

Final Report – PT Bata Audit – April 16, 2005

Basis of evaluation

This report is based on a ten-question survey of fifty workers at PT Bata (see Appendix A for the survey questions and a summary of the results), an interview with the union at PT Bata (SPSI-TSK), an analysis of the collective labor agreement, a meeting with management, and a follow-up interview with a small group of workers. The survey and follow-up interview were conducted by an Indonesian NGO, Urban Community Mission (UCM), and the cost of the survey was paid for by No Sweat. The survey was conducted in January 2005, and follow-up interviews were carried out in March 2005. Although the audit team met with management, PT Bata refused to provide the team with company documents pertaining to piece rates, wages, production targets, the pension program, and overtime hours.

Since none of the team members in Indonesia have expertise in health and safety issues, the team did not tour the factory to assess health and safety conditions. We did discuss these issues with the union and management, however, and they raised no concerns and the union considered PT Bata to be diligent about health and safety in the production areas.

Wages

Summary: Although many workers at PT Bata are paid above the minimum wage, workers that do not achieve production targets are paid less than the legally mandated regional minimum wage.

In Indonesia, employers are required to pay wages at or above the legally-mandated minimum wage in the area in which they operate.¹ Indonesian labor law divides the wage packet into three components: the basic wage, allowances not related to attendance (permanent allowances, or *tunjangan tetap*), and allowances based on attendance (variable allowances, or *tunjangan tidak tetap*).² In Indonesia, permanent allowances often include a rice allowance and an allowance based on work tenure. Variable allowances usually include allowances for food and transportation. Permanent allowances are considered to part of the legal minimum wage payment, whereas variable allowances are not. According to Indonesian law, the basic wage plus the permanent allowances must equal or exceed the minimum wage.³ In addition, according to Law 13/2003 (Section 94), permanent allowances can comprise no more than 25 per cent of the minimum wage payment. The basic wage must therefore be no less than 75 per cent of the minimum wage.⁴ In Jakarta, local regulations also stipulate that workers with less than one year must be paid at least the minimum wage, while

¹ Wages are set at a variety of levels—sometimes at the provincial level but recently also by local governments (*kabupaten*).

² See Surat Edaran Menteri Tenaga Kerja Republik Indonesia Nomor SE-07/MEN/1990 Tahun 1990.

³ See Peraturan Menteri Tenaga Kerja Republik Indonesia Nomor Per-01/MEN/1999 Tahun 1999.

⁴ Although complicated, this point is important because it affects the amount paid for the holiday allowance (THR - *tunjangan hari raya*), holiday pay, sick leave, and maternity leave. Variable allowances are not included in these payments, whereas permanent allowances are. The holiday allowance of one month's pay, for example, is based only on the basic wage and the permanent allowances (see Peraturan Menteri Tenaga Kerja Republik Indonesia Nomor Per-04/MEN/1994 Tahun 1994). The THR is the equivalent of a thirteenth month of pay and must be no less than the minimum wage.

those with tenure of one year or more should receive wages higher than the minimum wage.⁵

The wage system at PT Bata is very complicated. Even management had difficulty explaining it to the audit team, and the CLA does not provide an elaboration of how the final wage is calculated. For most production workers at PT Bata, the basic wage is based on standard production minutes (SPM) and a work factor. These two measures combined constitute the company's estimation of how many units a worker should be able to complete during a given period of time. There are ten SPM classifications and the higher the classification, the higher the take-home pay (assuming that the worker produces what is expected). The CLA does not detail the SPMs attached to each job but does state that this information is to be posted in the work area. Wages are tied to the amount produced, and management informed us that workers are expected to complete five plans per week (one plan equals 1,000 units). If a worker makes three plans, s/he receives the minimum weekly wage. Workers receive a premium (piece-rate payment) for work completed that exceeds three plans. The minimum weekly wage is comprised of the basic wage plus the rice allowance, which is a permanent allowance. In September 2003 the minimum weekly wage was set at Rp. 145,743/week (Rp. 124,974 + rice allowance of Rp. 20,769).⁶ On January 1, 2005, the CLA provides for a wage increase of 10 per cent (Rp. 137,471 + adjusted rice allowance of Rp. 22,500 = Rp. 159,971), but workers reported that early this year they only received 156,500 (Rp. 134,000 + rice allowance of Rp. 22,500) as the minimum weekly wage. However, in March 2005, this rate was raised to Rp. 165,500 (Rp. 143,000 + rice allowance 22,500).

Workers also receive two variable allowances—a daily food allowance of Rp. 6,000 and a transportation allowance that varies based on the number of buses the worker takes to the factory (one bus = Rp. 2,400/day, two buses = Rp. 4,600/day, three buses = Rp. 5,600/day). The CLA stipulates that the transportation allowance will be increased if the bus fares increase. The CLA does not state explicitly that these are variable allowances, but according to the union they are considered as such—workers do not receive these payments if they miss work and they are not part of the calculation of the holiday allowance (THR). The food and transport allowances are also discussed in a separate part of the CLA than wages.

Most workers do not receive production-related incentives. The SPM system itself, with pay tied directly to the amount produced, is the only incentive. The union stated that workers in a few production positions receive additional production-related incentive payments but that this does not apply to the majority of jobs in the plant.

Under the current wage system, workers can receive wages that are lower than the regional minimum wage in Jakarta. If a worker received the minimum weekly wage for a full month, the pay would be:

⁵ See Keputusan Gubernur DKI Jakarta No. 2515/2004 tentang Penetapan Upah Minimum Propinsi (UMP) tahun 2005.

⁶ The monthly rice allowance varies based on the number of family members—30 liters (single, married, married with one child), 40 liters (married with two children), or 50 liters (married with three children). If a husband and wife work at the factory, the extra rice allowance is paid to the husband while the wife collects as a single woman. The figures used in wage calculations are those for a single worker. Rice allowances are based on the price paid per liter at local markets and are evaluated four times a year. The CLA allows for the price to range from Rp 3,000-3,100 per liter.

$$(\text{Rp. } 165,500 \times 4) + (\text{Rp. } 165,500/5) = \text{Rp. } 695,100^7$$

This minimum payment is below the regional minimum wage in Jakarta for 2005, which is Rp. 711,843. Indonesian law forbids payment of wages below the regional minimum.⁸ Of course, many workers receive more than this minimum payment, but the audit team was unable to assess the percentage of workers that receive less than the legal minimum wage because management did not provide us with wage data. Nevertheless, based on the CLA, it is possible for a worker to be paid less than the regional minimum wage. This conflicts with information provided by the union; they stated that the lowest possible wage is the regional minimum wage, and conflicts with information that management provided us regarding PT Bata's policy of paying at least 5 per cent higher than legally required wages or wages that are common in the industry (if wages are higher than the legal minimum). In order to receive the regional minimum wage, workers need to be paid at least Rp. 169,487/week (basic wage plus rice allowance). The current minimum weekly wage at PT Bata must be increased by Rp. 4,000 to be equal to the regional minimum wage.

Surveyors also collected four pay slips in January 2005, and the data indicate that some workers were paid less than the regional minimum wage. Two of the four workers received pay below the regional minimum wage. For example, one worker received a basic wage of Rp. 139,258 for a five-day week plus a rice allowance of Rp. 22,500, which equals Rp. 161,758. At this rate, the monthly wage would be Rp. 679,384. In addition, both of these workers had tenures of over one year, so PT Bata is not in compliance with local regulations that require workers with more than one year of tenure to be paid above the minimum wage.

Since actual wages depend on meeting production targets, in follow-up interviews workers were asked whether they had difficulty meeting production targets. The workers said that they usually met production targets. Workers cited two main reasons for not meeting production targets. First, since PT Bata uses subcontractors to supply some inputs, the wages of workers in production sections that use these inputs are negatively affected when subcontractors are late in delivering them to PT Bata. Second, when there are holidays, they often miss the target because they have fewer days in which to achieve it.

The only way for workers to obtain a raise, aside from legally mandated increases to the regional minimum wage, is to be promoted to a higher classification. The CLA stipulates that tenure is one consideration in determining promotions, but the union indicated that work performance as assessed by management is the overriding factor of consideration. The CLA does not state the weight that should be given to each factor of assessment. Employers in labor-intensive sectors such as textiles, footwear, plywood, and garments often give workers small allowances that are tied to tenure, and these are treated as permanent allowances. PT Bata, however, offers no tenure-based allowances. Workers with long tenures thus frequently make the same wages as those that have only recently begun working at the factory. The average tenure of the workers surveyed at PT Bata was 10.83 years, which is quite long for labor-intensive industries in Indonesia.

7 For workers paid weekly, the monthly wage is calculated based on a 21-day work month. See Peraturan Menteri Tenaga Kerja Republik Indonesia Nomor Per-01/MEN/1999 Tahun 1999.

8 Law 13/2003, Section 90. Section 91 adds that wages negotiated in CLAs cannot be less than the minimum wage.

The CLA also stipulates the system of payment for overtime. Overtime is calculated as:

(basic wages+rice allowance)/40 hours,

multiplied times the following:

Regular work days:

First hour:	150%
Each hour thereafter:	200%

Saturday, Sunday, and holidays

Up to seven hours:	200%
First hour after seven hours:	300%
Each hour thereafter:	400%

Workers that work more than four hours of overtime are entitled to an additional meal allowance as well as an extra transport allowance (e.g. if they come in on Saturday or Sunday). Indonesian law requires an extra meal to be provided after three hours.⁹

The formula for calculating the overtime wage is not in accord with the letter of the law because the law does not provide a formula that conforms well to the method of payment used at PT Bata.¹⁰ It is in line with the spirit of the law, however, since all permanent wage supplements are included in the calculation of the overtime rate. The multipliers (the % figures) are those stipulated in the law. Given that the minimum daily wage at PT Bata is below the regional minimum wage, however, workers on the low end of the wage scale would be paid lower overtime pay than they are entitled to receive (since the overtime calculation should be based at least on the regional minimum wage).

Management also informed the audit team that PT Bata has a make-up wage system in place to compensate workers for lost production that is not their fault. For example, if the electricity goes out and the production line stops, the worker is paid as if s/he continued to produce during that time period. This is a significant benefit for piece-rate workers that are making above the minimum weekly rate, and management reported that they paid more than a billion rupiah in make-up wages in 2004.

Workers' take-home pay is also affected by a number of deductions. The deductions on the pay slips are difficult to decipher, and workers were uncertain about many of the abbreviations on their pay slips. On average, workers receive about six separate deductions from their wages, and only the deduction of union dues is mentioned in the CLA. Some of these deductions are required by law, such as taxes. One of the deductions is probably for the pension, but none of the deductions correspond to the three per cent figure that the union claims is taken out of wages as part of the pension—all of the figures for deductions

⁹ Keputusan Menteri Tenaga Kerja dan Transmigrasi Republik Indonesia Nomor Kep.102/Men/VI/2004.

¹⁰ Keputusan Menteri Tenaga Kerja dan Transmigrasi Republik Indonesia Nomor Kep.102/Men/VI/2004.

are less than three per cent. Another deduction may be for the national insurance program, Jamsostek,¹¹ and for health insurance. UCM only obtained information for some of these codes from workers, so workers themselves are uncertain about what is being deducted from their weekly wages. The total amount deducted amounts to about six per cent of wages.

Fines outlined in the CLA only pertain to missing work without permission, and in these cases the rice allowance is cut by 1.5 liters for missing a whole day and .5 liter for missing half a day. The union says that PT Bata does not fine workers for mistakes or failure to reach production targets and that the employer prefers to deal with these issues through verbal and written warnings. Workers taking unpaid leave (with permission) also have their rice allowance cut by one liter for each day missed.

In the survey, workers expressed dissatisfaction with their wages. Question 6 addressed this issue, and 84 per cent of workers think they are paid unfairly. Workers gave a number of reasons for this assessment, the most prevalent being that new workers make as much as those with longer tenures, that the wages were too low, that sweepers make more than production workers, that other factories pay more, and that wages are too low given their work responsibilities.

Irregular (non-weekly) additions to the pay package

Indonesian law requires employers to give workers a yearly holiday allowance (THR) that is equal to a thirteenth month of pay. This payment should at a minimum be equivalent to the regional minimum wage. PT Bata offers a THR equivalent to eight weeks of pay, which is significantly above (about twice) the legally-required amount of one-month's pay.¹² As part of the THR, workers also receive the monetary equivalent of 15 liters of rice, 5 kilos of sugar, and three meters of cloth. In addition to the THR, PT Bata also gives worker six weeks of gratification pay. Gratification pay is not required by law. The gratification pay plus the extra four weeks of holiday allowance mean that workers at PT Bata get more than two month's wages on top of the legally required amount, or more than triple that which the company is obliged to pay by law.

Workers also receive the following cash and non-cash benefits:

1. Male workers receive two complete uniforms, one pair of rubber sandals, and a pair of leather work shoes. Female workers receive two complete uniforms and a pair of women's shoes.
2. Payment of Rp. 225,000 for the birth of the first child, Rp. 200,000 for the second child, and Rp. 150,000 for the third child.

¹¹ Jamsostek is comprised of four components: accident insurance, death benefit, health insurance, and a pension. The employer pays 100 per cent of the contributions for the accident and death benefit, while both employer and worker make contributions to the health insurance and pension programs. Employers that provide equivalent or better health coverage can opt out of Jamsostek's health insurance program.

¹² Of course, workers making less than the legally mandated regional minimum wage are not receiving as much as they should. PT Bata, however, is in compliance with the law, since the THR significantly exceeds the one month required by law.

3. In addition to the payments made through Jamsostek and according to law UU13/2003:
 - Burial allowance of Rp 300,000 and 30 liters of rice paid to family of deceased worker
 - Burial allowance of Rp 250,000 to workers in which an immediate family member dies
 - Burial allowance of Rp 150,000 for death of a parent (only given to eldest child if more than one family member is a Bata employee)
 - If the death is the result of an accident at work, in addition to the burial allowance the family of the deceased worker also receives an additional burial allowance of Rp 700,000, six weeks gratification bonus, and two month's THR.
 - For workers with at least 10 years tenure, the family of the deceased worker is given the pension that the worker was due.

4. 25% discount on six pairs of Bata shoes during Idul Fitri.

Working hours

The CLA stipulates working hours as follows:

Monday – Thursday: 7:30-4:30, with a lunch break from 12:15-1:00
Friday: 7:30-4:30, with a two hour lunch break (for Friday prayers)
Saturday and Sunday: closed

On regular work days, there are no breaks in addition to the lunch break. The union reports that workers are free to get water or go to the bathroom when they please, and workers confirmed this, although they also said that getting permission can be difficult during extremely busy periods.

The surveys indicated much worker dissatisfaction related to overtime. About 70 per cent of workers reported being forced to work overtime. One worker reported receiving a written warning for refusing to work overtime during the fasting month, and another worker noted on the survey that s/he was told not to come back to work after Idul Fitri if s/he was unwilling to work overtime. Workers linked the forced overtime to completing export orders, achieving production targets, and finishing large orders.

The union and management, however, reported that there is no forced overtime, only voluntary overtime. The union officers interviewed considered overtime to be a rarity, although they admitted that management in a production section may occasionally ask workers to work overtime. They thought that this could be construed as pressure to work overtime but attributed the pressure to a worker's loyalty to the supervisor rather than a direct order to work overtime. They also noted that most workers want to work overtime because the pay is higher. Management reported that during crunch times overtime is "strongly requested" but not forced, and that workers are given at least one day's notice of

overtime, and workers confirmed this.

The union argued that forced overtime cannot take place because the CLA forbids it. But this is not entirely true. The CLA states that overtime is voluntary with three exceptions: 1) if not completing the work endangers the health and safety of workers, 2) if not completing the work will result in financial losses to the employer or will disrupt the production process, and 3) if there is work that must be completed immediately. Indonesian law, however, does not provide exceptions to the voluntary nature of overtime. Law 13/2003 (section 78) states clearly that overtime is only permitted if the worker consents to it. The implementing regulation for this section of the law further specifies that requests for overtime must be put in writing and that the worker must agree to the overtime in writing.¹³

Given the contradictory information about overtime from the survey, management, and the union, additional information was sought through follow-up interviews with workers. In these discussions, workers confirmed that overtime is concentrated during periods when PT Bata has to meet export targets. During the last year, overtime has been rare. Overtime is not forced, according to these workers, but since workers that agree to work overtime are given first priority in working overtime in the future, workers are reluctant to refuse. Thus, although overtime is not forced—workers are free to refuse and are seldom if ever fired for doing so—but workers may feel compelled to work overtime when they would prefer not to for fear that they will be denied the opportunity to work overtime in the future.

Child Labor

The team found no evidence of child labor at PT Bata. Of the fifty workers surveyed, the youngest was 23 years old, and the average age was 32 years. The average work tenure was almost 11 years. Workers at PT Bata are older and have longer work tenures than in most footwear factories. UCM also reports that their worker contacts at PT Bata have never raised child labor as a concern.

Benefits

Pension program

The CLA mentions the existence of a pension program, but the details of this program are unclear, and the union could not provide a simple explanation of the program and instead directed the audit team to the law referred to in the CLA. The CLA does not provide details about the pension program and simply states that the pension program is in accord with Keputusan Menteri Keuangan Republik Indonesia No. Kep. 331/Km.17/1996 and stipulates that if the Ministry issues a new decision, it will operate the pension in accord with that law.¹⁴ However, the audit team was unable to locate this law, so the precise details of the pension program are unclear. The union says that workers pay 3 per cent of monthly wages into the pension program and that PT Bata pays 7 per cent. The union also claims that

13 Keputusan Menteri Tenaga Kerja dan Transmigrasi Republik Indonesia Nomor Kep.102/Men/VI/2004.

14 The union hopes to get more details about the pension incorporated into the next CLA.

workers end up with a payment of about 35 months pay. A few years ago, UCM determined that the formula was the following:

$$6 \times (\text{avg. weekly wage} + \text{rice allowance} + \text{medical allowance (5\%)} \times 25 \text{ (years of service)})$$

According to the union, female workers are entitled to collect their pension at age 50 and male workers at age 55.¹⁵ Setting different retirement ages for men and women is a violation of Indonesian law.¹⁶ The union estimates that workers usually receive their pension payment within a month of retiring.

It is unclear whether the pension is currently a significant benefit to workers. Indonesian law provides for a retirement payment in the form of severance pay in cases in which the employer does not have a pension program.¹⁷ In recent years, these payments have increased significantly, which has eroded the comparative benefits of the program provided by PT Bata. For example, in the late 1990s, workers with 25 years of service would have been entitled to sixteen months of pay plus 5 per cent.¹⁸ In 2000, this rose to twenty-four months of pay plus 15 per cent.¹⁹ With the passage of Law 13/2003, this payment increased further, to 28 months plus 15 per cent. Workers do not have to make any contributions in order to claim the lump sum pension payment in Law 13/2003. The PT Bata program involves deductions from workers' wages, so given the current increases in legally required severance payments, the pension program is no longer a major benefit for workers.

Without knowing the worker's contribution, it is impossible to calculate precisely the comparative benefits of the company program compared to that provided by Law 13/2003. However, assuming that the estimation of the union is correct—that workers receive about 35 months of pay—it is possible to estimate the relative benefits of each program and to see how the relative benefits of PT Bata's program have diminished in recent years.

Using the current minimum wage in Jakarta, the comparative payments are as follows:

	<u>PT Bata</u>	<u>Per-03-1996</u>	<u>Kep-150-2000</u>	<u>Law 13/2003</u>
Monthly pay	Rp. 711,843	Rp. 711,843	Rp. 711,843	Rp. 711,843
Multiplied by months	35	16	24	28
Plus 5% or 15		Rp. 569,474	Rp. 2,562,635	Rp. 2,989,741
Total received	Rp.24,914,505	Rp.11,958,962	Rp.19,646,867	Rp. 22,921,345

If these calculations are correct, the pension program is currently a bigger benefit for the employer than for the workers. Although the pension payment provided by PT Bata is about Rp. 2 million higher than that stipulated by Law 13/2003, since workers have to make

¹⁵ Previously workers could claim the pension after 25 years of service. The union said the employer changed this because it was not in accord with Indonesian law, which bases pensions on a retirement age rather than on years of service.

¹⁶ Surat Edaran Menteri Tenaga Kerja Republik Indonesia Nor SE-04/MEN/1988 Tahun 1988 explicitly forbids this practice. The Ministry of Manpower considers this practice to be a violation of the UN Convention regarding the elimination of all forms of discrimination against women. Indonesian ratified the Convention with Law 7/1984.

¹⁷ Law 13/2003, section 167.

¹⁸ See Peraturan Menteri Tenaga Kerja Republik Indonesia Nomor Per-03/MEN/1996.

¹⁹ See Keputusan Menteri Tenaga Kerja Republik Indonesia Nomor Kep-150/MEN 2000.

contributions over a period of about 25 years to the PT Bata program, the payment offered by Law 13/2003 is probably superior. Law 13/2003 states that the worker can claim whichever is higher, the lump-sum based on Law 13/2003 or the company pension program. But if a worker takes the payment based on Law 13/2003, it is unclear whether s/he would then be reimbursed for contributions made to the company program, in which case it makes more sense to take the pension provided by PT Bata. Since workers are not given yearly statements that indicate the contributions of PT Bata and the worker to the pension, workers do not have the information they need to make comparative assessments.

Last year UCM interviewed five retired workers, two of whom retired relatively recently, one in 2004 and another in 2001. The worker that retired in 2004 received a lump sum payment of Rp. 36,700,000 after working at PT Bata for 27 years. The worker retiring in 2001 after almost 25 years of employment received Rp. 15,000,000. It should also be noted that the retired workers reported that they and their families continued to receive coverage by the company health plan, which is a significant benefit.

The survey shows that workers do not understand how the pension system works. None of the fifty workers surveyed understand the basis of their pension, although most know the program exists and many of them have noticed the deductions on their pay slips (see Questions 7 and 8 in Appendix A). The union distributed the relevant law concerning the pension to the workers and provided information about the program to about 500 workers that were taken on as permanent employees in August of 2002, but in spite of these efforts, workers do not comprehend the program.

Medical

The medical benefits at PT Bata are generous, and the details of the program are described in reasonable detail in the CLA. There is a polyclinic on the factory premises which is staffed by a doctor and nurses. Treatment received at the polyclinic is free for both workers and their families. For more serious illnesses or specialized treatments, the company covers treatment at public hospitals and from outside doctors, with the approval of the company doctor. PT Bata has special agreements with two hospitals in the vicinity of the factory, UKI Hospital and Tebet Hospital. For treatment outside the polyclinic, PT Bata covers 100 per cent of the costs for workers and 80 per cent for their families (this includes costs related to a wife's pregnancy). For most ailments, the company will cover all prescriptions and treatments (exceptions: venereal disease, AIDS, mental illness, plastic surgery, abortions, and most dental care other than having teeth pulled). Workers have to pay for services outside of the polyclinic themselves and are then reimbursed by PT Bata. For treatment at Tebet and UKI hospitals, the CLA requires compensation to be paid within 30 days; for other outside treatments no time limit is specified. It is unclear in the CLA what workers must do if there is not an approved doctor nearby when they fall ill on a holiday. The CLA stipulates that workers can seek treatment at an *approved* doctor, but if the worker is out of town during a holiday and needs to seek medical treatment, it is unclear whether this would be covered and how a worker could go about getting such treatment approved.

Other benefits include the following. Women with difficult pregnancies or long recovery times after giving birth can obtain an extension of maternity leave for an additional three months with a doctor's note, with full wages. The health program also provides free birth

control services at the polyclinic. PT Bata also offers some vision care. If the company doctor finds that a worker's eyesight is impaired, PT Bata will pay the full cost of lenses and contribute Rp. 180,000 toward the cost of frames once every three years. Dental coverage is quite limited, however, and procedures that are covered by Jamsostek are not covered by PT Bata. Indonesian law requires that company-provided plans offer services commensurate to those offered by Jamsostek.²⁰

The union and male workers rated the health program very favorably, although they voiced three complaints. First, they would like treatment for family members outside the polyclinic to be covered at 100 per cent rather than 80 per cent. Second, the company is supposed to reimburse workers for expenses incurred within 30 days, but often the company takes 5-6 weeks to reimburse workers. Third, benefits for maternity care are considered to be too small.

In most areas, PT Bata's program is more generous than the unpopular national program, Jamsostek. PT Bata's program covers expensive treatments related to cancer, heart disease, and organ transplants, and it does not limit payment for hospital stays.²¹ While Jamsostek limits payments to Rp. 6,400,000 per illness,²² PT Bata's plan does not set a ceiling on a worker's medical expenses. UCM's research in 2004 indicated that PT Bata spent large sums of money to cover treatment for workers with serious illnesses such as brain cancer and heart disease.

Unfortunately, women workers do not enjoy the same rights as men in this program. The CLA treats all women as single and defines a family as a husband and children. Women workers, with the exception of widows with three children, do not have a right to medical coverage for family members. Gender discrimination of this sort is a blatant violation of Indonesian law.²³ The definition of women as single negatively affects women's rice allowances as well.

Work environment

Two questions on the survey addressed worker perceptions of the work environment. The first was Question 5, which pertained to worker relationships with supervisors. About half of workers described these relations as adequate. Ten per cent rated these relationships very positively. Twenty percent of workers described the relationship as generally acceptable but reported feeling pressured from time to time and the remaining 20 per cent of workers rated the relationship with supervisors very negatively.

The second question asked workers to rate their overall experience at work. Workers were

²⁰ Peraturan Menteri Tenaga Kerja Nomor Per-01/MEN/1998.

²¹ Jamsostek limits inpatient care to 60 days and intensive care to 20 days.

²² See Peraturan Pemerintah Republik Indonesia Nomor 83 Tahun 2000.

²³ Indonesia has ratified the UN Convention on the elimination of all forms of discrimination against women. See Law 7/1984. In addition, Law 13/2003 (Section 6) requires workers to be treated equally by employers. Surat Edaran Menteri Tenaga Kerja Republik Indonesia Nor SE-04/MEN/1988 Tahun 1988 also explicitly forbids the practice of defining women as unmarried in order to exclude them from claiming benefits for their families. In addition, Peraturan Menteri Tenaga Kerja Nomor Per-01/MEN/1998 states that participants in privately run health programs include both men and women and their families.

only given three choices, and with this restriction of choices workers rated their conditions much more negatively than in the Question 5. Over 70 per cent described their experience at work as unpleasant. About 15 per cent considered their experience at work to be fair, and just over 10 per cent described it as positive and friendly.

In addition to these issues, the team asked the union and workers about several other issues. The union reported that ample drinking water is available and that workers are free to leave their work stations without permission to get a drink and to go to the bathroom. Workers confirmed that they are usually free to leave their work stations to fetch water or to go to the toilet but that on extremely busy days it is difficult to obtain permission. The workers interviewed also complained that the water provided by the company was too far away (100 meters) from their work stations, which made it difficult to get a drink. Workers also voiced doubts about the quality of the water provided, although they admitted that they had not raised this issue with either management or the union. Given the distance that some workers must walk to obtain water and their doubts about the quality of the water, many workers bring their own water to work.

Another factor affecting work environment for women in particular is the procedures that women must go through in order to claim menstruation leave. The CLA does not limit women's access to menstruation leave by placing conditions on it. Law 13/2003 stipulates that women can claim menstruation leave if they "feel sick." In practice this often results in harassment or in demands that women prove they are menstruating in order to claim the leave. The union explained that the company expects women to take two days off every month and that rather than using intrusive verification measures, each female worker is given a book in which menstruation leave is recorded. When a female worker wishes to claim menstruation leave, she shows this book to the doctor. If the dates look reasonable (i.e. if it's been about 28 days since the previous leave), the worker is allowed to take the leave without any further examination. However, if the dates are off, or if the worker does not have the book with her, the doctor may insist on an examination before giving the worker permission to take the day off.

Women workers, however, report a significantly more difficult procedure for claiming menstruation leave. Although they confirmed that they do not have to undergo a humiliating examination to prove that they are menstruating, women must clear a series of hurdles before reporting to the doctor. Women must report to the foreman, then to the head of the factory, then to the personnel office, and finally to the doctor. Thus, a woman must talk to four different people before being able to claim menstruation leave. If a woman goes through this procedure, she is granted the leave, but because it is so onerous, women rarely claim their menstruation leave. The women workers interviewed reported that they usually only claimed the leave twice a year.

Grievance procedures and other mechanisms for channeling complaints

The CLA includes provisions for how workers can launch complaints to management. The first stage is to report the complaint to the direct supervisor (foreman). If the supervisor cannot rectify the problem within one week, then the worker must put the complaint in writing and deliver it to personnel (Bagian Pegawai) and to the union within three days.

Personnel must reach a decision about how to handle the complaint within one week. If the worker is dissatisfied with the decision, the union will discuss the problem with the head of personnel. If the union and the head of personnel do not reach an agreement within one month, then either side can appeal to the dispute resolution mechanisms supervised by the Ministry of Manpower and regulated by Law 22/1957. Management and the union both have suggestion boxes where workers can file anonymous requests/complaints.

The union leadership made mixed statements about the level of complaints lodged by workers. On the one hand, they stated that there were many complaints but that they are usually easily addressed. The union usually talks to the parties involved or with the personnel office and tries to handle it informally. On the other hand, when the union was asked about the most frequent complaints raised by workers, they replied that there were not any significant complaints from workers.

The union does not carry out regular meetings with members. Instead of holding meetings, information is spread informally via union officers in each production section. The union does hold meetings for union officers and representatives from each production section, however. The union claims that these representatives are chosen through consultations (*musyawarah dan musfakat*) among workers in the production section; they are not chosen through secret ballots, and a formal selection process is only held if more than one candidate emerges during the consultation process. Workers interviewed, however, said that their representatives were appointed by the union leadership. Even if leaders were selected through consultation, however, the use of consultation rather than secret ballots could make it difficult for discontent to reach the union or for workers to choose a new representative, especially if those with authority over workers are allowed to participate in this process.

The worker survey included two questions that assessed the union's helpfulness with addressing complaints. Question Four inquired whether the worker had ever sought assistance from the union in handling a complaint. Fifty-six per cent of workers sought assistance and 40 per cent did not. Although workers were not asked specifically about whether the union was helpful, sixteen of the workers surveyed wrote comments next to this question. Most of these comments reflect poorly on the union, with eleven workers writing that the union did not respond to their complaints and four commenting that they did not raise the issue with the union because they had either had a bad experience in the past or because the union is not functioning properly.

Question Nine of the survey asked workers to assess the helpfulness of the union in creating a better work environment, better wages, and improved working conditions. Sixty per cent of the workers considered the union to be useless and about one-quarter of workers did not comment. Only sixteen per cent of workers surveyed regarded the union to be helpful or very helpful.

Union-management relations

Overall, the union regards its relationship with management in a positive light. They have no problems with dispensation from work responsibilities in order to carry out activities related to their position in the trade union. Union leaders also report that they have never

experienced any discrimination or harassment from the employer based on their participation in a trade union. They meet with management in a formal capacity once every three months, but discuss issues informally on a daily basis.

The union considers PT Bata to have negotiated in good faith for the 2003-2005 CLA. The latest agreement was concluded through bipartite discussions, so the two parties had no need to include the Department of Manpower in the negotiations, which usually occurs when negotiations are deadlocked. The main points of contention related to wages and food/transport allowances. The union also stated that CLA does not change much from year to year—most changes are related to figures for wages, benefits, and allowances.

Some firings have occurred over the last year, but the union regards all of the firings to have been with cause. The union is always involved in negotiations with the employer regarding the severance package. For production workers, the union thinks the employer has treated workers fairly (in accord with the law and sometimes better).

Although the union leadership was quite upbeat about its relations with management, a strike did occur in September 2002. According to the union, the President Director was arrogant and treated workers poorly, so the union supported a strike. The strike lasted for five days, and the workers demanded that the President Director be dismissed or transferred out of the Jakarta location. The union was satisfied with the outcome—the President Director left and workers received full wages while on strike.

The union also had a dispute with management regarding the use of contract workers. Before August 2002, there were about 490 contract workers and 50 daily workers (*barian lepas*), but the union opposed this and lobbied management to promote the workers to permanent status. After negotiations, PT Bata agreed, and in August 2002 all of these workers were promoted to the status of permanent workers.²⁴ All production workers at PT Bata are permanent employees.

Union democracy

The union at PT Bata, SPSI-TSK, is the union federation for garment, textile, leather, and footwear workers in the SPSI confederation. Under the rule of President Suharto, SPSI was the only union allowed to operate legally, and efforts to organize independently were repressed. Soon after the fall of Suharto in May 1998, Indonesia ratified ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organize. In 2000, this ratification was formalized in Indonesian labor law in the Trade Union Act (Law 21/2000). Soon after Convention No. 87 was ratified, SPSI split into two unions, SPSI-Reformasi and SPSI. Since then a multitude of independent unions have organized in workplaces across the country, and numerous factories have more than one union in the workplace.

²⁴ The use of contract labor is widespread in the footwear industry. Contract workers are not entitled to receive severance payments, and employers can simply end the employment relationship when the contract expires. In contrast, permanent workers can only be fired for cause, and these firings must be approved by the Provincial or National Dispute Resolution Committee. If the firing is approved, in most cases the worker is entitled to substantial severance payments.

Although there are many challenges that new unions face in organizing, many have overcome these obstacles. Freedom of association is potentially an issue of concern at PT Bata, but the team found no evidence of efforts to squash new organizing efforts, and unions established since 1998 have successfully organized in plants where KSPSI is present. Inquiries were made to the two of the largest union federations that operate in the footwear sector, SPN and Garteks, and neither union has attempted to organize in the PT Bata plant. A respected Indonesian NGO, LIPS, also did a study of PT Bata in 2002 and found no evidence of new organizing efforts at the plant, and workers interviewed also indicated that they were unaware of any efforts to form another union. The workers that were interviewed did not express interest in forming a new union but they did express an interest in changing the current union leadership.

Workers described an incident that occurred about four years ago, when approximately 200 workers held a protest demanding better wages, increased variable allowances, and simpler procedures for claiming menstruation leave. Workers held the protest without the union's approval and had expressed frustration with the union in addressing issues raised by workers. The workers that led this demonstration were later beaten up by thugs (*preman*). Workers also reported that some of the union leaders have connections to *preman* in the area surrounding the factory.

The core question regarding the union is therefore whether the current leadership is being freely chosen by workers and whether the current election procedures give workers the opportunity to change their leaders. During the Suharto years, SPSI was notorious for being run from the top down. Leaders at the plant level were rarely freely chosen by workers. The audit team thus paid special attention to the election process for the union leadership at PT Bata.

The union leaders interviewed were asked about the current election process for the leadership of the plant-level union. The two leaders interviewed have held positions in the union for six years and twenty-five years. According to SPSI's constitution, the president must be elected directly by members and the vote must be carried out via a secret ballot. Nominations are done publicly, through writing names on a blackboard. Once the president is selected, s/he forms a *tim formatur*, comprised of delegates from each production section and the president-elect. Production sections with more members have greater representation on the *tim formatur*. These representatives should be chosen through consultation (*musyawarah dan mufakat*) by members in each production section; they are *not* selected through secret ballots. The *tim formatur*, comprised of the president-elect and the delegates from the production sections, then selects the remainder of the union officers.

Workers interviewed, all of whom are members of the union, presented a different story. They had never participated in a union election at PT Bata during the fourteen years that they have worked there, and their delegates are appointed by union officers rather than chosen by workers. Workers also reported that there have been no changes in the top leadership of the union for the last fourteen years, and that most of the union officers are foremen. None are production workers. The workers interviewed also stated that they had never seen any reports from union leaders about how union funds are spent.

Summary of the Analysis of the CLA

The report has documented a number of strengths and weaknesses in the current CLA. This section presents these findings in summary form, focusing on three areas: strengths, legal violations, and areas of concern. Further details about each of these issues can be found in the relevant section of the report.

Strengths

- Holiday (THR) bonuses significantly higher than that required by law
- Six weeks of gratification pay in addition to the holiday bonus
- Additional payments for important life events
- An excellent health plan

Violations of Indonesian Labor Law

- The minimum weekly wage is lower than the legally mandated regional minimum wage.
- The number of hours of overtime worked before receiving a meal is listed as four hours, but Indonesian law requires a meal to be provided after three hours of overtime.
- The CLA provides for exceptions to the voluntary nature of overtime work, Indonesian law requires that all overtime work be voluntary.
- While the company health plan as described in the CLA is excellent, it excludes some dental services that are covered by the state health insurance program, Jamsostek. Company-provided health programs are required by law to be at least as broad in coverage as Jamsostek.
- Married women and widows (unless they have three children) cannot claim health benefits for dependents because they are defined as single in the CLA.

Areas of Concern

- The sparse information about the pension program.
- The CLA does not require PT Bata to give workers either a yearly statement of employer and worker pension contributions or an estimate of the worker's expected benefit upon retirement.
- The CLA does not stipulate that workers can claim the pension contributions deducted from their wages if they are fired or resign.
- Since the pension benefit at PT Bata is currently less advantageous to workers than that provided for by Law 13/2003, the absence of a clause in the CLA that allows workers to opt for either the company pension or the severance package for retirement provided in Law 13/2003, and the absence of a clause that requires worker contributions be returned to the worker if s/he opts for the severance package in Law 13/2003, means that workers are probably receiving less money than they are entitled to receive when they retire.
- The procedure that women must go through to claim menstruation leave is not in the CLA.
- Many parts of the CLA are vague, refer to outdated laws, and give management enormous discretion in crucial areas of concern. For example, the CLA gives the

employer the right to use an understanding of Pancasila Industrial Relations as a criterion in job placement. Pancasila Industrial Relations is a Suharto-era term used to describe a system of labor relations in which there is no conflict between workers and management; it was a means of repressing workers that made demands. The team will provide a copy of this analysis to No Sweat and hope that they will turn this document over to the union.

- No women were included in the negotiations for the last CLA.
- SPM rates are not in the CLA, which gives management an enormous amount of flexibility in setting wages. The CLA also does not require management to consult with the union regarding either the classification of new jobs in the ten-tier system or the reclassification of old jobs.
- The lack of small permanent allowances for each year of tenure accrued at PT Bata. Such tenure-based allowances are common practice in Indonesia, even in labor-intensive industries.
- The procedures for promotions and job transfers are vague.
- The CLA does not give workers the right to take breaks in addition to the lunch break, which means that workers must depend on the flexibility of their supervisors when they wish to go to the toilet or get a drink of water.

Recommendations

In light of these findings, the team has prepared a number of recommendations. The primary recommendations focus on minimal improvements that need to be made to bring PT Bata into compliance with Indonesian labor law, and/or practices that should not be occurring in a factory that wishes to claim status as a “sweat-free” producer. Secondary recommendations are strongly encouraged but less significant than the primary recommendations.

Recommendations for management

Primary recommendations

1. The minimum daily wage should immediately be increased to meet the regional minimum wage. This would require an increase of approximately Rp. 4,000 a week. In addition, workers with tenure of one year or longer must receive wages above the regional minimum wage in order to be in compliance with local regulations.
2. Workers should receive a meal after three hours of overtime, as required by law.
3. Provide a clear explanation of the various earnings and deductions on the pay slip, or alternatively, provide workers with a document that explains all of the abbreviations on the pay slip.
4. The limited dental coverage in the PT Bata plan should be expanded so that the scope of dental services covered is comparable to Jamsostek, as required by Indonesian law.
5. The husbands and children of women workers at PT Bata should immediately gain access to the same health benefits provided to the families of male workers.²⁵

²⁵ When the audit team brought this issue to management’s attention, the President Director verbally

6. Women workers should also receive rice allowances on the same basis as men do, i.e. if a man with a wife and children receives a larger rice allowance, so should a woman with children.
7. The retirement age should be the same for men and women.
8. Workers need better information about the pension program. A good place to start would be to provide each worker with a yearly statement of PT Bata's and the worker's contributions and an estimation of expected benefits.
9. Improve the placement of water dispensers so that they are closer to work areas and hold a discussion with workers about their concerns regarding the quality of the water.
10. Simplify the procedure for claiming menstruation leave.

Secondary recommendations

1. Reimburse workers more quickly for approved medical expenses incurred at outside treatment facilities. Given that workers make very low wages, it is unreasonable for them to wait 30-45 days to be reimbursed.
2. Workers should have the right to two short breaks, one before and one after lunch.

Recommendations for the union

Primary recommendations

1. The selection of leaders for the union should at the very least be conducted in line with SPSI's constitution.
2. Disseminate information to workers regarding the proper election procedures (e.g. give all union members a pamphlet that outlines the election procedures).
3. The central board of SPSI-TSK and a trusted third party NGO should monitor the next election to assure that it is conducted in accord with SPSI's constitution. Third-party involvement is also necessary to assure that workers that step forward to participate in elections or that seek to be representatives from their production sections are not intimidated.
4. Provisions should be made to allow for anonymous nominations for both presidential candidates and for worker representative candidates on the *tim formatur*. Secret ballots should be used for the selection of *all* worker representatives and *all* union officers.
5. Immediately provide union members with an accounting of the use of union funds.
6. Begin to hold regular meetings with members.
7. In consultation with No Sweat, contract a labor rights NGO to provide worker right's training for production workers who are members of the union. The focus of the training should be on the role and function of unions, accountability of union leaders to the membership, and union democracy.
8. In consultation with No Sweat and the SPSI Central Board, arrange for third-party training on current Indonesian labor law for union leaders at PT Bata. Over the last five years a number of new laws have been passed, and the presence of illegal clauses in the CLA indicates that union leaders have not kept up with these changes.

committed to rectifying this in the next CLA.

Recommendations for No Sweat

Given the poverty and poor state of labor rights in most developing countries, few factories meet the standards that international activists expect from sweat-free apparel. The challenge is to develop strategies for working with management and unions to assure continuous progress towards meeting these standards. Otherwise sweat-free apparel will be a virtual monopoly of Western nations and is unlikely to have much of an effect on workers in other parts of the world. Although this report has been critical, cutting and running would be a poor precedent and should only be done after intense efforts have been made (and failed) to bring about improvements. PT Bata is no worse, and is probably better, than many other factories in the footwear industry in Indonesia.

Primary recommendations

1. Hold discussions immediately with management at PT Bata regarding the primary recommendations.
2. Begin discussions as soon as possible with the central board of SPSI-TSK about monitoring the upcoming union election, third-party training for workers, and third-party training for union leaders.
3. Work with management and the union to develop a plan for addressing the issues raised in this report.
4. Translate this report into Indonesian and assure that it is distributed widely among workers.
5. Make the report publicly available on No Sweat's website.
6. Given the number of concerns raised in this report, it is vital that No Sweat develop a relationship with an independent third party, preferably Indonesian, to monitor progress in the short- and medium-term. Audit teams working on a purely voluntary basis cannot provide the sustained attention required.

Audit Team

Ari Sunarijati, SPSI-Reformasi, Indonesia

Benjamin White, Institute of Social Studies, the Netherlands

Bama Athreya, International Labor Rights Fund, United States

Chris Wangkay, International NGO Forum on Indonesian Development (INFID),
Indonesia

Jack Panozzo, Development and Peace, Canada

Teri Caraway, University of Minnesota, United States

All members of the team have experience with labor rights issues, and five out of six have extensive experience in Indonesia. Members of the team conducted the work on a voluntary basis and received no compensation from No Sweat.

Appendix One

Summary data for PT Bata, Jakarta survey - January 2005

Total workers surveyed: 50

Women	28
Men	22
Average age	32

Question 1: How many years have you worked at PT Bata?

Low - 1.5 years

High - 29 years

Average - 10.83 years

Median - 10 years

Question 2: Have you ever had a bad experience at work, like forced labor or underpayment of wages?

Yes	39
No	11

Question 3: If yes, please explain briefly.

Forced overtime related to exports	15
Forced overtime related to production targets	18
Forced overtime related to large orders	15
Lack of clarity in calculation of overtime pay/unsatisfied with level of pay	6

Question 4: If yes, did you ask for help from the union, SPSI?

Yes	28
No	20
No answer	2

Workers were not asked to comment further, but many scribbled in comments next to their answers.

Yes, but no response	11
Yes, and the union responded	1
No, because of past experience or because the union is not functioning well	4

Question 5: How would you describe the attitude of and your relationship with your supervisor?

Very positive	0
Good work relationship	4
Mutual understanding	1
They try to deal with problems fairly	0
OK/adequate	23
Usually ok but sometimes I feel pressured	11
Rude and disrespectful	7
Unpleasant work environment	5

Note: the total is 51 because one worker answered both rude and disrespectful and unpleasant work environment.

Question 6: If you add up your wages, wage supplements (food, Lebaran bonus), and your level of satisfaction at work, do you think you are paid fairly?

Yes	8
No	42

Comments:

Other factories pay more	5
New workers make the same as workers with longer tenures	15
More taxes taken out of women's wages than men's	1
Mechanics paid more than sewers	1
Wages too low given work responsibilities	4
Not enough	6
Calculation of overtime unclear	1
Not paid for work performed (underpayment)	1
Lower than legal minimum wage	1
Links between increase in minimum wage and increase in piece rates unclear	1
Sweepers make more than me! (250,000/week for a sweeper)	6

Question 7: Are you aware that Bata will pay you a pension--on top of Jamsostek--if you retire or change jobs?

Yes	43
No	7

Question 8: Do you understand how the pension is calculated?

Yes	0
No	50

Comments

I know that there is a weekly deduction for the pension	11
Employer never explained/never provided information	13
The union never explained/provided information	22
I know that instead of receiving pension after 25 years, workers now have to wait until they're 55 to collect	1
No comment	4

Question 9: Is the union an effective advocate for a better work environment, better wages and wage supplements, and improved working conditions?

Very helpful	2
Helpful	6
Useless	30
No comment	12

Question 10: What is the most accurate description of your experience at work?

Positive and friendly	6
Fair - no complaints	7
Unpleasant (pressured to work faster or disrespectful treatment from supervisors)	37