



## **MARKETING SUSTAINABILITY: RSPO IGNORES SERIOUS RIGHTS VIOLATIONS**

Geneva, February 2006

The Roundtable on Sustainable Palm Oil (RSPO) was established in 2004 as a "multi-stakeholder" organization "with a governance structure that ensures fair representation of all stakeholders throughout the entire supply chain." The structure, depicted as "players in the sustainable palm oil chain" diagram on the RSPO website, does not extend to the women and men who actually labour on oil palm plantations and produce the oil and its chemical derivatives. This anomaly is easily explained.

Palm oil workers, who are regularly exposed to environmental degradation, serious health risks and repression by states and employers, are thoroughly familiar with the unsustainable nature of current production methods. They work on plantations, not in the fictional world of the RSPO. Palm oil workers defend their collective interests through their trade unions. Defending these interests has always been a difficult struggle. It is made even more difficult when the brutal exploitation which characterizes the industry is certified as acceptable, responsible or sustainable by a branding operation.

Palm oil workers need rights, not glossy advertising images of social responsibility. The tangible measure of progress in achieving these rights is recognition of their trade unions by governments and employers and genuine negotiations through the collective bargaining process. The IUF therefore declined an offer to participate in the RSPO, because we did not see it as a vehicle for advancing the struggle for these rights.

The interests of palm oil workers as "stakeholders" are presumably reflected, however obliquely, on the Roundtable through the "social or developmental NGOs" represented on the RSPO Executive Board (OXFAM being the best known). Together with the "socially responsible" manufacturers, processors, traders and retailers which make up the Roundtable, these "players" grant the sustainable seal of approval and market it to constituencies ranging from concerned consumers to the World Bank.

The Third Roundtable on Sustainable Palm Oil met in Singapore on November 22-23, 2005. According to RSPO Secretary-General Andrew NG, "The public presentation of the Principles & Criteria for Sustainable Palm Oil Production (or P&C), and subsequent adoption of the P&C by RSPO's membership at the 2nd (annual) General Assembly of members has meant that the world now has a credible and practical set of tools for measuring against sustainability, meeting stakeholder demands, and, demonstrating sustainability within the palm oil industry." Less than a day later, these "credible and practical" tools were put to the most basic of tests, and they failed.

On November 24, the RSPO Executive Board met. The first item on the agenda was how to respond to "allegations" expressed by the IFBWW (now BWI, the global trade union federation for construction, woodworking and forestry workers) concerning gross human rights violations at the PT Musim Mas oil palm plantation and processing plant in Pelalawan, Riau Province in Sumatra, Indonesia. The plantation complex is owned by the Musim Mas Group, members of the Roundtable Executive Board, whose palm oil refinery in Medan is the largest in the world. Musim Mas products are present virtually throughout the production chains of the leading personal care and food product TNCs.

Three Musim Mas representatives were present at the Board meeting. Their response was set out in a PowerPoint presentation which effortlessly convinced the RSPO Board that flagrant violations of trade union rights, including the dismissal of trade union officers, the mass dismissal of 701 union members, the use of violence against strikers and the arrest of six trade union officers - 5 of whom have now been sentenced to prison terms of 14 months to 2 years years for attempting to exercise their mandate as union representatives, with the sixth facing similar charges - were either unworthy of serious investigation or fell comfortably within the Roundtable's remit of promoting "socially beneficial" palm oil production methods.

The facts - not allegations, for unlike Musim Mas, the IUF and BWI can fully document the events, and the documentation is on its way to the United Nations' International Labour Organization - are as follows.

Workers at PT Musim Mas in Pelalawan formed an independent union - KAHUTINDO PT Musim Mas - in October 2004, with 150 members, quickly growing to 1,183 out of a total work force of 2,000 (including 300 contract workers).

Since the union was officially registered in December 2004, it has sought to negotiate the implementation of the minimum standards guaranteed Indonesian workers under national legislation and an end to the ruthless exploitation of contract plantation workers. The company simply refused to negotiate. When the union raised its concerns with Musim Mas management and the local Department of Manpower in February 2005, 4 union officers were dismissed, including union chairperson Robin Kimbi, and 5 others were forced to resign their positions. The local authorities and the provincial and Central Committees for the Settlement of labour Disputes (P4D and P4P respectively), as they always have done, rubberstamped the dismissals.

Further calls for negotiation and brief strike actions failed to bring management into discussions on the implementation of minimum legal standards. Management's only response was persistent efforts to undermine and repress the union.

On 8 September 2005, the union reiterated its basic demands to management (reinstatement of dismissed union chairperson Kimbi, implementation of

minimum legal standards, fair treatment for contract workers) and announced its intention to strike if these were not met by September 20. When PT Musim Mas management still refused to negotiate and instead arranged with the local authorities for new workers to be recruited to replace union members, the union brought the strike date forward to September 13. On the morning of the 13th, three trucks transported over 100 replacement workers into the plantation and refinery in a clear demonstration of the company's determination to destroy the union.

On September 14, a company truck drove into the picket line, injuring two union members who required hospitalization. The strikers, however, refused to respond to this provocation. The following day in an incident in which company-hired thugs may have played a role a crowd of workers pushed a factory gate off its rails. Using this damage to company property as an excuse to repress the strike and smash the union, police arrested five union officers on September 15, and a sixth on October 18.

On September 22, while the five union officers were detained in Bangkinang Prison, PT Musim Mas management dismissed 701 union members in what can only be described as a vicious act of collective retribution. The collective punishment extended to 300 contract workers, all members of the union, whose contracts were simply not renewed. The mass dismissals were again rubberstamped by the authorities. On December 26 the management deployed heavily armed police and soldiers to forcibly evict the dismissed workers and over 1000 family members from plantation estate housing. Children of the evicted workers were publicly humiliated and expelled from the estate schools. The five officers were sentenced to prison terms of 14 months to two years on February 3 for destruction of property and personal injury. A sixth union officer is currently in jail and undergoing trial on the same charge.

All of these facts, with the exception of the mass evictions in December and the February prison sentences, were brought to the attention of the RSPO Board well before the meeting. A glossy presentation by the Musim Mas Group, built on assertions so remote from the reality of Indonesia, its plantations, its notoriously repressive industrial relations and corrupt judiciary that it should have, at a minimum, raised some serious questions, was sufficient to silence all critical discussion. One has to conclude that palm oil workers, their rights, their livelihoods and their communities are simply irrelevant to the RSPO, or that disposable workers meet the sustainability criteria.

The company claimed that:

- KAHUTINDO PT Musim Mas, a new union, never informed the company of their existence.

In fact, the union received its official registration number from the local Manpower Office on December 9, 2004. The letter with the official registration number is always copied to the company as well as to the union. The union was new - because previous attempts to found an independent union

articulating the workers' aspirations had failed under company pressure (of which more below). KAHUTINDO wrote to management on January 17, 24 and 25 to request official leave for officers to attend union activities outside the plantation. Further, the union addressed a specific list of grievances to the company and the local Manpower Office on February 14. The company was repeatedly informed of the union's existence, and of its demands.

- KAHUTINDO recruited a dismissed worker as Chairperson

When the union received its registration number from the Manpower Office on December 9, 2004, the union officers were all listed, with PT Musim Mas employee Robin Kimbi as Chairperson. The company acknowledges this fact in its own PowerPoint presentation (page 11), which shows that it requested the dismissal of Kimbi on February 19, 2005 (along with the dismissal of 3 other union officers and pressure on others to resign, facts *not* mentioned in the presentation). Were the RSPO Board members following the chronology?

- other unions at PT Musim Mas "support Musim Mas".

Page 6 of the company presentation lists 3 unions allegedly present at PT Musim Mas. Page 7, however, shows supporting letters from only two of these unions, FKUI SBSI Pompa Air Village and SP MM. SP MM was specifically created by management in response to the formation of an another union by the workers in 2003. SP MM's members - if they can be described as such - have never seen a copy of their collective agreement, a point which was made by the local Manpower Office on June 13, 2005 in a ruling addressed to the company ordering them to distribute the agreement to employees and explain it to them (more on the June ruling below).

Musim Mas workers did attempt to establish an SBSI union in 2003. PT Musim Mas management responded by harassing and transferring the officers and dismissing the chairman. The officers who remained employed at PT Musim Mas therefore voted to dissolve the organization rather than submit to further repression. Three of the union's former officers became officers in KAHUTINDO PT MUSIM MAS, including Vice-Chairman Safrudin, who was sentenced in February 2006 to 14 months in prison.

The KAHUTINDO union has signatures attesting to its more than 1,000 members across the six estates, the refinery and the depot, which clearly attest to its majority status in the enterprise. Despite this clearly documented representivity, the company refused to include it in its negotiations and specifically ignored the August 1 recommendation by the local parliament that the union should be included in all negotiations.

Company unions and bogus "collective agreements" are familiar weapons against independent trade unions in Indonesia. They have been repeatedly condemned by the United Nations' ILO for infringing on basic worker rights. Anyone familiar with Indonesian industrial relations should have at least questioned the company's presentation or proposed to seek additional information from the IFBWW. The RSPO Board members asked no questions.

- The union had "no clear grievances"

This astonishing assertion is more proof that throughout the presentation Musim Mas was constructing an imaginary narrative by suppressing basic facts. KAHUTINDO's demands throughout the dispute were very clear: substandard conditions on the plantation had to be brought into compliance with minimum legal standards. Confirmation of the substandard conditions the union was addressing are clearly set out in the June 13, 2005 ruling (No. 560/DISNAKER/377) issued by the Pelalawan District Manpower Office *addressed to the company* following facilitation by the District Parliament, which had issued written recommendations following the first strike. The Manpower Office ordered the company to implement the following measures, among others, in response to violations:

- 3 months maternity leave in accordance with legislation, rather than the two months Musim Mas was giving women workers
- the employer to register daily contract workers in the Social Security Fund (JAMSOSTEK) insurance schemes for occupational accidents or death at work
- the filing of full monthly reports by the company on the employment details of the contract workers as a step towards remedying systematic abuses
- distribution to employees of the existing collective agreement with SP MM, as previously mentioned

This order was never implemented, as attested to by the June 24 letter from the Chair of the Social Affairs Committee of the District Parliament stating that the written explanation which Musim Mas had promised in response to the Manpower Office decision had never materialized.

On July 22, the union gave written notice of its intention to strike on August 1 because the company had ignored the District Parliament's call for the implementation of what, in Indonesia, are called "normative rights". The union's demands were clear: the company had a legal obligation to implement minimal legal standards on annual leave, maternity leave, menstruation leave, unpaid overtime for daily workers, and payment of social security contributions for contract workers. A company representative signed the minutes of negotiations between management and the union which contains a table setting out the union's clear and specific demands, as well as the company's response. To state, as does the PowerPoint presentation (page 3), that the union had "no clear grievances", is nonsense - and Musim Mas knows it. These grievances were abundantly documented and could not have been more clear.

- "both strikes illegal"

This is simply untrue. Notice of intention to strike was issued by the union in accordance with the regulations. With regard to the second strike, *the company itself signed an agreement on August 10, 2005 to the effect that the strike was not to be considered illegal, and that no further action would be taken as a result of the strike.* This procedure was supported by a written

recommendation by the District Parliament on August 1, and again by a ruling of the local Manpower Department on August 12.

The local Manpower Office facilitated negotiations between Musim Mas management and KAHUTINDO during the strike of August 1-5. This resulted in the Manpower Office issuing a ruling on August 5. The ruling requested the workers to return to work and the company to "tolerate" the strike, pending a future ruling on the substantive issues in the dispute. On August 10 - not August 18, as claimed by Musim Mas in the power point presentation - an agreement which resulted from further negotiations was signed between the union and the company to the effect that the issue of the strike's legality was considered settled and would not be raised again. The August 10 agreement also stated that the issue of a further nine workers at Estates IV and VI, dismissed by the company after the initial dismissal, in February, of the four KAHUTINDO officers (including Kimbi), would be addressed in the form of an agreement between the company and the dismissed union members.

*Contrary to the claim made in the Musim Mas presentation, nowhere does this agreement state or suggest that the company's failure to implement minimum legal standards and the issue of Kimbi's dismissal were considered resolved. Like so many other points in the presentation, this is pure invention.*

- "Agreement reached in August that no further issues/So why strike?"

There were very clear reasons for the September strike. Faced with the company's continuing refusal to recognize the union, negotiate in good faith and implement the August 22 Manpower Office recommendations, KAHUTINDO presented management with a petition on September 6 calling for the reinstatement of Robin Kimbi. This was followed by another letter demanding the implementation of the minimum legal standards, and clarification of the employment status of the many workers still unaware of their status as permanent or contract workers, since it was the practice at Musim Mas PT to hire workers for permanent types of work but renew the (temporary) contracts on a monthly basis to avoid paying JAMSOSTEK contributions and other benefits.

The very first paragraph of the August 22 ruling by the Manpower Office concerned annual leave entitlements. On September 9, PT Musim Mas management signed an agreement with the SP MM union on annual leave over the upcoming Idul Fitri holiday - without involving KAHUTINDO in the negotiations. There could be no clearer indication of the company's bad faith.

- the union "feigned" injuries sustained when the truck hit the picket line on September 14

Two picketing workers injured in the incident were taken to the local hospital RS Insani, Pangkalan Kerinci, for treatment of their injuries. One of them was released the same day. The other, Suwarno, was hospitalized for treatment and only released after three days. When the workers tried to lodge a complaint with the police, the police refused to accept or register their

complaint, requesting written proof from a doctor of their injuries. When the workers returned to the hospital to obtain the medical records, they found that the records were no longer in the hospital, but in the possession of the company.

- police "acted on their own initiative and were not urged to do so by Musim Mas"

Police from the local Pelalawan District Headquarters were present throughout the strike and demonstrations, and were present when the fence was pushed over. Approximately one hour after the fence was knocked over, the five union officers were summoned by the Chief of Operations of the Pelalawan Police to the company office inside the refinery, ostensibly to hold negotiations with company public relations and personnel head Gunawan Siregar. Siregar was present when the union officers entered the room. Rather than being invited to negotiate, the union leaders were arrested and taken - out of sight of the demonstrators - to the police station.

*Siregar himself filed and signed a report with the local police on September 15 specifically accusing by name the five arrested KAHUTINDO leaders of inciting the workers to overturn the gate.* The five arrest warrants (Nos. Pol: SP.kap/120 through 124/IX/2005) are explicitly based upon the police report. Readers can draw their own conclusions.

- "MM appealed to workers to return to work on 14<sup>th</sup> and again on 16<sup>th</sup> September."

These appeals to return to work were delivered, in writing, to the workers' homes on the housing estate. The workers, however, were not at their homes, as Musim Mas was of course well aware: they were demonstrating outside the refinery and living in tents. Most of the workers did not return to their houses from the first day of the strike, September 13, until they were informed they would be evicted in December, *because they were forbidden from entering the company property after the strike was halted and their tents, cooking equipment and other possessions were seized by the police.*

Workers only came to know that they were being requested to return to work when a representative of the local Manpower Office finally intervened on September 19. Rather than facilitating a solution to the issue underlying the strike - the company's ongoing failure to implement minimum legal requirements - the representative failed to exercise his mandate and simply ordered the workers to return to work. Article 141 (2) of Manpower Act No. 13/2003 states that "Before and during the strike the authorised government agency is obliged to resolve the issue which caused the occurrence of the strike by arranging a meeting and negotiation between the disputing parties. As the issues which had caused the strike were not resolved, nor even discussed, and their union leaders remained in prison, the workers continued their industrial action.

- KAHUTINDO refused to meet with the company and the Manpower Department after the events of September 15

The September 23 hearing at the District Parliament cited by Musim Mas came to an abrupt end when the company representative simply never returned to the negotiations after the break for Friday prayers. The negotiations were therefore neither resolved nor concluded.

Musim Mas brazenly assert that KAHUTINDO was "involved" in an October 24 hearing on the dispute under the auspices of the Provincial Parliament of Riau. This is untrue - the union was not present at the hearing. They had appealed to the Governor to facilitate a meeting, but were not invited when the meeting took place. The statement which emerged as a result of this hearing shows only the signatures of the head of the Riau Department of Manpower, the Pelalawan District Manpower Office and the Chairperson of Committee E of the Riau Provincial Parliament. This absurd document, moreover, states that the Riau and Pelalawan Manpower Offices will investigate any violations of minimal legal standards on the basis of reports from workers. The Pelalawan District Manpower Office, as we have seen, had itself previously determined that legal standards *were* being violated by the company and had ordered corrective action. Moreover, the workers were forbidden from entering the workplace after the strike and obviously in no position to "gather evidence"!

- KAHUTINDO "incited the workers with wild promises"

Only if you accept the proposition that organizing and mobilizing workers to achieve implementation of the minimal standards they are guaranteed under national legislation qualifies as "wild".

How did the RSPO Board members respond to this ludicrous presentation in the light of the serious concerns expressed by the IFBWW? In response to a question about the reasons prompting the workers to strike, the company representatives replied that the workers had been promised large sums of money by union leaders. The representative of an Indonesian NGO opined that the company had "acted according to the law" although it was lacking sufficient information on the dispute. Ian MacIntosh of Aarhus United warned against "overactive involvement" while counseling "compassion for all sides." The discussion (documented on the RSPO web site) concluded that WWF should respond to the IFBWW that both parties were proceeding through appropriate legal channels. The board thereupon moved on to the next item on the agenda.

The enormous disjunction between the scale of the events under review, the serious nature of the issues raised by the series of conflicts at PT Musim Mas, and the wholly uncritical response of the Board members is absolutely staggering. Anyone familiar with oil palm production knows that plantations are a difficult work environment, to put it mildly. Musim Mas presented a parallel universe of contented workers whose idyllic employment relations were only disturbed by disgruntled agitators offering financial rewards in

return for striking. Fortunately, justice and order prevailed owing to the exceptional perspicacity of the local police, who had the foresight to intervene without waiting to be asked, thus permitting sustainability to continue advancing in Roundtableland.

Musim Mas called their presentation "The KAHUTINDO Fiasco". The fiasco is entirely the Roundtable's, because the Board members bought it. Musim Mas needed no further incentive to violently evict 700 workers and their families from the plantation, secure in the knowledge that no embarrassing questions were likely to be raised again at an RSPO Board meeting, and that if they were, there were simply no mechanisms for seriously responding to them.

On January 30, KAHUTINDO PT Musim Mas Union Secretary Suyahman summed up his defence statement in court, saying "We have been put in a place that we should not have been. We are not criminals, we are not thieves, nor robbers. We are workers oppressed by the despotic employers in our workplace. We demonstrated in order to struggle for our rights as workers, which are protected and regulated by the Manpower laws, which were not implemented by the employer. So why is it we who are imprisoned? Where is the justice, your Honour?"

The RSPO has answered this question: justice will be found in an Indonesian court – though the manifold failures of the Indonesian judiciary and its endemic corruption have been widely documented and denounced by respected organizations such as Human Rights Watch, Amnesty International and branches of the United Nations system. Even the World Bank has stated that a fair trial in Indonesia is all but impossible. In the real world - as distinct from the RSPO Boardroom - justice for the KAHUTINDO officers is precluded from the outset, because the trade union engagement and activity of the five convicted PT Musim Mas leaders has been criminalized by the company, the police and the courts.

RSPO Criteria 6.6 states that "The employer respects the right of all personnel to form and join trade unions of their choice and to bargain collectively." If events at PT Musim Mas did not suggest to the Board members that these rights were possibly being violated on a massive scale, and the conflict worthy of more consideration than the time it was allotted and quickly dispatched, the RSPO has forfeited even the most charitable attribution of credibility.

The RSPO's Principle 6.1 states that "Aspects of plantation and mill management that have social impacts are identified in a participatory way, and plans to mitigate the negative impacts and promote the positive ones are made, implemented and monitored, to demonstrate continuous improvement." Continuous union busting, escalating in brutality and violence, has been the rule at PT Musim Mas. Where are the Roundtable's "credible tools" with regard to its own members? They failed completely when measured against the recognized global standards set out in the Conventions of the ILO on the right of workers to form trade unions and bargain collectively with employers.

They even failed with regard to the RSPO's own Criteria. The Roundtable, it seems, hasn't noticed. Or their tools have already rusted.

Musim Mas products are ubiquitous in the global palm oil supply chain. Few traders, processors, manufacturers and retailers in the RSPO can confidently certify that their products contain no Musim Mas palm oil or oleochemicals. RSPO members who claim to be committed to ensuring standards along their supply chains, environmental groups who are serious about stopping the eco-devastation caused by the palm oil business, development NGOs who grasp the basic link between rights, employment and development - all must speak up now and demand that the Roundtable take meaningful action or risk being forever perceived as a hollow front for corporate greed and violence.