**The current situation re RKFL/West Bengal, India**

Concerning West Bengal, PepsiCo have now stated publicly (<https://business-humanrights.org/sites/default/files/documents/PepsiCo%20Response%20to%20IUF%20Nov%202016%20Allegations.docx>) that the company has “agreed to meet with the 28 workers in coordination with IUF. PepsiCo has further agreed that we will not place any conditions on our meeting with the 28 workers, and that we will include their input in our overall assessment of the 2013 events. We will continue to uphold our commitments under the U.N. Guiding Principles and OECD Guidelines, including exercising our leverage and evaluating our ongoing relationship with RKFL.”

The IUF can confirm that we are currently discussing the various arrangements necessary to facilitate the interview process. This is progress, however belated, and we welcome it. PepsiCo further states that the company “will continue to uphold our commitments under the U.N. Guiding Principles and OECD Guidelines, including exercising our leverage and evaluating our ongoing relationship with RKFL.”

For this, it is necessary that PepsiCo base any actions it might take on the actual facts and not the version presented in their published response.

IUF allegations of human rights violations do not “date back to an incident in May 2013”, in which “For reasons still unknown to PepsiCo certain RKFL workers engaged in an illegal strike against the contractor.” The rights violations took place over an extended period, the information is in the public domain and PepsiCo is certainly aware of the chronology, which is essential to understanding the evolution of the dispute and the route to resolving it.

Between January 5 and April 30, 2013 162 workers out of 170 employed at three West Bengal warehouses exclusively contracted by PepsiCo were dismissed or compelled to resign when management learned that workers were organizing a union. All three warehouses were initially operated by RKFL. Workers were hired on one-year fixed term contracts through a labour contractor called Weavings Manpower Solutions, a company founded by the chairman of RKFL. As the union began organizing and workers were pressured to resign from the union or face dismissal, two of the 3 RKFL warehouse operations were transferred to another company. Union members were threatened, harassed and dismissed at all 3 warehouses.

In response to continuing threats against union members, workers on the night shift of April 29 stopped work and continued their action into the morning hours of April 30 when management refused to meet or withdraw new threats to terminate union members.

That same day, April 30, RKFL management terminated 92 workers and summoned thugs to remove the workers from the warehouse.

There is a history of abusive precarious contracts, management threats against union members and anti-union dismissals at RKFL which cannot be reduced to an ‘incident’.

There was no illegal strike in May, and PepsiCo again has it wrong when they write that “RKFL could have lawfully terminated all workers who participated in the illegal strike, but instead invited all to return to work the next day.”

What happened was this: from May 6-10, RKFL management contacted the terminated workers individually and invited them to return back to work on condition that they resign from the union, cut up their union card and step on it as they walk into the warehouse.

In June, new conditions were added: workers were told to sign blank legal papers which in India carry a registration number and are used for documents like affidavits. Workers were told that failure to sign would result in the loss of their provident funds.

In July, workers who reported individually to the warehouse were given a typed document in the Bengali language and instructed to copy it in their own handwriting and sign it. The document included the following statements: “I made false accusations against management” and “I will not form a union again and will never be involved in union activities”. The majority of workers signed and the letters were kept by management. Workers were told that this statement declaring no further involvement in the union was a legally binding document.

Some workers who signed the statements were denied employment anyway. In August 28 workers who refused to return to work under these degrading and illegal conditions formed a committee to defend their rights, demanding reinstatement and guarantees that there human rights would be protected in future. The IUF is supporting these workers, and is proud to do so. They are defending the human rights of workers throughout the PepsiCo system.

Earlier this year, when the IUF learned that one-year fixed term contracts for workers at RKFL had been replaced with three-month contracts, making workers even more precarious and placing rights even further out of reach, we publicly raised the issue. PepsiCo then announced that RKFL had reverted to one-year contracts – evidence that leverage does indeed exist, when the company chooses to exercise it.

PepsiCo also seems to willfully misunderstand what we are saying about trade union rights at their own manufacturing operations in Pakistan and Guatemala.

**FritoLay Guatemala**

At the PepsiCo snack foods plant in Guatemala City, workers in April 2015 registered a new union, SITRAFRITOLAY, with nearly 900 members out of the factory’s 1300 workers. In June, PepsiCo management signed a collective agreement with a union representing a small minority. That union already existed, in a quasi-dormant state, which is why a new union was formed. We don’t contest the minority union’s legal status. We simply observe that management has clearly violated the collective bargaining rights of the large majority of workers at the plant who chose to join SITRAFRITOLAY by preemptively signing an agreement with a union which cannot credibly claim to be representative. This was a conscious management decision. SITRAFRITOLAY has initiated action at the labour tribunal to claim its collective bargaining rights – not to challenge the legality of the minority union, but to contest the use of the union by management to undercut rights.

**FritoLay Pakistan**

There is a similar pattern at the FritoLay plant in Lahore, Pakistan. When 650 workers formed a union, registered it and presented their charter of demands this year, a new, apparently hastily improvised union suddenly appeared to undercut its bargaining status, which is a way of denying workers their rights. Of the 1,500 workers officially employed at the plant last year, only 134 had permanent employment status. As at RKFL, precarious contracts are being abused in order to undermine rights. PepsiCo management has talked to the union president, as PepsiCo writes. However, management has yet to respond to the union’s charter of demands, which seek to regularize employment. Since August, the union president and general secretary have been working at reassigned tasks which restrict their access to union members in their former work areas. Also in August, the union finance secretary was transferred to a job some 450 kilometers from the Lahore plant and disciplined for refusing to report to his new assignment. He successfully contested the transfer but is unable to resume work because plant management has not supplied the labour contractor with the necessary documents.

There is absolutely no legal obstacle to PepsiCo engaging with the union in a process of negotiation – as IUF members have done successfully with other multinational employers in Pakistan. If PepsiCo takes human rights seriously, they can start remedying these violations by good faith negotiations with the IUF and its members.