anything in advance and cannot formally decide anything; its sole function is advising."<sup>81</sup> This bold statement is nuanced by another interviewee who states that the EPF's power is weak rather than unclear and that the management rarely listens to the EWC's advice, but on the other hand that the EWC could be more proactive in giving advice.<sup>82</sup>

The importance of the directive (article 13 or article 6 agreements) that underpins the EWC agreements may also be overestimated. In reality, the negotiations preceding the agreement and terms of the agreement are more significant elements. When comparing agreements, the differences between article 13 and article 6 agreements are less pronounced than often suggested. Besides, agreements evolve over time, and renegotiations give opportunities to improve agreements, as is currently the case with Philips, for example, in the light of the new (2009) EWC directive, according to one respondent.<sup>83</sup> Nevertheless, this statement does not diminish the overall discontent that there is with the interpretation or practice of terms of the agreement. According to an interviewee, the customs of the EPF mainly exist of the right to be informed; consultation remains a highly theoretical notion: "as there is no clear definition of consultation, management tends to inform the council of any plans only, and assumes it thereby fulfils its duties under the agreement."<sup>84</sup> The EPF does not have the right of initiative, the right to give advice, and the right of consent, as do works councils in, for example, the Netherlands. "There is no negotiation as such. We have information and consultation, but these are often just pledges, as described in the agreement (exchange of views and establishment of a dialogue between employees' representatives and the management)."<sup>85</sup>

A study on EWC shows that there are a small number of councils that are better equipped than others to have a substantial input on restructuring rather than only being informed and engaging in a dialogue or exchange of views. They have adopted extensive provisions on consultation and in some cases negotiations, for example:<sup>86</sup>

- ❑ the right of employee representatives to comment formally and give opinions on management proposals (7% of Article 13 agreements, 3% of Article 6 agreements);
- ❑ provisions for 'formal' consultation on some issues (1% of Article 13 agreements, 4% of Article 6 agreements);
- ❑ scope for employee representatives to make recommendations (4% of Article 13 agreements, no Article 6 agreements);
- ❑ the negotiation of joint texts (2% of Article 13 agreements, 6% of Article 6 agreements)

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<sup>80</sup> ETUC, ETUC strategy in view of the revision of the European Works Councils Directive, 2005, <<http://www.etuc.org/a/578>>, (January 2010)

<sup>81</sup> Respondent 9.

<sup>82</sup> Respondent 10.

<sup>83</sup> Respondent 10.

<sup>84</sup> Respondent 11.

<sup>85</sup> Respondent 11.

<sup>86</sup> M. Carley and M. Hall, European Works Councils and transnational restructuring, European Foundation for the Improvement of Living and Working Conditions, 2006, <<http://www.eurofound.europa.eu/pubdocs/2006/83/en/1/ef0683en.pdf>>, (January 2010)

### 5.3.1 *Scope of the agreement*

As with almost all EWC agreements, the EPF sets out a list of issues that fall under the scope of the agreement and on which it should be informed and consulted Article 4.1 of the Philips agreement stipulates the following 'Information and Consultation' subject matters:

- ❑ Important developments in the field of business activities and employment, including collective redundancies;
- ❑ The financial and economic situation of the Philips Group;
- ❑ The legal and organisational structure of the Philips Group, including changes therein;
- ❑ Major investments, mergers, divestitures and transfer of production; and introduction of new working and manufacturing processes.

While the wording of the text leaves room for interpretation, the overall picture is that restructuring plans that affect more than one country are unquestionably included. "Restructuring is the heart of the work of the EPF."<sup>87</sup> Also sub-themes are discussed: "Outsourcing or offshoring is on the agenda like any other reorganisation process."<sup>88</sup> If workers representatives aim to put an issue on the agenda, there is much room to do so, although they need to be creative now and then. As an example, the EMF made an assessment of the long term strategy of this business unit and the possible consequences for employment. The EWC gave a presentation to the management to share its findings. This triggered the management to open up on the long term strategy of the company and worked as an agenda setting instrument.<sup>89</sup>

### 5.3.2 *Geographical reach*

With regard to the geographical scope, the agreement states that purely national affairs are excluded as subject matters of information and consultation in the Forum shall be all such matters, which are in the reasonable opinion of the Employees' Representatives or the Management of a trans-national nature (i.e. more than one country of the Territory involved) of the Philips Group companies within the Territory (article 4.1).<sup>90</sup> Most EWCs appear to exclude matters that are solely national in scope and/or that are dealt with by information and consultation or other industrial relations processes at national or local level.<sup>91</sup> National and local restructuring, within the scope of a trans-national multi-year programme (Philips Lighting strategy), can be topic of debate. With regard to the Lighting strategy, 'the management presented it to the EFP, and a year afterwards a short update was provided on the state of affairs. Actual insight into which parts were offshored or outsourced, was not provided.'<sup>92</sup> As

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<sup>87</sup> Respondent 10.

<sup>88</sup> Respondent 8.

<sup>89</sup> Respondent 10.

<sup>90</sup> In addition article 4.2 states that: "The procedures of information and Consultation as laid down in this Agreement will not prejudice rights of Employees' Representatives with respect to matters which are or can reasonably be expected to become the subject of Consultation or information procedures within a specific country, which matters shall remain within the exclusive responsibility of those Employees' Representatives in accordance with applicable laws and practices. It being understood, however, that such Consultation and information procedures with Employees' Representatives in accordance with applicable local laws and practices will not prejudice rights of the Forum under this Agreement"

<sup>91</sup> M. Carley and M. Hall, European Works Councils and transnational restructuring, European Foundation for the Improvement of Living and Working Conditions, 2006, <<http://www.eurofound.europa.eu/pubdocs/2006/83/en/1/ef0683en.pdf>>, (January 2010)

<sup>92</sup> Respondent 13.

appears from the respondents, general strategic decisions are put on the table of the EPF, but only as information, while effects on employment, often being local in nature, are hardly discussed.

The fact that Europe does not currently function as a decision making (geographical) division within Philips is seen as a complicating element. Harry Hendriks (CEO NL) and Peter Wiesenekker (International Employee Relations, EPF) represent the Philips management in the EPF, however, they have no control over European matters. They always have to report back to the general or division management, which diminishes the EPF's clout.<sup>93</sup> Apart from this, a lot of social and labour relevant data on which Philips reports, in for example its CSR reporting, does not cover Europe as a region, which makes it difficult for the EPF to strategically deploy such data.

#### **5.4 EPF and involvement in the development of centralised strategies**

An important problem with the involvement of the EPF in the development of central strategies like Philips Delight seems to be that the effects of Delight often occur locally (especially pertaining to operations in the Netherlands and other West European countries), in which case it falls under the scope of the country level works council.<sup>94</sup> These councils are often occupied with the execution of these restructuring plans, including lay-off and social plans. As a result, a black hole exists in which the link between strategy development and implementation disappears. Furthermore, the level of abstraction at the EPF is fairly high, which may account for the lack of active participation of all members of this forum. A further factor that has been said to promote the disconnect between central strategy development and implementation is that local works councils may keep the interests of their own production location closer at heart than the overall interests of the Philips European workforce, including the continued existence of other production locations.

Regarding the central decision making and local implementation structure of restructuring, it is interesting to take a closer look at the way in which Philips involved the EPF in the development of 'Philips Delight': "We were informed about the project in our EWC meeting in November 2008, but the process was already defined, the consequences set by management. We managed to set up a working group on lighting in order to follow the development of the project, however, when we asked for updates, the management stated that it was sometimes too early to provide them."<sup>95</sup> In general, the image appears that the right of information was fulfilled. However, information was not provided prior to decision making, but rather afterwards when major decisions had already been taken. Consultation remained below an acceptable level, maybe meeting the letter but not the spirit of the EWC directive. Concerning the quality of information, "there are some good points but this is not enough compared to the importance of the project. The most critical point is that we were not part of the decision making process; [we were] only informed from time to time."<sup>96</sup>

Critique on the involvement of the EPF in the development and implementation of Philips Delight centres around the substance of the agreement and on the role of Philips itself. Philips only seems to follow the agreement to a minimum extent. What is more, the terms of the agreement provide the management a lot of discretionary space that often limits the involvement of the EPF regarding Delight and restructuring in general.<sup>97</sup> Several respondents noted that Philips adheres to the guidelines but

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<sup>93</sup> Respondent 9.

<sup>94</sup> Respondent 13.

<sup>95</sup> Respondent 8.

<sup>96</sup> Respondent 8.

<sup>97</sup> Respondent 12 and 13.

that these guidelines are quite general; they are not detailed and they can be interpreted in many different ways. The functioning of the EPF on Delight is regarded as rather illustrative for other topics that are presented to the EPF: 'It is a "good" bad example: Philips tries to show its openness by informing and "consulting" the EPF, but as it is far from what we look forward to, I would say there is room for improvement'<sup>98</sup>

More in general, the EPF is said to systematically lack insight into the development and implementation of central long term strategies. In order to find a solution, both employer and employee representatives have to 'think out of the present box'. "From the employee's side, the sole focus is often preserving jobs. This is fighting a lost battle. The long term strategy of Philips is not focussed on preserving employment but on accumulating money, socially when possible, but not at all cost."<sup>99</sup>

### 5.4.1 *Timing*

With respect to restructuring, the timing and notification period is likely to be an important issue for the EPF. Article 5.6 of the agreement states: "In case of exceptional circumstances which have a significant impact on the interests of employees in several countries within the Territory, the Employees' Representatives of the Committee shall be informed and, if the Employees' Representatives of the Committee so requests, consulted as representative of the Employees' Representatives of the Forum by the Management **at a time which is still meaningful**, also involving a member or representative of the management of the relevant part of the Philips Group concerned."

This is also acknowledged by the EWC Directive's subsidiary requirements, "which provide that information and consultation meetings in exceptional circumstances should take place 'as soon as possible' on the basis of a report drawn up by management, on which the EWC or select committee may deliver an opinion at the end of the meeting 'or within a reasonable time'."<sup>100</sup> However, practice is more stubborn than theory as, "on the moment the EPF is confronted with corporate plans, most often they [those plans] are already well under way."<sup>101</sup> The question that remains open to most respondents is how prior consultation of multi-country restructuring plans can be put on the agenda of the EPF; notification periods appear to be a very decisive concern. An interviewee states: "I think that for such a large project, EPF should have been part of the decision process since the beginning, in order to negotiate the way Philips wanted to restructure the business and to have time to find "good" solutions for the employees. And it is currently not the case; I don't think the available information is good."<sup>102</sup>

## 5.5 Representation within the EPF

The competence of the EPF members cannot fully stand the test of critique. On average, the knowledge of the members in many countries could be enhanced in order to be better able to review matters such as mission, vision and strategy of a company such as Philips. Information asymmetries appear to be of importance, as the substance of the information delivered to the EPF is difficult to

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<sup>98</sup> Respondent 8.

<sup>99</sup> Respondent 10.

<sup>100</sup> M. Carley and M. Hall, European Works Councils and transnational restructuring, European Foundation for the Improvement of Living and Working Conditions, 2006, <<http://www.eurofound.europa.eu/pubdocs/2006/83/en/1/ef0683en.pdf>>, (January 2010)

<sup>101</sup> Respondent 9.

<sup>102</sup> Respondent 8.

qualify for the members of the council.<sup>103</sup> Often the only concern is the number of lay-offs. In most countries the power of trade unions is larger than in the Netherlands or Germany and the spirit is less in the sphere of consultation and corporatism, but instead more confrontational-minded.<sup>104</sup> “There exist differences of interest and culture in all EWCs, often mirroring differences in labour and industrial relations. But in the EPF, real disagreement between employee representatives is rare; often the overall interest is adopted relatively fast, which is ultimately the core of the work of the EPF.”<sup>105</sup>

A few of the respondents state that they do not always know which position in office an EPF member holds and thus whether he or she represents the employer or the employees, all formally being employees’ representatives. In the EPF agreement, a profile of the potential employees’ representative is adopted.<sup>106</sup> Important characteristics are, inter alia:

- ❑ A key player in the local/national Works Council or other local internal employee representative body;
- ❑ Trust and support of Philips employees it represents;
- ❑ Capable of developing an insight into the Philips strategy;
- ❑ Capable of thinking cross-border and developing a trans-national view, inside and outside the company;
- ❑ Has access to a broad network of other Philips Employees’ Representatives and managers.

One of the respondents says that middle management is relatively well represented in the EPF and that this can be partly explained by the absence of production location in represented countries.<sup>107</sup> For example, in Norway around seven employees are currently employed now after the reorganisation, yet the country can deliver one full seat in the EPF.<sup>108</sup> The seat allocation is indicated in table 4. Only three out of nineteen countries have more than one representative. All countries with 5000 or fewer employees receive one vote, regardless of whether that country has 8, 1800 or 5000 employees.

**Table 4: Seat allocation key**

Employees per country	Number of seats in Forum
1 - 5000	1
5001 - 10000	2
10001 - 20000	3
> 20000	4

Some respondents argue that conflicts of interest do occur between employee representatives from different countries. This is especially visible in the case of production transfers from West to East Europe, yet the bulk of this process seems to be over now. Currently, outsourcing processes to non-European countries such as China and South Africa are more at the centre of attention. When production moves outside Europe, it often falls outside the scope of the EPF agreement and is solely discussed by the local works councils and the national or regional unions involved.<sup>109</sup>

<sup>103</sup> Respondent 12.

<sup>104</sup> Respondent 13.

<sup>105</sup> Respondent 10.

<sup>106</sup> In rule 7 in exhibit 2

<sup>107</sup> Respondent 9.

<sup>108</sup> Respondent 9.

<sup>109</sup> Respondent 9.

## 5.6 Cooperation with other stakeholders

Structural interactions and exchanges of information between the EPF and other employee representative bodies is virtually non-existent. Information sharing is often only executed when members are also active in other bodies, which is stimulated by provisions in the EPF agreement, as can be read above.<sup>110</sup> The sharing of knowledge between EPF and works councils and trade unions (local, national and international) is perceived as suboptimal. The rather conceptual plans that are discussed within EPF seep through, in some cases, to lower levels, but then local levels miss the strength or the capacity to follow up, report back or provide feedback. An improved dialogue and information sharing between the different levels could definitely enhance the social dialogue, since all levels have their own strengths and limits. The legal position and right of consent of local works councils could provide the EPF with valuable information. And vice versa, the overview of the EPF could assist local levels in putting their situation into perspective and in learning from other reorganisations and restructurings. But this does not frequently occur: “local solidarities and working routines appear to prevail.”<sup>111</sup> Besides, it is argued that Philips has no real interest in converting different tracks of social dialogue and negotiations.

## 5.7 Suggestions for improvement

On a positive note, all respondents acknowledge that there is room for improvement of the dialogue within the EPF.<sup>112</sup> Much of the input from respondents focuses on the terms and the content of the EPF agreement. For example, the notification period should be better defined, as well as the meaning of and differences between consultation and information. However, to be able to function more adequately, the voting balance has to be revised (countries with 4000 employees currently have an equal vote to countries with 8 employees). “A future extended mandate of the EPF would make this practice even more unsustainable.”<sup>113</sup> Apart from adapting the provisions in the agreement, respondents made several remarks with regard to other aspects, for example:

- ❑ The EPF should be more concerned with and have knowledge of how Philips develops globally and creates profits in general; this knowledge would balance its current lack of power.
- ❑ A link must be institutionalised between the different dialogue platforms within Philips, including sequencing in time, i.e.: start with an EPF consultation, after that a central works council consultation (where it exists), and finally the local works council consultation. The requirement would be that one dialogue process needs to be finished before the next starts.
- ❑ The EPF must be more proactive and less defeatist, for example develop alternative plans, start learning trajectories with other EWCs, etc. However, the EPF must realise that small steps are often the only way forward and unrealistic expectations should be avoided.
- ❑ The EPF must make use of supplementary working groups that meet more frequently than twice a year and can prepare specialised matters. This can also ensure that the council is more timely involved in restructuring plans.
- ❑ Collaboration between different levels of representation must be improved. In general, stronger EWC involvement in restructuring is apparently more likely where there are: strong trade unions

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<sup>110</sup> Respondent 10.

<sup>111</sup> Respondent 9.

<sup>112</sup> Respondent 8.

<sup>113</sup> Respondent 9.

and/or works councils in the home country and elsewhere, cross border networks of workers' representatives and trade unionists, often organised by international trade union organisations, and/or other ongoing contact and liaison between employee representatives on the EWC.<sup>114</sup>

## 5.8 Conclusion

Above described developments fall within the broader framework of internationalisation of business. In general, it is assumed that European integration and globalisation reduce the effectiveness of the traditional national and local labour representation. These broad developments set the background against which EPF undertakings, as well as the EMF efforts related to Philips must be assessed. To start with, the existence of the EPF is perceived by the respondent to create a valuable addition to more local social dialogue instruments. However, the body is also severely criticised. The directive constituting the EPF agreements is outdated; the future terms and provisions of the renegotiated agreement would instantly be improved if based on the 2009 EWC agreement. However, whether this will happen depends on the outcome of the negotiations which are to be held in 2011. The way in which the present mandate and scope of the agreement has been formulated makes it quite technical and vague. It does not set clear obligations for Philips with regard to topics and processes which fall under the consultation and information rights of the council. While it is argued that the EWC could put more effort into proactively setting the agenda, other EWC agreements show that adopting provisions with regard to the involvement of the EWC in the restructuring processes could take away the current ambiguity. Respondents feel that the EWC is bypassed with regard to their involvement in the development of restructuring processes. Members are consulted once decisions are taken and management does not show that it is convinced of the real value of the council's involvement in the initial phases of restructuring processes. With regard to implementation, the domain often belongs to the local works councils and trade unions, who have to deal with the social consequences of restructuring. Cooperation between the EPF and these bodies is too much determined by the existence of double functions and personal ties, which makes it an inherently vulnerable system. Ties between the EPF and the EMF are also minimal, partly because the EMF is actively excluded from any dialogue by Philips. Where other EWC involve sectoral European union federations, Philips seems to perceive this as threat to the operations and functioning of the EWC.

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<sup>114</sup> M. Carley and M. Hall, European Works Councils and transnational restructuring, European Foundation for the Improvement of Living and Working Conditions, 2006, <<http://www.eurofound.europa.eu/pubdocs/2006/83/en/1/ef0683en.pdf>>, (January 2010)

## 6 Conclusions and recommendations

### 6.1 Research background

To cope with the demands made to a global player, Philips continually undergoes structural changes on the corporate level. Downsizing of its own operations, outsourcing of production to an increasing number of suppliers in low income countries and a focus on innovation and conceptualisation are some of the features of the globalising Philips. The recent creation of the three sectors (or businesses) Healthcare, Consumer Lifestyle and Lighting are to be seen in this same light. The economic downturn that hit the world from the end of 2008 onwards has not left Philips – and the company's workforce – unaffected. Outsourcing, relocation, a focus on 'lean' production, the drive to cut costs, restructuring, reorganisation, etc have direct consequences for working conditions, job security and the livelihoods of the people behind Philips' success. In this time of setback, the need for solid labour union strategies has increased.

In the face of these setbacks and general developments, unions might benefit from a better understanding of workers' involvement in restructuring and changes in corporate strategies and, especially, of insight into ways to increase such involvement at the local, national and international level. This research has focused on workers' participation by exploring how employee representatives have been engaged in the recent restructuring at Philips Lighting in Europe by means of social dialogue. In the previous chapters, the quality of social dialogue at Philips Lighting was assessed from different perspectives: a) the workers' representatives of the production facility in Turnhout; b) trade union representatives from Dutch, Belgian, French and European organisations; c) and members of the European Philips Forum. The conclusions below start out with some research limitations, followed by the main research findings, including a summary of the main barriers towards effective social dialogue. We conclude with some recommendations to improve the social dialogue.

### 6.2 Limitations

This research project is no exception to the rule that every research is characterised by certain boundaries and limitations. From the outset, SOMO had intended to include Philips' representatives among the respondents for this research. Despite repeated requests by FNV, the company decided not to contribute to the research, inevitably hampering the balance of the project. The present report covers Dutch, Belgian, French and European workers' representative perspectives. The intended collaboration with German and Polish workers' representatives did not materialise. While the research findings in this chapter are formulated in a general manner, readers should bear in mind that there may be differences in the functioning of social dialogue between the different European countries. To be able to make more general and better founded statements on the quality of social dialogue between Philips and workers' representative bodies on all levels and in all relevant European countries, it would be necessary for this study to include additional countries, more respondents, and preferably also representatives of the Philips management. Despite these limitations, we believe the material presented here offers useful insights into the functioning of social dialogue at Philips.

## 6.3 Main research findings

### 6.3.1 *Central strategies, local execution and information asymmetries*

Multinationals such as Philips are characterised by almost ongoing restructuring processes which involve, amongst other things, relocations, reorganisations, divestment, mergers and acquisitions. Increasing global market pressure and technological development are seen as the main drivers of this development. It is common knowledge, illustrated once more by this research, that these processes often severely affect employment and labour relations. Another feature of multinationals is their centralised decision making. While Philips is present virtually all over the world, with dozens of subsidiaries and joint ventures, the company's management structure is highly centralised. Restructuring programmes – complex undertakings that involve many actors on different transnational and national levels – are often part of centrally developed management strategies that aim to cut cost in order to streamline business and enhance profits.

One of the central findings of this research is the tension between and the problematic character of centralised strategies versus localised effects. Central strategies including Delight have huge effects on local employment practices, but despite the various systems of labour representation, social dialogue does not manage to gain influence over the development of these strategies. Many respondents argue that reorganisation processes are exclusively designed at senior management level while other stakeholders – local management, local works councils, trade unions and the EPF – are informed afterwards and are only engaged to implement these strategies and possibly channel workers resistance. Several observations can be made about this information asymmetry:

- ❑ Generally, respondents perceive that considerations concerning employment are not (sufficiently) taken into account in the development of Philips' strategies and restructuring plans. And workers' representatives at all levels are involved only after the major decisions have been taken. Pertaining to its legal obligations, Philips respects the letter but not the spirit of the agreements. Works councils – European and local – observe that exercising their consultation and information rights does not substantially influence decision making that affects employment at the company most.
- ❑ To a certain extent, centralised bodies of social dialogue such as the EPF may lack insight into the effects of restructuring on the local level. Local implementation of policies is often beyond the scope of the EPF, as is concluded in the EPF agreement. On the other hand, national trade unions and local works councils may lack the capacity and/ or interest to develop a broader view on restructuring processes in which they are involved. Respondents state that social dialogue at the transnational level is fairly abstract, while the overall picture with regard to goals, means and methods of restructuring disappears at the local or national level.
- ❑ When local works councils do attempt to discuss restructuring from a broader viewpoint, Philips is perceived to frustrate these efforts, and claims that such issues fall beyond the works council's competence.
- ❑ It seems that lack of involvement affects both workers' representation and the different management layers. As the Turnhout case illustrates, it is questionable whether local management at production facilities has a decisive influence on decision making regarding reorganisations at their facilities, or are consulted on these matters by the central management. In any case, workers perceive that management at Turnhout fail to provide any countervailing arguments for the restructuring plans.
- ❑ Information asymmetries appear at all levels. While representative bodies are entitled to be informed and consulted in a timely matter by several agreements, such as the Dutch central bargaining agreement or the EPF agreement, respondents do not perceive that Philips fulfils

this right in an appropriate manner. In many cases, the wording of the agreements leaves much room for interpretation, creating major disagreements about the meaning of these texts. In general, the discontent of labour representatives with the quality of social dialogue is the result of a lack of timely information. Respondents believe that if they were involved in restructuring processes at an earlier stage, the interests of workers could be better represented.

- The position of works councils and trade unions in social dialogue differs; institutionalised works councils are generally informed better and at an earlier stage. Trade unions have a less secure position, as their involvement depends on the willingness of local management. Trade unions are predominantly informed through their works council contacts. Furthermore, access to people within Philips Lighting that are influential in strategy development would provide for an information advantage. On the European level, the EMF has no formal or informal position regarding consultation or information processes.

### 6.3.2 Different levels of representation

It is generally assumed that economic globalisation has reduced the effectiveness of traditional workers participation on the plant and the domestic level. The establishment of new forms of representation at the European or even the broader transnational level has to overcome problems of collective action that stem from, amongst others, the extremely diverse environments of industrial relations in which trade representation is institutionalised. Notwithstanding this need for transnational organising, this research shows that workers participation and industrial relations at Philips are still better organised at the plant and the domestic level. While cross country comparison was limited to trade union representatives, the dominant level of social dialogues still appears to be the national and the plant level, and mainly involves implementation of management strategies and the development of social plans. The multi-levelled system of workers' representation can be associated with the following issues that arose during the research:

- Cooperation, strategy development and information sharing between different levels of workers' representation, vertically as well as horizontally, are far from perfect. Busy schedules, language problems and personal deficiencies all play their part. In some sense, the systems in place have a contrary role too, which complicates collaboration further. For example, on the European level, global information on projects is shared with the EPF, but no details on consequences at local levels are given because this is dealt with by local or central works councils. Works councils are informed about a reorganisation when it is about to be carried out. It has been argued that incoherence between different levels of social dialogue is proactively preserved by Philips, as it seems that Philips keeps the various dialogue trajectories separated.
- More specifically, trade union representatives mention that the EPF, while being informed about Delight, failed to correctly assess the consequences for the local production locations. On the other hand, some respondents argue that labour representatives in the EPF can hardly transcend the interest of the country they represent. Overall, the EPF representatives do not perceive that national backgrounds are decisive for input in the EPF.
- Unions at all levels lack a formal role and rights regarding the *development* of business strategies. The formal role of trade unions in the *implementation* is mainly restricted to the involvement in the development of social plans for dismissed workers. These social plans are worked out locally and there is the risk of trade unions representing workers' interests at the local level only, while the interrelated employment situation of workers all across Philips Lighting is neglected. Whether national interests are conflicting or aligned, national trade unions would benefit from international linkages to increase their overall effectiveness in worker representation. However, traditionally, the working area of trade unions is constrained by national borders. Trade unions and works councils representing Philips employees tend to incorporate a focus on the plant level or a national focus. On a European level, cooperation

among trade unions is still in its infancy, despite the urgently felt need for a wider cooperation. Joint strategising is still a far from ideal.

### **6.3.3 Remaining barriers to effective social dialogue**

The research revealed several additional barriers to a more meaningful social dialogue that fall outside the scope of the previous two categories:

- ❑ Firstly, Philips' closed and secretive attitude – resulting in strategies being designed behind closed board room doors – is a major barrier. Philips lack of interest in collaborating meaningfully with trade unions is another obstacle. Recent reorganisations have negatively influenced trust and confidence, essential building blocks for effective social dialogue policies.
- ❑ The research also revealed some barriers on the side of the workers' representative bodies. It is important that trade unions acknowledge their shortcomings and improve their (joint) performance to create more leverage with Philips. The existing trade union structure does not match with the changing corporate structure within Philips. Trade unions and works councils have not yet adapted to Philips' global corporate identity. Denominational differences and limited professional interests divide and weaken the trade union movement.
- ❑ On the European level, Philips refuses to engage in meaningful dialogue with the EMF while especially this body could play a meaningful role in overcoming barriers to cooperation between local and international level, as structural interactions and exchanges of information between the EPF and other employee representative bodies is currently virtually nonexistent. The EMF, as an umbrella organisation of trade unions that represent metalworkers, has been attempting to address this gap. However, attempts to upscale trade union work to the international level have met with resistance with Philips, in contrast to other multinationals. While the works councils of European Philips facilities have an international counterpart with a formal information and consultation right – the EPF (see chapter 5) –, trade unions lack such an international counterpart as Philips denies EMF a role as a formal dialogue partner. The Sectoral Social Dialogue Committee, set up in early 2010 for the metal, engineering and technology-based industries by the CEEMET and the EMF, could offer an alternative route for Philips to indirectly engage with European level union organisations on issues relevant to both employers and employees. From an optimistic point of view, this could boost trust between Philips and the EMF, thereby bettering company level social dialogue at the European level.

## **6.4 Philips social dialogue policies**

Philips has several policies that discuss both workers participation and restructuring (see Chapter 3). In its 2008 annual report, Philips commits to informing and consulting works councils and employees before announcements on specific restructuring programs are made. However, no specific distinction is made between developing restructuring plans and implementing them and between consultation and information, and neither is there any mention of notification periods beside a statement that employees will be informed prior to press and public. In light of the present research, this policy seems to be an absolute minimum requirement. When compared to the requirements of Philips laid down in agreements with labour representative bodies, the commitments of the company in its CSR documents appear quite weak.

The workers' representative bodies have firmly stated an interest in a stable and financial healthy Philips, however, not at all cost. While trade unions and works councils focus on employment, they are realistic about the economic and financial circumstances of a company such as Philips. The research reveals that there is a clear business case for mature social relations, in which social partners can

contribute to the safeguarding of the short, middle and longer term interest of the enterprise and its labour force. The Turnhout case study shows that had the management accepted the suggestions made by the trade unions, a more balanced reorganisation would have been possible, with a limited loss of employment and with respect to the longer term interests of the company.

It should be noted that Philips is not an exception in its limited involvement of trade unions in the development and implementation of business strategies; these tasks generally belong to the realm of (senior) management. Nevertheless, Philips' approach to involving trade unions in reorganisations is experienced as extremely stringent compared to some other companies in its line of industry (e.g. Siemens, ArcelorMittal). The general impression is that Philips involves workers representatives only where it is required to do so, and follows the letter of regulations instead of the spirit of it, resulting in a social dialogue that has no clout.

## 6.5 Recommendations

The following sections offer recommendations for workers' representatives and for Philips to improve the social dialogue at Philips Lighting.

### 6.5.1 Workers representatives

- ❑ In general, collaboration between different levels of representation must be improved and institutionalised, for example by improving the communication between EPF and trade unions at European Philips Lighting locations. Much can be learned from restructuring experiences at other plants or at other companies. To assist this development, representative bodies should consider investing in setting up a common data information system regarding dialogue, disputes, corporate developments, etc. The expertise that is available in the trade union movement, on for example large scale reorganisations and mass redundancies, should be exchanged with all levels of representation.
- ❑ Unions and works councils must show Philips that they are willing to take into account the wider company interests. This could be done by adopting a more proactive approach, as was illustrated by the EWC when making an alternative assessment of the future of lighting. Such initiatives could be effective as agenda-setting instruments.
- ❑ Consider using more confrontational campaigning and action towards Philips, instead of – or where possible, in combination with – focussing on social dialogue. Philips has demonstrated that it is sensitive to bad press, and as such, confrontational action may help to influence the course of Philips' strategies. Trade unions of different national or traditional backgrounds should commit to harmonisation of strategies and agendas. Finally, the stronger (national) trade unions should be encouraged to represent the rights and interests of Philips employees in countries where trade unions have a weaker position.
- ❑ When suspecting mismanagement by Philips, Dutch trade unions could look into the possibilities of having an independent inquiry launched into Philips' policies and practices by the *Ondernemingskamer* of the Amsterdam court. The *Ondernemingskamer* is a specialised body that falls under the Amsterdam court with specific competencies in solving company disputes ('ondernemingsrechtelijke geschilbeslechting').<sup>115</sup> Upon a written request, the

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<sup>115</sup> Website Ondernemingskamer, <<http://www.rechtspraak.nl/Gerechten/Gerechtshoven/Amsterdam/Over+het+hof/Rechtsgebieden/Speciale+rechtsgebieden/Ondernemingskamer.htm>> (28 January 2010)

*Ondernemingskamer* can carry out an inquiry at the focal company. A trade union with members in the company can request such an inquiry, with the proviso that the trade union presents substantiated arguments justifying the suspected mismanagement. Another condition concerns the obligatory consultation of the local works council. If mismanagement is confirmed, the *Ondernemingskamer* has the authority to take far-reaching measures.

- ❑ On the European level, the EPF could take the following steps: take responsibility for monitoring corporate and division developments; invest in the capacity to correctly analyse such developments and their consequences for local production locations; upgrade communication with national and plant-level trade unions; take a proactive stance by developing alternative plans, and starting learning trajectories with other EWCs; and make use of supplementary working groups that meet more frequently than twice a year and can prepare specialised matters. This can also ensure the council is involved in restructuring plans at an earlier stage.
- ❑ Workers' representative bodies could develop a joint, overarching, long-term vision on strategic themes such as outsourcing, relocation and restructuring that will certainly dominate social dialogue for years to come. A corresponding dialogue agenda could be defined, both among the different representation bodies – in preparation for discussion with Philips on the different levels – and for the dialogue with Philips.
- ❑ It would be useful to elaborate an organisational chart covering all representative bodies on the local and European level to provide insight into the respective responsibilities, interests and competencies of the participating bodies and individuals.

### **6.5.2 Philips Corporate, Philips Lighting**

To improve the quality of the social dialogue at Philips Lighting, Philips could take the following steps:

- ❑ Make sure that social dialogue platforms match with the existing corporate structure, by establishing formal social dialogue at the sector level (Lighting, Healthcare, Consumer Lifestyle).
- ❑ Include existing European and international trade unions in the ongoing social dialogue.
- ❑ Commit to exploring the possibilities for signing a Global Framework Agreement, together with the relevant trade union partners. Learn from the experiences in other sectors and of other companies, such as ArcelorMittal.
- ❑ Commit to exploring the possibilities of establishing a World Works Council, as a possible meaningful form of global employee representation, together with Works Councils active at Philips plants. Learn from the experiences in other sectors and of other companies, for example Siemens.
- ❑ Improve the quality and the timeliness of information provided to workers representatives. If forms of new media (intranet, video messages) are to be used, these should be of good quality.
- ❑ Commit to consulting works councils and trade unions as full and equal discussion partners.
- ❑ Elaborate a 'Social Manifesto' together with trade unions and works councils.
- ❑ Utilise the Sectoral Social Dialogue Committee for the metal, engineering and technology-based industries to engage with European level union organisations. In doing this Philips can defend and promote shared industrial interests vis-à-vis European authorities and, at the same time, build trust with the EMF.

