



WORKER RIGHTS CONSORTIUM

**WORKER RIGHTS CONSORTIUM ASSESSMENT  
re PT PANARUB (INDONESIA)**

**SUMMARY of FINDINGS and RECOMMENDATIONS  
September 7, 2004**

## **WORKER RIGHTS CONSORTIUM ASSESSMENT OF PT PANARUB TANGERANG, INDONESIA**

### **Introduction**

This is a Summary of Findings and Recommendations from an Assessment of PT Panarub, a factory in Tangerang, Indonesia that employs roughly 10,000 workers. PT Panarub manufactures a variety of athletic shoes, including high-end soccer cleats, exclusively for adidas-Salomon. The Worker Rights Consortium (WRC) undertook this Assessment in response to a request made in January 2004 by adidas-Salomon (Adidas) and Oxfam Community Aid Abroad (OCAA), an Australian non-governmental organization, to review allegations of worker rights violations. The Assessment was carried out during March and April of 2004.

This document provides a summary of the WRC's findings and recommendations to date, as well as a summary of the response from PT Panarub management and adidas-Salomon to each of these recommendations and the most up-to-date information available concerning the factory's follow through on commitments to take corrective action. The present document is updated from a report summary initially issued in May of 2004.

The WRC will also issue a full report on PT Panarub, containing a comprehensive review of the evidence underlying the WRC's findings and other material not included in this summary. The date of this report remains to be determined.

Please note that throughout this summary names of individual workers, and related identifying information, have been blanked out for reasons of privacy.

### **Sources of Evidence and the Scope of this Report**

The findings presented below are based upon the following sources of evidence:

- Interviews with approximately 35 members of PT Panarub management.
- Interviews with approximately 120 production employees.
- Interviews with adidas-Salomon staff.
- Interviews with the Indonesian Ministry of Manpower and Transmigration.
- Interviews with both of the legally registered unions at PT Panarub.
- A review of more than 500 official documents and company records dating back to 1999.

Based upon information from Adidas, OCAA, local non-governmental organizations, and our own preliminary research, the WRC identified a number of areas of concern for investigation. These included: Legally Mandated Benefits; Freedom of Association; Occupational Health and Safety; Psychological and Physical Abuse of Employees; Arbitrary Firings and Forced Resignations; Hours of Work and Wages; Use of the Contract Labor System, and the Imposition of Improper Expenses on Workers.

In the following sections, we summarize our findings with respect to each of these areas and, where appropriate, provide recommendations for remedial action.

## FINDINGS, RECOMMENDATIONS, AND RESPONSE FROM PT PANARUB & ADIDAS

### 1) Legally Mandated Benefits

- *Denial of Menstrual Leave:* The factory's clinic staff require workers to undergo an emotionally intrusive and humiliating physical exam as a means of obtaining access to their legally granted right to two days paid-leave when experiencing menstrual pain. Because most female workers have declined to take these exams, these workers have been effectively prevented from taking menstrual leave to which they are legally entitled. Even those who do submit to the exams are frequently denied off-site leave, and are instead required to stay on-site in the factory's clinic.
- *Denial of Sick Leave:* The factory's management and polyclinic staff actively limit employees' access to sick leave, in part through a practice of granting sick leave based upon production schedules as much as (if not more than) granting sick leave based upon employees' physical condition. Management also requires workers to navigate an excessively bureaucratic permission process.
- *Legally Deficient Health Insurance (JPK):* The contract that PT Panarub signed in January 2004 with the private health care provider Gengki Medika does not fulfill the requirements of Indonesian law.<sup>1</sup> The arrangement does not provide medical treatment for female employees' spouses and children as the law requires,<sup>2</sup> resulting in many thousands of family members being denied health insurance to which they are entitled. The families of male employees *are* covered, which makes this policy discriminatory as well as legally deficient.<sup>3</sup> The arrangement with Gengki Medika also arbitrarily limits workers' visits to care providers outside the factory polyclinic to six times a year.<sup>4</sup> PT Panarub's current JPK coverage only covers children of employees until age 18, rather than 21 or marriage, as Indonesian law stipulates.<sup>5</sup>
- *Lack of Annual & Periodic Medical Check-ups:* The factory does not provide annual and periodic health exams, as required by law.<sup>6</sup>

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<sup>1</sup> PER-05/PEM/1993 Chapter VII lists the services provided under JPK of JAMSOSTEK, and PER-01/MEN/1998 lists the services that must be provided at a minimum if an employer chooses to go with a health insurance plan other than JPK of JAMSOSTEK.

<sup>2</sup> PER/14/PEM/1993 Article 33(1&2)

<sup>3</sup> SE-04/MEN/1988 Tentang Pelaksanaan Larang Diskriminasi Pekerja Wanita

<sup>4</sup> Prosedur Jaminan Pemeliharaan Kesehatan PT. Panarub Industry, Section II. A(6).

<sup>5</sup> PER-01/MEN/1998 Article 3(2).

<sup>6</sup> PER-02/MEN/1980 Article 3(2) requires all employers to arrange for "medical examinations of all employees at least once a year, unless an exception has been given by the General Director of the Labor Relations and Workers Protection Board."

- *Inadequate Benefits for Late Shifts:* Female employees who work overtime hours until late at night, or work the night shift, are not provided with food and transportation as required by law.<sup>7</sup>
- *Illegal Reduction of THR:* A review of Annual Holiday Bonus (THR) payment receipts from 2003 found payments that were significantly lower than those of 2002; this finding indicates that THR of 2003 appears to be in violation of Indonesian law.<sup>8</sup>

## Recommendations

The WRC recommends that the factory take the following steps:

- Immediately cease intrusive physical examinations of female employees requesting to take leave due to menstrual pain; no employee must ever be asked to “prove” that she is menstruating. Change factory policy so that menstrual leave is approved based on an employee’s reporting of symptoms associated with menstruation. It is acceptable for the employee to be asked to rest briefly in the polyclinic to see if she feels better, but if the employee does not report improvement after one hour, menstrual leave should be granted. PT Panarub management and polyclinic staff must not detain female employees experiencing menstrual pain in the polyclinic for the majority of the workday as an “alternative” to menstrual leave. *Adidas agreed with the finding and recommendation. PT Panarub has taken the recommended actions. The factory has also updated the forms necessary for accessing menstrual pain/ sick leave, thus simplifying the process by which employees may obtain permission to take this leave. Employees no longer must go through the Human Resources Department before going home; they can leave directly from the clinic.*
- Instruct polyclinic staff that sick leave is to be granted solely on the basis of an employee’s physical condition. There can be no daily limit imposed on the number of PT Panarub workers permitted to seek medical attention. All polyclinic staff (whether they are direct employees of PT Panarub or not) should be informed about basic Indonesian labor laws regarding sick leave,<sup>9</sup> as well as the standards and procedures set forth in collective bargaining agreements (PKB) to which PT Panarub is a party. *Adidas agreed with the finding and recommendation. PT Panarub has begun to take the recommended action. In addition, as in the case of menstrual leave described above, the sick leave form and procedure have been simplified and explained to all pertinent clinic and factory staff. In September, PT Panarub plans to give all supervisors and managers additional training on Adidas’s Standards of Engagement (henceforth “SOE”) and Indonesian labor law.*

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<sup>7</sup> Article 76(3) and (4) of Act 13, 2003.

<sup>8</sup> PER-04/MEN/1994 regarding Tunjangan Hari Raya Keagamaan Bagi Pekerja di Perusahaan Articles 1(d), 3(1) and (3), and 7.

<sup>9</sup> Act 13, 2003 Article 93(2.a.).

- Enroll all workers in a health plan equivalent or better than JAMSOSTESK's Packet B (JPK – the government health plan), as required by law.<sup>10</sup> Whether this involves upgrading the existing plan provided by Gengki Medika or the identification of an alternative, the process should be completed by no later than September 1, 2004 or sooner if possible. *Adidas agreed with the finding and recommendation. PT Panarub has begun to take the recommended action. The factory is currently researching potential insurance providers and will enroll all employees and their applicable dependents in a proper health insurance plan by the last quarter of 2004.*
- Immediately begin conducting annual medical check-ups of employees. *Adidas agreed with the finding and recommendation. PT Panarub has pledged to take the recommended action. The factory will conduct medical check-ups of employees in high risk areas during the months of September, October, and November of 2004. The annual check-ups for the remainder of the plant's departments are planned for January, 2005 and onwards. PT Panarub will also develop a specific plan for addressing tuberculosis cases.*
- Ensure that female employees working until late into the evening, or on the night shift, receive the following benefits as stipulated in Indonesian law: female employees working at least 9 hours a day or 54 hours a week should receive a meal of at least 1400 calories a day<sup>11</sup>; female employees working between the hours of 23:00 and 07:00 should receive nutritious food and drink during this timeframe; female employees going to or coming from work between the hours of 23:00 and 05:00 should be provided with transportation.<sup>12</sup> *Adidas agreed with the recommendation in principle, but chose to conduct its own verification of the finding. PT Panarub has begun to take the recommended action. Starting in August, bus transportation has been provided to female employees working the night shift. PT Panarub management is discussing with the unions the type of food to be provided.*
- Ensure that the THR rate does not decrease from year to year. If there is a difference in the total amount given each year due to an added profit-sharing bonus, then this amount needs to be clearly defined to the unions and shown separately on the THR receipt or on a separate receipt entirely. *Adidas stated that it wishes to conduct its own verification of the finding. PT Panarub has pledged to take the recommended action.*
- Regarding outstanding medical reimbursements, due to insufficient JPK coverage, PT Panarub must reimburse the following employees as soon as possible:
  - [REDACTED], Warehouse employee.

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<sup>10</sup> PER-01/MEN/1998; UU-14/1993 Article 2 (1, 3-4); UU-03/1992, Articles 3, 4, 7; UU-03/1992 Article 3 (1, 2, 4 (1)).

<sup>11</sup> NO.KEP-608/MEN/1989.

<sup>12</sup> Act 13, 2003, Article 76 (3) and (4).

- [REDACTED], Assembling, Panarub III.
- [REDACTED], Assembling, Panarub III.
- [REDACTED], Technician, Panarub VIII.

This employee needs additional medical attention, including getting seven teeth replaced after sustaining an auto accident while on a trip sponsored by PT Panarub. He has not sought this medical attention yet because he has not received a clear answer from Gengki Medika about whether or not the expenses will be covered. The WRC recommends that management assist in clarifying to Gengki Medika and the employee what dental coverage is available to this employee.

*Adidas agreed with this finding and recommendation. PT Panarub has followed through on a pledge to take the recommended action by reimbursing all of the individuals listed above. The reimbursements were issued between the months of April and August, 2004. PT Panarub management has stated that the factory made a one-time exception in agreeing to pay for the dental implants requested by the employee injured in the auto accident and notes that future dental coverage will only cover removable dentures.*

## 2) Freedom of Association

The WRC Assessment Team identified a number of ways in which PT Panarub management actively and systematically discriminates against one union in the plant, Perbupas, in favor of the other union present, SPN. Examples of this discrimination include:

- *Discrimination Against Perbupas in Granting Access to Members:*
  - Inappropriately placing leaders of SPN in the position of providing orientation for new employees, while simultaneously preventing leaders of Perbupas from having direct contact with new employees.
  - Preferentially granting leaders of SPN permission to carry out short-term union activities on site (“Izin”), and dispensation for longer activities usually off site (“Dispensasi”), while systematically denying leaders of Perbupas the same allowances.
  - Allowing SPN to station several union members at its secretariat full-time to handle union matters, while denying Perbupas members the same right.
  - Conducting an in-house union re-registration/ membership confirmation process that included supervisors and administrative staff distributing SPN membership forms to employees. This process also did not include distributing Perbupas forms to employees.
- *Systematic Harassment & Unlawful Dismissal of Perbupas Officers:* Carrying out disciplinary actions, such as transfers, demotions, and dismissals, to quell Perbupas activities and prevent Perbupas leadership from having close contact with fellow workers. These disciplinary actions were, in many cases, in response

to activities for which SPN has rarely if ever been disciplined, such as frequently asking for “izin” or “dispensasi” to carry out union activities. Specifically, the transfers of four Perbupas union officers (████████) from the Warehouse division in February of 2003 were illegally ordered by management in direct response to the officers voicing concerns over workplace conditions.<sup>13</sup> Furthermore their transfers were carried out in a manner inconsistent with Indonesian law<sup>14</sup> and PT. Panarub’s normal means of processing transfers. In the case of █████ (a man of very small physical stature), his transfer to the hot-press division was in contravention of PT. Panarub’s collective bargaining agreement.<sup>15</sup>

- *Use of the Human Resources Administrative Process to Channel Workers into SPN without their Consent; Refusal to Recognize Workers’ Right to Resign from one Union and Join Another:*
  - A history of automatically enrolling workers into SPN at the outset of employment.
  - Requiring workers to undertake an excessively arduous union resignation process when they wish to resign from SPN and wish that management acknowledge this resignation and cease the deduction of SPN union dues from their wages. The process currently requires that the worker acquire signatures from both an SPN officer and PT Panarub’s Human Resources Department (HRD). This requirement is not appropriate with regard to management’s involvement in union affairs and it conflicts with an agreement reached between Perbupas and SPN in 2002 regarding the process through which members can resign from one union and join another.<sup>16</sup>
  - Refusing, without legitimate cause, to recognize workers’ resignation from a union. For example, rejecting resignation forms because they were handwritten, or because a person other than an officer of the union from which the worker is resigning from delivered the form to the HRD office. (These efforts on the part of resigning employees are entirely legal and are in accordance with the aforementioned bipartite agreement on resignation protocols).
  - SPN has on some occasions inappropriately stalled the resignation process through dubious claims such as the union was “out of pens” or “did not have copies of the resignation form available”, or by locking the office door during times in which workers sought to acquire resignation forms and/or signatures.
  - As a result of all of the aforementioned violations, management has failed to recognize the change in union membership of 300 individuals who resigned from SPN and joined Perbupas. Despite being notified of these changes in

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<sup>13</sup> UU/21/2000, Chapter VII, Article 28(A).

<sup>14</sup> Act 13, 2003, Articles 54 and 55 Which state that both parties must sign and obtain copies of a work agreement, which shall include specifically the “type of job” being assigned, and that the work agreement shall not be changed without notification of both parties.

<sup>15</sup> Perjanjian Kerja Bersama (PKB) PT. Panarub, 2002-2004, Article 13(2) which states that the company must consider the employee’s ability to carry out the assignment before making the transfer. █████ was clearly unable to carry out the work required of him in the hotpress area.

<sup>16</sup> *Kesepakatan Antara SP-TSK dan PERBUPAS ttng Keanggotaan*, Tangerang Ministry of Manpower, October 25, 2002.

membership in February 2004, management was still deducting SPN dues from these workers' wages in April.

- *Refusal to Provide Perbupas with a Union Office:* The factory has failed to follow through on a commitment to provide Perbupas with a union office within the factory grounds once the union's membership reached 500 employees.

## Recommendations

- As a result of the inappropriate interference of management in workers' choice of union over a period of years, it is unclear whether the present union affiliation of a worker reflects that worker's free choice. The WRC has concluded that the only viable means to make a fair and accurate determination as to which union each worker wishes to be part of is to conduct a membership verification process. During this process each worker at the factory should be provided with the opportunity to state their preference, in writing, and the choice of each worker should be respected by both unions and by management. This verification process should take place at the factory, on a specific day or consecutive days (depending on how much time is required), with measures to protect workers from coercion, and with observers present from Adidas and the WRC (and other non-governmental organizations if desired by all parties). The WRC is prepared to work with PT Panarub and the unions to design and carry out this membership verification process as efficiently and fairly as possible. *Adidas agreed with the recommendation. PT Panarub has pledged to take the recommended action. Adidas, PT Panarub and the WRC are currently working to identify a qualified third party to assist in facilitating the union membership verification process. The verification process will be held by the end of 2004.*

The WRC recommends that the factory also take the following steps:

- Ensure that managers and supervisors do not use any administrative processes (e.g. orientation for new employees) as a means to channel workers into either of the unions. *Adidas agreed with the finding and recommendation. PT Panarub has begun to take the recommended action. The factory has implemented a new policy of no longer placing union committee members from either union in staff roles within the Human Resources Department. PT Panarub management is also working with the unions to design the most hassle-free process by which employees can indicate their decision to either join or resign from a union.*
- Provide Perbupas with a union office, per the existing agreement between management and Perbupas, and otherwise ensure that any access to, or use of, factory property that is offered to one union is also offered to the other. *Adidas agreed with the finding and recommendation. PT Panarub has taken the recommended action.*

- Post written notices throughout the factory informing workers of their right to join any union of their choice (or no union) and that management will neither reward nor punish any worker for the choice they make. Every line supervisor should be required to read this statement out loud to the employees under his or her authority. The WRC asks for an opportunity to review this statement and suggest any necessary modifications prior to its being posted. *Adidas agreed with the finding and recommendation. PT Panarub has taken the recommended action.*
- Conduct training for all supervisors and administrative staff on freedom of association and the obligation of all management, supervisory and administrative employees to refrain from any coercive action with respect to workers' choices about union representation. The WRC is prepared to work with PT Panarub to design this training. *Adidas agreed with the finding and recommendation. PT Panarub followed through on a pledge to take the recommended action by conducting a training with assistance from the International Labor Organization in August of 2004.*
- Reinstate the dismissed warehouse division employees – [REDACTED] – who were transferred in retaliation for their lawful exercise of their associational rights. These transfers led to their dismissals and therefore the dismissals themselves were illegitimate. Reinstatement must be to their pre-transfer postings and salary level, with no loss of seniority, and with back wages as appropriate. *Adidas agreed with the finding and recommendation. PT Panarub followed through on a pledge to take the recommended action by reinstating all three employees to their former position and proper seniority level as of September 1, 2004. These employees are being paid full back wages in monthly installments.*
- At the level of overall factory policy, adhere to the terms of the PKB and Indonesian Law in terms of transfer and demotion of employees, and ensure that such disciplinary actions are never taken in a discriminatory manner or used as retaliation against workers for the exercise of associational rights. *Adidas agreed with the finding and recommendation. PT Panarub has pledged to take the recommended action.*
- Negotiate the new collective bargaining agreement (the current agreement is set to expire in late 2004) with both unions, regardless of the outcome of the membership verification process. It is clear that both unions have significant support within the factory. It is appropriate for the union representing a majority of workers to be the lead union in the negotiations, but both unions should participate. *Adidas agreed with the finding and recommendation. PT Panarub agreed with the recommendation and is working to reach agreement on this issue with the current majority union. In addition, as part of discussions regarding this recommendation with the unions at PT Panarub, management has invited union representatives from other factories that have negotiated multi-union contracts to meet and share their experiences with PT Panarub's unions and management.*

### 3) Occupational Health and Safety

- *Lack of a Health and Safety Committee:* The factory lacks an active and registered Occupational Health and Safety Committee, as required by Indonesian law.
- *Lack of Communication and Coordination Between Managers and Supervisors Charged with Health and Safety Responsibilities and the Polyclinic staff; Lack of any Systematic Approach to Identifying and Eliminating Health and Safety Hazards:* There is virtually no communication between the health professionals in the polyclinic and health and safety officials at the factory. Because of this lack of communication and because there are no annual check-ups for workers, PT Panarub is left without means through which to monitor the overall health of the workforce. The factory's health and safety officials do not have the information they need concerning the way hazards in the factory are affecting workers – information which is essential for an effective health and safety program.
- *Lack of training for the Polyclinic Doctors and Nurses:* The facility's medical personnel lack training in critical areas of occupational health and safety. They also do not recognize their obligation to report trends in worker health to management. For example, failing to notify management of workers reporting skin irritations, chronic nausea, difficulty breathing, and other symptoms that could be related to exposure to factory glues and solvents.
- *Chemical Exposure and Lack of Proper Training for Use of Hazardous Chemicals:* In many areas, the factory lacks essential equipment and training for use of hazardous chemicals.
  - Employees handling glues and solvents were wearing porous, cotton gloves inadequate to protect them from liquid chemicals. Employees were frequently observed wearing only one glove, or no gloves at all, while handling objects with both hands.
  - Ventilation slats/extractors near the glues and solvents, if provided, are very weak in terms of fume-vacuuming power, and are in some cases located below the containers holding the chemicals. They are largely ineffective in capturing the fumes from the chemicals.
  - Many workers operating the hot glue ("hotmelt") machines, which are used throughout PT Panarub, had burn scars or fresh burns on their hands. Workers in this area also had glue, fuzz, and other materials sticking to their fingers. These workers testified that it is difficult to remove this sticky substance with the cold water that is the only means provided by the factory (hot water and soap are not available). As a result, these workers frequently eat lunch and return home with their hands in this condition.
  - Hotpress employees inhale the fumes of melting rubber throughout their shift. (Employees are given a "bonus" of two cans of milk a month –and a small

piece of bread if they work the night shift – ostensibly as a means of “balancing” the health impact of these fumes and of providing extra calories to offset the extra energy exerted by employees in this department.)

- In the Waste Department, employees handling factory waste, including containers of chemical materials, were rarely seen wearing proper personal safety equipment. The area lacked posted Chemical Safety Data Sheets (CSDS), resulting in the employees in this area not having any knowledge of the chemicals they are handling, nor the safety measures they should be taking.
- *Lack of Appropriate Safety Equipment:* In many areas, the factory lacks equipment necessary to prevent serious injuries. Examples of this problem include:
  - Machines used for trimming the shoe sole after it comes out of the hotpress lack a finger guard. Without such guards, there is a high risk of serious accidents in which workers’ fingers make contact with a rotating blade.
  - The gloves provided to hotpress workers are short and loose fitting, leading to a dangerously poor grip on the heavy molds. Workers were found with burn marks on their forearms from instances in which their arms had touched the edges of the mold. Workers in this area also sometimes work in sandals, leaving their feet exposed to potential injury.
  - The facemasks provided in different sections of the factory are in some cases not appropriate to the respiratory hazards they are intended to address.

## Recommendations

The WRC recommends that the factory take the following remedial steps:

*While agreeing with the majority of the WRC’s findings and recommendations in this section on Occupational Health and Safety (henceforth “OHS”), Adidas and PT Panarub have not yet provided a detailed response to a number of findings and recommendations presented here. Adidas and PT Panarub plan to conduct a further internal OHS audit/ risk assessment and training session in October of 2004 before developing a detailed plan to proceed.*

- Establish a functional OHS Committee, composed of workers and management representatives, in accordance with the requirements of Indonesian law.<sup>17</sup> The same law dictates the basic responsibilities of the Committee, including the dissemination of information to the workforce about general health and safety issues (such as the importance of complying with directives to use personal safety equipment while engaged in hazardous operations); the coordination of annual health exams; and the organization of fire drills. *Adidas agreed with the finding and recommendation. PT Panarub has followed through on a pledge to take the recommended action by establishing a seventeen-member OHS Committee*

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<sup>17</sup> KEP-02/MEN/1970 and PER-03/MEN/1970.

*consisting of staff from various managerial and supervisory levels. Adidas and the WRC have requested that several production-level employees also be invited to join the OHS Committee. The OHS Committee will meet monthly and is charged with the responsibility of facilitating all health and safety programs within PT Panarub, including accident reports, internal OHS audits, and risk assessments.*

- Ensure regular communications between polyclinic staff and factory health and safety officers (henceforth “HSE”), so that information on worker health gathered by the clinic feeds into the factory’s health and safety program. *Adidas agreed with the finding and recommendation. PT Panarub has begun to take the recommended action. Meetings between the polyclinic staff and HSE staff are now taking place on the tenth day of every month.*
- Train the polyclinic staff in all relevant areas of health and safety and direct the staff to report to factory HSE officers and management any potentially significant trends in employee health that are apparent from the clinic’s examinations. *Adidas agreed with the finding and recommendation. PT Panarub has begun to take the recommended action. PT Panarub is in the process of hiring a doctor specifically trained in OHS matters to oversee the factory’s clinic and to join the factory’s HSE Department.*
- Ensure that all employees receive a routine health check-up at least once a year to monitor the impact of their work environment on their health. Employees exposed to chemicals and other specific health and safety hazards should receive check-ups at least twice a year. *Adidas agreed with the finding and recommendation. PT Panarub has pledged to take the recommended action.*
- Conduct a new assessment to identify needs for protective safety equipment and renew testing of dust count and particle size, noise levels, and chemical fumes. These tests, combined with the annual medical exam, will help best identify risk areas and the most appropriate masks and gloves to be used. PT Panarub should consult with HIPERKES or other OSH experts to ensure that the masks provided are of the right type for the hazard that the employee is exposed to. Filters should of course be changed routinely according to the advice given. The WRC will also continue to research the appropriate types of masks. *Adidas agreed with the finding and recommendation. PT Panarub states that it is reviewing issues raised in this report with Sucofindo, an OSH business in Indonesia.*
- Consult with HIPERKES or other OSH experts to identify and implement the proper mechanisms for protecting hotpress employees from fumes generated by melting rubber. *PT Panarub states that it is reviewing issues raised in this report with Sucofindo, an OSH business in Indonesia.*

- Provide ear protection to all employees in sections located near machines whose operators are already wearing earplugs. *PT Panarub and Adidas have pledged to further assess this finding and take the necessary remedial actions.*
- Give gloves or appropriate hand protection of some kind to employees using small hand buffers. *PT Panarub and Adidas are still evaluating the recommendation.*
- *Specific areas of Panarub that need more OHS attention:*
  - *Waste Department:*
    - Employees need to be given proper personal safety equipment.
    - CSDS sheets for the most common waste products need to be posted in the waste area, as well as instructions about where to obtain further information.
    - The waste area should be equipped with an eyewash system and soap capable of cleansing hands of the chemical wastes handled in the area. *PT Panarub has pledged to take the recommended actions.*
  - *Panarub 7:*
    - It is positive that the company has recently changed the set-up of the rubber materials warehouse and arranged for several dust count tests by Sucofindo, but little is being done to monitor the impact the chemical exposure has had (and may have) on employees' health. Employees in this location need to be given complete health check-ups at least twice a year. Also, employees in the rubber materials warehouse need to be provided with face masks specifically designed for filtering out very fine dust particles. *PT Panarub and Adidas have pledged to further assess this finding and to take the necessary remedial actions.*
    - Drinking water needs to be closer to the rubber mixing area to encourage workers to drink frequently. This area is very hot and involves heavier labor than other areas. *PT Panarub has pledged to take the recommended action.*
    - Better ear and eye protection is needed for all workers in the rubber mixing and cutting area – due to bits of scrap rubber flying out from the rollers and to the high level of noise throughout the area, which necessitates that all workers wear earplugs. *PT Panarub has pledged to take the recommended action.*
    - Poor set-up of the “Mekanik” work area makes employees more prone to injury and accidents. Better worktables, benches, chairs, and ear protection need to be provided. For example, a person was seen squatting on a very small low bench using an electric metal cutter, trying to cut a long piece of metal without any brace other than his bare hand. He had proper eye protection but no hand or ear protection. *PT Panarub has pledged to take the recommended action.*

- A type of finger guard needs to be added to the machines that trim the soles, to block workers fingers from making contact with the rotating blade. *PT Panarub stated that it has already taken the recommended action. The WRC has verified this claim.*
- Hotpress platforms need to be wider so that workers' stance can be wider, better supporting their backs while they push and pull the heavy molds, and/or elevated foot braces need to be provided for workers to push off of and relax their feet (and lower backs) while working. *PT Panarub and Adidas have pledged to further assess this finding and to take the necessary remedial actions.*
- Protective Gear for Hotpress Employees:
  - Gloves for workers in the hotpress area should be snug fitting and should have good grip material in the palm area. The WRC recommends considering pliable, yet snug fitting, leather gloves for this area because the leather is heat resistant while allowing skin to breathe and tends to fit and grip well. *PT Panarub and Adidas have pledged to further assess this finding and to take the necessary remedial actions.*
  - Workers in the hotpress area should be encouraged to wear shoes that cover their toes to avoid injuries to their feet. *PT Panarub and Adidas have pledged to further assess this finding and to take the necessary remedial actions.*

■ *Panarub 4:*

- Ear protection should be provided to all employees in sections near the “Proses Gurinda Kawat” section. *PT Panarub and Adidas have pledged to further assess this finding and to take the necessary remedial actions.*

■ *Panarub 5:*

- The second story is considerably warmer than the lower level. Additional fans should be added to the second story and other measures taken to decrease the ambient temperature. *PT Panarub and Adidas have pledged to further assess this finding and to take the necessary remedial actions.*

■ *Sablon (Silk-screening) and Embossing:* Filters on the masks need to be changed more regularly. PT Panarub should consult with HIPERKES or other OSH experts to ensure that the masks provided are of the right type to filter the paint fumes; filters should be changed routinely according to the advice given. The WRC will also do additional research on the appropriate types of masks. Furthermore, many employees were found racing to put their masks on in the silk-screening department only as the WRC monitors entered the room. Given the extremely hazardous nature of the chemicals in this department, PT Panarub management should install stricter measures for ensuring that employees wear their safety equipment. *PT Panarub states that*

*the factory has already taken an action to address this issue that is different from the one the WRC proposed (by arranging for the installation of an extraction system). PT Panarub and Adidas have pledged to further assess this area and to take the necessary remedial actions.*

#### **4) Psychological and Physical Abuse**

- *Verbal Harassment and Physical Punishment.* The factory's supervisors have frequently yelled at workers, using degrading words such as "stupid", "pig" and "bastard". Supervisors have also frequently pulled workers' hair and ears, pushed workers' backs and shoulders, kicked workers' legs, and thrown things (such as shoes and spools of thread) at workers if they have made production errors. Supervisors have also forced workers to stand for up to two hours in front of their production line as punishment for absence from work, regardless of whether the leave was legitimate.

#### **Recommendations**

The problem of physical and verbal abuse has been reduced significantly in recent years, due in large part to training provided by Adidas and PT Panarub management. However, the WRC Assessment Team did identify ten supervisors who have recently engaged in such abusive behavior. The WRC therefore recommends that management take the following steps:

- Require each of the ten supervisors to write a formal letter of apology for their behavior to the workers in their charge, to read the letter aloud to the workers and to post the letter prominently in their section for a period of no less than one month. These supervisors should also offer a formal apology to the approximately 300 employees and managers that gather once every three months for a Labor-Management forum. These supervisors should also be put under stricter supervision. If any of these supervisors engage in abusive behavior in the future, they should – in a manner that fully accords with Indonesian law – be demoted, and if necessary terminated. A list of the ten supervisors follows:

1)	[REDACTED]
2)	[REDACTED]
3)	[REDACTED]
4)	[REDACTED]
5)	[REDACTED]
6)	[REDACTED]
7)	[REDACTED]
8)	[REDACTED]
9)	[REDACTED]

*Adidas and PT Panarub agreed with the finding but disagreed with the recommendations in this area. As alternatives to the WRC's recommended remedial actions, the following steps have been taken:*

- *PT Panarub management has issued final warnings to each of the supervisors in question.*
- *PT Panarub's Human Resources Director delivered a letter of apology to all employees at the August 17<sup>th</sup> Independence Day event.*
- *Following a recent incident of inappropriate verbal and physical behavior by a department head, PT Panarub made available to employees a substantial amount of information regarding management's investigatory and disciplinary procedure in the case (which ultimately resulted in the termination of the employee in question).*

*The WRC agreed to this alternative remedial approach and will monitor developments to assess the effectiveness of these actions.*

## 5) Arbitrary Firings and Forced Resignations

The Assessment Team concluded that factory management illegally terminated workers and used coercive means to compel workers to resign. Specific cases are as follows:

- *Terminations and Forced Resignations due to Illness:* The WRC Assessment Team identified a disturbing pattern of PT Panarub dismissing infirm workers or pressing them to resign, with no legal basis for doing so. The Team identified workers suffering from illnesses such as ulcers, pregnancy complications, and respiratory problems (some of them possibly caused by exposure to chemicals at work), who, after multiple absences – to which they were entitled under Indonesian laws concerning sick leave – were fired or pressured to quit.
- *Dismissals for Ijazah Palsu:* During 2003 and through February of 2004 PT Panarub terminated (either through dismissal or through compelling employees to resign) many employees for having “falsified their high school diploma” (*ijazah palsu*) in their original job application. In February of 2004, the factory rescinded a large number of these terminations upon realizing that dismissing all of the workers who had submitted false papers would mean untenably large layoffs. The factory’s resolution to the problem – offering to reinstate and provide back pay and school costs to the dismissed workers – is commendable. However, there are at least six workers who are entitled to reinstatement under this resolution but who have not been reinstated. The six employees resigned in a panic, due to the climate of fear at the factory that surrounded the *ijaza palsu* lay-offs issue. Their circumstances are identical to other workers who were dismissed or resigned due to *ijaza palsu* and there is no legitimate basis for denying them reinstatement.

There are also several workers who have been reinstated but who have not yet received back wages.

- *Dissemination of Inaccurate Information by Perbupas Regarding the Ijaza Palsu Issue:* In January, 2004 Perbupas sent an e-mail regarding the *ijaza palsu* dispute to several parties within and outside of Indonesia. The email contained the allegation that "management representative comes to workers' house and forces the worker to resign otherwise the worker will be reported to the police."<sup>18</sup> The WRC did not find any evidence supporting this allegation during its extensive worker interviews on the subject.

## Recommendations

The WRC recommends that the factory take the following remedial steps:

- Offer reinstatement to the six workers who resigned due to the *ijazah palsu* issue and have yet to receive a reinstatement offer. Provide any worker who rejects the offer with a letter of termination, full severance pay (regardless of whether they had previously accepted a smaller amount), holiday bonus pay, and any other benefits to which dismissed workers are entitled under Indonesian law. The six workers are:

1)	[REDACTED]	[REDACTED]
2)	[REDACTED]	[REDACTED]
3)	[REDACTED]	[REDACTED]
4)	[REDACTED]	[REDACTED]
5)	[REDACTED]	[REDACTED]
6)	[REDACTED]	[REDACTED]

*Adidas agreed with the finding and recommendation. PT Panarub has taken the recommended actions; all employees were reinstated in July, 2004 and are being paid back wages in monthly installments.*

- Provide back pay to those employees who have been reinstated since February, 2004, following dismissals related to *ijazah palsu*, but who have yet to receive back pay. Nine employees for whom the WRC has full information are listed below, but Adidas's office in Jakarta and PT Panarub management have the full list of 14 individuals who have not received back pay.

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<sup>18</sup> E-mail From: dpn Perbupas; Sent: 28/01/2004 3:29 PM; Subject: "Mass Dismissal In PT Panarub Industry"

No	Name	NIK	Department	Terminated	Back Pay Due
1.	[REDACTED]	[REDACTED]	[REDACTED]	April 5, 2003	10 months
2.	[REDACTED]	[REDACTED]	[REDACTED]	April 5, 2003	10 Months
3.	[REDACTED]	[REDACTED]	[REDACTED]	October 10, 2003	16 Months
4.	[REDACTED]	[REDACTED]	[REDACTED]	April 5, 2003	10 Months
5.	[REDACTED]	[REDACTED]	[REDACTED]	April 12, 2003	10 Months
6.	[REDACTED]	[REDACTED]	[REDACTED]	April 12, 2003	10 Months
7.	[REDACTED]	[REDACTED]	[REDACTED]	April 12, 2003	10 Months
8.	[REDACTED]	[REDACTED]	[REDACTED]	October 14, 2002	16 Months
9.	[REDACTED]	[REDACTED]	[REDACTED]	December 13, 2003	2 Months

*PT Panarub is taking the recommended action by paying each of the employees their due back wages in monthly installments. In addition, in July 2004, PT Panarub established an on-site school and continuing-education program so that employees who do not currently have a high school diploma may obtain one.*

- Offer reinstatement to workers who, because of illness, were either terminated or pressured by managers or supervisors to resign. Workers whose illnesses may have been related to chemical exposure should be reinstated at their former seniority status, but in a new work area far removed from any glues, cleaning fluids, solvents, and other liquid chemicals used at PT Panarub. The following is a partial list of workers in this circumstance:

1) [REDACTED]	[REDACTED]; Currently in the process of being terminated for frequent absence. She suffered several continuous ailments such as shortness of breath, nausea, and coughing due, the WRC believes, to sustained exposure to workplace chemicals.
2) [REDACTED]	[REDACTED]. Forced to resign by supervisor in 2002 due to pregnancy complications.
4) [REDACTED]	[REDACTED]. Forced to resign by department head in 2003 due to pregnancy complications.
5) [REDACTED]	[REDACTED]; she was told to resign in October, 2003 after absence due to an eye infection; the employee believes that

the infection was a result of exposure to chemicals in the workplace.

*PT Panarub has taken the recommended actions; all employees were reinstated in July, 2004 and are being paid back wages in monthly installments.*

- Regarding the email from Perbupas on the *ijaza palsu* issue, the WRC recommends that the Perbupas take the following steps:
  - Send a follow-up e-mail to all of parties that received the original email in January correcting the incorrect information. *Perbupas has pledged to take the recommended action, but has failed thus far to do so.*
  - Send an official apology to PT Panarub for disseminating this misinformation. This apology should also be posted publicly on Perbupas's announcement board within the factory. *Perbupas has written the letter of apology but has failed thus far to post it within PT Panarub.*

## 6) Hours of Work and Wages

- *Non-payment of Minimum Wage among Cleaning-Service Workers:* The WRC Assessment Team found that the cleaning-service workers in the management offices and cafeteria do not receive the legal minimum wage nor any overtime compensation. The individuals are employed not by PT Panarub but by a contractor hired by PT Panarub. The Assessment Team found that these individuals typically work from 6: 00 a.m. until 6:00 p.m., Monday through Friday, and from 6:00 a.m. to 3:00 p.m.on Saturday – a total of 69 hours per week – but only receive Rp 629,000 (\$67.95 U.S.) a month. This salary is below the Tangerang regional minimum wage for a standard 40 hour work week. The overtime hours are not compensated at all.
- *Mandatory Overtime among Production Workers:* Most Panarub production workers are expected to work two hours of overtime every day. Management does not advertise this as voluntary overtime but rather required overtime from which workers can only be excused under extraordinary circumstances. Employees refusing overtime have sometimes experienced reprisals, including public humiliation by supervisors. Mandatory overtime is not allowed under Indonesian law.<sup>19</sup>
- *Uncompensated Overtime for Meetings among Production Workers:* Production employees are required to attend production meetings for 15 to 20 minutes before the workday begins. This time is not compensated. While these meetings are not officially required, employees not attending are often subject to reprisal.

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<sup>19</sup> UU13/2003 Article 78 (1a.) This article clearly states that any overtime being requested by the employer “must be agreed upon by the employee(s) involved.”

- *Mandatory Overtime for Production Meetings:* Supervisors are required to attend production meetings for thirty minutes to two hours nearly every day. Sometimes these meetings take place during lunchtime, but most frequently these meetings take place after work hours. Because the overtime is mandatory, the practice is a violation of Indonesian law.
- *Occasional Unrecorded and Uncompensated Overtime for Late Night Shifts:* On some occasions, a few employees (most often supervisors but sometimes production employees) are required to stay at work until late in the evening (sometimes until 11:00 p.m. or later) to ensure that an order gets sent out on time, and that these employees are encouraged to record only that they stayed until 6:00 or 7:00 p.m. The reported purpose for this is to make it appear as though the employees did not work more than 10 hours on the day in question (adidas-Salomon has a policy by which the factory has to notify and seek the approval of Adidas's country manager for workdays that are to exceed 10 hours).

## Recommendations

The WRC recommends that management take the following remedial steps:

- Pay the cleaning staff back wages to January 1, 2004, both for the amount by which their monthly wage was less than the legal minimum and for unpaid overtime hours. Going forward, PT Panarub should ensure that all cleaning staff, groundskeepers, and any other employees that are working on factory premises for a PT Panarub contractor receive the wages and overtime compensation to which they are legally entitled. *PT Panarub disagreed with the finding, and has not taken the recommended action with regard to back pay. The factory has, however, agreed to address this issue in the future by establishing a two shift system for cleaning service workers to avoid overtime work and has also pledged to ensure that the all contractors pay their employees the legal minimum wage and proper overtime rates.*
- Make overtime voluntary, with a mechanism for workers to notify their immediate supervisor, either verbally or in writing that they do not wish to work overtime on a given day that overtime is offered. Workers should be allowed to make this notification up to the time that the overtime begins. This policy must be posted prominently in the factory and management must make it clear to supervisors that no worker can be disciplined or punished in any way for refusing to work overtime. *Adidas agreed with the finding and recommendation. PT Panarub has proposed to address the issue through an action different from the one the WRC recommended (by requiring all workers doing overtime to sign an overtime form). The WRC will monitor developments to determine whether or not use of the overtime form adequately corrects the problems identified.*

- Compensate workers for the pre-workday production meetings and make this overtime work voluntary. If management believes that it is essential for all workers to attend these meetings, then the meetings should be held during regular work hours. *Adidas agreed with the finding and recommendation. PT Panarub has pledged to take the recommended action.*
- Assure that all overtime work, including production meetings, is voluntary for supervisors. *Adidas agreed with the finding and recommendation. PT Panarub has not agreed to take the full recommended action, but has agreed to limit production management meetings to end, at the latest, at 7 PM.*

## 7) Misuse of the Contract Labor System

- *The Contracting Out of Permanent Positions:* The WRC Assessment Team found that PT Panarub uses contract employees for some positions that are effectively permanent positions, in contravention of Indonesian regulations regarding the classification of jobs as “contract” jobs.<sup>20</sup> Given the ambiguity that has arisen around the interpretation of this law, the WRC Assessment Team made a special visit to the National Ministry of Manpower office to discuss this issue. Representatives from the National Ministry of Manpower reiterated that “constant [i.e. permanent] work cannot be contracted.”<sup>21</sup>

### Recommendations

The WRC recommends that management take the following remedial steps:

- Conduct a factory wide survey of which jobs are being contracted-out on short-term contracts and why. Based on the results from this survey, offer a full-time position as a regular employee to any contract worker occupying what is, in effect, a permanent position. *Adidas agreed with the finding and recommendation. PT Panarub has stated that it is reviewing this finding and will revise its policy on the use of contract employees as appropriate.*
- Replace full-time, regular employees who resign or are dismissed with new full-time, regular employees, unless the nature of the position has changed such that it can now be legally classified as short-term contractible work. *Adidas agreed with the finding and recommendation. PT Panarub has stated that it is reviewing this finding and will revise its policy on the use of contract employees as appropriate.*

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<sup>20</sup> Act 13, 2003 Article 59 Which states that contract work can only be made for a certain job, which, because of the type and nature of the job, will finish in a specified period of time.

<sup>21</sup> Interview with Mr. Mitar Pelawi SH, MM, Chief Commissioner of Industrial Relations, April 12<sup>th</sup>, 2004.

## 8) Inappropriate Expenses Placed on Workers

- *Pressured Purchases of Work-Related Items:* Workers have been routinely pressured to give money out of their own pocket for work-related items such as brooms, aprons, and scissors. This practice is tantamount to illegal wage deduction.
- *Pressured Payment for Factory Decorations:* Workers also reported that they pay for factory decorations such as plastic flowers and aquariums. While these contributions from workers are generally given voluntarily, there are some workers who testified to feeling pressured to contribute, making this an additional form of involuntary wage deduction.

### Recommendations

The WRC recommends that management take the following remedial steps:

- Ensure that no worker is asked to pay for work materials, tools or equipment under any circumstances. *Adidas agreed with the recommendation in principle, but chose to conduct its own verification of the finding. PT Panarub has ended its policy of charging employees for lost or missing equipment and has instead began to issue warning letters.*
- Refrain from using funds collected through voluntary worker contributions to pay for items – like factory decorations – that would normally be paid for by management. *Adidas stated that it wishes to conduct its own verification of the finding. PT Panarub has implemented a policy that no employee in a supervisory level or above can be involved in any form of fundraising activity with production employees.*

### *The Cost of Remediation*

The WRC recommends that Adidas accept responsibility for paying some portion of the added costs that result from the implementation of all of the above-recommended remedial actions. In being asked to fully comply with all applicable laws, PT Panarub is, in reality, being asked to meet a higher standard than that met by the great majority of factories in Indonesia. It is appropriate for Adidas to share in the costs associated with achieving compliance. The WRC also recommends that Adidas consider whether there are adjustments in the turnaround demands it makes on the factory that may be necessary to ensure that the factory can meet its commitments without having to resort to excessive overtime.

*Adidas has pledged to share in bearing cost of full legal compliance with its supplier PT Panarub. Adidas has pledged to pay a higher rate per shoe if PT Panarub continues to work towards full compliance with the WRC's recommendations and subsequent action*

*plans identified by Adidas. Adidas has also stated that it is willing to fund certain specific projects related to the remediation process itself—for example, engaging consultants to assist with certain remediation items.*