

“The flow of palm oil Colombia- Belgium/Europe

A study from a human rights
perspective”



Fidel Mingorance



HREV
HUMAN RIGHTS EVERYWHERE

CBC

Coordination Belge pour la Colombie
Belgische Coördinatie voor Colombia

Conducted by **HREV** for the **Coordination Belge pour la Colombie**
Belgische Coördinatie voor Colombia

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Conducted by HREV for the **Coordination Belge pour la Colombie**

Foreword by Jean Ziegler

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First edition, November 2006

**Design and layout
imagenSutil / pasajeros**

**Photographs
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Cover photographs

The photographs on the cover are intended to highlight three important aspects of the subject of the study: plantations, paramilitarism and forced displacement as a result of land theft.

1. Oil palm plantations, Tumaco
2. The uprooting caused by forced displacement: Moravia barrio, Medellín. ©Jorge Mata-Surimages
3. Carlos Mario Jiménez, alias “Macaco” or “Javier Montañéz”, military commander of *Bloque Central Bolívar* and member of the general staff of the paramilitary group AUC (*Autodefensas Unidas de Colombia* – United Self-Defence Force of Colombia) during demobilisation, 12 December 2005. ©Jorge Mata-Surimages

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Introduction

In Colombia, the government promoters of the agroindustrial model of large plantations and the large palm companies' marketing and publicity departments declare that everyone wins with oil palm. The state finances win, business interests win, as does society as a whole since, as they explain, its cultivation brings great social benefits, peace and national development, as well as benefiting the health of end consumers and the planet's climate.

Although specialised studies on the impact of this monoculture in the Chocó and information gathered from other regions show quite the opposite, those promoting this agroindustry do not acknowledge any of the problems associated with the monoculture of palm. The only complaints which are heard from palm interests are the difficulties that they encounter in being able to plant more palms due to the restrictions imposed in certain territories by constitutional laws on ethnic and environmental protection.

The high expectations generated by palm biodiesel have meant that the government and palm companies have devoted themselves to finding international investors, including Europeans, so that they can continue expanding palm plantations through megaprojects.

In view of this avalanche of publicity on palm oil, it is essential that potential investors, European human rights and development agencies and, above all, Belgian/European consumers of products processed or derived from this oil have as much information as possible about the full implications of palm cultivation, not solely the partial view provided by the agroeconomic data used by the palm companies and the Colombian government.

Apart from palm plantations in the Chocó, on which there are specific studies, the information available on the various human rights violations associated with Colombian palm plantations is very diffuse.

This study seeks to provide structured information specially designed for Belgian and European readers, which will help to give an overview, useful to those with an interest in the issue but without in-depth knowledge of it. At the same time, it is hoped that the information will serve as the basis for more in-depth studies of the subject, both in Europe and in Colombia.

The study begins with a general description of the production chain of Colombian palm oil from an agroeconomic point of view, and its subsequent flow to Belgium/Europe. Understanding the characteristics and functioning of the links in this agroindustrial chain is essential in order to be able to analyse the flow of oil from a human rights perspective.

Next, a map has been produced providing an overview of the violations of Colombian law and international laws ratified by Colombia committed in the palm-growing regions, as they have been reported by the affected communities, social organisations, human rights defenders and, in some cases, the State's own control agencies. These violations are serious enough to merit an in-depth research document all to themselves, but this goes beyond the remit and resources of the current study. Nevertheless, this mapping exercise will attempt to give the most complete picture possible of these violations on a national scale.

A description or mapping exercise would not be complete without then analysing the 'palm production model' being implemented in Colombia, with the paramilitary movement one of the principal structures committing human rights abuses.

The characteristics of this model for the exploitation of this crop, combined with the high level of vertical integration of the palm oil industry means that responsibility for the violations committed must be sought in every link of the chain, from the Colombian fields and plantations to the end consumers.

The description of the Colombian 'palm model', followed by the examination of the responsibilities within the Colombia-Belgium/Europe flow of oil, will complete the overview of the issue.

Foreword by Jean Ziegler

In the world today, 854 million human beings are severely malnourished, crippled by constant hunger. Every five seconds, a child under ten dies of starvation. Every four minutes, someone loses their sight through lack of Vitamin A.

This occurs on a planet with resources in abundance. At the current stage of development of its agricultural productive capacity, the planet could feed 12 billion human beings, that is, double the current world population. Conclusion: this daily massacre by starvation is not at all inevitable. Behind every victim, there is a murderer. The current world order is not only murderous. It is also absurd.

Jean-Jacques Rousseau wrote: “In the relationship between the weak and the strong, it is liberty which oppresses and it is the law which liberates”. In order to mitigate the disastrous consequences of international trade policies, the United Nations General Assembly decided to create and make justiciable a new human right: the right to food.

The definition of this new right has the following elements: the right to food is the right to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life free of fear.

The very good publication by the Coordination Belge pour la Colombie (‘Belgian Coordination Group for Colombia’) exposes commercial practices which are still little-known, associated most notably with palm oil production for the biofuels market, which have disastrous effects on the right to food, access to land and the working conditions of the local people.

The great contribution made by the study by the Coordination Belge pour la Colombie is in identifying the various levels of responsibility for the violations committed in the palm oil production areas, not only in Colombia but also in Europe. This serves to remind us that we are all involved and all interdependent.

On our capacity to limit our infinite needs and to promote local production and food sovereignty, respecting both human and environmental rights, will depend the realisation of the fundamental rights of everyone. *

Jean Ziegler

United Nations special rapporteur

on the right to food and author of the book

L'Empire de la honte ('The Empire of Shame') (2007)

* On this subject, I would like to highlight the excellent work by OBSAN (Observatory for food and nutritional security) at Colombia's National University.

1. Brief agro-economic description of the flow of Colombian palm oil

1.1 The Colombian palm oil chain

The oil palm, also known as the African palm because of its origin on that continent, is an oleaginous plant, oil being extracted from its pressed fruit. This tropical palm, indigenous to hot climatic regions, grows at below 500 metres altitude, requiring specific climatic and soil conditions. The equatorial regions are the most suitable areas for its cultivation.

The oil palm produces fruit in approximately three years. It is a late-maturing perennial crop and its production, with varying profitability, can last up to 50 years. However, the plant reaches maximum production after between seven and ten years. From 25 years onwards, its height makes it more difficult to harvest the fruit.

Integrated into the oils and fats chain, the economic activity generated by palm oil is organised as a production chain with distinct links (also called phases, stages or processes) which comprises the palm oil agroindustry, the oil processing industries and the trading sector.

1.1.1 The Colombian oil palm agroindustry

The chain begins with agroindustry, which consists of the cultivation of this crop and the oil extraction plants. These first links are located exclusively in the areas suitable for oil palm production.

In Colombia, 3.5 million hectares are entirely suitable for the cultivation of oil palm, without limitations (or only moderate ones) in terms of soil type or climate.

Regions suitable for oil palm cultivation without soil type or climatic limitations	Area (ha)	%
Orinoquía (<i>piedemonte llanero</i> - Andean foothills region of the eastern plains)	1.933.821	55
Magdalena Medio (Cesar and Magdalena)	693.103	20
Atlantic Coast (Sucre, Córdoba, Bolívar, part of Magdalena)	579.493	17
Pacific coast (without Chocó)	122.000	3

Chocó	180.000	5
Total	3.508.417	100

Source 'Evaluación edafoclimática de las tierras para el cultivo de la palma de aceite' ('An assessment of the soils and climate of land for oil palm cultivation') Corpoica –Cenipalma 1999.

The Orinoquia region accounts for over half the area which could be cultivated with palm, with very little need to adapt the land.

The Colombian territory suitable for planting palm could reach almost 6 million ha. As well as the 3.5 million ha above, 2.5 million additional ha could be planted if there were work to adapt the land, resulting in a less competitive crop.

For 2005, Fedepalma¹ reported an estimated total of 275,000 ha under cultivation, of which 161,000 ha were in production and 114,000 ha in development². These figures indicate that in 2005, 4.6% of the potential area (the 6 million ha) or 7.9% of the most competitive area (the 3.5 million ha without soil or climatic limitations) had been planted.

Preliminary data for 2006 indicate that currently 185,000 ha³ are in production. This production area makes Colombia the world's 5th biggest producer. It is estimated that it will produce 685,000 tonnes of oil⁴, in 2006, representing 1.9% of world production.

The area under cultivation is divided into 4 production areas with distinct agrienvironmental characteristics, each one of which having different conditions which influence the crops' productivity.

¹ Fedepalma (*La Federación Nacional de Cultivadores de Aceite de Palma* – National Federation of Oil Palm Producers) is the trade organisation which represents the majority of Colombian palm producers. Further information available on its website: www.fedepalma.org

² Fedepalma data: all the information attributed to Fedepalma comes from its *Anuario estadístico* 2006, *Anuario estadístico* 2005 (2005 and 2006 Statistical Yearbooks) and from its website.

³ 'Oil World' data: all the information attributed to 'Oil World' comes from 'Oil World Statistics', September 2006. Further information available on its website: www.oilworld.biz/

⁴ Oil World Statistics.

Region	Department	Area planted 2005 (ha)		Production of fruit 2005 (tonnes)	Oil extraction plants 2005	Products 2005 (tonnes) (palm & palm kernel oil, kernels and cakes)
		Area in production	Area under development			
Northern	Magdalena, Cesar (north), Bolívar (north), Antioquia (Urabá)	44.886	44.997	946.180	15	288.194
Central	Santander, Cesar (south), Bolívar (south), Norte de Santander	40.557	24.073	882.856	9	264.385
Eastern	Meta, Cundinamarca, Casanare	53.208	35.201	979.682	22	302.757
Western ⁵	Nariño, Valle del Cauca	22.626	9.790	432.014	7	125.750
Total		161.277	114.040	3.240.732	53	981.086

Source FEDEPALMA

A high level of investment is needed to prepare, establish and maintain the plantation and the production infrastructure during the first three or four unproductive years. *Campesinos* (peasant farmers) and small-scale palm producers do not have sufficient financial reserves to be able to wait for the first harvests. The number of small-scale palm producers is increasing because the cost of the first few years is covered by various state financing schemes. However, in the end they fall into debt and have to enter into production agreements with the large companies which thereby gain a captive market for the palm fruit.

⁵ Agrocadenas includes Chocó department in this region, as it shares the same agrienvironmental conditions as the Western Region, but at an operational level, the production of the Chocó plantations is being incorporated into Antioquian Urabá, and thus the Northern Region. Agrocadenas data: all the information attributed to Agrocadenas comes from the following documents: *La cadena de oleaginosas, grasas y aceites en Colombia. Una mirada global de su estructura y dinámica 1991-2005* ('The oil and fats chain in Colombia. A global view of its structure and dynamics 1991-2005') Working document no. 93 (December 2005); *La industria de aceites y grasas en Colombia* ('The oils and fats industry in Colombia') Working document no. 75 (June 2005); *La industria de aceites y grasas en Colombia* ('The oils and fats industry in Colombia') 2005 Yearbook. Further information available on its website: www.agrocadenas.gov.co

“Some indicators show how the larger units of production, over 2,000 ha, have achieved three times the productivity of 500 ha farms. In addition, the large volumes of fruit being processed allows the financing of better technologies, thereby increasing extraction yields.”⁶

On every plantation the palm fruit is harvested and sent to the extraction plants within 6 to 12 hours, as the fruit rapidly acidifies. This requires great operational interdependency and thus geographical closeness between the two processes (cultivation and extraction).

In Colombia there are currently 53 extraction plants, which pressed 3,240,732 tonnes of fruit in 2005. 91% of the extracted oil was marketed by large extraction plants, 8% by medium-sized, and 1% by the small processors⁷.

The products obtained at the agroindustrial stage

From a bunch of oil palm fruit is obtained:

The fruit (65%) and the husk which is not used (35%).

The fruit is made up of the pulp (62%) and nut (38%).

The pulp is 45% oil (**crude palm oil**). The rest is not commercially exploited.

The nut is 30% **palm kernel** and the rest is shell which is not used.

The palm kernel is 43% crude oil (**crude palm kernel oil**) and 50% oil cake (**palm kernel cake**). The rest is not used.

Depending on the part of the fruit processed (pulp or kernel) four products are obtained in the agroindustrial phase: crude palm oil, palm kernels, crude palm kernel oil and palm kernel oil cake.

1.1.2 Trade

The products of oil extraction are either marketed nationally or exported without further refining.

⁶ *La cadena de oleaginosas, grasas y aceites en Colombia. Una mirada global de su estructura y dinámica 1991-2005* (‘The oil and fats chain in Colombia. A global view of its structure and dynamics 1991-2005’) Working document no. 93 (December 2005). Ministry of Agriculture and Rural Development, Agrocadenas Observatory Colombia 2005. Available in November 2006 at: http://www.agrocadenas.gov.co/oleaginosas/Documentos/caracterizacion_oleaginosas.pdf.

⁷ See footnote 5.

Most is sold onto the national market which has four major centres:

- Bogotá: Bogotá, Girardot, Villavicencio and Acacias. The principal market for production from the eastern region.
- Cali: Cali and Buga. Principal market for the western region.
- Centre: Bucaramanga, Medellín and Cúcuta. A market for production from all regions.
- Coast: Barranquilla, Ciénaga and Codazzi. The principal market for production from the northern region.

In Colombia, the level of vertical integration between the agro-industrial and industrial links is very high, as this provides greater economies of scale. Furthermore, the oil refiners can increase their profit margins if they have integrated palm extraction plants. This all means that most of the production within the chain is traded directly between growers, extractors, and refiners or processors. Cultivation, extraction, industrial processing and sale onto the national market accounts for 63.8% of the flow of Colombian palm oil.

The remaining 36.2% is exported primarily to Europe from the ports of Barranquilla, Santa Marta, and Cartagena.

Most Colombian exports are of crude palm oil as, of all the products extracted from the palm fruit, this is the most competitive. 71.1% of the palm products exported in 2005 were basically crude oil (200,351 tonnes). Palm kernel oil, also crude, accounted for 9.4% of exports (26,615 tonnes) ⁸

Therefore, 80% of palm products exported by Colombia are unrefined raw materials. This is due to the fact that it is more expensive to refine the oil in Colombia than, for example, in Rotterdam. According to data from the year 2000, the cost of refining a tonne of crude oil in the Netherlands was US\$ 36.9, while in Colombia it was US\$ 60.3⁹.

Although there are also exports of processed products or palm or palm kernel oil derivatives, Europe is not a significant market for them.

⁸ Fedepalma

⁹ Agrocadenas

The expansion plans for the plantations are focused on maintaining the traditional market for this product, meeting the expectations created by the new market in biodiesel and increasing exports. An expansion in the form envisaged would create greater economies of scale which, while making the production and marketing chain more competitive, would have a negative impact on palm oil prices.



Curbaradó river basin. Chocó. Colombia. ©Julián Arango

1.2 The flow of palm oil: Colombia-Belgium / Europe

The flow of oil for export begins once the fruit has been pressed and the crude oil extracted. In 2005, the C.I.s (Comercializadoras Internacionales – Export Trading Companies) exported 72.9% of the crude palm oil. Extraction plants often belong to a CI which directly exports the products of extraction.

Colombian exports of palm and palm kernel oil are primarily carried out by Colombian export companies.

Europe is currently the biggest market for Colombian crude oil.

Colombian exports of palm oil to Europe 2005 (%)		
Country	Palm oil	Palm kernel oil
United Kingdom	40,1	16,5
Spain	17,6	28,9
Germany	9,0	14,9
Netherlands	3,6	-
Belgium	0,5	-
Total Europe	70,8	60,3

Source FEDEPALMA

The United Kingdom is biggest purchaser of Colombian crude palm oil. In 2005 it imported 104,699 tonnes of Colombian palm and palm kernel oil, accounting for 41% of Colombian exports of crude palm oil. The next biggest importer is Spain with 55,772 tonnes (22%), followed by Germany with 25,353 tonnes (11%).

The EU-25 is the world's second biggest importer of palm and palm kernel oils, representing a significant market for this product.

EU-25. Imports from third countries (not intracommunity) (tonnes)	2005	% imports EU-25
Palm oil	4.470.000	100
Palm kernel oil	619.000	100
Palm kernel cake	5.000	100
Colombian palm oil	186.000	4,2

Source Oil World Statistics

The main importers are the Netherlands and Germany, which in turn are large exporters (between them they exported 823,677 tonnes of oil, of which the Netherlands accounted for 624,865 tonnes).

Palm oil arrives at the ‘Western Ports’¹⁰ where it is refined and re-exported to over 50 countries. This activity primarily takes place at the port of Rotterdam in the Netherlands.

Exports of palm oil from Europe and Belgium in relation to Colombia and world trade:

Prod.	Palm oil production 2004		Palm oil exports 2004		Palm oil exports 2004	
	Country	Tonnes	Country	Tonnes	Country	\$1000
1	Malaysia	69.881.000	Malaysia	11.793.588	Malaysia	5.451.084
2	Indonesia	60.425.500	Indonesia	8.661.647	Indonesia	3.441.776
3	Nigeria	8.700.000	Netherlands	624.865	Netherlands	393.806
4	Thailand	5.182.000	Papua N. Guinea	339.000	Singapore	137.030
5	Colombia	3.150.000	Singapore	215.130	Papua N. Guinea	136.200
6	Ecuador	1.843.819	Colombia	213.889	Germany	131.450
7	Ivory Coast	1.400.000	Germany	198.812	Colombia	98.611
8	Papua n. Guinea	1.250.000	Thailand	124.295	Costa Rica	91.483
9	Cameroon	1.200.000	Costa Rica	179.550	Thailand	77.211
10	Democratic Rep Congo	1.150.000	Honduras	70.000	Honduras	53.007
			Belgium	35.808	Belgium	26.027

Source FAO <http://faostat.fao.org>, latest information available in October 2006

1.2.1 The Belgian market for palm oil

Belgium is a significant market for products derived from the oil palm. Most of its imports come from the Netherlands, Indonesia, Malaysia, United Kingdom and Germany. If the three EU countries which re-export the oil are disregarded, the figures are reduced considerably:

¹⁰ European ports from Le Havre in France to Hamburg in Germany.

Belgium Imports from third countries (not intracommunity) (tonnes)	Oct 2005/ Sept 2006	as % of EU-25 imports	2005	as % of EU-25 imports	2004	as % of EU-25 imports
Palm oil	96.000	2	89.000	2	77.000	1,9
Palm kernel oil	23.000	3,8	22.000	3,5	51.000	7,8
Total	119.000	5,8	111.000	5,5	128.000	9,7

Source Oil World Statistics

Belgium imports very little Colombian palm oil directly, although it is possible that a small amount arrives indirectly through the Dutch, British or German re-exports of already-refined oil.

The Colombian companies which export to Belgium are ‘C.I. Tequendama’ and the ‘Famar S.A.’ industrial group.

1.2.2 Industrial processing

In Belgium, as in other European countries, the palm oil chain begins with the refining and processing of the crude oil. The processing and oleochemical industries’ treatment of the oil allows it to be used to make a variety of different products or to be consumed directly.

The industrial processing of oils and fats creates two types of products from the products of the oil palm. On the one hand, raw materials and intermediate industrial products, and on the other, materials for other industries and basic consumer goods.

Products obtained at the industrial processing stage

Industrial processing produces

Raw materials and intermediate industrial products

- RBD (Refined, Bleached and Deodorised) palm oil
- RBD palm olein
- RBD palm stearin
- Fatty acids
- RBD palm kernel oil
- RBD palm kernel olein
- RBD palm kernel stearin

Materials for other industries and basic consumer goods

- Concentrates for animal feed
- Vanaspati
- Soaps
- Fats for ice cream, confectionery and bakery products
- Fats for frying
- Vegetable lard
- Margarines
- Edible liquid oils

The oleochemical industry for its part produces industrial raw materials for other processes and industrial products.

Products obtained at the oleochemical processing stage

Processing by the oleochemical industry produces:

Raw materials

- Fatty alcohols
- Glycerol
- Emulsifiers
- Methyl esters

Industrial end products

- Fuel (biodiesel)
- Lubricants
- Paints
- Surfactants

Before the final link in the chain, the end consumer, is reached, many processing companies use the oil palm products as ingredients in their own products for mass consumption.

The range of companies and products is enormous. It includes companies and multinationals involved in food, cosmetics and detergent manufacture, such as Unilever, Cargill, HJ Heinz, Nestlé, Colgate Palmolive, Henkel, Procter & Gamble, L'Oreal, Avon, Max Factor,

etc. It also includes innumerable companies (large, medium and small) involved in:

- The chocolate, confectionery, and ready-made meals industries, etc.
- The catering business
- The oleochemical field, with companies such as Cognis and the Desmet Ballestra group.
- Companies involved with seeds, fertilisers and other agricultural inputs
- Engineering companies and those involved in the construction of refineries and extraction plants, such as the Belgian industrial group De Smet Engineers and Contractors.
- The biodiesel industry
- Banks and financial services. Colombia has not as yet developed, or is only just establishing, oil futures markets and stock exchange mechanisms which are features of the Asian palm oil market. The major banks and financial groups are beginning to express an interest in investing in the Colombian palm market.
- Logistical and transport companies.
- The large wholesale distribution chains for mass consumer goods.
- The retail trade.

1.2.3 The end consumer

There are hundreds of products which contain or have been processed with one of the products derived from the fruit of the oil palm.

Consumer end products

A selection from the long list of products which contain or are derived from products extracted from the oil palm fruit.

- Salad and cooking oils.
- Margarine and vegetable lard.
- Confectionery and bakery products.
- Chocolates, sweets and cocoa creams. Cocoa butter equivalents and substitutes.
- Ready-made food products such as soups, sauces, frozen and dehydrated meals, non-dairy coffee whiteners, dairy products, snacks.

- Ready-made baby food
- Food products which contain additives derived from palm oil
- Pet food
- Industrial products which contain additives derived from palm oil: lubricants, clothes and textiles, shoe cream, candles
- Soap, toothpaste, shampoos and hair conditioners
- Detergents and cleaning products
- Make-up products, creams, and skin products
- Paints, varnishes and dyes
- Consumer products from the engineering and oleochemical industries
- Emulsifiers, humidifiers and explosives
- Biodiesel fuel
- Consumer products from the pharmaceutical industry, creams and medicaments which contain fatty acids and vitamin A

Related products

Financial products, such as investment in the oil futures market

The wide variety of end products in which palm oil plays a role makes it very difficult not to find at least some of them in the daily consumption of any European, the last link in the chain.

2. Mapping of violations of human rights and other fundamental rights in the palm production regions of Colombia

2.1 Methodology

To provide an overview of the impacts of Colombian palm plantations, a map has been produced, identifying the areas planted to this crop, and indicating the different violations associated with it. The map is, by necessity, a summary, and was produced from a longer list of violations. Even taking this into account, this compilation is likely show fewer violations than is really the case. All the violations which appear are documented: any absences do not necessarily mean that no violations have been committed in a given region, but merely that there was no record of them when this study was being conducted.

A review of violations plantation by plantation would be a far greater undertaking than that proposed and would not provide any new insights which would contribute to the global analysis of the flow of palm oil to Belgium. Nevertheless it is important that there is support from Europe for local and regional initiatives aimed at ensuring that all offences are reported.

The map has grouped the plantations in geographical regions to facilitate analysis of the ‘Colombian palm model’. Although the plantations are the first link in the palm oil chain, the broader concept of ‘palm complex’ will be used for the purposes of cartography and for the analysis of violations.

The palm complex consists of the various plantations connected to the oil extraction plants and, in general, the areas of influence nearby.

This decision is justified by the characteristics both of the palm oil agroindustrial chain and of the violations committed:

The high level of vertical integration of the palm oil chain means that the plantation and extraction plant are interdependent and must be close to each other, both in physical and in production, economic and operational terms.

Furthermore, although the large majority of violations are committed in the areas of production, they are not necessarily confined to the plantations. This has been the case with the murders of many

of the palm workers' trades unionists, which have been committed in the towns where they lived or in regions further away. This is also the case with the violations committed before the palm has been planted, as on the many occasions where threats, murders or massacres have been used to cause the displacement of the region's population, with the aim of seizing the land which would then be planted.

Recording violations on the basis of palm complexes has obvious advantages, but a priori has the disadvantage that a single violation committed in one plantation is presented on the list as relating to the whole complex, which could distort the overall result ('inflating' the list). However, after researching all palm complexes, we have concluded that the violations are not isolated cases at one company or plantation, but are a general feature throughout most of the chain, and are an integral part of a production model or system.

This model has four basic elements:

1. Armed incursion with its associated crimes and human rights violations.
2. Illegal and violent expropriation of land as a result of the above-mentioned acts.
3. Forced displacement of owners and/or population occupying the expropriated lands.
4. The planting of palm on the 'conquered' land (or extensive cattle-rearing etc).

There is a dynamic interlinking these elements which means that the crimes committed during the armed incursion to appropriate the land and drive out the population by force are linked to the subsequent elements and are associated with the production system which is ultimately implemented (see the flowchart on Page 33).

Thus, the many crimes committed to forcibly displace *campesinos* and seize their land (murder, torture, massacres) have been put on the general list if subsequently some of the lands obtained in this way have been planted with palm and there have been continued links with paramilitary groups - territorial control, security arrangements and charging for 'services'. The companies or businessmen who gain financially from oil palm, profiting from the conditions ruthlessly imposed by paramilitary groups (and by the action or omission of the security forces) have direct responsibility for the crimes and violations recorded on the list.

The list and summary map have been drawn up using, as a starting point, geographical data at municipal level on all palm plantations and extraction plants currently operating in Colombia. All Colombian municipalities where there are palm plantations and extraction plants have been taken into account. Next, we have analysed the data on displaced populations which have originated exclusively in these municipalities with palm enterprises. Then, we have located the cases of violence (massacres, murders, etc) and have documented the paramilitary activity in these municipalities, also analysing the geographical areas of expansion and paramilitary control. We have taken into account, in all the municipalities selected, those where the drugs trade has been recorded as investing in land purchases.

The last stage has been to compare the data obtained with the numerous regional situation analyses on the armed conflict, the dynamics of the drugs trade, cases of corruption and other data on associated subjects concerning the areas where the plantations are located. From all of this, a relationship is identified which has been reflected both in the map and the general list which will allow the conditions in which the oil has been produced to be easily visualised, according to its area of origin.

2.2 Human rights violations and other crimes and offences committed in the palm complexes

MAGDALENA-CESAR PALM COMPLEX

Magdalena-Cesar and the coastal expansion area (La Guajira, Atlántico-Bolívar-Sucre-Córdoba)

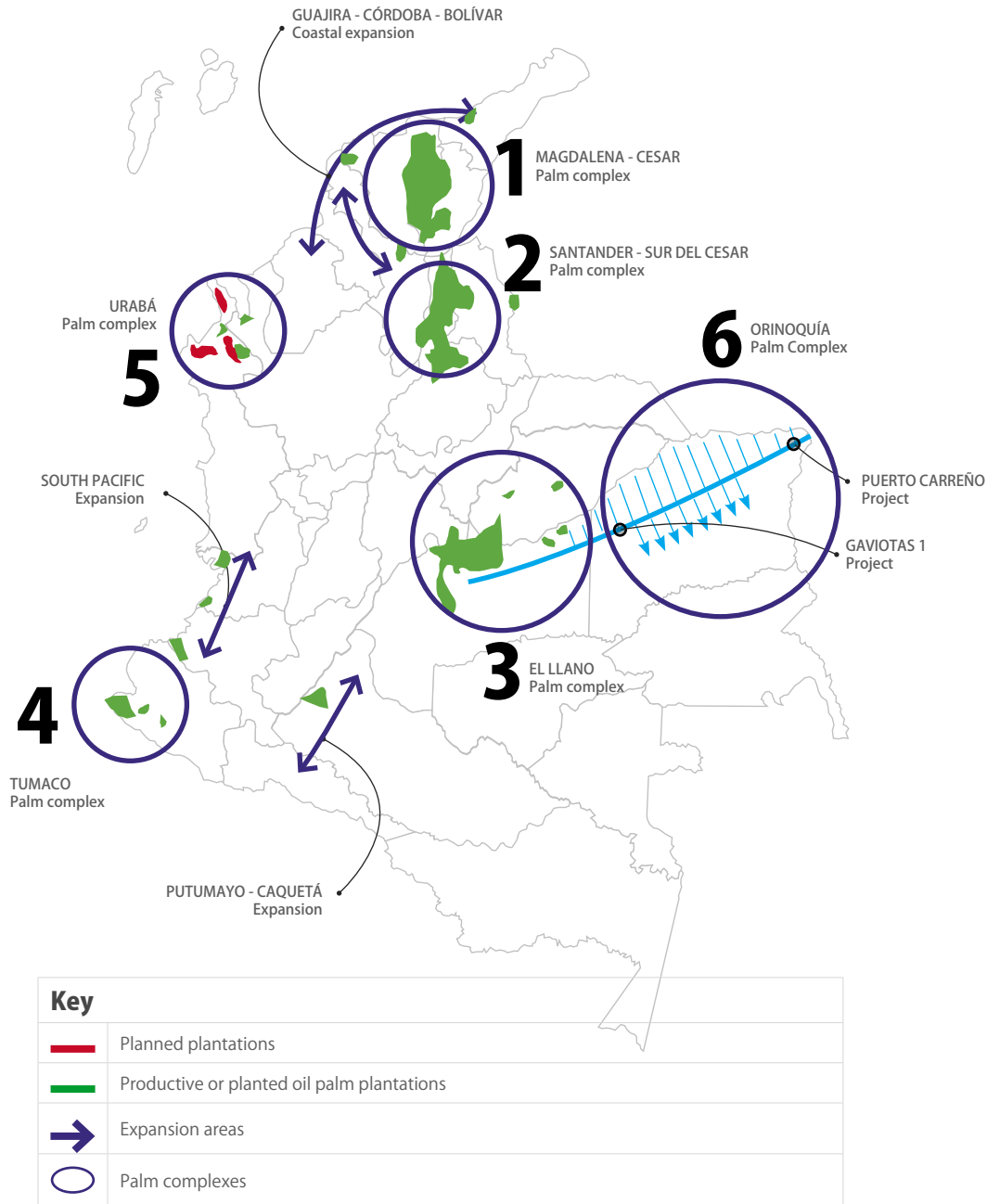
- Illegal appropriation of land and associated crimes: wrongful or fraudulent appropriation of land, stealing of land, purchase of land using armed coercion, misleading documents.
- Murder of trades unionists and palm workers, persecution of trades unions.
- Murder of social leaders and *campesinos*, destruction of the social and organisational fabric.
- Murders and massacres.
- Involvement in corruption networks.
- Forced disappearances.
- Forced displacement, both collective and individual.
- Extortion.
- Violations of international humanitarian law, plundering by armed groups, armed attacks in the plantations
- Laundering of assets of drugs trafficking
- Paramilitarism by action or collaboration (financial, logistical or operational)
- Torture, harassment and threats with the aim of creating a climate of terror.

SANTANDER-SUR DEL CESAR PALM COMPLEX

Magdalena Medio and Bolívar and Norte de Santander expansion areas

- Illegal appropriation of land and associated crimes: wrongful or fraudulent appropriation of land, stealing of land, purchase of land using armed coercion, misleading documents.
- Murder of trades unionists and palm workers, persecution of trades unions.
- Murder of social leaders and *campesinos*, destruction of the social and organisational fabric.
- Murders and massacres.
- Forced disappearances.
- Forced displacement, both collective and individual.
- Extortion.

MAP VIOLATIONS ASSOCIATED WITH THE PALM COMPLEXES OF COLOMBIA



1 MAGDALENA-CESAR PALM COMPLEX Magdalena-Cesar and the coastal expansion area (La Guajira, Atlántico-Bolívar-Sucre-Córdoba)

Illegal appropriation of land and associated crimes
Murders and massacres
Murder of trades unionists and persecution of trades unions
Forced disappearances
Forced displacement, both collective and individual
Extortion and corruption
Laundering of the assets of drugs trafficking
Paramilitarism
State support and investment, legislative changes
USAID International funding
AUC demobilisation

2 SANTANDER-SUR DEL CESAR PALM COMPLEX Magdalena Medio and Bolívar and Norte de Santander expansion areas

Illegal appropriation of land and associated crimes
Murders and massacres
Murder of trades unionists and persecution of trades unions
Forced disappearances
Forced displacement, both collective and individual
Extortion
Violations of international humanitarian law
Laundering of the assets of drugs trafficking
Paramilitarism
Kidnappings
State support and investment, legislative changes
USAID International funding
AUC demobilisation

3 EL LLANO PALM COMPLEX Meta-Casanare and the expansion areas of Vichada and the south (Caquetá-Putumayo)

Illegal appropriation of land and associated crimes
Murder of trades unionists and persecution of trades unions
Murders and massacres
Forced disappearances
Forced displacement, both collective and individual
Extortion
Laundering of the assets of drugs trafficking
Paramilitarism
Employment practices definible as forced labour
State support and investment, legislative changes
USAID International funding
AUC demobilisation

4 TUMACO PALM COMPLEX Nariño and the southern Pacific coast expansion (Cauca and Valle del Cauca)

Illegal appropriation of land and associated crimes
Murders and massacres
Forced disappearances
Forced displacement, both collective and individual
Extortion
Invasion of the collective lands of the Black Communities
Laundering of the assets of drugs trafficking
Paramilitarism
Violation of ILO Convention 169
Violation of land rights and Law 70
Soil degradation
Pollution and environmental offences
Illegal logging
State support and investment, legislative changes
USAID International funding
AUC demobilisation

5 URABÁ PALM COMPLEX Antioquia, Chocó

Illegal appropriation of land and associated crimes
Murders and massacres
Corruption
Forced disappearances
Forced displacement, both collective and individual
Extortion
Violations of international humanitarian law
Invasion of the collective lands of the Black Communities
Laundering of the assets of drugs trafficking
Paramilitarism
Employment practices definible as forced labour
Violation of ILO Convention 169
Violation of land rights and Law 70
Soil degradation
Pollution and environmental offences
Illegal logging
State support and investment, legislative changes
USAID International funding
AUC demobilisation

6 ORINOQUIA PALM COMPLEX Gaviotas II and Puerto Carreño Projects

Illegal appropriation of land and associated crimes
Land concentration and land speculation
Laundering of the assets of drugs trafficking
Depending on how the current and planned plantations develop various indigenous areas will be affected
State support and investment, legislative changes

- Violations of international humanitarian law, plundering by armed groups, armed combat in the plantations
- Laundering of the assets of drugs trafficking
- Paramilitarism by action or collaboration (financial, logistical or operational)
- Kidnappings.
- Torture, harassment and threats with the aim of creating a climate of terror.

EL LLANO PALM COMPLEX

Meta-Casanare and the expansion areas of Vichada and the south (Caquetá-Putumayo)

- Illegal appropriation of land and associated crimes: wrongful or fraudulent appropriation of land, stealing of land, purchase of land using armed coercion, misleading documents.
- Murder of trades unionists and palm workers, persecution of trades unions.
- Murders and massacres.
- Forced disappearances.
- Forced displacement, both collective and individual.
- Extortion.
- Laundering of the assets of drugs trafficking
- Paramilitarism by action or collaboration (financial, logistical or operational)
- Employment practices definible as forced labour
- Mass kidnapping of workers
- Torture, harassment and threats with the aim of creating a climate of terror.

TUMACO PALM COMPLEX

Nariño and the southern Pacific coast expansion (Cauca and Valle del Cauca)

- Illegal appropriation of land and associated crimes: wrongful or fraudulent appropriation of land, stealing of land, purchase of land using armed coercion, misleading documents.
- Soil degradation.
- Murder of community leaders, destruction of the organisational fabric of black communities.
- Murders and massacres.

- Contamination of rivers and loss of topsoil, felling of trees and deforestation, diversion of rivers and streams, drainage of land, planting of palm trees without environmental permits.
- Illegal logging.
- Forced disappearances.
- Forced displacement, both collective and individual.
- Extortion.
- Failure to recognise and honour the social and ecological function of collective land ownership by indigenous peoples and the Black Communities.
- Violations of international humanitarian law, plundering by armed groups.
- Invasion of the collective lands of the Black Communities and degradation of indigenous territory.
- Laundering of the assets of drugs trafficking
- Paramilitarism by action or collaboration (financial, logistical or operational)
- Murder by hired killers.
- Armed pressure to plant palms.
- Torture, harassment and threats with the aim of creating a climate of terror.
- Violation of ILO Convention 169
- Violation of land rights and Law 70.

URABÁ PALM COMPLEX

Antioquia-Chocó

- Illegal appropriation of land and associated crimes: wrongful or fraudulent appropriation of land, stealing of land, purchase of land using armed coercion, misleading documents.
- Soil degradation.
- Murder of leaders of Black Communities, destruction of the organisational and social fabric.
- Murders and massacres.
- Corruption.
- Illegal logging.
- Forced disappearances.
- Felling of trees and deforestation, diversion of rivers and streams, drainage of land, planting of palm trees without environmental permits.
- Forced displacement, both collective and individual.
- Arbitrary detentions.
- Extortion.

- Failure to recognise and honour the social and ecological function of collective land ownership by indigenous peoples and the Black Communities.
- Violations of international humanitarian law, plundering by armed groups, armed attacks and combat in the plantations.
- Invasion of the collective lands of the Black Communities.
- Irregularities in the awarding of state incentives and subsidies.
- Laundering of the assets of drugs trafficking
- Paramilitarism by action or collaboration (financial, logistical or operational)
- Employment practices definible as forced labour
- Armed pressure to plant palms.
- Torture, harassment and threats with the aim of creating a climate of terror.
- Violation of ILO Convention 169
- Violation of land rights and Law 70.

If the planned plantations are developed, they will affect indigenous lands, with the following consequences:

- Degradation of indigenous lands.
- Failure to fulfil the social and ecological function of collective land ownership by indigenous peoples.
- Ethnocide or forced disappearance of indigenous peoples, considered by the Colombian Constitutional Court to be a form of cultural extermination.
- Violation of ILO Convention 169.
- Violation of territorial rights and a range of laws, presidential decrees and provisions of the Colombian Constitution relating to the rights of indigenous peoples.

ORINOQUIA PALM COMPLEX

Gaviotas II and Puerto Carreño Projects

- Illegal appropriation of land and associated crimes: wrongful or fraudulent appropriation of land, stealing of land, purchase of land using armed coercion, misleading documents, land concentration and the use of privileged information for speculation.
- Laundering of the assets of drugs trafficking

Depending on how the current and planned plantations develop, various indigenous areas will be affected, with the following consequences:

- Degradation of indigenous lands.
- Failure to fulfil the social and ecological function of collective land ownership by indigenous peoples.
- Ethnocide or forced disappearance of indigenous peoples, considered by the Colombian Constitutional Court to be a form of cultural extermination.
- Violation of ILO Convention 169.
- Violation of territorial rights and a range of laws, presidential decrees and provisions of the Colombian Constitution relating to the rights of indigenous peoples.



3. The flow of palm oil Colombia–Belgium/ Europe from a human rights perspective

3.1 Characterisation of the Colombian palm model

A look at the map is enough to give a sense of the extent of the different violations committed in the palm-growing regions, both their sheer quantity and their recurrence in distinct production areas in the country. It is a general phenomenon.

The perpetrators are also a general phenomenon, as the majority are committed by paramilitary groups, or occur within the framework of paramilitarism.

Since the beginning of the decade, all the areas of expansion of palm plantations have coincided geographically with paramilitary areas of expansion and presence, to the extent that some of the new plantations being developed have been financed as farming projects for the same demobilised soldiers from the AUC (Autodefensas Unidas de Colombia – United Self-Defence Force of Colombia) who had previously made incursions into these very areas.

Thus, there is a range of agroindustrial farming projects such as oil palm which are of central importance to the strategy of paramilitary territorial control.

This strategy of territorial control through the expansion of palm is reinforced by government policies supporting and providing incentives for the planting of oil palms, also clearly in a quest for economic, political and military control of large areas of Colombia currently outside state control.

These state policies are reinforced by the investment strategies of international bodies. An analysis of the investment plans of the Inter-American Development Bank (IDB) illustrates this: “For the IDB, medium- and long-term crops have greater export potential, a greater capacity for surviving in an open economy, yield greater benefits in terms of the pacification process and generate sustained growth of the agricultural sector, thereby overcoming the problems of long-term financing of farming. (...) And in accordance with the Country Document (IDB), the programme focuses its activities on

the zones and important projects from the perspective of pacification efforts. In general, the IDB regards investment in medium- and long-term crops as strategies for governability or territorial control in the face of problems such as guerrilla conflict, political violence, common criminality and drug crops. Extensive farming provides a genuine alternative for the occupation of territory and for the creation of employment in conflict areas.”¹¹

Ultimately, all these policies share the idea that palm cultivation is a type of economic development useful in the pacification of the country. This confluence of illegal and criminal acts, government policies and international investment forms the Colombian palm model.

This model can be described as having 5 phases:

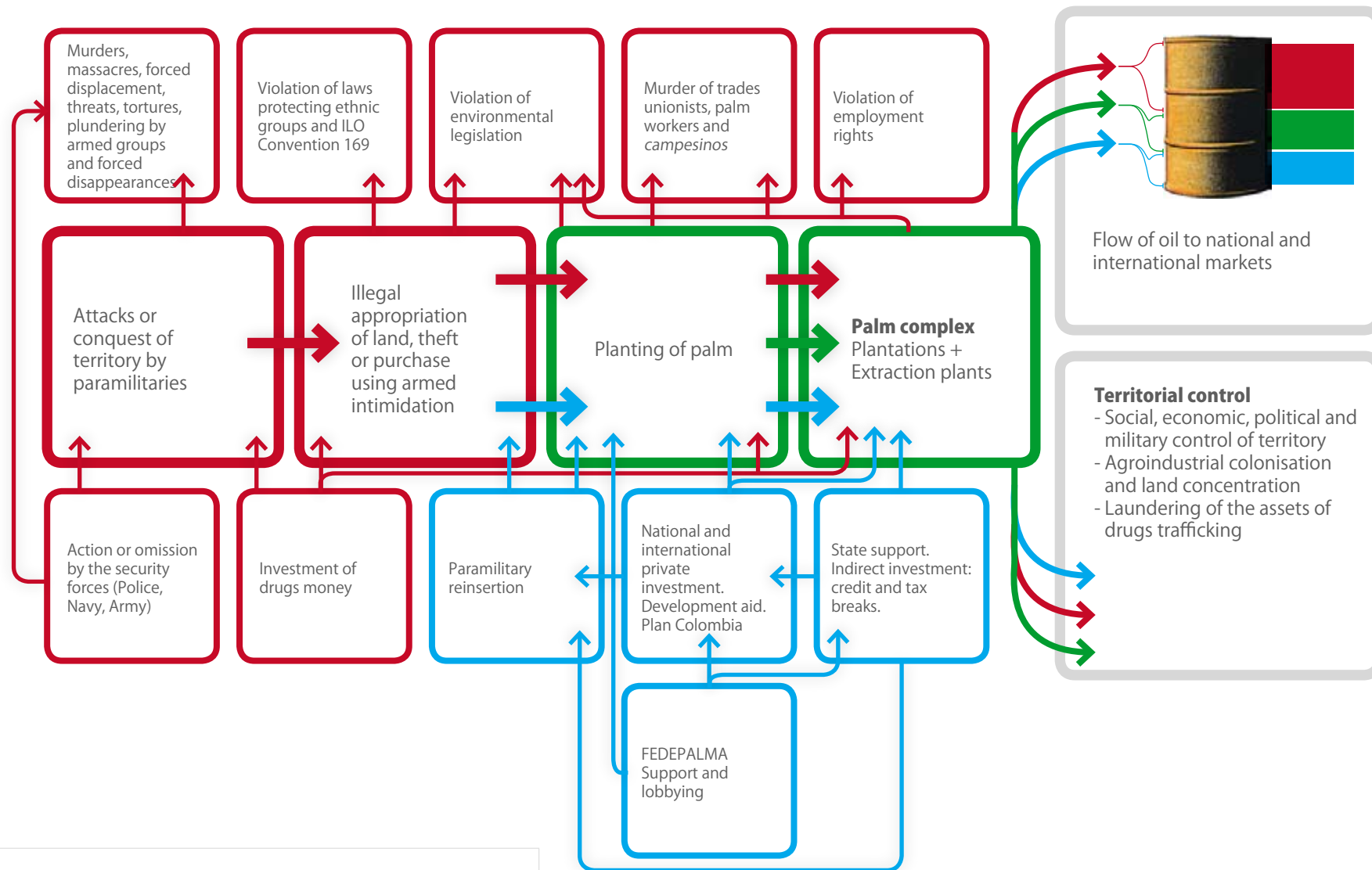
1. Attacks or conquest of territory by paramilitaries.
2. Illegal appropriation of the land. Theft or purchase with armed intimidation.
3. Sowing of palm.
4. Palm Complex = Plantations + Extraction Plants.
- 5a. Flow of oil towards national and/or international markets.
- 5b. Territorial control.

This description is a summary of the different processes being developed in the palm-growing regions of the country, but in its entirety (phases 1 through to 5) it is particularly applicable to the new plantations developed since the beginning of the decade.

In previous processes such as in Santander or Tumaco, the model began with the palm complexes already established (4), the palm companies being the ones who formed or invited and financed paramilitary groups as private security corps, in response to the guerrillas. In contrast in Casanare, the palm plantations expanded at the same rate as paramilitary activity, both expansions overlapping each other. The case which perfectly fits the model is that of plantations in the Chocó where it was the paramilitaries themselves who invited the palm companies to establish themselves in areas under their control.

¹¹ *La geopolítica de la banca de desarrollo en Colombia. Los recursos naturales y la Amazonia en el nuevo orden hemisférico.* ('The geopolitics of the development banking system in Colombia. Natural resources and Amazonia in the hemisphere's new order') Javier Marín Rodríguez. Censat Agua Viva-FoE. Colombia 2002. Available Nov. 2006 at: www.censat.org/Documentos/IFIS/La_geopol%EDtica_de_la_banca_de_desarrollo_en_Colombia.pdf

FLOW CHART COLOMBIAN PALM MODEL



Key	
—	Human rights violations and other illegal acts
—	Flow of palm oil
—	Support and funding by the state and private sectors

In all cases, a large proportion of violations are committed before the palm is planted. The palm model begins with the processes of appropriating lands which will then be cultivated.

3.1.1 From the paramilitary attack to the plantation (Phases 1, 2 & 3)

3.1.1.1 Land appropriation

There is increasing concern at the sheer extent of the violent, illegal or wrongful appropriation of land by the paramilitary movement. These lands can be added to the large tracts seized violently by drugs traffickers¹². However, as Héctor Mondragón points out, “Colombia has a system rooted in history whereby large landowners have periodically displaced indigenous people and *campesinos* in order to expand their estates. Some believe that this started with the illegal drugs trade, but it is not so. Between 1946 and 1958, with the war between Conservatives and Liberals as a pretext, 2 million *campesinos* were displaced from their land, 200,000 were murdered, while sugar cane plantations expanded, cotton production increased fivefold and the coffee economy boomed.”¹³

The possession of land and its subsequent ‘legalisation’ by developing it agriculturally is often as important as the profits which are then made through various agricultural projects, and so this relationship between violence, the appropriation of land and agro-industry is not an unusual one. “The link between land ownership and the armed conflict appears to be beyond doubt. Access to land has been a fundamental component of the various social conflicts which have swept Colombia from the end of the 19th century to the present day. Estate owners, small landowners and *colonos* (settlers) have been in conflict for decades and, in the last fifty years, illegal armed groups and drugs traffickers have joined in. Thousands of Colombians have now been displaced by the violence and it can be

¹² “Already by 1998 it was estimated that 66.6% of the departments of Magdalena and La Guajira had been bought by drug interests” in: ‘*Tierras incautadas para la reforma agraria: restricciones y posibilidades*’: (Lands taken for land reform: restrictions and possibilities) Wilson Herrera. Bogotá 2005. In this context, it is very useful to analyse, in the same document, the map ‘*Compra de tierras por narcotraficantes*’ (Purchase of land by drugs traffickers), the source of which is ‘*Geografía de la guerra*’ (The geography of war) Alejandro Reyes Posada. Universidad Nacional, 1998. Available in Nov. 2006 at: www.contraloriagen.gov.co/html/RevistaEC/pdfs/309_2_2_Tierras_incautadas_para_la_reforma_agraria.pdf

¹³ ‘*¿Por qué la guerra, y por qué la resistencia no violenta en Colombia?*’ (Why war, and why non-violent resistance in Colombia?) Héctor Mondragón. Porto Alegre, 2003. Available in Nov. 2006 at: www.zmag.org/mondragonlucerna.htm

assumed that a large percentage of these households have fallen victim to old disputes over land ownership.”¹⁴

There are many examples which could illustrate this situation, so frequent in Colombia’s rural areas. One of them is the ‘Hacienda Bellacruz’¹⁵ (Bellacruz Estate), in which Colombia’s ex-ambassador to Belgium, Luxembourg and the EU played a very prominent role.

The 12,000 ha of this estate occupied 70% of the cultivable land of La Gloria, Pelaya and Tamalameque districts. At the end of the 1940s, during the time of ‘La Violencia’ (The Violence) the Marulanda Ramirez family used violence to take possession of it. In 1986, around 450 families occupied 2,000 ha within the estate. The ‘owners’ of the estate reported this occupation to the authorities and after 110 evictions and various court cases, the government agency responsible for verifying ownership of the land (Incora, now Incoder) found that the lands did not belong to the Marulanda family, as the title deeds were not legal. In the end, the land was awarded to the families.

Despite the legal decision, the land was never distributed among the families, as Carlos A Marulanda, after exhausting all legal avenues without achieving his objective, ‘commissioned’ the AUC to clear the estate of the families, an action for which the ex-Minister of Development and ex-Ambassador to Brussels was charged. Years later, he was arrested over this case in Madrid and extradited to Colombia in 2002, where in the end he was found not guilty and released.

After a number of cases of mass forced displacement, 40 murders and many threats and incidents of persecution, none of the ‘campesinos’ to whom Incora gave title to the lands now remains in the area.

Currently, palm plantations are planned for the area in La Gloria district.

¹⁴ ‘Acceso a tierras y desplazamiento forzado en Colombia’ (‘Access to land and forced displacement in Colombia’). Ana María Ibáñez and Pablo Querubín. University of the Andes – CEDE. Bogotá 2004. Available in Nov. 2006 at: <http://economia.uniandes.edu.co/~economia/archivos/temporal/d2004-23.pdf>

¹⁵ Among other references: ‘COLOMBIA. Hacienda Bellacruz: Land, violence and paramilitary power’. Amnesty International. Available in Nov. 2006 at: <http://web.amnesty.org/library/Index/ESLAMR230061997?open&of=ESL-369>

The name ‘Carlos Arturo Marulanda’ appears in some recordings held by Colombia’s Public Prosecutor’s Office “in which ‘Jorge 40’s second-in-command identifies the person who allegedly coordinates the arrival of the consignments [of cocaine] in Europe, through ports in Belgium (Antwerp), the Netherlands and France: ‘Carlos Arturo Marulanda’. Whether it is a real name or an alias is under investigation. ‘Carlos Arturo Marulanda’ is the person who suggests to ‘Antonio’ the route for the shipment of the drug, leaving Santa Marta port for Europe, since he has all the connections with the Antinarcotics Police in this city”, states the Public Prosecutor’s Office”.¹⁶

Information compiled by the Procuraduría General de la Nación (Attorney General’s Office) gives an idea of the amount of the land seized illegally in Colombia to date, according to estimates provided by different sources:

Source	Estimated no. of hectares of land seized illegally	
Contraloría General de la República– CGR (Treasury Inspector’s Office)	2.6 million ha.	Equivalent to 5.8% of the land most suitable for agriculture.
University of the Andes – CEDE (Centro de Estudios sobre Desarrollo Económico–Centre of Studies on Economic Development)	3 million ha.	
Incora (Instituto Colombiano de Reforma Agraria – Colombian Land Reform Institute)-now INCODER (Instituto Colombiano de Desarrollo Rural - Colombian Rural Development Institute) and World Food Programme – WFP.	4 million ha.	48% of the most suitable land.
Sintradin – the union representing INCORA employees	4.4 million ha.	
CODHES (Consultoría para los Derechos Humanos y el Desplazamiento – Consultancy on human rights and displacement)	5 million ha.	Total between 1997 and 2003
Research commissioned by Acción Social (Social Action)’s Project for the Protection of the Assets of the Displaced Rural Population and for the Strengthening of the Social Fabric of Communities	6.8 millones ha.	Based on the calculation: 312 families x 21.8 ha. [sic- should be 312.000 families x 21,8 ha]

Source Proyecto “Control Preventivo y Seguimiento a las Políticas Públicas en materia de Reinserción y Desmovilización” (“Preventive Control and Monitoring of Public Policy on Reinsertion and Demobilisation” Project) Volume I. Procuraduría General de la Nación. Available in Nov. 2006 at: http://www.procuraduria.gov.co/descargas/publicaciones/tomo1_reinsertados.pdf

¹⁶ ‘Contactos en Policía Antinarcóticos de Colombia y Guardia Nacional de Venezuela para envíos de coca’. (‘Contacts in Colombia’s Antinarcotic Police and Venezuela’s National Guard for consignments of cocaine’) ‘El Tiempo’ newspaper, 7 October 2006. Available in Nov. 2006 at: http://www.eltiempo.com/conflicto/noticias/ARTICULO-WEB-NOTA_INTERIOR-3276635.html

The Procuraduría itself states that, “the appropriation, illegal seizure and theft of land by paramilitary groups (33%), guerrillas (17%), drugs traffickers, emerald traders, large landowners, some palm-producers and other actors has been described by analysts and the media as the ‘agrarian counter-reform’ and ‘paramilitary agrarian reform’”¹⁷.

Of the estimated 2.6 to 6.8 million ha, many are now planted with palm. This ‘agrarian counter-reform’ denounced by different analysts and the media has been denounced for a long time by the victims themselves, as in the case of the communities of Curbaradó and Jiguamiandó affected by palm plantations¹⁸.

3.1.1.2 Forced Displacement

The incursions, attacks or subsequent takeover of territory has taken a grim toll in Colombia’s rural areas. The murders or massacres, the forced disappearances, the threats, the kidnappings, the torture and other types of persecution are causing the forced displacement – collective and/or individual – of the inhabitants of the land which is to be seized.

The statistics on forced displacement in Colombia are alarming. According to different records¹⁹ it is estimated that between 1,874,917 and 3,832,525 people have been displaced by violence in Colombia. Of this high number, two out of three displaced people owned land at the time of displacement.

¹⁷ Proyecto “Control Preventivo y Seguimiento a las Políticas Públicas en materia de Reinserción y Desmovilización” (“Preventive Control and Monitoring of Public Policy on Reinsertion and Demobilisation” Project) Volume I. *Procuraduría General de la Nación*. Available in Nov. 2006 at: http://www.procuraduria.gov.co/descargas/publicaciones/tomo1_reinsertados.pdf

¹⁸ See the complete study *La Tramoya. Derechos humanos y palma aceitera en Curbaradó y Jiguamiandó* (“The Plot. Human rights and oil palm in Curbaradó and Jiguamiandó” Case Study n° 5. ‘Comisión Intereclesial de Justicia y Paz’ (Intereclesial Justice and Peace Commission) and ‘Banco de Datos Cinep’ (CINEP Data Bank). Bogotá 2005. Available in Nov. 2006 at: <http://nocheyniebla.revolt.org/palmayddhh/01introduccion.pdf>

¹⁹ Conflicting figures are produced because of the varying methodologies used and through underrecording. The first figure is from the government agency *Acción Social* and the second is from ‘CODHES’.

Source	% displaced people with land
<i>Agencia Presidencial para la Acción Social y la Cooperación Internacional</i> (Presidential Agency for Social Action and International Cooperation – ‘Acción Social’ – the former Red de Solidaridad Social (Social Solidarity Network))	74,5
CODHES	76
Episcopal Conference	79
<i>Contraloría General de la República - CGR</i>	76

Source CGR, 2003. Cited in: Proyecto “Control Preventivo y Seguimiento a las Políticas Públicas en materia de Reinserción y Desmovilización” Volume I. *Procuraduría General de la Nación*. Available in Oct 2006 at: http://www.procuraduria.gov.co/descargas/publicaciones/tomo1_reinsertados.pdf

There is clearly a high level of causality between forced displacement and land theft, and between land theft and palm production. In all palm complexes there has been forced displacement and in all of them there are cases of illegal appropriation of land.

According to CODHES, “the country witnesses repeated cases of displacement which impact particularly on indigenous, AfroColombian and peasant communities, and which do not arise exclusively from the dynamics of armed conflict, but from an established political economy based on the theft of land and resources”²⁰.

Thus, for example, in the department of Meta, “the causes of forced displacement are associated with the stigmatisation of the civil population, armed combat, indiscriminate laying of antipersonnel mines, fumigation of drugs crops, and the rise in plantings of African palm. The African palm megaproject in Meta has been presented as the alternative to the cultivation of drugs crops; however, the reality within the region is that this megaproject is being used as a mechanism for politico-military control of land, taking advantage of the population’s lack of economic opportunities. People find themselves forced either to work in palm production or be displaced, since they can not refuse to sell their land, as they are threatened or intimidated, which forces them to either sell it or abandon it, for it then to be occupied by illegal armed groups.”²¹

This armed coercion for the purchase of land at absurdly low prices gave rise to the sadly famous expression ‘either sell me your land or I’ll negotiate with your widow’.

²⁰ ‘Boletín 61’ (‘Bulletin 61’) Codhes, available Nov. 2006 at: <http://www.codhes.org/Web/Info/Boletines/BOLETIN%2061%20El%20Cercos%20se%20cierra.pdf>

²¹ ‘Boletín 64’ Codhes, available Nov. 2006 at: <http://www.codhes.org/Web/Info/Boletines/BOLETIN%2064%20hay%20derecho.pdf>

3.1.1.3 Paramilitary Demobilisation

The controversial paramilitary demobilisation process and the no less controversial 'Justice and Peace Law' have added another significant factor to this phase of the palm model.

In some of the 'reinsertion projects' (projects to reintegrate demobilised soldiers from illegal armed groups into society), the demobilised soldiers work in palm plantations as a means of integrating them into the economic system and removing them from the conflict. On occasions, not only is it proposed that the victims and the aggressors should work together 'in the interests of reconciliation' but in some cases the victims have to work as employees on farms which were once their property and which were seized from them through the use of violence by the very paramilitaries who are now being reintegrated into society.

Codhes states that "the dispute over cultivable land where coca and opium poppies are being planted on the one hand, and oil palm and rubber on the other, as projects funding ex-combatants of the AUC, guarantee their permanency and economic power in the region²². This situation, defined by the Comisión Intereclesial de Justicia y Paz (Intereclesial Justice and Peace Commission) in its analyses as 'reingeniería paramilitar' ('paramilitary re-engineering'), is occurring in every palm complex in the country.

The demobilisation process involves an injection of public money for the development of new palm plantations in regions with a strong paramilitary presence. Through agricultural projects such as 'Familias Guardabosques' ('Forestry Protection Families') or programmes primarily funded by USAID²³, linked to demobilisation or the substitution of drugs crops, oil palm plantations are expanding in the departments of Santander, Magdalena, Bolívar, La Guajira, Casanare, Cesar, Nariño, Atlántico, Norte de Santander, Córdoba, Antioquia and Chocó.

²² 'Boletín 64' Codhes. Available in Nov. 2006 at: <http://www.codhes.org/Web/Info/Boletines/BOLETIN%2064%20hay%20derecho.pdf>

²³ Information on the projects funded by USAID can be found in various documents: 'ARDD/CAPP Colombia Agribusiness Partnership Program' (e.g.: pdacf990, pdacf235 and pdacf148), as well as 'Geographic Focus of the USAID/Colombia Program for the period 2006 - 2008'. All available in Nov 2006 at: <http://dec.usaid.gov>

The significant progress in the implementation of agricultural projects for the 'demobilised'²⁴ soldiers of the AUC has not been accompanied by the restitution of land seized by this armed group through violence, as stipulated by law. The Colombian press produced revealing evidence of this in September this year: "the fact is that no sooner had the ex-paramilitaries talked of handing over 100,000 hectares, than 'Rodrigo' himself, leader of the Bloque Metro paramilitary grouping which split from the AUC, assured this newspaper in September 2003 that with the drugs traffickers joining the paramilitaries a great agrarian counter-reform had begun. He stated that, because of the difficulty in disguising drugs money within the financial system, they used armed pressure to force *campesinos* to sell their land at low, or even high, prices, because the important thing was that they left. And he then said, 'We wonder where the *campesinos* are who lived on the 250,000 hectares now owned by Ramiro Vanoy, commander of the Bloque Mineros group. Or those who lived on the land of Mancuso, who in 2000 had 1,500 hectares and now owns 60,000. Or those who lived on the land of 'Macaco', of the Bloque Central Bolívar group, with 30,000 hectares in lower Cauca alone'. He said that the African palm plantations in Urabá 'ran with blood, poverty and corruption'."²⁵

A large proportion of the land stolen or illegally appropriated remains in the hands of paramilitary commanders, who are thus becoming a new generation of landowners. Paradoxically, this has caused some discontent among demobilised paramilitaries, for example in Córdoba, among those who have not been given land, and who instead have become workers on their ex-commanders' palm plantations.

²⁴ The inverted commas reflect serious doubts about the number of demobilised combatants, as there are indications that they are inflated. Among other sources, the computer of 'Jorge 40' (see footnote 27) has information on the recruitment of people unconnected to the armed group who have registered themselves as paramilitary soldiers in order to take part in reinsertion projects. There is no doubt that the figure of 31,671 demobilised combatants as at 17 August 2006 is exaggerated. There are also serious doubts about the numbers who have truly demobilised and concerns about new forms of paramilitary activity.

²⁵ 'Ley de Justicia y Paz desvelaría historia de despojo de tierras por parte de paras y guerrilla: (Justice and Peace Law would reveal a history of land theft by paramilitaries and guerrillas)' 'El Tiempo' newspaper. Bogotá, 17 September 2006. Available in Nov. 2006 at: www.eltiempo.com/justicia/2006-09-17/ARTICULO-WEB-NOTA_INTERIOR-3246452.html

3.1.1.4 Drugs trade

This network can not be fully understood without also considering the great investment of capital from the drugs trade. This money has not only been invested in land purchases, as the late paramilitary commander 'Rodrigo' indicated, but also in palm plantations and in other agricultural projects.

As the '*Observatorio del Programa Presidencial de Derechos Humanos y DIH*' (Observatory of the Presidential Programme on Human Rights and International Humanitarian Law) states, "in some regions, the local elites saw in the paramilitaries the means to guarantee local security. This was exploited by the paramilitaries to expand their know how, but also to enter into open competition for the resources of the drugs trade in some areas dominated by guerrilla groups. In this way, cocaine became a prime factor in the growth of the paramilitaries"²⁶.

There are many ways by which profits from the drugs trade can become integrated into the formal economy and African palm production is one of them.

3.1.2 The Palm Complexes (4)

3.1.2.1 Paramilitarism

The oil palm industry is full of examples of where paramilitary groups have played an active role within it, as they have in many other production chains (cattle rearing, bananas, oil, mining, etc.).

The seizing of a laptop full of data on the activities of the AUC's Bloque Norte group, commanded by 'Jorge 40', which was then leaked to the Colombian press²⁷ has brought to the public's attention cases that social and human rights organisations had been denouncing for a long time. A very good example was the paramilitary infiltration of *Coolechera*, the biggest milk producers cooperative on the

²⁶ '*Dinámica reciente de la confrontación armada en el Urabá antioqueño*' ('Recent dynamics in the armed conflict in Antioquian Urabá') Observatorio de Derechos Humanos y DIH del Programa Presidencial de Derechos Humanos y DIH, Vicepresident's Office. Bogotá 2006. Available in Nov 2006 at: http://www.derechoshumanos.gov.co/observatorio/04_publicaciones/uraba.pdf

²⁷ The case can be followed particularly in the '*Semana*' magazine (www.semana.com) which has devoted many articles to it. Relevant information can also be found at the website of 'Equipo Nizkor' ('corruption/organised crime' section): <http://www.derechos.org/nizkor/corru/#doc>

Caribbean coast, which demonstrates perfectly the *modus operandi* of these groups, and how they exert territorial control of a region through such companies.

“Taking over Coolechera was a strategic move, because it has a significant presence throughout the region: as well as having a large number of members, its customers are part of a vast network of shop-owners and businessmen throughout dozens of districts in the departments of Atlántico, Bolívar, Magdalena, Sucre and Cesar. The cooperative’s lorries collect raw milk in the region and are escorted by staff who not only look after the lorries, but also obtain information and observe the movements of people who could be considered suspicious”²⁸, which demonstrates one of the ways in which they exert territorial control.

The situation in palm plantations is no different, as this same article shows, “(...) The new board offered the management [of Coolechera] to three top executives, but two of those selected rejected the offer. Manuel José Combariza Rojas, a 47-year-old lawyer who had the reputation of being a successful manager of the company Palmeras de la Costa (‘Palm Trees of the Coast’), did accept. Combariza assumed the new role in a difficult atmosphere because of the death of De Silvestry. Furthermore, he brought with him his management record at Palmeras de la Costa, where he had been accused of ill-treatment and persecution of the workforce, to whom he referred with contempt. The cooperative’s most difficult years were under his administration, and he succeeded in imposing, according to formal testimony, a ‘reign of terror’, demonstrated by the presence of armed men in civilian clothes in the cooperative’s buildings.”

This climate of terror suffered by the workforce at Coolechera and Palmeras de la Costa is an example which can be applied to the other palm complexes.

One only needs to read newspaper headlines from 1997 and 1998 to realise the intensity of the conflict in the palm complexes²⁹.

²⁸ ‘*La ordeñada de los paras*’ (‘Being milked by the paramilitaries’) article which appeared in ‘*Semana*’ magazine on 21/10/06, available in Nov.2006 at: www.semana.com/wf_InfoArticulo.aspx?IdArt=97546

²⁹ ‘*Puerto Wilches: sindicatos y actores políticos armados, 1996-2002*’ (‘Puerto Wilches: trade unions and armed political actors, 1996-2002’). Magda Beatriz López C. Article in issue no. 185 of ‘*Controversia*’ magazine. Available in Nov 2006 at: Disponible nov 2006 en: www.cinep.org.co

“*Los rehenes de la palma africana*” (“The hostages of African palm”) *‘El Tiempo’* newspaper 12/03/97. Page 3A.

“*En el conflicto palmero. El obrero blanco de guerra*” (“In the palm conflict – the worker as military target”) *‘El Colombiano’* newspaper 01/02/98. Page 7A.

“*En Puerto Wilches Santander. La palma africana está bajo el fuego*”. (“In Puerto Wilches Santander African palm is under fire”) *‘El Colombiano’* 01/03/98. Page 6A.

Plantations have been the scene of combats, persecution and armed activities by all parties in the war. Guerrillas have murdered and kidnapped the palm companies’ owners and employees, and have dynamited extraction plants. The armed forces and paramilitary groups have become private security corps for palm producers who have committed many of the extrajudicial executions reported in the palm production areas.

For example, in Tumaco at the beginning of the 1990s, guerrillas murdered Lorenzo Erazo, a landowner and palm producer who refused to be the victim of extortion. After his murder, the palm producers in the area organised a group of hired killers (the Vanván from Medellín) who had the role of protecting these businessmen from any type of opposition, including that of *campesinos* subject to the constant theft of their land by the estate owners. It was from then on that the paramilitary groups were consolidated in Tumaco.

3.1.2.2 *Trade unionism and working conditions*

It is the statistics on killings which show the true magnitude of a situation which to date continues in absolute impunity. The figures on the number of trade unionists and palm workers murdered by paramilitaries in two of the districts of the Santander-Cesar palm complex are illustrative of this, being an area where paramilitary actions have been particularly brutal:

- In the Puerto Wilches district (Santander), between 1997 and 2002, 14 trade unionists from Sintrainagro, Sintrapalma y Sintraproaceite unions were murdered by paramilitaries.³⁰

³⁰ *Puerto Wilches: sindicatos y actores políticos armados, 1996-2002* : (‘Puerto Wilches: trade unions and armed political actors, 1996-2002’). Magda Beatriz López C. Doctoral thesis. Bogotá 2005. Unpublished.

- In San Alberto district (Cesar), between 1988 and 1995, 56 workers and trade unionists from the Indupalma company were murdered by paramilitaries.³¹

These figures give some idea of the extent of the persecution of trade unionists representing the Colombian palm sector. The decline in the number of killings of trade unionists in the sector in recent years is without doubt due to the decline in trade union activity caused by years of harassment. “In summary, the trade unions broke up, as many of their members were murdered or forcibly displaced and those who remained had to resign or reconsider their principles and methods of protest, which were deeply challenged and circumscribed by paramilitarism.”³²

This situation in the palm companies means that workers are clearly unprotected in terms of their conditions. To the lack of trade union rights and freedom of association in some of the plantations can be added ‘peaceful labour relations’ achieved through violence. An increase in the competitiveness of Colombian palm oil based on a reduction in labour costs through armed violence is unacceptable.

“Some employers comment that companies with unionised workers are less competitive, and furthermore that those workers are unwilling to accept the working conditions that those companies want to impose, conditions damaging to the workers’ health and dignity. In short, what they are suggesting is that the trade unions must disappear”³³.

In terms of industrial disputes, armed violence has brought about a ‘gentle change’ in the structure of the palm complexes. In parallel with the decline in trade union activity, there has been an increase in the processes of ‘horizontalisation’ within the production chain. The complexes formed by the large companies and extraction plants have encouraged the formation of workers’ cooperatives or cooperatives of small-scale producers. This results in lower labour costs, a fall in welfare and health costs and, therefore, in increased competitiveness for the palm companies.

³¹ *Deuda con la humanidad. Paramilitarismo de Estado 1988 – 2003*. (‘Debt with humanity. State Paramilitarism 1988-2003’) Banco de Datos sobre Derechos Humanos y Violencia Política – Cinep. (Data Bank on Human Rights and Political Violence-Cinep) Available in Nov.2006 at: www.nocheyniebla.org/deuda.htm

³² See footnote 30.

³³ *La africanización del trabajo en las plantaciones de palma aceitera en Colombia* (‘The Africanisation of work in Colombia’s palm oil plantations’). Interview with Hernán Correa. Available in Nov.2006 at: www.rel-uita.org/old/sindicatos/africanizacion.htm

The small producers, on the other hand, have seen their pay diminish, have to cover their own health costs and have now no negotiating power in relation to the palm oil extractors and oil traders.

Among the processes of horizontalisation taking place in all palm complexes, we wish to highlight the *Laboratorio de Paz* (Peace Laboratory) in the Magdalena Medio region, as it is largely funded by the EU. The idea underlying the Laboratory, very briefly, is that *campesinos* form workers' associations dealing with a variety of different farming projects, oil palm being among them. The *campesinos* therefore cultivate small areas of palm (around 10 ha) as a means of strengthening the farming and social fabric, generating income and development, which thereby prevents the *campesinos* from joining armed groups or leaving for the cities.

Sectors critical of the laboratory believe, in relation to the new workers' associations, that, "this model applies throughout Colombia, where workers form small cooperatives and operate like a small company, but it is they who bear all the costs - social security, uniforms, tools etc. - and not their employer, which limits itself to contracting them by the hour or task. According to the ideology of workers' associations, both are companies with a common interest, but in reality the members of the cooperative are the same workers as before, without any rights and with lower pay.

The *campesinos* farm for the companies under contracts where they bear all the production costs, but with contractual obligations which convert them into badly paid employees working on their own land (...) In effect, the companies become the true owners or, at least, it is they who enjoy the profits from this land."³⁴

What is clear from an analysis of this study is that small-scale palm producers are being integrated into a palm complex where numerous violations and crimes have been committed with absolute impunity. These violations have made possible the processes of horizontalisation without allowing the freedom to unionise, the power to negotiate for improvements in working conditions, nor the right to negotiate with the extractors for good sales prices for the fruit.

Involving *campesino* families in an economic complex under the shadow of paramilitarism and its armed policy of coercion and

³⁴ 'Laboratorios de Paz de la Unión Europea ¿El Plan Colombia de Europa?'. Gearóid Ó Loingsigh. 2005. Disponible nov.2006 en: www.prensarural.org/gol20051216.htm

repression does not seem very appropriate as an EU policy for development aid.

Nor does the mixture of international investment and aid to smallholders seem appropriate when it results in their integration into an economic system involving ‘sanitisation’ of land acquired illegally and the laundering of drugs money.

Special attention must be paid to certain employment conditions in some plantations in Meta and Chocó which could be defined as forced labour according to ILO rules, such as *endeude*, payment with vouchers that can only be redeemed at the palm companies’ shops, or certain types of work which involve the whole family. The impunity and lack of guarantees prevalent in many of the palm complexes encourage these labour practices which violate the fundamental rights and dignity of palm workers.

3.1.2.3 Black Communities

Another of the groups who have been seriously affected by palm complexes are the Black or AfroColombian Communities who inhabit Colombia’s Pacific region. These communities, descendents of African slaves exploited as forced labour in Spanish colonial mines and plantations, now see their legal and territorial rights jeopardised, rights achieved after years of struggle for, ironically, other plantations. Plantations of a tree which also originates in Africa and which was brought to South America by the Portuguese specifically to provide food for the people that they had enslaved.

Leaving aside the symbolism which can be found in the situation suffered by the AfroColombian communities in Nariño and Chocó, they are the palm production areas in Colombia where the greatest number of violations, illegal acts, infringements and irregularities are committed in connection with this crop.

Law 70 by constitutional mandate defines and protects the rights of the black communities of the Colombian Pacific region. The violation of both the spirit and letter of this law by palm companies, public and private investors, and by various Colombian state bodies, whether by action or omission, is the clearest manifestation of a Colombian ‘model’ of agroindustrial development which is legally transgressive, and socially harmful, relying upon the violence of paramilitary groups to expand and exert territorial control.

The case of the Chocó plantations, which supply Urabá's new palm complex with fruit, is a perfect example of how, by both legal and illegal means, the rights of a historically marginalised and exploited population can be eroded in Colombia. We recommend that you read the studies available on this case³⁵, as they contain detailed information on the violations associated with palm plantations. They also cover the roles and actions of the different groups and bodies involved: the affected communities, state entities (the President's Office, Ministries of Justice and Agriculture, Incoder, Codechocó (Regional Corporation for the Sustainable Development of Chocó), Defensoría del Pueblo (Office of the Human Rights Ombudsman), the Procuraduría, the army's 17th Brigade, the navy, the national police etc), the *Bloque Elmer Cárdenas* grouping of the AUC, and international bodies (the InterAmerican Court and Commission for Human Rights).

The dynamics associated with the palm producers of Tumaco are similar to those we find in Chocó:

- Usurpation of collective land belonging to the Black Communities. The Attorney General's Office lodged a reinstatement order in response to Incoder's Resolution 397 of 2005 which gave 800 ha of the collective lands to two palm companies - 'Palmeiras S.A.' and 'Palmas Oleaginosas Salamanca'. Eventually, the land was restored to the Alto Mira and Frontera Community Council, as "the State considers the occupation and exploitation of the land by these companies in Tumaco to be wrongful and not in accordance with the law. Furthermore, the occupation of the land was carried out in violation of national environmental legislation, causing irreparable damage to natural resources and to the environment, with indiscriminate tree-felling, and the building of infrastructure and roads without the permission and licences required by law"³⁶.
- The fact that this land has been restored to the Alto Mira and Frontera Community Council is a very positive development. However, we need to know in what state these 800 ha, planted to palm, have been returned (free of palm?) and who now 'controls'

³⁵ List available at www.hrev.org

³⁶ 'PGN recupera terrenos en Tumaco ocupados por empresas palmicultoras'. 'Procuraduría recovers land in Tumaco occupied by palm companies' Boletín 101. (Bulletin 101) *Procuraduría General de La Nación. Bogotá 2006*. Available in Nov. 2006 at: http://www.procuraduria.gov.co/html/noticias_2006/noticias_101.htm

it, given that the return of land in legal terms does not mean the restoration of real control in areas where armed groups (whether legal or illegal) have a significant presence. It would also be important to learn if any legal proceedings have been taken against 'Palmeiras S.A.' and 'Palmas Oleaginosas Salamanca' for occupying and exploiting lands wrongfully and in 'bad faith' (a crime, according to the Penal Code), for causing irreparable damage and for breaching environmental legislation. It is extremely important that this restoration of land is subject to verification, justice is done and the affected communities are compensated, and that these same measures are applied to the Community Councils which are in the same situation in Chocó. It is vital that the Procuraduría and other State control bodies monitor Incoder's activities in Chocó, particularly given this institution's current low level of credibility³⁷

- Violations of human rights and international humanitarian law such as murders, massacres, forced displacement, armed confinement of populations, food blockades, plundering by armed groups, threats, which, as in Chocó, are associated with palm plantations.
 - Pollution of the environment as in the case of the River Mira, which affects both water quality and fish populations forming the basis of many food chains, including that for humans. Residues from oil extraction combined with the herbicides and fertilisers applied have permeated the whole ecosystem.
- Furthermore, making the land suitable for the plantations has introduced serious hydrological imbalances in a region where

³⁷ This is in part due to incidents such as the takeover of community lands in Jiguamiandó and Curbarado by palm companies. After Incoder officials visited the region and drafted a comprehensive report recommending the return of the lands to the communities, the directors of the Institute rejected the report and took measures which favoured the palm companies – a clearly political act with a dubious legal basis. However, the credibility of the institution has been undermined above all by recent cases of corruption among its officials. Incoder had gone so far as to hand over land titles to known paramilitaries and drugs traffickers. These very lands had been expropriated from drugs traffickers and were intended for populations displaced by the violence. For more information see, among others: 'Gobierno solicitó a Fiscalía investigar posible caso de corrupción en Incoder' ("The Government asked the Public Prosecutor's Office to investigate a possible case of corruption in Incoder") in 'SNE-Presidencia de la República', 04/03/06. "Luis Ortiz, el renunciado director de Incoder, cuestiona los motivos de su salida" ("Luis Ortiz, Incoder's ex-director, questions the reasons for his departure") in 'El Tiempo', newspaper, 9 & 12/04/06. "Corrupción-Habrá depuración en el Incoder" ("Corruption – There will be a purge of Incoder") in 'Colprensa', 10/04/06. "Agro, en crisis y con escándalos en sus entidades" ("Agro, in crisis, its agencies beset by scandal") in 'Portafolio' magazine, 12/04/06. "Procuraduría y Gobierno coordinan esfuerzos en caso Incoder" ("Procuraduría and Government coordinate efforts in the Incoder case") in 'Procuraduría General de la Nación', 18/04/06. "Incoder y Finagro: Problemas de tierras" ("Incoder and Finagro: Problems with lands") in 'El país-Cali', newspaper 23/04/06. "Lío de tierras" ("Land troubles") in 'Semana', magazine 18/10/06. All the above are available on their respective websites.

water, along with biodiversity, is one of its prime environmental assets.

The only significant difference between the plantations in Nariño and those in Chocó is that the former have been in existence for much more time than the latter, thereby providing a longer-term perspective on the effects and impacts of this type of monoculture on AfroColombian communities and Colombian Pacific ecosystems.

3.1.2.4 Environmental Impacts in the Pacific region

One of the most notable consequences of the expansion in the palm monoculture is that, on the Pacific coastal plains, the biodiverse ecosystem of hydrophilous equatorial forests is being replaced with an ecosystem very poor in species. The term ‘green desert’ applied to these plantations is a very fitting one.

Replacing these ‘protected’ forests on the Pacific coast with the green desert of palm, as well as contravening Colombian environmental legislation, is a loss the implications of which extend beyond the region, and even the country.

In other regions, there is a need to conduct and publish environmental impact assessments. The new projects involving vast plantations in Vichada, and in the Orinoquia region more generally, as is the case with Gaviotas 2, are promoted under the banner of environmental sustainability, a claim which should be put under scrutiny.

This project, under which 6.3 million ha of the Vichada savannah (twice the size of Belgium) would be reforested with various plantation crops, including oil palm, is based conceptually on the Gaviotas project and the theories of Paolo Lugari y Gunter Pauli³⁸, and in terms of implementation on the government project to convert the Orinoquia region into one huge tree plantation, its main proponent being the former Minister of Agriculture and Rural Development, Carlos Gustavo Cano.

³⁸ To find out more about the subject, read ‘Zero Emissions Research & Initiatives’ (ZERI). www.zeri.org

In the case of the Hispano-Colombian palm megaproject for Puerto Carreño³⁹, being carried out by Ingemas (a Spanish engineering company), the Agroforestal company of Colombia, and ERPASA (a Spanish renewable energy company), it is planned that 90,000 ha will be planted and a biodiesel plant built in northern Spain.

It is the specialists who must cast some light on the environmental controversy surrounding the plantation projects in the Orinoquia, a region where 156 different ecosystems have been recorded⁴⁰, a fact which makes wide publication of information on these projects both urgent and necessary.

3.1.2.5 Indigenous peoples

It is also extremely important to analyse the impact of these plantations on indigenous people's land as it will inevitably be affected if the monocultures continue expanding in Vichada.

This situation would affect the cultural integrity and survival of the owners of these lands. The production model of planting on an industrial scale is diametrically opposed to the indigenous people's way of life, their farming methods and their understanding of the land.

The loss of the ecosystem, of rivers, streams and physical reference points, of sacred and spiritual reference points; the loss of their systems of food production and its replacement by a commercial farming system through which they are recruited as plantation workers; the inevitable arrival of *colonos*, of large investments of capital and the arrival of armed groups who watch, control and crush any dissent or protest, result in the physical, political and cultural disintegration of indigenous groups and their extinction as a people.

Among the judgments of the Constitutional Court we can find various rulings on cases similar to those which may arise with the encroachment of the plantations: specifically rulings T-380/93 and T-652/98 on the cases of the Embera-Katío Indigenous Community of Chajeradó and Urrá, which stated that the changes to their lands made their cultural life impossible, resulting in cultural extinction.

³⁹ There is a dossier of press articles on this project which can be requested from the CBC secretariat at: cbc@collectifs.org.

⁴⁰ According to a satellite study by the 'Instituto Geográfico Agustín Codazzi' (Agustín Codazzi Geographical Institute) and the 'Instituto de Investigación de Recursos Biológicos Alexander Von Humboldt' (Alexander Von Humboldt Institute for Research into Biological Resources) which served as the basis for the 'Mapa de ecosistemas de la cuenca de la Orinoquia colombiana'. (Map of the ecosystems of the Colombian Orinoquia basin) Bogotá 2004.

3.1.3 DIAGRAM "COMPOSITION" OF THE PALM OIL WHICH JOINS THE COMMERCIAL FLOW

In view of the model described above, we can state that the palm oil which reaches the national and international markets is of a special brand, containing:



Violations of Human Rights; Economic, Social and Cultural Rights; International Humanitarian Law; the Colombian penal code; the Colombian Constitution and its jurisprudence; laws protecting ethnic groups; environmental, employment and administrative regulations; international conventions signed by Colombia

Reduction in biodiversity; deforestation of tropical forest and contamination of rivers and soils

Indirect state public investment, tax breaks and government support; international public investment (USAID, EU); military aid (Plan Colombia); national and international private investment favourable legislative changes; laundering of the assets of the drugs trade

Although there is an international ruling on this subject (the *Mayagna (Sumo) Awas Tingni vs. Nicaragua* case), the Constitutional Court went further, since it described this cultural extinction as the ‘forced disappearance’ of their culture. The term ‘forced disappearance’ was thus applied to an entire ethnic group⁴¹

The palm plantations will cause changes to the land which will destroy the cultural life of the various peoples affected, which may result in the palm companies and the Colombian State being accused of the forced disappearance of these ethnic groups.

An approximate projection of the indigenous lands which will be affected by oil palm plantations gives the following results:

Department	Ethnic groups	Indigenous territories potentially affected⁴²
Chocó	Embera-Katío	Up to 11
Cauca	Embera-Katío, Eperara-Siapidara	Up to 15
Putumayo	Inga, Witoto, Paez, Awa, Siona	Up to 25
Vichada	Amorúa-Guahibo, Guahibo, Cubeo-Curri, Piapoco, Sáliba	Up to 20
Arauca	Macaguaje, Kuiba-Hitnu, Guahibo	Up to 4
Meta	Guahibo, Guanano, Guayabero	Up to 9
Casanare	Kuiba, Sáliba	Up to 8
Guajira	Wayuu	Up to 9
Antioquia	Kuna-Tule	1
Total	Potentially 18	Potentially 102

Source HREV (preliminary data)

⁴¹ Information sourced from : ‘Protecting Indigenous Peoples’ Lands and Resources. The Role of the Constitutional Court of Colombia’. Vemund Olsen. Oslo 2006. Thesis submitted in partial fulfilment of the Master of Philosophy degree “The Theory and Practice of Human Rights” Norwegian Centre for Human Rights. Faculty of Law. University of Oslo. Shortly available at www.hrev.org

⁴² Preliminary results of a study which will be published shortly. This work is part of a project covered by a collaboration agreement between ONIC (National Organisation of Indigenous Peoples of Colombia) and HREV.

This ethnocide⁴³ has been widely predicted, and the State must therefore take measures to prevent it, not only by protecting indigenous territories from the invasion of palm plantations, but also by ensuring that they do not become islands ‘drowned’ in a sea of oil palm.

3.1.4 Territorial control (5b)

As well as a having a productive function, the palm complexes fulfil other roles which form part of an overall strategy of colonisation and control, including control of territory.

In the various palm complexes, military, social, political and economic control has been the prime objective of armed actions, government development policy and international investment.

An in-depth analysis of this subject would doubtless be very interesting, but is outside the scope of this study. There are good analyses by Colombian researchers and analysts on this issue, placing agroindustrial projects within the context of territorial control, regional strategies, and large economic, political and military projects on a multinational scale.

Nevertheless, it is difficult to abandon the topic without at least giving some indication of what these policies may lead to in the near future (there are plans up to 2020). A brief exercise looking into the future, just to point to some key factors, will raise question marks and set the alarm bells ringing over the potential implications of an expansion in palm with the same characteristics as that currently under way.

On the basis of the map by *Corpoica-Cenipalma* identifying areas suitable for palm cultivation, we would like to draw attention to certain factors:

- They have drawn the famous ‘palm belt’⁴⁴ which various analysts have spoken about, as well as its ‘satellite’ in Catatumbo. An agro-military belt which would halt guerrilla access, and fresh

⁴³ We use the term ‘ethnocide’ with the same meaning with which it is used consistently by Rodolfo Stavenhagen, the United Nations’ Special Rapporteur on the situation of human rights and fundamental freedom of indigenous peoples. It does not refer to genocide for ethnic reasons but to the cultural extermination of an ethnic group.

⁴⁴ This ‘belt’ is a strip of land suitable for palm production which crosses the Andean foothills region of the eastern plains from north to south. It is very obvious on the *Corpoica-Cenipalma* map and coincides with the agroindustrial area defined by Adorionoquia (Association of Departments of Orinoquia).

areas of palm expansion which would leave all Colombia's territory colonised and commercially exploited, with the *campesinos* either integrated into the agroindustrial plantations or displaced to the marginal barrios of the big cities.

- They have marked out the centres for development of the plantations and the palm complexes to be subject to significant expansion.
- They have delineated the area of palm expansion which advances from the right bank of the River Meta towards the Orinoco (*Gaviotas 2* and Puerto Carreño Projects).
- They indicate the lands of the Pacific region which are subject to special legislation on collective land rights as well as the indigenous territories which would be affected by the plantations.

If President Uribe's dream of 6 million ha planted to palm⁴⁵ continues on the same basis as now, more territories will suffer the impacts described in this study.

To achieve this target, absolutely all the land suitable for palm production would need to be cultivated. According to studies by Corpoica-Cenipalma on the suitability of soils for palm cultivation, in Colombia there are 3.5 million ha without soil or climatic limitations, where hardly any investment would be needed to make them suitable (either in infrastructure and irrigation, or to provide drainage, prepare the soil, or in large quantities of fertiliser, etc).

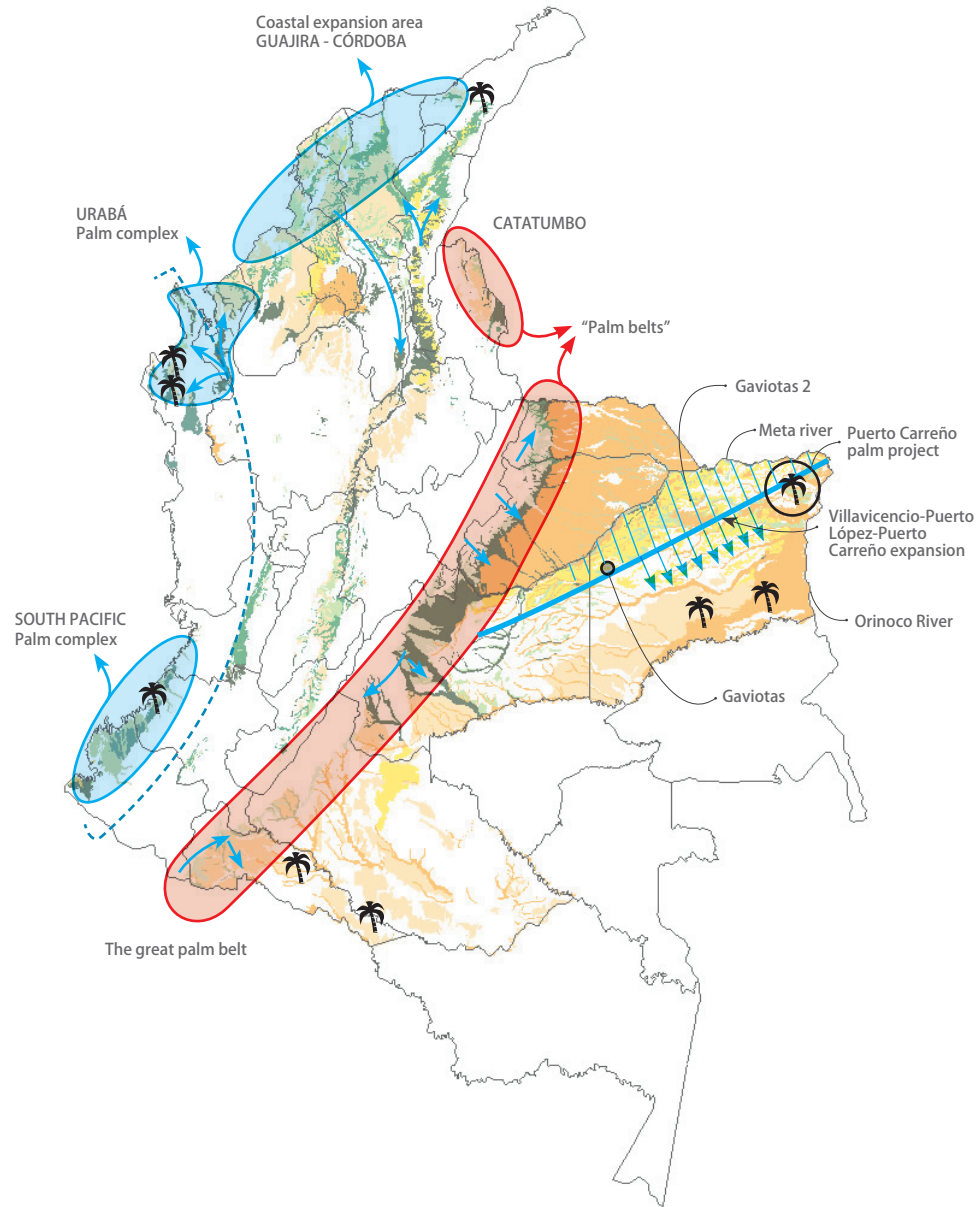
Of the 3.5 million ha, the eastern plains stand out as offering prospects for expansion, as this region contains more than 50% of the cultivable area without additional adaptation costs.

Some of these areas are already used for other agroindustrial crops (banana, sugar) or cattle-rearing, or have forests which form national nature reserves or have areas subject to special legislation according collective land rights to indigenous and black communities.

Reaching 6 million ha of palm planted would involve fierce competition for the 3.5 million most productive hectares and the planting of the 2.5 million less profitable hectares, with consequent deterioration of the most fragile soils.

⁴⁵ "Colombia could have, without major improvements in infrastructure, 3 million ha of African palm. With some work to adapt land, around 6 million ha of African palm. When this Government began, we had 175,000 ha, this year we ended with almost 300,000. We have made progress, but we need much more speed." Words of President Uribe at the closing ceremony of the Bioexpo. Medellín 2005. Available in Nov. 2006 at: <http://www.presidencia.gov.co/sne/2005/octubre/20/14202005.htm>. See also: http://www.presidencia.gov.co/prensa_new/sne/2005/diciembre/09/08092005.htm

MAP PROJECTION OF THE EXPANSION OF PALM IN COLOMBIA



Key			
	Expansion areas		Expanding palm complexes
	Palm belts		Areas of collective land ownership by the Black Communities
	Indigenous territories which may be affected by palm		
Land suitable for palm cultivation			
	Flat land with gradients of less than 3%, annual rainfall of 2000 to 4000 mm, well-drained, with an effective soil depth greater than 75 cm.		
	Flat alluvial land, well-drained, soil moderately deep, with limitations through lack of rainfall (1000 to 2000 mm annually)		
	Alluvial land, well-drained, soil moderately deep to shallow, with limitations due to lack of rainfall (1000 to 2000 mm annually), and gradients of 7-12%		
	Alluvial land, well-drained, soil moderately deep to shallow, with limitations due to excessive rainfall (4000 to 8000 mm annually), and gradients of 7-12%		
	Alluvial land, gently undulating, with annual rainfall of 2000 to 4000 mm, with limitations due to gradients of 7-12%, stony in parts and with imperfect natural drainage		
	Flat land, with limitations due to excessive rainfall (4000 to 8000 mm annually), and soil with imperfect drainage		
Land which can be made suitable with additional investment			
	Hilly terrain with annual rainfall of 1000 to 4000 mm, well-drained soil, with topographical limitations (gradients of 12-25%) and shallow soil (less than 25 cm deep)		
	Flat land with annual rainfall of 1000 to 2000 mm, well-drained, with limitations due to the shallowness of the soil (between 25 and 50 cm)		
	Flat land, in different rainfall zones, gradients of less than 7% and with limitations due to the soil: poorly drained, or excessively so and shallow (between 25 and 50 cm)		

Base map "Evaluación edafoclimática de las tierras para el cultivo de la palma de aceite. CORPOICA-CENIPALMA, 1999" ("An assessment of the soils and climate of land for oil palm cultivation. CORPOICA-CENIPALMA, 1999")

This ‘megaplanting’ in Colombia would entail mass expulsion of *campesinos* and an ‘agrarian counter-reform’ without precedent. Colombian land concentration would continue to increase an already very high Gini index⁴⁶.

The hope that this will not happen is very faint, in view of the Government’s plans and policies. The historical precedents are also not very encouraging, as Alfredo Molano very clearly explains: “the Colombian State could never perform a redistribution of land, nor even manage to impose timid legislation to curtail its brutal concentration.

It had to surrender and leave the de facto power to legislate and to impose a labour ‘code’ in the hands of gangs armed by the landowners. The large landowners are on the most fertile land, near to roads and around the towns; the *campesinos* and *colonos* are on mountainous terrain and grow coca. Many landowners have shares, at the very least, in the coca plantations under the care of the paramilitaries. Not, of course, in those under guerrilla control. With this money the owners not only ‘do up’ their estates, but also pay for the security services provided by the AUC (...) For the country, the price of so much prosperity and security is high: hundreds of *campesinos* and *colonos* have been seized and taken out through the black door, that is, murdered.”⁴⁷

⁴⁶ The Gini coefficient measures inequality between a country’s inhabitants: the higher the index the greater the inequality. According to the UNDP’s Human Development Report for 2006, of the 177 countries measured, Colombia had the world’s 9th highest Gini coefficient, after only Haiti, Bolivia, Swaziland, Central African Republic, Sierra Leone, Botswana, Lesotho and Namibia. Available in Nov. 2006 at: http://hdr.undp.org/hdr2006/report_sp.cfm

⁴⁷ “Tierra de patrones”. Alfredo Molano. Article Publisher in ‘El Espectador’ newspaper on 12 November 2006. Available Nov. 2006 at: [www.elespectador.com/elespectador/Secciones/ Detalles.aspx?idNoticia=2119&idSeccion=25](http://www.elespectador.com/elespectador/Secciones/Detalles.aspx?idNoticia=2119&idSeccion=25)

3.2 Responsibilities at the links of the chain

From a human rights perspective, the flow of palm oil can be characterised in a similar way to how it is described from an agroeconomic point of view, as a production chain with interdependent links, the flow of which begins in the production zones and ends with the consumers of the final processed products.

However, what is most striking about the commercial flow of palm oil is that the economic benefit runs in the opposite direction to the social and ecological impacts.

The negative impacts are felt in the plantations and diminish drastically once away from them, so that basically it is the populations and ecosystems of the production areas which are affected.

In contrast, the economic benefit increases at each subsequent stage, gaining added value in the successive processing or trading links of the chain, far from the areas of production.

In summary, little benefit and a great impact at the initial links in the chain and, by contrast, great benefit and little impact at the final ones.

The distance from the regions where the violations and impacts occur can make it more difficult to grasp the concept of being part of a chain of responsibility. But whether the benefit is derived by the trader in Barranquilla, the refiner in Rotterdam, or in a Belgian consumer's home, can the last links in the palm oil chain ignore the impacts and human rights violations committed at the first parts of the chain?

Whether they do or not, the end consumers of palm oil have their share of responsibility, since when they consume, buy or use this product, they are validating a particular production model and benefiting the rest of the links in the chain: the traders, processors, refiners, extractors and growers.

This can logically be applied to the rest of the links: each one of them has its share of responsibility for the violations committed in the production areas in Colombia.

Obviously, these responsibilities vary according to the particular link in the chain: for some there are legal and criminal responsibilities, for others political, and for all of them moral or ethical responsibilities.

The simplest way of addressing this subject is to track, clearly and analytically, the responsibilities at the different links in the chain. A concrete case study will help to provide a greater understanding of the dynamics, which can then be applied to the other areas.

3.2.1 Following the chain: The case of the Chocó palm plantations

The case of the Chocó palm plantations is sadly emblematic because they are the scene of the greatest number of violations, crimes and irregularities associated with palm cultivation in Colombia (together with Tumaco).

Whether it is because there are more laws to break than in other regions (laws on the land rights of the Black Communities of the Pacific region, regulations on forest protection) or because the victims are members of a group historically discriminated against and exploited, the fact is that there have been so many violations committed relating to palm production in Urabá that it is really an object lesson in how farming projects should never be developed.

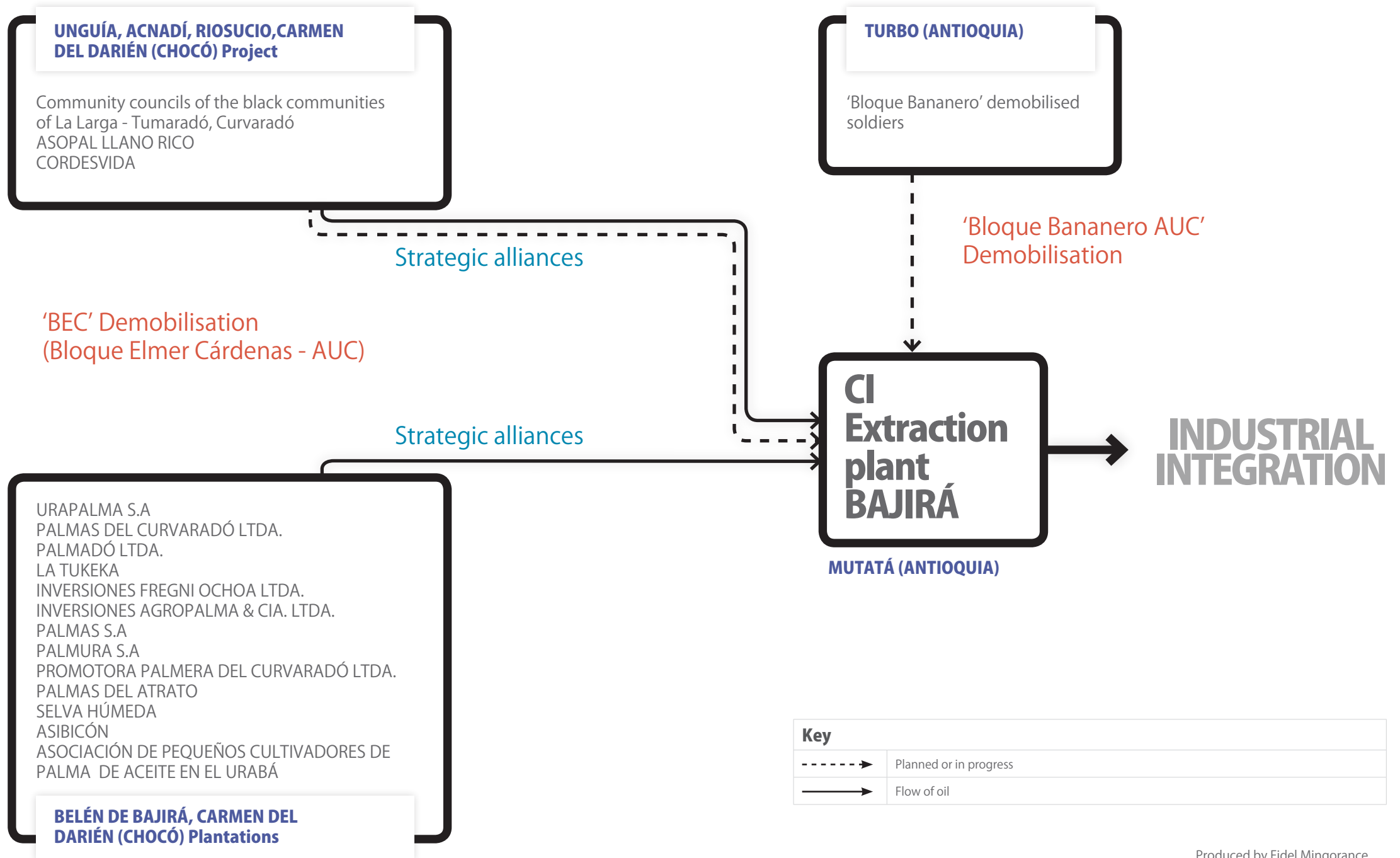
The Colombian State has overall responsibility for human rights violations in the region, being charged with guaranteeing these rights, and knowing of the risks to the affected population. In the north of Chocó, it has responsibility both through the actions of the armed forces (particularly the army's 17th Brigade) and by omission.

Responsibility for the various crimes falls logically to the legal entities that have committed them, but the matter does not end there, since the existence of a model (formed through strategies and policies) implicates all the elements within it. In this model, the companies and investors have their share of responsibility.

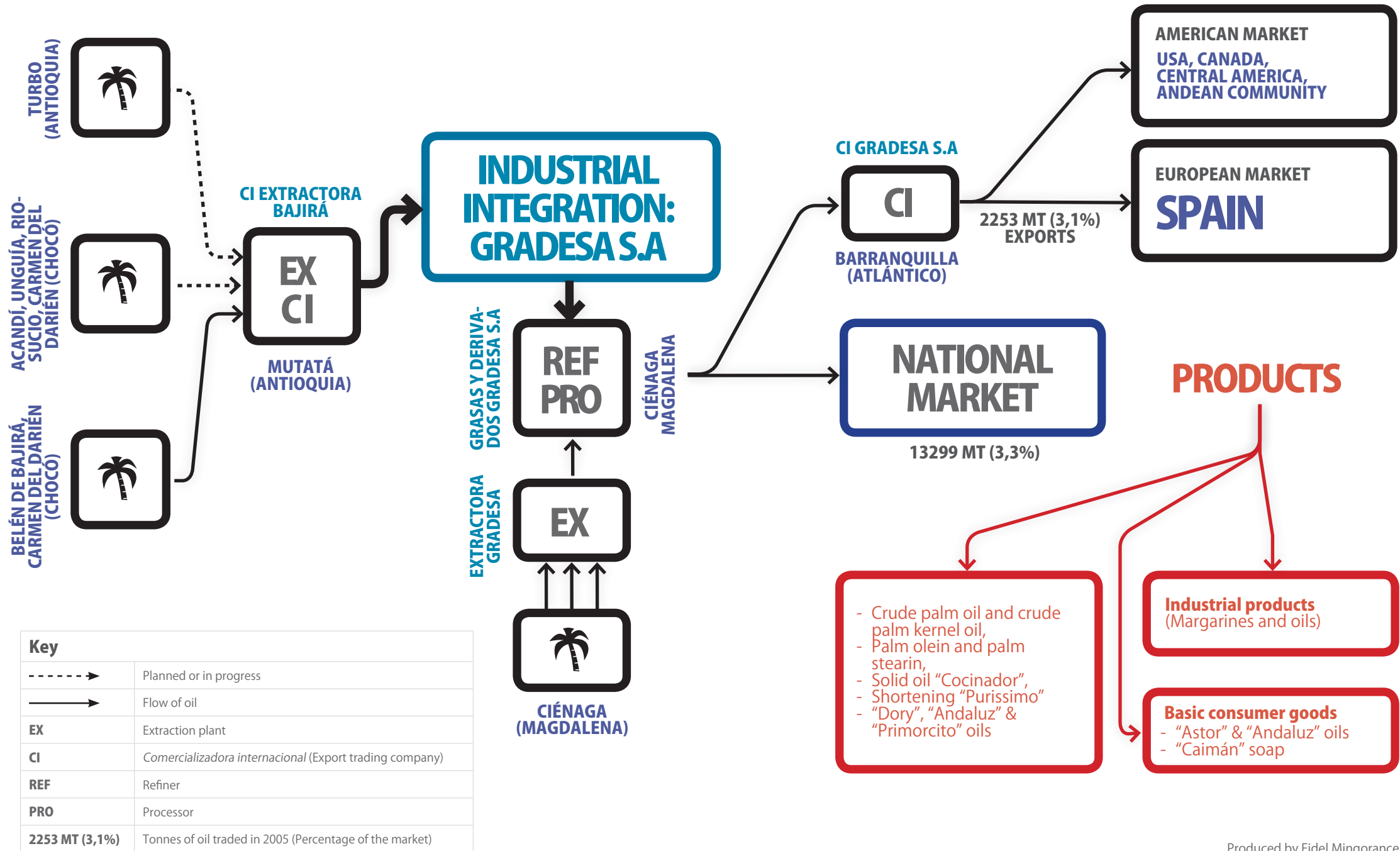
A range of companies and investors, as well as committing various administrative and environmental offences, have colluded with the Bloque Élder Cárdenas group of the AUC (recently demobilised), for which they can be accused of paramilitarism. Organising, promoting, arming or financing illegal armed groups is a crime in Colombia.

It can not be said that the palm companies are subject to extortion by paramilitary groups, since "in this region, it is normal to pay 'security fees', which although not paid to official security companies,

FLOW CHART URABÁ PALM COMPLEX



FLOW CHART THE FLOW OF OIL FROM THE PLANTATIONS OF CHOCÓ TO THE EUROPEAN MARKET (SPAIN)



are rarely considered extortion⁴⁸. The paramilitary commander Vicente Castaño, in fact invited them to invest in the region, paying their 'fee' to the AUC for security⁴⁹.

The offence of paramilitarism or collaboration with this illegal armed group implies a share in responsibility for the crimes committed by the paramilitaries, responsibility which extends to the entire palm complex in Urabá.

The managers of the oil extraction plant *C.I. Extractora Bajirá S.A.* can not argue that they limit themselves to buying palm fruit to extract the oil. The violations committed against the communities of Jiguamiandó and Curbaradó were being reported and had been made public before it set up its plant in Mutatá.

The high level of investment needed to set up and run an oil extraction plant means that, before embarking on this, economic studies and research into production are required. No extraction plant can be unaware of the hectares of palm which supply them with fruit, nor of the identity of the owners of the plantations, nor of the security arrangements in place. This information is necessary in order to secure investment, to get insurance, to know security costs and to establish future viability.

The purchase or appropriation of land, the regulation of conditions of employment and for the negotiation of the price of the fruit take place in the shadow of armed coercion by the BEC and its successors. All parts of the palm complex have benefited from the 'security conditions' and the climate of terror imposed by the AUC.

They have also benefited from the public investment offered by the Colombian government and the USAID⁵⁰ agency. And of course, they have benefited from the legislative changes which the government is introducing to enable agroindustrial projects to be undertaken on collective lands and to 'legalise' stolen land. What is illegal today can be legal tomorrow, even if it means the invasion of lands the rights to which are inalienable, irrevocable and permanent as is the case with the collective territories of the Black Communities.

Because of all the above, the first links in the chain of oil produced in Chocó bear legal and criminal responsibility through the violations committed, political responsibility through the legislative support

⁴⁸ See footnote 26

⁴⁹ 'Habla Vicente Castaño'. ('Vicente Castaño speaks') Article in 'Semana' magazine, 6 May 2005. Available Nov 2006 at: http://portal2.semana.com/wf_InfoArticulo.aspx?IdArt=87628

⁵⁰ Although the Urupalma project was cancelled, they continue investing in the region through Propalma. See note 23.

and the funding provided, and moral responsibility through the financial benefit gained from so many atrocities.

The palm oil traded by *C.I. Extractora Bajirá S.A* is 'dirty', from a moral point of view.

The next link in the chain is formed by the industrial integration of *C.I. Extractora Bajirá S.A.* with *Gradesa S.A.*. The two companies of this group continue to be administratively and legally separate, but their production processes are integrated, creating economies of scale which yield benefits to both. This situation means that they must both share responsibility in their production methods.

The oil produced in Chocó joins that produced, refined, processed and traded by the *Gradesa S.A.*, becoming part of the flow of oil on the national and international markets through this industrial group, which sold a total of 15,482 tonnes of palm oil and derivatives in 2005.

Most of the oil (13,229 tonnes) goes onto the national market and the rest (2,253 tonnes) form part of the group's exports to various countries in America and to Europe (Spain only).

With regard to the national market, the climate of impunity which has prevailed up to now in the plantations founded in 2001 does not make it very likely that the companies implicated will cease to produce and sell this 'dirty' oil, clear the illegal plantations, give back lands appropriated illegally to their owners and restore them to their original state, as well as providing compensation as reparation.

The judicial system does not act, or rather, it acts so slowly that it appears not to do so.

The communities of Curbaradó and Jiguamiandó have been the victims of at least 15 acts of displacement and over a hundred violent crimes since 1996. To date we are not aware of any progress by the Public Prosecutor's Office in its investigations, to provide justice and reparation for these communities. The only exception has been the charges brought against one of those arrested for the disappearance and subsequent murder of the community leader Orlando Valencia on 15 October 2006. At the same time, cases are still being pursued against members of the communities and the organisations supporting them, such as the *Comisión Intereclesial de Justicia y Paz*. The inhabitants of Jiguamiandó and Curbaradó have been accused, on the basis of false testimony, of being members of the FARC guerrilla

group and being responsible for the massive forced displacement in the region. The ineffectiveness of a legal system which allows total impunity for crimes committed, combined with a strategy of bringing legal cases against the communities, and reports of collusion between paramilitaries, the army's 17th Brigade and the palm companies, have produced the clearest example of the way in which the Colombian palm model is being implemented.

Meanwhile, the profits mount up and the moral responsibility for this situation continues intact along the chain.

The national market absorbs most of Gradesa S.A.'s products. Therefore, pressure on the final links in the chain in Colombia may be the only way in which responsibilities are assumed, the crimes against the Chocó communities cease, and justice is done.

It is because of this that the last link in the chain is so important: end consumers of the product, whether they be cake manufacturers, confectionery or catering companies, or individual consumers. An informed and responsible consumer is not going to buy, for example, a bar of Caimán soap marketed by Gradesa S.A if he or she suspects that one of its ingredients has been produced against this background of violations in Chocó.

With regard to the EU, there are no regulations which prohibit European companies from buying products where human rights violations have been committed in any of the production processes. Neither are there legal impediments in Spanish legislation to importing these products, which does not absolve the importers, traders and consumers of the products of the Gradesa S.A. industrial group of moral responsibility. There is a need for importers and consumers to be made aware in Spain of the conditions under which the palm oil of Chocó has been produced.

This process of tracking one of the flows of Colombian palm oil can be applied to the other palm complexes, and the various links followed up to the point where the products are sold on the national market or are exported to markets in America or Europe.

3.2.2 Following the chain: general overview

As previous sections have shown, the Colombian palm oil chain follows the global trends in agroindustry and is highly integrated. All the links need information and guarantees from the others for the chain to be productive and viable.

We can establish the legal responsibilities of the different links in the chain by looking at how they are integrated into it:

- **Total vertical integration:** There are companies which control the entire production process from the plantation in Colombia to the sale of the oil in Europe. Therefore, they are directly responsible for what happens on their plantations. If the case arises, they can be held legally responsible for paramilitarism, failure to comply with employment and environmental legislation, etc. Unfortunately in Colombia there are no indications that the general climate of impunity will allow these companies to be brought to trial. The case of Chocó says all there is to say on the subject.
- **Partial vertical or horizontal integration:** There are industrial, economic, production, strategic or operational alliances between the different links. This dilutes legal responsibilities, which are confined to the link where the violations and illegal acts occur (normally the plantation and the oil extraction plant).
- **Multinational companies:** in the case of violations committed by the Colombian subsidiary of a multinational company, legal proceedings can be taken out in the parent company's country of origin. However, these are normally long and expensive court cases which yield few positive results, as the multinationals exploit the imprecise nature of their national identity and of their legal ties with their subsidiaries, as well as the non-binding nature of instruments currently in place⁵¹, to absolve themselves of responsibility.
- **If it is a European company buying Colombia products 'tainted' by human rights violations, there is very little available, beyond the social responsibility of the companies on national territory or voluntary codes of conduct. There is no international, European or national legislation which addresses crimes associated with production in third countries.**

In Belgium a law was passed on 27 February 2002 which allows socially responsible products to be labelled accordingly, but it is a voluntary scheme and it raises the question of the reliability of the labels. In France the 'Law concerning the New Financial Regulations' was adopted in 2001, which obliges companies quoted on the stock exchange to include information in their annual report on the social and environmental consequences of their activities, but the quality and veracity of this information continues to be heavily criticised⁵².

⁵¹ OECD guidelines for multinational enterprises, ILO tripartite declaration of principles concerning multinational enterprises and social policy, etc.

⁵² To obtain more information on the subject, refer to www.legifrance.gouv.fr and <http://www.social-label.be/social-label/FR/label-social/introduction.htm>

At European level, one potential avenue to explore would be companies' links with drugs money laundering or their collaboration with the AUC, a group officially classified as terrorist (although the demobilisation process complicates the issue still further).

At international level, there are no mechanisms in statute law which would criminalise these companies, even though they are associated with crimes against humanity. The fact that the International Criminal Court ultimately does not judge private individuals and companies has put the brakes, to some extent, on the trend for the international human rights movement to include corporations and companies among violators of human rights which can be brought to justice.

At the moment, it continues to be more effective to resort to small-scale legal actions, such as accusing the companies of deceptive or false advertising, or to directly denounce them for their political, moral and ethical responsibility.

The political responsibilities are distributed all along the chain, although the emphasis falls on those who plan, facilitate and legislate so that the palm model can function. There is a network of politicians, public officials and palm producers whose roles are interchangeable, making it difficult to establish the interests for which they are acting. The example of Carlos Murgas Guerrero illustrates this movement around the various entities of the palm network. This palm producer, an honorary member of Fedepalma, was Minister of Agriculture and advisor to exPresident Pastrana. As Minister, he introduced strategic or production alliances. His visit to Malaysia as Minister probably inspired him to draw on specific policies from the Malaysian model which were then applied in Colombia.

Being aware of plans and policies for development and infrastructure, making legislation which waters down the restrictions for projects such as palm plantations or which legalises the ownership of land acquired by dubious or illegal means, and funding or promoting certain projects such as biodiesel plants, gives a huge advantage to those politicians, landowners and associates who move in government circles, who are buying up land which then doubles in price as soon as the palm expansion reaches it, as is happening on the right bank of the River Meta. It would be very interesting for information to be published on who is acquiring the land in Vichada.

Independently of the palm-producing politicians or the political palm producers, the Fedepalma trade organisation actively lobbies

the government to secure benefits for its members, which is natural as it is a role laid down in its statutes.

However, its interference, to change laws which recognise the constitutional rights of the Black Communities and which has resulted in 'aberrations' such as the detailed regulations implementing Article 52 of Law 70, goes beyond simple lobbying and makes it jointly responsible for the impacts and violations which have been committed under the new legislation in the Black Communities' collective lands.

President Uribe will have to return the favours granted by those who helped fund his campaign, among them some of the palm companies which are now demanding tax incentives, credit, exemptions, legislative support, etc.

Contributions by the palm sector to President Uribe's last presidential campaign	
COMPANY OR PERSON	CONTRIBUTION
AGROINCE LTDA Y CÍA S.C.A	6.986.800
INVERSIONES DEL DARIEN S.A.	10.000.000
MESA DISHINGTON, JENS KRISTOFFER (Chair of Fedepalma)	2.000.000
PALMAS DE TUMACO LTDA	20.000.000
PALMAS OLEAGINOSAS DE CASACARA LTDA	5.000.000
PALMERAS LA CAROLINA S.A.	5.000.000
FRUPALMA S.A.	1.000.000
GUAICARAMO S.A.	10.000.000
HACIENDA LA CABAÑA S.A.	10.000.000
OLEOFLORES LTDA.	2.000.000
PALMAR DEL ORIENTE LTDA.	5.000.000
PALMAS DEL CESAR S.A.	5.000.000
PALMAS OLEAGINOSAS BUCARELIA S.A.	5.000.000
PALMASOL S.A.	5.000.000
PALMERAS DE ALAMOSA LTDA.	5.000.000
PALMERAS DE PUERTO WILCHES S.A.	10.000.000
Total contributions	106.986.800

Source 'Votebien.com' Financiación campañas en las elecciones presidenciales 2006. (Financing of campaigns in the 2006 presidential elections). Available Nov 2006 at: http://www.terra.com.co/elecciones_2006/centro_de_documentacion/informeuribe.pdf

The investment of international public funds in palm plantations has become increasingly important this decade, with USAID's contribution of particular significance, as funder of the expansion of plantations through farming projects for paramilitaries in the process of demobilisation. The EU has also promoted palm production through its financing of the Magdalena Medio Peace Laboratory. Logically both are responsible politically for where, how and in what public money is invested.

With regard to moral and ethical responsibility, there are various initiatives which could be applied to the Colombian palm oil trade, from campaigns to boycott the implicated companies and their products to International Opinion Tribunals, campaigns to raise awareness and inform the end consumer, or the use of certification labels and voluntary codes of conduct. All these initiatives have generated significant controversy over their usefulness and effectiveness, but latter two in particular, in addition over their level of transparency and ethics.

Perhaps the biggest problem encountered with Colombian palm oil stems from the nature of its current market. Most of the oil is consumed within the country and what is exported is primarily crude palm oil. It is more profitable and cheaper to refine the Colombian oil at the refineries in Rotterdam than to do it in Colombia, for simple reasons of economies of scale.

In this Dutch port oil is refined from all over the world which is then reexported to more than 50 countries. The difficulties in tracing the oil created by this situation are multiplied by the fact that the oil is not always the final product which the consumer buys but an ingredient in hundreds of products. Can anyone imagine asking their baker if the vegetable oil in the croissant they buy each morning is palm, and if so, where it comes from?

This problem can surely be confronted in many ways. Obviously in Europe pressure can be brought to bear on all the final links in the chain, putting emphasis on the importation of the crude oil, pointing the finger at Colombian palm oil in general so that the threat of the loss of markets forces the Colombian state and companies to stop the violations and crimes on their plantations.

It is also possible to trace the flow of oil as has been shown in the case of Chocó, following individual cases and the companies which, in our case, deal with Belgium.

3.2.3 From the Colombian plantations to the Belgian markets

As well as the Colombian oil which arrives from the Netherlands or Germany, there are two Colombian companies which export oil directly to Belgium:

- ‘*C.I. Tequendama*’ which belongs to the *Daabon* group.
- ‘*C.I. El Roble*’ integrated at industrial level with *Famar S.A.*

In both cases, the production areas are part of the Magdalena-Cesar palm complex.

This region is notorious for crimes associated with the theft and violent appropriation of land, the paramilitary network (featuring prominently in the news at the moment as it is the region where the *Bloque Norte* group of ‘Jorge 40’ is active), forced displacement and murders and massacres.

While it is difficult to imagine that any farming activity can escape these regional dynamics, unlike the case of the Chocóan plantations, there were no records of violations associated with either company at the time of completing this study.

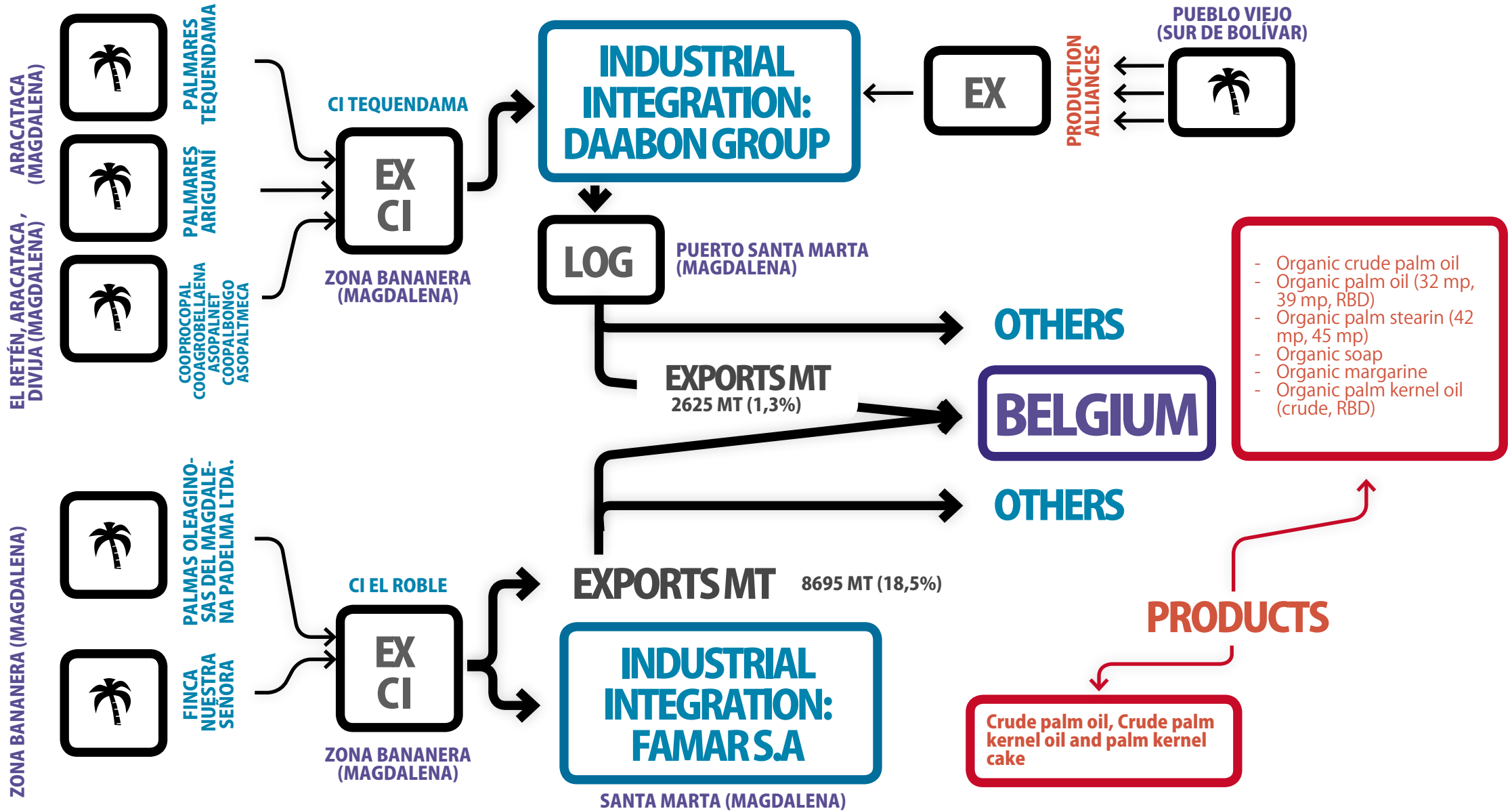
Although the diagram on the flow of oil relating to *Famar S.A.* has included the *Padelma Ltda.* extraction plant, it is worth pointing out that this has not been operating since 2005, because it was burnt down by an armed group identified as FARC (‘Revolutionary Armed Forces of Colombia’) guerrillas. However, the real perpetrators are thought to be paramilitary groups⁵³.

C.I. El Roble is one of the pioneers of horizontal integration through production alliances. This trading company works with 4 groups which farm 2,683 ha in the Zona Bananera district (Magdalena). They have benefited from credits and financial aid from Finagro, FIP (Fondo de Inversiones para la Paz – Investment Fund for Peace) and USAID.

C.I. Tequendama belongs to the *Daabon* group, which controls the entire production and marketing process, as it owns plantations, extraction plants, port facilities and has a subsidiary in Germany. It has recently expanded production as a result of USAID funding of

⁵³ ‘*Queman finca extractora en Zona Bananera*’, (‘Extraction plant burnt down in Zona Bananera’) an article which appeared in Barranquilla’s ‘*El Heraldo*’ newspaper on 9 June 2005

FLOW CHART COLOMBIAN EXPORTERS TO BELGIUM



Key			
LOG	Logistics and storage operator	CI	Comercializadora internacional (Export trading company)
→	Flow of oil	2625 MT (1,3%)	Tonnes of oil traded in 2005 (Percentage of the market)
EX	Extraction plant		

a project in the south of Bolivar, where it has established strategic or production alliances.

The publicity material for this Colombian group is impressively 'green'. It markets organic products, including organic palm and palm kernel oils, as well as organic stearins, margarines and soap derived from palm oil. Its products are certificated under 10 schemes ('Ecocert', 'Bio Suisse', 'Rain Forest', 'USDA organic', 'JAS Ecocert SA', 'Kosher KSA', 'BvQu SA 8000', 'Biotrópico Colombia', 'OKO Garantie BCS' and 'Fairtrade') and it is a founder member of RSPO (Roundtable on Sustainable Palm Oil).

RSPO has a certification scheme, through which, according to the WWF, explaining the process of establishing it, "Consumers can soon enjoy soap, shampoos and many other products containing palm oil with a clean conscience following overwhelming acceptance by the Roundtable for Sustainable Palm Oil (RSPO) — a group of producers, buyers, retailers, financial institutions and NGOs — on a set of criteria for the responsible production of palm oil. WWF is calling on companies to implement these criteria as soon as possible to ensure the conservation of tropical forests that are valuable for both people and endangered species, such as elephants, tigers, and orang-utans. Known as the "RSPO Principles and Criteria for Sustainable Palm Oil Production", the criteria give companies much-needed guidelines to produce palm oil in an environmentally friendly and socially responsible way. Its ratification was the result of a year-long participatory process involving a broad spectrum of stakeholders."⁵⁴

The situation in the regions planted to palm indicates that this scheme, in which Fedepalma also participates, is either insufficient to guarantee the rights of workers and populations affected by the plantations, or lacks adequate monitoring mechanisms to ensure that this is the case.

Any analysis of responsibilities would be incomplete if it did not address the problems associated with certification labels, as these are ambiguous or fraudulent and obscure the chain of responsibilities, resulting in disinformation and the deception of the end consumer.

Given the scope of this study, we are going to confine ourselves to explaining the issue. We are only going to highlight two of the most

⁵⁴ 'Palm oil will soon be produced without threatening tropical forests' WWF 2005. Available in Nov 2006 at: http://www.wwf.org.co/colombia/boletin_detalle.php?lang=es&ir=b114

problematic elements of the current certification system: its scope and its verification systems.

3.2.4 The need for a comprehensive certification system

There is a varied and increasingly wide range of certification labels. They include those certifying that a particular cultivation method has been adopted in which agrochemicals are not used and which respects the environment, those guaranteeing the sustainability of the farming system used, those supporting companies' good practice and social responsibility or those guaranteeing fair trade. Regrettably, no label guarantees respect for the fundamental rights of the people who work, or are otherwise affected, in the areas of production. Each label offers partial guarantees about the product it certifies. This leads to the paradoxical situation in which the consumer buys organic bananas or palm oil, indisputably beneficial to their health, which have been harvested on plantations, the land of which has been appropriated violently, through murders, and has caused the forced displacement of hundreds of families, who end up living in the dangerous and unhealthy shanty towns on the edge of the big cities.

It is very telling that companies and institutions involved in some way in the issue of certification labels are reluctant or refuse outright to incorporate international standards which would guarantee human rights.

Only a comprehensive label which included all these guarantees would be fully credible. And if such a label existed at present, it could not be used to certify the current production of Colombian palm oil.

3.2.5 *Quis custodiet custodes?*⁵⁵

Who is watching the watchers? This is the other concern and cause for complaint concerning labels and certification schemes, including RSPO's.

What control mechanisms are in place to verify that the criteria for the labelling are met, and who is responsible for them?

⁵⁵ A few days after giving a talk on oil palm in Chocó at a general assembly of Amnesty International Luxembourg, two members of the audience sent me an envelope with the question: '*Quis custodiet custodes?*' accompanied by a 'Fair Trade' label for chocolate cream marketed by a recognised international organisation. The label stated: "Max Havelar guarantees 57% of the ingredients" (the cocoa and the sugar). Among the 43% of the ingredients not guaranteed was palm oil fat. What guarantees are there for how the palm oil fat was produced? Thanks to Roberto and Caterina for the label.

A case illustrating the schemes' lack of reliability is the certification process for the FSC (Forestry Stewardship Council) label in Colombia. Of the three firms currently certified, two have the worst record of all the wood companies which operate in Colombia (a record which includes human rights violations, employment conditions defined as forced labour according to ILO guidelines and many more violations besides): Pizano S.A. and Smurfit cartón de Colombia.⁵⁶ Situations such as these engender distrust in the verification mechanisms for the certification schemes and even suspicions about their true purpose.

Some organisations believe that they should participate in systems such as RSPO to improve them and monitor their operation from within. In contrast, others believe that the certification schemes are nothing more than a cosmetic exercise by the companies to allow them to garner a greater market share and more public subsidies.

At all events, any certification scheme which does not incorporate the standards for human dignity guaranteed by the Universal Declaration of Human Rights and other international instruments does nothing to defend the rights of populations which, as in Colombia, are affected by the oil palm monoculture. Comprehensiveness, transparency, and verifiability are still issues outstanding as far as certification labels are concerned.

⁵⁶ For more on the case of Pizano S.A., there is information available from CAVIDA and the *Comisión Intereclesial de Justicia y Paz* at the latter's website: <http://es.geocities.com/justiciaypazcolombia/cmca.htm#cmca> and in *Explotación de madera en el Bajo Atrato. Amicus Curiae* ('Wood exploitation in the Bajo Atrato. Amicus Curiae') Defensoría del Pueblo. Bogotá 2003. Available in Nov 2006 at : http://www.defensoria.org.co/?_s=d1&n=93. For the case of 'Smurfit' see *El imperio de cartón. Impacto de una multinacional papelera en Colombia* ('The cardboard empire: the impact of a multinational paper company in Colombia'). Joe Broderick. Planeta colombiana editorial. Bogotá 1998.

Conclusions

The objective of this study has been to provide an overview of the flow of palm oil from the distant plantations in Colombia to the arrival of the oil at the ports of the North.

It is difficult to argue that, ethically speaking, Colombian palm oil is a 'clean' product. The study is intended to represent a further step in the denunciation of a production model associated with a range of grave violations, so that these practices which are to the gross detriment of populations and of universally-recognised rights are ended, justice is done in relation to all of them, lands which have been robbed or illegally appropriated are returned to their rightful owners and of course, that these lands are returned in the same state as when they were seized - free of palm.

We hope that the dissemination of critical information on this product, which is widely consumed in Europe, will encourage the final links in the chain, in Belgium and in Europe, to exert effective pressure so that all these abuses may end.

Europe,
October 2006.

Annexes

Glossary

- **Extraction Plant** Also called a 'mill', it is the industrial plant where the oil palm fruit is pressed to extract the oil.
- **Vertical Integration** Vertical integration is the coordination of all stages of one production chain, managed as a single business, to optimise expenditure and resources, thereby creating economies of scale. Total vertical integration maintains all the production processes in the hands of the same company, from the farm to the distribution and marketing of the products to the end consumer. This type of integration is a single legal entity. Partial vertical integration, on the other hand, maintains the legal (not operational) independence of the different companies or links in the chain, and is formalised through contractual relationships such as strategic alliances, joint ventures, consortia, or agroindustrial contracts.
- **Agroindustrial chain** This is a production chain understood as a system which embraces all the entities which have a role in the production and marketing of goods and services related to agricultural products. Agricultural product chains consist of the link relating to the production of goods from the primary sector and their corresponding sectors, both forwards and backwards, in which they are involved economically and socially.
- **RBD** This refers to palm or palm kernel oil which has gone through industrial processing. The initials stand for 'Refined', 'Bleached' and 'Deodorised'.
- **Paramilitarism** We use this term to refer to the entire political, economic, and military structure which created, financed, protected or relied, to achieve its ends, on the network of illegal armed groups, funded by private capital and drugs money and accused of having a close relationship with the State armed forces.
- **AUC** The '*Autodefensas Unidas de Colombia*' (United Self-Defence Force of Colombia) was formed as a confederation which brought together most of the Colombian regional paramilitary groups.
- **Procuraduría General de la Nación** This is the Colombian state entity 'which represents citizens before the State. (...) It is its responsibility to ensure that public servants properly exercise the functions entrusted to them in the Constitution and the Law.' (www.procuraduria.gov.co)
- **Codhes** *La Consultoría para los Derechos Humanos y el Desplazamiento* (the Consultancy on Human Rights and Displacement) - CODHES - is a Colombian non-governmental organisation

working for the protection and promotion of human rights, specializing in the displaced population. (www.codhes.org)

- **Incoder** *Instituto colombiano de desarrollo rural* (Colombian rural development institute) – Incoder – is a Colombian governmental institute answerable to the Ministry of Agriculture and Rural Development. Incoder was created by merging 4 different entities, with responsibility for land reform (INCORA), land improvement (INAT), rural development (DRI), and administration of fisheries and aquaculture (INPA). (www.incoder.gov.co).
- **Peace Laboratory (Laboratorios de Paz)** International development programmes financed by the Colombian Government and the European Commission. According to the website for the European Commission Delegation for Colombia and Ecuador, “the biggest commitment that the European Union has made to support the Colombian Government’s efforts regarding activities in the quest for peace, have been in the form of the Peace Laboratories” [unofficial translation – Spanish version only available on website]. (www.delcol.cec.eu.int/es/ue_colombia/laboratorios.htm)
- **ILO:** International Labour Organisation is a “UN specialized agency which seeks the promotion of social justice and internationally recognized human and labour rights”. (www.ilo.org)
- **Black Communities (Comunidades Negras)** According to Article 2 Chapter 1 of Law 70 of 27 August 1993, the term relates to “all the families of AfroColombian ancestry which have their own culture, a shared history, and their own traditions and customs within the context of rural settlements, which express and conserve an awareness of an identity which distinguishes them from other ethnic groups”. (www.secretariassenado.gov.co/leyes/L0070_93.HTM).
- **Community council (Consejo comunitario)** Article 5 Chapter III of the abovementioned Law 70 stipulates that “In order to receive the available lands as collective property, each community shall establish a Community Council as a form of internal administration”.
- **RSPO** The Roundtable on Sustainable Palm Oil is a not-for-profit organisation registered in Switzerland which describes itself as “an association created by organisations carrying out their activities in and around the entire supply chain for palm oil to promote the growth and use of sustainable palm oil.” (www.rspo.org).
- **FSC** According to its website, the Forest Stewardship Council (FSC) is an international organisation which has a respected

system and a recognised product label to promote the responsible management of the world's forests. (www.fsc.org)

Resources and materials

Statistics and information on the palm sector

Colombia

- **Fedepalma** According to its website, the *Federación nacional de cultivadores de palma de aceite* (National federation of oil palm growers) “groups together and represents growers and palm oil producers (...) and heads up the organisational and support services structure for the palm growers’ sector”. It is a prime source of information on the Colombian palm sector and publishes a statistical yearbook. (www.fedepalma.org).
- **Agrocadenas** The *Observatorio de Competitividad Agrocadenas Colombia* (Agrocadenas Colombia Competitiveness Observatory) is a project of Colombia’s Ministry of Agriculture and Rural Development. Its web page is defined as “the portal where public information on the country’s agricultural production chains is gathered together.” (www.agrocadenas.gov.co).
- **Ministry of Agriculture and Rural Development:** This Ministry “has as its prime objective the formulation, coordination, and adoption of policies, plans, programmes, and projects of the Agricultural, Fisheries and Rural Development Sector.” (www.minagricultura.gov.co).
- **Proexport** According to its website it is “the organisation responsible for the commercial promotion of non-traditional exports, international tourism and foreign investment in Colombia”. There is information on its website on companies exporting oil palm products (www.proexport.com.co).
- **DIAN and DANE** The *Dirección de Impuestos y Aduanas Nacionales* (Taxes and National Customs Directorate) and the *Departamento Administrativo Nacional de Estadística* (National Administrative Department for Statistics) are government administration agencies. Both produce official statistics on palm oil. (www.dian.gov.co and www.dane.gov.co).

Internacional

- **FAO** The UN Food and Agriculture Organisation has a comprehensive statistical section on agricultural products, including

those derived from palm oil. The statistics can be found at the FAOSTAT statistical section of its website (www.fao.org y <http://faostat.fao.org/>).

- **EUROSTAT** The European Union's statistical service. It provides statistics on international trade, including imports of palm oil. (<http://epp.eurostat.ec.europa.eu>).
- **BELGOSTAT** The National Bank of Belgium's statistical web page, which contains a bank of Belgian national socioeconomic data broken down by federal region (Flanders, Wallonia and the capital, Brussels). (www.belgostat.be).
- **Oil World** A German company which provides the most comprehensive information, (both up-to-date and historical) on the oils and fats market, including palm oil and other oil palm products. There is a charge for the information. (www.oilworld.biz).

Palm plantations in Chocó

- **'La tramoya' ('The Plot')** Case study by *'Noche y niebla'* magazine, entirely dedicated to the case of Curbaradó and Jiguamiandó. It is a joint publication by the *'Comisión intereclesial de justicia y paz'* and *'Banco de datos del Cinep'*. (CINEP's Databank). This is currently the most comprehensive case study on the issues surrounding palm plantations and human rights violations in Colombia. (www.nocheyniebla.org)
- **Comisión intereclesial de justicia y paz (Interecclesial justice and peace commission)** The website of this Colombian non-governmental organisation has numerous documents on the issue, both by the organization itself and by the communities of Curbaradó and Jiguamiandó. (<http://es.geocities.com/justiciay-pazcolombia>).
- **Quibdó Diocese** On its Chocó website there are various documents by this diocese of the Catholic Church in Chocó on the problems associated with palm plantations. It is worth highlighting *'El precio de la Tierra'* ('Costing the Earth') a 23-minute video filmed in the Curbaradó and Jiguamiandó river basins. (www.choco.org).
- **Defensoría del Pueblo (Office of the Human Rights Ombudsman)** On the website of this Colombian state institution can be found *'Resolución defensorial n° 39- Violación de los derechos humanos por siembra de palma africana en territorios colectivos de Jiguamiandó y Curvaradó-Chocó'* ('Resolution n° 39 of the Office of the Human Rights Ombudsman – Violation of human rights through the planting of African palm on the collective lands of Jiguamiandó y Curvaradó - Chocó' and its report

“Informe de seguimiento de la resolución defensorial No. 39 del 2 de junio de 2005” (“Follow-up report on Resolution no 39 of the Office of the Human Rights Ombudsman of 2 June 2005”) (www.defensoria.org.co).

- **HREV** on our website there are a range of documents on this issue. In particular, we would like to highlight ‘*El cultivo de la palma africana en el Chocó. Legalidad ambiental, territorial y derechos humanos*’. ‘Growing African palms in Chocó: Human rights and the legal framework on the environment and territory’. It was the first study of the problems related to the oil palm in Colombia at a regional level, focusing on the Department of Chocó. (www.hrev.org).

The Magdalena Medio region and Peace Laboratory

- **Magda López** ‘*Puerto Wilches: sindicatos y actores políticos armados, 1996-2002*’ (‘Puerto Wilches: trade unions and armed political actors, 1996-2002’). Magda Beatriz López C. Article in issue no. 185 of ‘Controversia’ magazine. Available at: www.cinep.org.co
- **Agencia Prensa Rural (Rural Press Agency)** On its website there are various articles critical of the Magdalena Medio Peace Laboratory, among them: ‘*Estado delincuente, intervención imperial y palma aceitera*’ (‘The criminal State, imperial intervention and oil palm’) by César Jerez. (www.prensarural.org).
- **Gearóid Ó Loingsigh** Of his writings critical of the Peace Laboratory, two stand out - ‘*Laboratorios de Paz de la Unión Europea ¿El Plan Colombia de Europa?*’ (‘The Peace Laboratories of the European Union: Europe’s Plan Colombia?’) and ‘*La estrategia integral del paramilitarismo en el Magdalena Medio de Colombia*’ (‘The global strategy of paramilitarism in Colombia’s Magdalena Medio region’). (Both available in Spanish at www.prensarural.org, and the former available in English at www.socialistdemocracy.org/News&AnalysisInternational/News&AnalysisIntEuropesPlanColombia.html).
- **CDPMM** The *Corporación Desarrollo y Paz del Magdalena Medio* (Magdalena Medio Development and Peace Corporation) is the body responsible for implementing the Peace Laboratory (www.pdpmm.org.co).
- **Evaluation of the Peace Laboratory** ‘*Informe Final de Evaluación de Medio Término Laboratorio de Paz del Magdalena Medio*’. (‘Final Report of the Mid-Term Evaluation of the Magdalena Medio Peace Laboratory’) Anders Rudqvist, Fred van Sluys.

Febrero 2005. (www.delcol.cec.eu.int/es/index.htm - in Spanish only).

- **Rugeles and Delgado** *‘La construcción de lo público desde el sector local productivo colombiano. La especificidad de los activos en palma de aceite y ganadería’*. (The construction of the public sphere in the Colombian local farming sector. The specificity of oil palm and cattle assets). Laura Rugeles and Claudia Delgado. (Available at www.iigov.org).

On paramilitary infiltration

- **‘Semana’ magazine** The special edition *‘La hora de la verdad del paramilitarismo’* (‘Paramilitarism’s moment of truth’) gathers together more than 110 articles which have appeared in *‘Semana’*, on the scandal of ‘parapolitics’, the application of the Justice and Peace Law, the confessions of paramilitaries, victims and perpetrators, etc. (www.semana.com).

Companies which feature in the study

- **Gradesa S.A.** *Grasas y Derivados S.A.* (Oils and Derivatives Ltd) – Gradesa is a Colombian company “involved in the production and marketing of edible oils derived from the fruit of the African palm. The centre of production is in Ciénaga (Magdalena) and we also have offices in the following cities: Medellín, Bucaramanga, Barranquilla y Bogotá”. It sells its food products and soaps to 3000 distributors in Colombia and exports to Europe (Spain) and America. (www.gradesa.com).
- **Daabon Group** The Colombian business group Daabon Organic has its headquarters in Santa Marta. This group is involved in the cultivation, export, and distribution of organic products (coffee, bananas, products derived from oil palm, cocoa, sugar and avocados). Founded by the Davila family, it currently has offices in Japan, Australia, United States, Germany etc. (www.organicworld.com.co).
- **CI Tequendama** The *Comercializadora Internacional Tequendama* (Tequendama Export Trading Company) is part of the Daabon group and is based in Zona Bananera (Magdalena).
- **Comercializadora Internacional Extractora Bajirá S.A. (Bajirá Export Trading and Extraction Company)** A Colombian company registered with the Urabá chamber of commerce. It presses the oil palm fruit (the extraction) and trades it. Its extraction plant is in Mutatá (Antioquia).

- **C.I. Famar S.A.** The *Sociedad de comercialización internacional y de fabricación de aceites y margarinas S.A* – Famar (Export trading and oils and margarines manufacturing company) is a Colombian company registered with the chamber of commerce of Santa Marta (Magdalena). It is concerned with palm oil extraction, the manufacture of oils and margarines and their marketing.

“The great contribution made by the study by the Coordination Belge pour la Colombie is in identifying the various levels of responsibility for the violations committed in the palm oil production areas, not only in Colombia but also in Europe. This serves to remind us that we are all involved and all interdependent.

On our capacity to limit our infinite needs and to promote local production and food sovereignty, respecting both human and environmental rights, will depend the realisation of the fundamental rights of everyone.”

Jean Ziegler

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