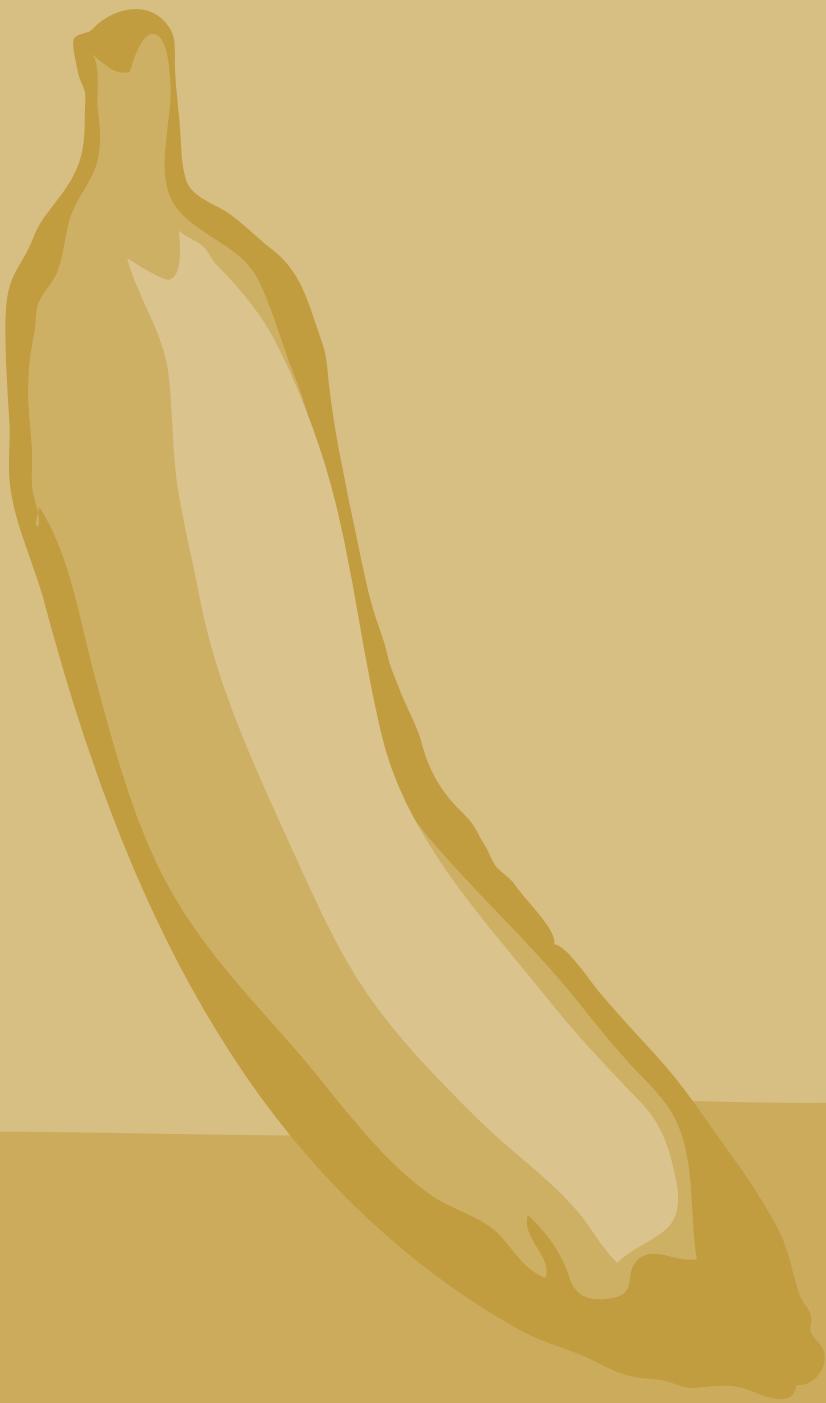


COLOMBIA: BANACOL

a company implicated in paramilitarism,
and land grabbing in Curvaradó and Jiguamiandó



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The **Hands off the Land** project aims to raise awareness about land grabbing amongst the European public, politicians, policy makers, students and professionals. The project presents case documentation, fact sheets and thematic studies of transnational land grabs in Mali, Mozambique, Zambia, Colombia and Cambodia.

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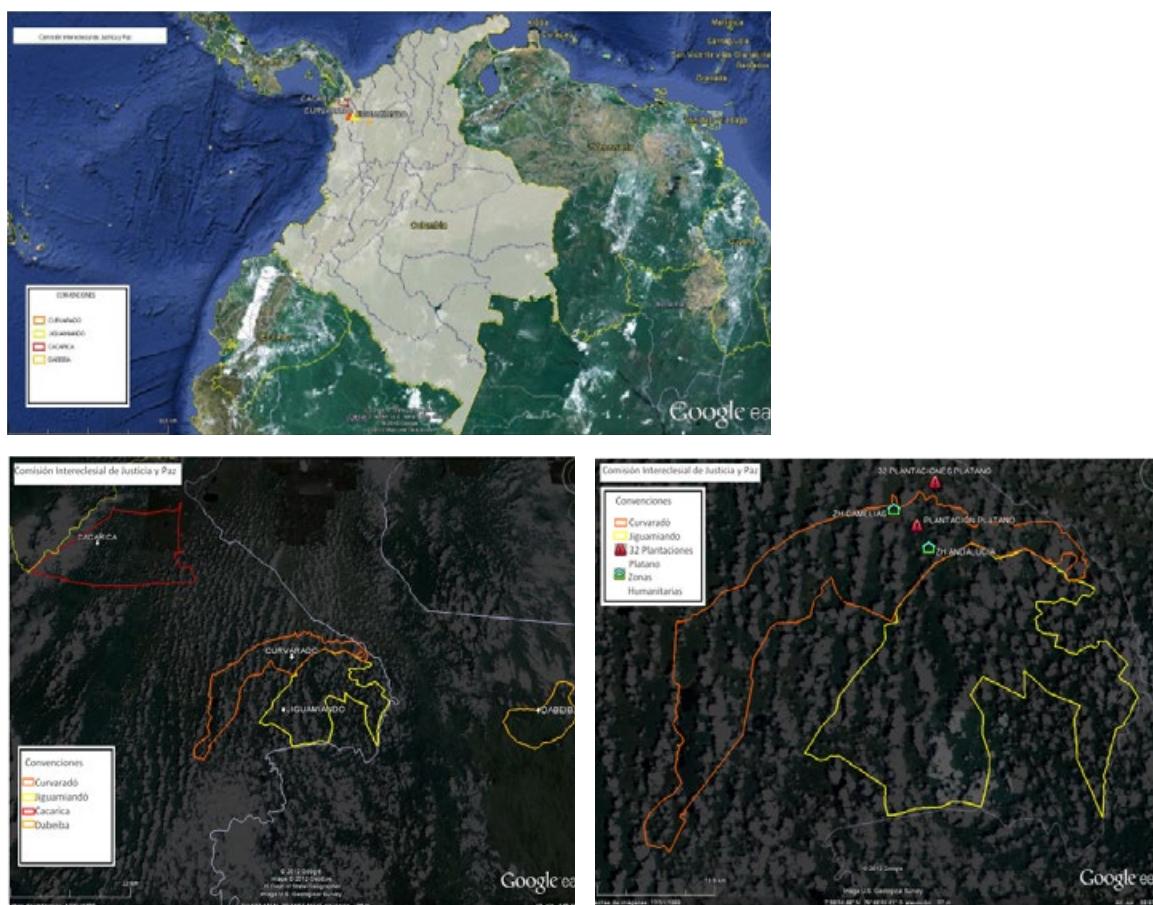
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Summary

This study focuses on the International Banacol Marketing Corporation's actions in the Afro-Colombian and Mestizo communities' collective territories of Curvaradó and Jiguamiandó in the Lower Atrato region of Chocó, Colombia. This company produces and trades bananas, pineapples, cassava, and other products. It's business benefits from paramilitary structures, the promotion of land invasions for banana production, and contracts with individuals who do not have the approval of the communities. These activities are pursued to advance agreements concerning the use of the land, against Colombian laws.

The transnational company Banacol acquired Banadex, a subsidiary of the United States' Chiquita Brands, and rushed into contracts with them to ensure the sale of fruit to Chiquita Brands after Chiquita were sanctioned by the State Department for financing of illegal groups in Colombia. Banacol markets its products in Europe through different firms. The business formation of these firms casts doubt on their legality.



Introduction

A significant coalition of organizations from Europe, Africa, Asia and Latin America, consisting of the *Transnational Institute* (TNI Netherlands), *Foodfirst Information and Action Network* (FIAN International) (FIAN IS, Germany) (FIAN Austria) (FIAN Netherlands), *Forschung-und Dokumentationszentrum Chili-Lateinamerika e.V.* (FDCL, Germany), *Intytut Globalnej Odpowiedzialnosci* (IGO, Poland), *Uniao Nacionale des Organisations Paysannes du Mali* (CNOPMALI, Mali), *Focus on the Global South* (FSGS, Thailand), and our Interchurch Justice and Peace Commission (CIJyP, Colombia), have united to do research that specifically focuses on the serious and growing impact of land grabs occurring all over the world, on the global food, agrofuels, minerals, oil, and road-energy-telecommunications infrastructure markets.

In Colombia the Afro-descendent, Indigenous and Mestizo small-scale farmers have been hounded by paramilitary violence that displaced them from their territories. This violent displacement has put them at the will of business sectors linked to crime and supported by government funds, and of authorities that are implicated in the fraudulent legalization of these stolen territories.

Curvaradó and Jiguamiandó, in the Lower Atrato region of Chocó, are an accurate example of the types of business and government practices that are found in areas strategic to the international market.

Paramilitaries, with the complicity and lack of action by the 17th Brigade and the Urabá Police, assassinate, disappear, torture and displace local inhabitants, while claiming to fight the guerrilla. Businessmen associated with these criminal structures appropriate the territories that traditionally and legally belong to the Afro-descendent communities; authorities at the service of the businessmen try to legalize this fraudulent land-grab; and the national government supports more than 95% of the illegal investment. This leads to oil palm agribusiness being implemented on the ruins of the communities' homes, cemeteries and communal areas. It provides the foundation for large-scale cattle ranching and transnational plantain, banana, pineapple and cassava production, which are all increasing at the hands of the paramilitaries. These violent structures see the opportunity to expand the agricultural production onto the high quality soil, which will gradually replace the depleted soils of Antioquian Urabá. The paramilitaries also see opportunity

in these territories due to their demonstrated reserves of gold, copper, molybdenum and other minerals and for the opportunities to construct infrastructure for exportation.

One of the companies with the most power and involvement in this territory is the international Banacol Marketing Corporation, the main subject of this study.

In their plans, the businessmen, military members, paramilitaries and government did not count on the dignity of Afro-descendent and Mestizo women and men who, despite terror mechanisms, have experienced that, without their territory, life loses its meaning. In the midst of these threats they decided to resist, take legal action, return to their territories, construct Humanitarian Zones as a realization of international humanitarian law and construct Biodiversity Zones as a fulfillment of environmental law. In the midst of armed conflict between the State and the guerrilla, they have hope of recuperating their lives that are being extinguished by the present agribusiness.

Today, the intervention of the Constitutional Court and the decisions of the Inter-American System of Human Rights, the pronouncements of the International Labour Organization's Committee of Experts on Convention 169, and the national and international accompaniment, have all made the government turn these areas into a pilot project for land restitution in Colombia. With the recognition of the illegality of the appropriation of territories, the businessmen implicated in old and recent crimes are currently trying, through legal means, to continue controlling these areas. They work to gain the trust of a few inhabitants of the territories, offering them perks if they act as a community authority and negotiate business with them. These individuals thus deny the communities their right to decide what they want to do with their land.

Despite the adversity, hundreds of women and men creatively resist with local action supported by national and international solidarity. They enact proposals to protect their lives and territories, develop alternative land use plans, preserve memory, utilize alternative communication, develop self-education, continue eco-production, enable gender perspectives, foster land spirituality, and pursue judicial actions. From this area of the planet, the communities of Curvaradó and Jiguamiandó that inhabit the Humanitarian Zones, Indigenous Reserves, and Biodiversity Zones, contribute to the development of alternatives to the depredation of the planet caused by the market.

Without the tenacity of this important group of indignant people, this study would not have been possible.

1. Wealth and State Violence in the Lower Atrato Chocó region

Curvaradó and Jiguamiandó are located in the northern part of the department of Chocó, bordering the department of Antioquia, in the subregion of the Lower Atrato. They make up part of the biogeographic area known as the Chocó and part of the zone of Pacific Reserve, characterized by its native biodiverse flora and fauna species. Its location is strategic because of the quality of the soil, its close proximity to the Atlantic and Pacific oceans, and its potential for terrestrially connecting Central and South America.

Community members of Curvaradó and Jiguamiandó historically have used the collective lands for small-scale agriculture and cattle ranching, traditionally rotating the planting of subsistence crops (rice, plantain, corn, beans and cassava) with livestock grazing. Ancestrally, they also practiced hunting and fishing to ensure the sustainability of the families that make up the collective territories.

Since 1993, with Law 70, the Colombian government has recognized the Afro-descendent communities' ancestral rights (including the Mestizos that have assumed their methods and customs) and has recognized their collective ownership of their territories. In 2000, the government recognized the Curvaradó communities with resolution No. 02809, granting them 46,084 hectares, and recognized the Jiguamiandó communities with resolution No. 02801, granting them 54,973 hectares.

The resolutions that have been passed clearly recognize that these areas of Chocó are considered within the Environmental Policy as a "*strategic ecosystem that should be conserved, because the genetic and biodiverse resources that currently exist in the region are all national public goods, vital to the betterment of the quality of life of the families settled there, for the development of the country, and for the future of humanity*", in which the collective title appears as "a strategy for conservation and sustainable use of the valuable natural resources that exist in the Colombian Pacific Basin."¹

In September of 1996 and February of 1997 the regions of the Lower Atrato and Antioquian Urabá were the epicenter of two large-scale military and paramilitary operations directed by the 17th Brigade of the Colombian Army. The first was "*Operation Black September*" that, within the framework of the counterinsurgency strategy, was particularly directed against the civilian population of Curvaradó, Jiguamiandó (Chocó), and Dabeiba (Antioquia). The second was

"*Operation Génesis*" that was directed against the inhabitants of Cacarica and Salaqú (Chocó). Both operations produced assassinations, forced disappearances, tortures and one of the largest mass displacements in the history of Colombia.

From that time until March 23, 2012, Jiguamiandó and Curvaradó have been victim of 15 forced displacements, and 148 assassinations and forced disappearances. In 2001, businessmen, some of them having confessed to be paramilitaries, initiated extensive oil palm cultivation. The cultivation took place on territories that had been allotted the year before as collective territories of these communities through the law of Afro-descendents, Law 70 of 1993. That same year the Jiguamiandó communities were newly displaced by a new wave of violence.

Under the pretext of combating the guerrilla, they forcibly expelled the inhabitants of the territories, and brought in companies to exploit the land, protected by paramilitaries, the Urabá Police and the 17th Brigade. Banana companies like Del Monte, Uniban and Banacol expanded their operations in Cacarica, Curvaradó and Jiguamiandó. Palm companies such as Urapalma, Palmura, Palmas de Curvaradó, Palmas de Atrato, Agropalma, and others, all close to the government, cleared forests, transformed landscapes and planted oil palm in Curvaradó and Jiguamiandó. In Cacarica, the company, Maderera Pizano S.A. and its subsidiary Maderas del Darién, devastated the endangered Cativo tree, using the trusted Forest Stewardship Council (FSC) label. Ranching businesses like *La Tuteka* extended their livestock production in Curvaradó.

In 2005 in Curvaradó and Jiguamiandó, after the two verifications advanced by the Inter-American Court of Human Rights that had adopted provisional measures in favor of the communities in 2003, a document by the Colombian Institute of Rural Development (INCODER) was discovered. It recognizes that 93% of the oil palm was planted on territories protected under Law 70 in the two river basins. In subsequent years, the Constitutional Court published three express court orders² to guarantee the right of the material restitution of these territories (2009, 2010, 2011). The Superintendent of Notary and Registration revoked a few illegal resolutions submitted by the same government in favor of the businessmen (2009). And the State Council ordered the eviction of some of the bad-faith occupiers (2010).

However the material restitution of these territories has not been achieved.

The Attorney General's Office, in response to complaints from community members who have been subject to threats, judicial frame-ups and defamation campaigns, has launched Investigation 3856 based on charges of forced displacement, conspiracy to commit a crime and environmental damages. The investigation targets palm companies, paramilitaries and collaborators of these criminal structures. This judicial process has thus far resulted in 16 businessmen imprisoned, 11 fugitives and 22 people brought to trial.

Despite these decisions, the Attorney General's Office has not carried out in-depth investigations regarding the communities' testimonies about the relationships between the military members and paramilitaries. It has not involved any members of the 17th Brigade implicated in the military operations, nor has it investigated the banana companies Banacol and Uniban, or the cattle ranchers implicated in the operations that generated the forced displacement.

Meanwhile there are many facts that have been subject to judicial recognition: a senior level executive of the multinational Uniban, affiliate with Banacol, is planting a new oil palm plantation; Banacol conned some local inhabitants into the illegal implementation of monoculture plantain cultivation and promoted the invasion of the territory with people from other areas of the country to start their plantations; large-scale cattle ranchers extended their herds; and paramilitaries promoted the cultivation of coca leaf and the assembly of coca-processing laboratories in the collective territories.

For their part, the Afro-Colombian communities refuse to lose their territory or advance agreements with businesses that were implicated in the forced displacement. In 1999, they decided to return to their land and construct Humanitarian Zones as areas exclusively for the civilian population and clearly marked to distinguish them as a civilian population. They have also constructed Biodiversity Zones to recover the diversity of species and stop the advancement of agribusiness. The Inter-American Court of Human Rights recognizes both constructs.

The oil palm, the banana, the plantain for export, the coca leaf cultivation, the cocaine laboratories, and the large-scale cattle ranching, are only some of the projects being advanced in this region, despite the fact that the land is formally recognized as belonging to the Afro-descendent communities.

In 2009 within the Indigenous communities of Jiguamiandó, in the titled Embera Urada Reserve – Jiguamiandó territories, the Muriel Mining Corporation, affiliated with Río Tinto and Gold Plata Mining³, initiated the exploration of the territories without local consultation. On March 9, 2012, the Constitutional Court thwarted the effort of the transnational mining company and the Colombian government to annul the previous Constitutional Court decision that ordered prior local consultation (as mandated by the ILO Convention 169). The Constitutional Court confirmed its previous decision, which reinforces the efforts to try to curb the illegal intervention of the transnational mining corporation backed by the national government.⁴

Also moving forward in this region is the construction contract for the Panamerican Highway, now called the *Travversal de la Américas*. The contract was signed on August 6, 2010, days before Álvaro Uribe Vélez left office as president. Without consulting the affected communities, the project plans to break open the Darien Gap and the Los Katios Park, designated by UNESCO as a "World Heritage in Danger." Given the government's decisions, the Cacarica communities, which will be primarily affected, filed a class action on April 1, 2011, in which they request that the government suspend the project.⁵

In addition, in 2012, the national government decided that it should initiate the construction of the Colombia-Panama Electric Interconnection, a project that has been promoted since 2001 between the Panamanian and Colombian governments by means of the Colombia Panama Electric Interconnection S.A. -ICO- that initiated activities in 2009, with contributions from the Inter-American Development Bank (IDB)⁶. In their plans, they intended to have the Interconnection pass outside the collective properties of Afro-descendents in Cacarica, but that was not possible. Therefore the company was obligated to hold informational consultation meetings in Bogotá starting on March 16, 2012, but they did not inform the affected communities.⁷

Moreover, President Juan Manuel Santos said in an interview with the London Financial Times on November 2011, that he had interest in building a dry canal between the Atlantic and Pacific, as an alternative to the Panama Canal. The dry canal would go through the Lower Atrato region of Chocó, crossing through the Afro-descendent and Indigenous communities of Cacarica. The proposed railway, 791 kilometers long, costing \$7.6 billion U.S. dollars, would be financed by the China Bank of Development and operated by the Chinese Railway Group.⁸

2. Banacol implicated in the takeover of land in Curvaradó and Jiguamiandó

Evidence exists of Banacol, affiliated with Chiquita Brands, being present in the collective territories of Curvaradó. This evidence implicates the multinational corporation in the invasion of these community territories, which was initiated right after the communities were forcibly displaced.

Since 2000, following the military and paramilitary "*Operation Black September*", directed by the 17th Brigade, the banana businessmen (connected to the paramilitaries) expanded their agricultural business based in the Antioquian Urabá into the Lower Atrato region of Chocó. They initially occupied the land with other productive activities.

3. From the Banana Industry in Urabá to the oil palm, cattle and banana industries in Curvaradó

The banana businessmen Antonio Argote Bolaños and Rafael Antonio Argote Romera have registered with the government to receive different types of incentives for banana production. They have 313 hectares planted in the municipalities of Turbo, Apartadó and Chigorodó (all in the Urabá region), under their personal names and also under the name of the company Agrobán S.A.⁹ The property registration information, with detail of the area, location, name of properties and exportation information, appears on the internet website of the Colombian Farming and Livestock Institute (ICA), of the Agriculture Ministry. It calls attention to the fact that in 2006, these businessmen, with ties to the paramilitaries, received incentives requested from the government totaling 583,183 pesos (\$322 U.S.) per hectare, for all the land they registered (demonstrated in the cited graphs).¹⁰

In March of 2005, INCODER published an official report from an inter-institutional verification of the territories in October 2004. This report showed that 21,000 hectares of the collective territories were occupied by big business. Of this total, 1,236 hectares were being used for large-scale cattle ranching in the communities of Caño Claro, El Guamo, La Despensa, Caracolí and La Florida by *La Tuteka Investments* company, owned by banana businessmen Antonio Argote Bolaños and Claudia Ángela Argote Romero, among others.¹¹ The appropriation of these lands using harassment, fraud, and illegal purchases was done through 25 invalid sale contracts, as confirmed by INCODER in their report.

The members of the Caracolí Community Council, displaced from their territories by the paramilitary operations and the business acquisitions, decided to return on July 20th, 2007, and subsequently fell victim to crop damage, threats, and attempted forced displacement and disappearance.



The Constitutional Court intervened against the illegal conduct, which in the case of this company is still unresolved, by annulling an eviction order submitted by the Attorney General of Ríosucio against the real owners of the land.¹² The banana businessmen (connected with Banacol, Uniban and other traders), used their immense economic power to coordinate the eviction operation with the Urabá police commander. The timely intervention by the Court stopped the operation. However, the businessmen still formed an armed group for security and harassment of the inhabitants of the Caracolí Community Council. They themselves told the community over the telephone that the police and Army knew about their armed group.¹³

The constitutional decisions have not made the implicated companies withdraw from the territory, even though they are still causing irreparable damage to the families of the Caracolí Community Council, such as the attempted rape of women and their possible responsibility in the forced disappearance of Evert Gonzales, a community council member, on July 23, 2011.¹⁴ The power of the Argote's company, connected to Banacol and Uniban, provides continued impunity for land grabbing and other crimes in which they are very likely implicated. There have been no investigations by the National Attorney General, despite the denunciations, and the proximity of the banana businessman to the paramilitary leader Raul Hasbún (who is discussed more below).

There is also Jesús Antonio Lopera Lopera, a cattle and banana businessman of Urabá occupying in bad-faith, and his brother Jairo Lopera Lopera. They have registered with the Agricultural Ministry that they have 87 hectares¹⁵ planted with banana in Urabá, for which they receive similar incentives as the Argotes and for which they have illegally extended their properties into the Apartadocito community in the Curvaradó River Basin. During the course of writing this study, they destroyed close to 40 hectares of forest, and have appropriated close to 150 hectares of these communities' collective land through fraudulent purchases and paramilitary pressure.

The State Council ordered the eviction of the businessman, Jesús Antonio Lopera Lopera, from these collective territories together with the Argotes and other large-scale cattle ranchers, palm and cassava businessmen, and Banacol.¹⁶ But so far the order has not been enforced.

As well, the banana businessman Irving Bernal Giraldo owns 160 hectares of banana production in the municipality of Carepa in Urabá. He declared this land to the national government in 2006 and like the previous businessmen mentioned, received 583,183 pesos (\$322 US) for each hectare as a plant health incentive from the Ministry of Agriculture.¹⁷

Since 2004, the company "Compañía Promotora Palmera de Curvaradó Ltda" (Palm Promoter Company of Curvaradó Ltd.), with the businesspersons Héctor Duque Echeverry, María Isabel Correa Gómez and Luis Fernando Zea Media, has established and illegally taken over 1400 hectares of land belonging to the Afro-descendent communities of Curvaradó for oil palm cultivation.¹⁸

Irving Bernal, from Medellín, became the spokesperson for the entire oil palm industry, which in turn formed the "Palm Business Association of the Darién", a legal entity responsible for all collaborative procedures in the industry within the territory of Curvaradó and Jiguamiandó.¹⁹

The Attorney General's Office imposed security measures on the businessman Irving Bernal Giraldo, as a coauthor of the crimes of forced displacement and conspiracy to commit crimes and invade an area of special ecological importance to the lands and inhabitants of Curvaradó and Jiguamiandó. On November 29, 2011, he turned himself in to the municipality of Envigado in Antioquia, and is currently being held in the Yarumito prison.

The following is an important history of the paramilitary actions of this businessman in his capacity as a banana businessman with Banadex,²⁰ bought by Banacol in 2004:

The Special Litigation Committee (SLC) of Chiquita Brands introduced a 310 page report to the State Court of Florida, United States, on February 25, 2009.²¹ The report is a response to the Shareholder Derivative Action²² presented by certain Chiquita Brands shareholders against most of the current directors and several officials, charging a breach of fiduciary duty, violations of the law, the misappropriation of information and corporate irresponsibility, due to the payments (and communications) made to members of the AUC in Colombia from 1989 to 2004. The AUC is on the United States of America's global terrorist list.²³

The events in question occurred in late 1996, when the banana businessman Irving Bernal invited two executives of Chiquita Brands to a meeting with the paramilitary group, Autodefensas Campesinas de Cordobá y Urabá (ACCU). Indeed, the meeting was held with the paramilitary leader Carlos Castaño.

As related by one of the officials of Banadex (the company belonging to Chiquita Brands and then transferred to Banacol) the officials had previously met Castaño, with whom they sought to form an agreement about the contribution of the transnational to the cause of the paramilitaries, provided that they would protect the corporation's operations from the intervention of the guerrillas in the zone.²⁴ The contributions

of the banana companies, according to the agreement, would take place through the Private Security Cooperatives – Convivir – legal paramilitary structures that were declared illegal shortly afterwards by the Colombian government.

According to the officials, the Cincinnati-based company was concerned about such payments and sent specific messages to the governor of Antioquia, Álvaro Uribe Vélez, through its Colombian subsidiary.

The report adds that a Banadex lawyer expressed Chiquita Brands' concerns about the legality of the Convivir groups and about complaints that human rights organizations kept making to the State for allowing the advance of paramilitarism through these structures. In response, Governor Uribe instructed the administrative secretary for Antioquia, Pedro Moreno, to send to the Banadex lawyer the same documentation that they had sent to several non-governmental organizations in response to the criticisms.²⁵

The witnesses noted that the banana company's accounting records were made under the following designation: "*donation to a group of citizens with appreciation, at the request of the Army.*" The military commander in the zone at the time was General Rito Alejo del Río, who is currently detained for the murder of Afro-Colombian Marino López Mena, during "*Operation Génesis*" which Del Río directed in Cacarica.

Other recognized banana businesspersons in Urabá, linked as directors of Banacol, are the Hasbún family, who own the company known as Emilio Hasbún and Cia. One of its members, Raúl Emilio Hasbún, in 1996, switched from banana businessman to paramilitary and coordinated all the financial operations of the banana companies and the paramilitary group called the Córdoba and Urabá Farmers Self Defense Group (*Autodefensa Campesina de Córdoba y Urabá - ACCU*). At the same time, he coordinated with the army, which provided guarantees for the development of the business activities in the region.

Hasbún coordinated with Banacol about the payments to banana growers, who worked on properties that he claimed as his own. The agreement with Banacol consisted in deducting a percentage of the farmers' payment from production in order to pay Hasbún for leasing the land.²⁶

Hasbún admitted in an interview with *Semana* magazine of April 1, 2012 that before being a paramilitary, he was a banana businessman with close links to Banacol. Although other businessmen now want to deny it. He said that he dedicated himself to collecting funds through the Convivir groups to develop paramilitary activities and that they were donated by the banana businessmen. He declared:

"I was in the banana profession. I had plantations and banana companies. We banana growers, cattle ranchers, and merchants were tired of the guerrilla presence. The only solution we found was the self-defense groups... They sat me in front of every banana businessman and I believe that none of them dares to call me a liar. Victor Enriquez, who is one of those investigated in the Chiquita process, was asked if he knows Raúl Hasbún. He said no, even though his sister was married to my brother. [He is] from Banacol, the owner and manager of Banacol, who ended up buying Banadex, which was from Chiquita. He was president of Augura. All the tough guys in bananas in Urabá; Doctor Andrés Arango; there was no month in which I did not have meetings with those men. Now none of them know me."²⁷

At first they received the money in cash and later through the Private Security Cooperatives Convivir, which were promoted through the government of the department of Antioquia, at the time headed by Álvaro Uribe Vélez. According to information that Hasbún handed over and that is in complete concordance with the document cited by the Florida State Court:

"They gave us the money in rubber-lined bags, always in cash. At first we had an office here in Medellín that was in charge of collecting the money from the banana companies... Then I went to the government and met with Pedro Juan Moreno, Rodrigo Cardona, and a Doctor Naranjo; all very formal. They looked after us in a thousand marvelous ways... I went to assemble a Convivir and they told me, 'Look, man, there are 14 guys with the same idea as you. They don't have a peso. Why don't you empower them?'"²⁸

In this process, he visited the government office on about ten occasions, where he met for a short time with Álvaro Uribe Vélez, governor at the time. Through the Convivir groups, the banana companies legalized their contributions to the paramilitary structures in the zone in order to commit crimes against whoever they considered to be hindering the normal agribusiness development. In this regard, Hasbún asserts:

"One day, Doctor Pedro Juan Moreno told me, 'come meet the boss.' And that man was there in his office, talking on the telephone. We sat in a little room with some white furniture and he finished talking and then Pedro Juan said to him, 'look, this is Raúl Hasbún from the Convivir in Urabá.' 'Ah, pleased to meet you,' and he stood up and looked for some decals of 'Denunciation and Support' with security numbers, and papers, and some pamphlets that they produced in those days. He gave me all that and I stayed three or five minutes... They had already stopped paying us in bags; they were keeping a record of accounts. That got rid of a headache for us because

*when they paid us in cash here in Medellín, we had to send it in hiding places in trucks to Urabá. We could not use the banking system because it was too much money.*²⁹

Today Raúl Hasbún is deprived of freedom. In several legal processes that followed, he mentioned the commitments of the banana, palm, and cattle companies with the paramilitaries, and specifically in Curvaradó and Jiguamiandó.

Regarding his incursion into the zone for growing palm, he states that he was invited by paramilitary Vicente Castaño, nicknamed "El Profe" in a meeting with various businessmen of the profession:

*"Through the visit and the prospect of the palm businessmen of the Atlantic Coast, that is to say, Luis Riascos, Italo, Javier Daza. In these visits, Vicente Castaño talked about the project since he already had land. I participated in these meetings. Then Italo, who was the one with the banknote, said that Vicente would choose the land that met the characteristics, the prerequisites for cultivation. Then this zone came to mind to El Profe. He ordered studies of the soils. He made an appointment with the palm growers of the Magdalena, who were the same ones I just mentioned. After this analysis, they decided to purchase the lands in order to begin developing palm cultivation by the 'Self Defense Forces' with the [sufficient] capability that the persons who wanted to invest would have the capacity to go and set up their businesses."*³⁰

Regarding his participation in palm-growing companies in Curvaradó and Jiguamiandó, he pointed out:

"It is called PALMADÓ. All my life, I have been a friend of Irving Bernal (...) they entered into the palm business and they were telling me what they were doing. I asked them to let me participate in the business. In effect, we formed a company called PALMADÓ."

Question: "Were you a direct associate of this company?"

Answer: "Myself no, because of my illegal condition, no; my former wife, María Isabel Correa Gómez is the one who was an associate."³¹

On February 29, 2012, he stated that it was not the paramilitary Vicente Castaño 'El Profe' who sought out the businessmen for Curvaradó and Jiguamiandó but that they convinced him that he should enter into the palm business:

*"... El Profe did not have any idea about palm, then those men inserted the idea of palm. The initial idea was to find a way to develop the region. El Profe sent me with those men... We went to Brisas but did not cross the river to where the plantations now are. We spent two days walking around. My mission was to show them the zone and not let anything happen to them. After three days they were enchanted with the soil. El Profe did not seek them out; it was they who arrived in the zone... Mr. Irving did collaborate with the organization, as did all the banana growers. He provided financing through the Convivir groups that he knew were mine, as did the other banana growers... Mr. Irving was paying us for the exporting of banana."*³²

The most recent incident that calls attention to the presence of the banana businessmen in the Curvaradó Basin is the murder of Manuel Ruiz and his son Samir Ruiz. On March 24, 2012, the two were in the municipality of Mutatá, in the Antioquia part of Urabá. They were approached by two paramilitaries who intimidated them. Afterward, the police detained them and after being released they boarded a vehicle to go to Curvaradó, from which paramilitaries forced them to get off. From that moment, they were disappeared and their bodies were found five days afterwards in the Ríosucio River with bullet wounds in the head and signs of torture.

Manuel had been reclaiming his land that had been invaded by businessmen, as all the land in Curvaradó. The day following his disappearance, he would have guided a governmental commission to determine the boundaries and the areas invaded in the farm known as "Los Pisingos." He was one of the older adults who knew the history of the lands in the area, the history of the inhabitants with rights there, as well as who were the businessmen implicated in the illegal occupations.

The magazine *Semana* in its digital edition of February 2, 2012 pointed out the following about the bad-faith occupiers of the farm "Los Pisingos":

*"...Los Pisingos, a property of 880 hectares occupied by paramilitaries of Carlos Castaño in 1996, that was first handed over to palm businessmen and then to banana companies."*³³

4. Seducing or invading in order to plant bananas



Banacol admitted attempting to plant 49 hectares of plantains or bananas in a project backed by the Agriculture Ministry in 2009 in Curvaradó, authorized by some persons who did not have the endorsement of the lower councils of the basin, and without the territory having been restored.

Nevertheless, on October 2, 2009 in Curvaradó, Holger Meneses and three more officials representing Banacol S.A. and Corbanacol spoke before a significant number of members of the community about the planting of, not 49, but 1000 hectares of plantains with a value of \$12,485,852,000 Colombian pesos. They stated that they had financing of 80% of the project through loans from the state entity, Fiduagraria, a payment that would be made to the Upper Council of Curvaradó.³⁴

The public denunciation made by the community councils that are part of the Association of Humanitarian Zones and Biodiversity Zones prevented the imposition of this agroindustrial project. This large-scale project remains partially suspended because the territories have not been returned to their rightful owners and the project has not been decided in an assembly of the communities as established in Law 70 of 1993.³⁵

Although the rejection by the communities put brakes on the attempt by the recognized commercial corporation to take over a good part of the lands of Curvaradó to supply products to the international market, it did not make them drop their intention. They chose to use incentives to promote the occupation of the territories, drawing invaders from different regions of the country.

Concerning the above-mentioned invasion, several things have happened. While it was being organized, in a meeting that took place in the port of Brisas, in which paramilitaries were present, one of the promoters of the illegal occupation encouraged the leaders by ensuring them that Banacol would provide the seeds and chemical supplies and would purchase what they produce.³⁶

On March 18, 2012, during the visit by the Minister of Interior and Justice Germán Vargas Lleras, and Agriculture Minister, Juan Camilo Restrepo, the inhabitants of the Camelias Humanitarian Zone were surprised by the presence of Holger Meneses, Chief Marketing Officer of Plantains in the United States for Banacol and Carlos William of Uniban, a subsidiary of Banacol. The then director of Social Action of Urabá, Luis Mario Gaviria, apparently facilitated the meeting. On that occasion, the community members were able to resolve the incursion of the businessmen through the intervention of the Vice-minister of Interior and Justice who told the businessmen that their presence in the zone was not appropriate.

Weeks later, it became known that a meeting took place on April 9, 2011, between invaders and representatives of Banacol and Uniban. The meeting had protection provided by the 17th Brigade, despite the illegal nature of the land occupation. The meeting seemed related to the progress of the planting of plantain/bananas by invaders in the territories awarded to the Afro-descendents and Mestizos.

It was confirmed, moreover, that in the territories belonging to the collective title of Curvaradó, the Uniban regional manager for Urabá, Jesus Correa Perez, is owner of a 100 hectare oil palm plantation in Cetino.

These business activities and the invasion of the collective properties have been protected by the presence of the 17th Brigade, the inaction of the Urabá Police, the inaction of the Carmen del Darién mayor, the lack of response from the national commander of the police, and more recently by paramilitary patrols in the invaded areas.³⁷

Banacol, in a communication of February 4, 2011, attempting to clarify the type of intervention that it promotes in Curvaradó, makes evident again that its activities ignore the community councils of the basin and the Constitutional Court Order of May 18, 2010. It also makes evident that the

company disregards the communities, and the national and international organizations that accompany them.

It declares that Banacol was “invited” by the national government and “*the Upper Council of the Afro-Colombian communities of the Curvaradó River Basin to promote the development of a productive project.*”³⁸ According to the corporation, such a project seeks: to provide technical assistance and accompaniment and promote the commercialization of plantains (not bananas) for the international market. It reveals and declares that “*it will advise the planting of 300 cultivated hectares*” and that “*it continues to accompany the process initiated by the Upper Council.*”³⁹ The Upper Council, constituted by the assembly of the basin, never issued such an invitation. Rather, it appears that the then-legal representative entered into the agreement without the endorsement of the assembly.

This recognition by Banacol is in contempt of the Constitutional Court Order which mandated the freezing of all transactions “*related to the use, possession, holding, ownership, or agricultural or mineral exploitation of the properties protected by collective title in the Curvaradó and Jiguamiandó River Basins...Such transactions are to be considered illegal...*”⁴⁰

In its communication Banacol joins the defamation campaign against the national and international organizations that accompany the community councils of Curvaradó and Jiguamiandó.⁴¹ They characterize the communications regarding the invasion of Curvaradó as “*malicious and false rumors that national and international media on the left have published; and with which different organizations try to impede progress of the communities in order to perpetuate themselves as the channels of outside economic resources.*”

The communication goes on to base its position in the statements of members of a fraudulent Upper Council, which has been discredited by the Constitutional Court. The Banacol communication rejects the community councils’ public statements, saying, “*we highlight that, faced with these denunciations, which have been published in the months of November and December, 2010, the communities of Curvaradó and the Upper Council have already spoken, rejecting them.*”

This refers to pronouncements made by a false legal representative, ignoring again the Constitutional Court Order of May 18, 2010, that cut the ground from under any pretense of legal representation of the basin. The Order undermined the hand-over of land by the former president Álvaro Uribe Administration to this representative who clearly acts in favor of the business interests in these communities.

More recently, in the morning of February 8, 2012, in Apartadó, delegates of the community councils of Jiguamiandó reported to delegates from the offices of the Inspector General, the Ombudsman, and INCODER about their knowledge of a plan for a new bad-faith occupation – invasion – promoted by Banacol. According to existing accounts, 25 families would participate in this occupation, led by Heiler Salinas, who presents himself as social representative in the name of a transnational banana company. He is offering company support for cultivation on collective property in Las Menas, Jiguamiandó. For their part, the public officials committed to posting notices in Las Menas, warning that the sale of lands is not permitted and informing the banana and plantain companies of the region about the illegality of that action.⁴²

The Constitutional Court Order A-045 of March 7, 2012, required the Colombian government to evict the bad-faith occupiers from the collective territories. In reference to this conclusion, a report from Christian Aid, a British international agency, points out that according to the Court “*regarding the eviction of the invaders, the government is committed to bring it about, the failure to do so can generate irreparable harm against the lives of the inhabitants of the humanitarian zones and the international accompaniers. Some inhabitants have reported that the invaders act with the cooperation of the paramilitaries and the marketers Banacol and Unibán. Because not all of the zone of invasion has been cleared out (those invaders in Andalucía and Caracolí remain), it was observed that on the whole route between Camelias and Andalucía, the planting of banana continues to expand and storage buildings for the product have been constructed.*”⁴³



5. Another case in which Banacol makes use of invaders

On March 7, 2007, the Colombian newspaper *El Tiempo* published an article about Chiquita Brands' payments to paramilitaries and mentions Banacol as the continued presence of the transnational in Colombia. Moreover, they presented a case in which the international marketer buys the harvest of a group of invaders in Urabá and at the same time resolves the litigation about property ownership by authority of the paramilitary boss in the zone, who they paid with the money deducted directly from the plantain sellers.

According to this newspaper, in 1984 a group of invaders appropriated 107 hectares of the La Niña property, in the small town of Nueva Colonia in the municipality of Apartadó to grow plantains that they then sold to Banacol. Sixteen years later, "*two men appeared supposedly representing the legitimate owners, pressuring them to pay the value of the land. It all ended with a summons to the representatives of the community to the place called La Teca. In that place was the well-known 'para' Rafael García, 'The Old One' (who reintegrated with the Banana Block and on Tuesday was captured in Chigorodó) and 'Camacho' along with eight armed men. They agreed that the occupants of La Niña would pay 4 million per hectare, and that the money would be regularly deducted by Banacol from its payments to them for their bananas. Banacol received 220 million pesos in this process between the end of 2000 and the beginning of 2005. Then,*

on verifying who were the owners of the farm, the occupants confirmed that the land had been expropriated in 1999 by Incora (today INCODER) from the Company Emilio Hasbún & Co., and was then considered national undeveloped land."

Emilio is the second name of Raul Hasbún, or "Pedro Bonito," who was the paramilitary commander. He is the former commander of the Banana Block of the United Self-Defense Forces of Colombia [AUC] who is imprisoned.

According to testimony in hearings of the paramilitary boss, Salvatore Mancuso, through the company Emilio Hasbún and Co., the Hasbúns colonized large undeveloped areas of Urabá, planting and marketing bananas. According to Mancuso, Hasbún is "*the person who arranged with the banana companies Chiquita Brands, Banacol, Uniban, Probán, Dole and Del Monte the payment of ten cents (US) to the 'paras' through the Convivir Papagayo, for each box of fruit exported. Until 2004, there would be \$4.6 million that went to 'the Castaño house,' the Banana Block of the AUC, as corruption payment and social investment.*"⁴⁴

The use of invaders by the companies, in particular by Banacol, has at least this public antecedent, as shown by the newspaper, *El Tiempo*, which is similar to the situation that today the Afro-Colombians and Mestizos suffer in the Curvaradó River Basin.

6. Testimony from paramilitaries about Banacol and Uniban

Since the beginning of the testimony by the paramilitaries,⁴⁵ many allusions have been made to the existing links between the paramilitary structures that operate in Urabá and the banana companies, among them the transnational corporations: Banacol and Uniban.

The International Marketing Corporation Banacol, is implicated in the financing of the paramilitary structures, according to the declarations of the paramilitary bosses Salvatore Mancuso,⁴⁶ Ever Velosa, known as "HH,"⁴⁷ Fredy Rendon Herrera, known as El Aleman [The German] and Raúl Hasbún known as "Pedro Bonito"⁴⁸(the same ones

who generated forced displacement, assassinations and disappearances for the planting of oil palm in the collective territories of Curvaradó and Jiguamiandó.⁴⁹⁾

Banacol is involved in the investigation by the Attorney General for the crimes of financing illegal armed groups, illicit enrichment, and forced displacement, within the process that is going forward against Chiquita Brands and other companies⁵⁰.

After admitting payment to the paramilitaries of Colombia, for which it was fined 25 million dollars, Chiquita Brands faced

15 civil processes in a Florida court in the United States for crimes of extrajudicial executions, torture, war crimes and crimes against humanity⁵¹.

The executives of Banacol called to the investigation in 2008 were Victor Manuel Henríquez Velázquez (manager), today third in line on the board of directors and president of the company, and Juan Diego Trujillo (secretary general). Jorge Alberto Cadavid, Javier Ochoa Vásquez and Fuad Alberto Giacomán Hasbún were also summoned by the Attorney General's Office.⁵²

On March 6, 2012, the Specialized Attorney 33 in Medellín closed the investigation against the transnational corporations: Chiquita Brands, Banadex, and the transnational Banacol, a decision that will be appealed by the representatives of the victims. The banana businessman and paramilitary boss Raúl Hasbún, protested the decision for lacking foundation, for favoring the impunity of the companies, and for being against the whole body of evidence that was in the process, and for trying to make all the responsibility of the companies collapse, against all the evidence.⁵³

7. Chiquita Brands continues in Colombia through Banacol

According to the investigation presented by the above-mentioned SLC, Chiquita put forward a "sales" operation of the questionable Banadex to the transnational Banacol Marketing Corporation at far below market price (fire sale).⁵⁴ Banadex, a subsidiary of Chiquita that has worked in Colombia since 1989, was transferred to Banacol (Banacol Marketing Corp. SA based in Panamá), in the year 2004, just when the United States Justice Department gave notice of its investigations.

Chiquita and Banacol put forward the agreement for the sale of Banadex, specifically the commitment of Banacol to sell to Chiquita pineapples and bananas at a particularly advantageous price for an initial period of eight years:

"At that moment, the offer consisted of a payment in cash of \$54 million, \$25 million (VAN) of preferential discount in the pineapple and a contract for the purchase of plantains and pineapple for eight years, with a better-than-market price for the bananas (VAN \$42 million) and a preferential discount for the pineapple (VAN \$25 million)."⁵⁵

Already at that time there was clear knowledge of the payments by Chiquita to the paramilitaries, the scandals because of the entrance of weapons through the port operations of Banadex, and the links with cocaine trafficking. About the payments, it is fitting to remember the relationship established between Banadex, Carlos Castaño, and the Convivir groups, such as a high executive of Chiquita discovered in one of his trips to Colombia, then told to the investigating commission.

Banacol is the leading company in Colombia of Invesmar S.A., with its headquarters in the fiscal paradise of the British Virgin Islands, one of the companies through which Chiquita Brands continues to be present in Colombia.

"This company, according to the accusing entity, - Attorney General of the Nation – continued paying millions between 2004 and 2007 to the security cooperatives that are facades for the self-defense groups. That is to say, it continued backing the trail of violence of its predecessor. In essence, about \$3 billion was paid through Banacol to the Convivir Papagayo and to others that were controlled by Raúl Emilio Hasbún, known in the underworld as Pedro Bonito, today demobilized in the Justice and Peace program. The same former commander in his free testimony has admitted that he was the contact with the company Chiquita Brands, for each box of bananas three cents was paid to the paramilitaries. And curiously, Víctor Manuel Henríquez, who appears as a member of the board of directors of Banacol, admitted before the Attorney General that his sister married one of the sons of Pedro Bonito."⁵⁶

According to the Colombian periodical, *"an experienced accounting analyst in the Attorney General's office, after analyzing the financial transactions of the business group of Banacol, established that, 'with respect to bananas,' important money was destined for the Convivirs, payments that would be made voluntarily in the same way as occurred with Chiquita Brands. He included this detail in an accounting report known about through El Espectador and dated July 22, 2008."⁵⁷*

8. Banacol in the Global Market

The company in question depicts itself to the international market on its website as a multinational corporation that owns factories, plantations, offices, and port operations in Colombia, Costa Rica, United States, Canada and Europe. *"As part of a portfolio led by banana, which has become world famous, Banacol brand also produces and markets other leading product lines: pineapple, banana, cassava and other tropical fruits, and, in addition, a range of frozen products."*⁵⁸

Banacol notes that it has purchased more than 5,000 hectares of banana crop in Colombia making it the largest producer of bananas in the country, "operating 39 owned farms, whose total geographical area covers over 7,000 hectares."⁵⁹ Its headquarters are located in Medellín and Apartadó in Colombia, in San Jose, Costa Rica, Miami and Eddystone in the U.S. and in Rotterdam in the Netherlands.

In July 2011, the Dutch organization *Somo*⁶⁰ - *Centre for Research on Multinational Corporations* – produced a summary report of research⁶¹ on the relationship between the tropical fruit distribution company Rotterdam BV Fruitpoint⁶², hereinafter Fruitpoint, and the International Trading Company Banacol of Colombia SA, hereinafter Banacol⁶³ at the request of the Dutch organization Mensen Met een Missie⁶⁴ and the Interchurch Justice and Peace Commission.

Somo identifies Fruitpont as the sole distributor of tropical fruits marketed by Banacol. According to the report, pineapples and other fruits that are sold in the Dutch supermarket chain *Super de Boer* are supplied directly by Banacol.⁶⁵

Banacol's legal headquarters are in Panama--a tax haven which basically does not have transparency requirements for companies to establish themselves. Fruitpoint, meanwhile is a small trading company, about which no information can be found in Holland's Chamber of Commerce nor its website.⁶⁶ Through Fruitpoint, Banacol mainly markets banana, along with pineapple, plantain, and cassava.

Fruitpoint is shrouded in a suspicious web of irregularities. First, in 2009, the company employed five people in total, while in 2011 there appeared to be only one employee who was also the director, Mr. Laurent Juvillier.⁶⁷ Second, over a period of five years between 2004 to 2009, the company grew significantly. Its growth was almost ten times that of when it was established, and its total assets rose from EUR 2.3 million to 12.8 million in just five years.⁶⁸ Such rapid growth with only one person on its payroll is cause to arouse suspicion and deserves to be investigated by the appropriate control entities.

Since 2004, Banacol has established itself as the market leader in banana exports in Colombia, exceeding Chiquita Brands, if they are, in fact, different companies. According to its website, their bananas have the ISO 14001 certification as well the Global Gap health and safety certifications in the U.S. The website mentions that all Banacol products from Colombia and Costa Rica are certified by Rainforest Alliance and Tesco Nurture Plan. It also mentions that a cooperative of small banana producers affiliated with the company has been certified as fair trade. However, it is unclear the nature of the cooperative or how many fair-trade bananas have been produced.⁶⁹

Two other companies, Invesmar Inc. and Olinsa, have business ties to Banacol in Colombia. Invesmar is located in the British Virgin Islands, a tax haven, and is at the head of a conglomerate that includes Banacol as the leading firm.⁷⁰

Altex Chartered Inc provides the fleet for the company as its transportation service. The company also uses Banacol Marketing Corporation (formerly known as Banana Services Inc.), registered in Coral Gables, Florida, which is responsible for the markets in the United States and Canada. Additionally, Banacol uses Marketing BVBA Belgium, registered in Nieuwpoort, Belgium, to market their products in Belgium.

9. Recommendations

To civil society organizations:

- A.** Conduct a public awareness campaign to inform and promote public censure actions and consumer boycotts of products sold by Colombian Banacol in Amsterdam, Holland, and Miami, USA.
- B.** Demand Banacol cease business operations in Curvaradó and Jiguamiandó because of their refusal to acknowledge the rights of Afro-descendent and Indigenous communities, and their shared responsibility in ignoring human rights violations and the principles of International Law.
- C.** Support with written statements (amicus curie, petitions for information, and petitions for public inquiry, Right to Petition) through national and international legal actions through which communities and human rights organizations speak out against the companies Banacol, Banadex and Chiquita Brands in Colombia, their involvement in human rights violations in Curvaradó and Jiguamiandó and other communities.
- D.** Intervene in these companies' shareholders meetings asking that they explain their business practices.
- E.** Monitor the legality of the companies involved in this study, through which Banacol Marketing Corporation conducts its business in Europe.
- F.** Provide protections for the victims and their legal representative because of the risk they face by taking legal action against this powerful company, through letters to the government and opinion editorials in the international media.
- G.** Promote, through a quantitative research study, documentation and quantification of the tangible and intangible harms and damages that the illegal business operations have produced in communities and ecosystems.

To the European Parliamentarians and Congress Members of Colombia:

Refrain from ratifying the Free Trade Agreement between the European Union and the Government of Colombia because of its negative effects in the land dispute in banana growing regions or regions intended for the expansion of banana plantations.

a company implicated in paramilitarism, and land grabbing in Curvaradó and Jiguamiandó

To the Government of Colombia:

- A.** Carry out the Constitutional Court Orders for material restitution of lands in Jiguamiandó and Curvaradó, particularly related to the remediation of the communities' territories occupied by businesses. In addition, advance the legal process so that the companies involved in this study assume the presumption of illegality for their involvement in these territories.
- B.** Work to ensure respect and support for the decisions made by communities in relation to the use of land, as requires the constitution and national law, along with financial, technical and administrative support for the implementation and development of rural economic projects that the communities decide to implement.
- C.** Require compliance with the resolutions of the provisional measures of the Inter-American Court of Human Rights that protect the right to life and the integrity of the community council members living in Humanitarian Zones and Biodiversity Zones.

To the Attorney General's Office:

- A.** Recognizing that these communities have suffered crimes against humanity, systematic crimes and irreparable environmental damage, forward a streamlined procedural investigation and an investigative approach that is appropriately contextualized within systematized crimes and criminal structures of the transnational corporations Banacol, Chiquita Brands and Banadex, under compliance with the orders issued by the Constitutional Court in the proceedings referred to in Curvaradó and Jiguamiandó.
- B.** Consider in this investigation advances made in case number 3856 in the investigations being conducted against the transnational companies Chiquita Brands, Banacol and Banadex, which looks at the relationship between business entrepreneurs and paramilitary crimes of forced displacement, as well as the formation of paramilitary groups and environmental damage in Curvaradó and Jiguamiandó.
- C.** Ensure the protection of victims serving as plaintiffs in proceedings against Chiquita Brands, Banacol, Unibán and Banadex.

To the Comptroller General's Office:

- A.** Investigate the legality or illegality of the health incentives granted by the Colombian government to the banana companies studied in this report.
- B.** Submit a status report on investigations of the use of public resources to support business entrepreneurs who planted oil palm in Curvaradó and Jiguamiandó.

To the Companies:

- A.** Take responsibility for the environmental damage and human rights violations perpetuated in the preparation, implementation and development of agribusinesses of banana, oil palm, and cattle ranching in Curvaradó and Jiguamiandó in the Urabá subregion of Antioquia.
- B.** To not interfere with the process being carried out by communities in Jiguamiandó and Curvaradó working to procure material restitution of the territories as ordered by the Constitutional Court in the rulings that pertain to these communities.

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21. 19 United States District Court Southern District Of Florida, Case 0:08-md-01916-KAM. Document 202 entered on FLSD Docket 02/25/2009. pg. 1
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24. At the meeting, Hills showed Taxay a copy of the whistleblower e-mails and told him that the e-mails "call into question" Hills' belief that the Colombian employees face threats to their safety, presumably because the e-mails alleged that at least some of those employees, most notably (Banadex Employee No 5), were affiliated with the AUC.
Idem pg.120
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38. In Law 70 of 1993, regulatory decree 1745, it is established that the authority that administers the collective titles of the Afro-descendent communities, is the legal representative of that title. In the case of Curvaradó, given the interference of

- the businessmen in oil palm, extensive cattle ranching, banana, and plantain, there was pressure for transactions exceeding the functions of the representative of the moment. Months later the businessmen sponsored an illegal assembly in which they put forth a new representative. This fact and the attempt of the Álvaro Uribe government to make a pretense of turning over the land through this false legal representative, in favor of the businessmen, resulted in the Constitutional Court issuing the Court Order of May 18, 2010 in which it did not recognize that representative and ordered a census, a cleansing of the territory, the implementation of a protection plan, a characterization of the territory, and the establishing of an assembly to elect a legal representative. As of the date that this report is being issued, the assembly has not taken place and the Curvaradó community is without a representative.
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 46. <http://www.semana.com/noticias-naci...> Obtained 14/08/12
 47. <http://www.terra.com.co/actualidad/articulo/html/acu3681.htm> Obtained 14/08/12
 48. <http://justiciaypazcolombia.com/Las-confesiones-de-Hasbun> Obtained 14/08/12
 49. <http://www.elespectador.com/impreso> Obtained 14/08/12
 50. National Attorney General, Attorney General Accountability Report to Congress, 2008-2009, <http://fgn.fiscalia.gov.co/colombia/gestion/informes-de-gestion/>, Report to the Congress pg.102-103 Obtained 14/08/12 This investigation is moved forward by the specialized office of Prosecutor 33 in Medellin which on March 6, 2012, ignoring the evidence, made the decision to close the investigation. The decision was appealed to the Superior Court of Antioquia. One of the ignored pieces of evidence were the payments given to the paramilitaries, of the paramilitary structure known as "Convivir Papagayo", for which its commanders were condemned on April 17, 2012. This evidence clearly contradicts the verdict of not guilty. Cfr http://www.verdadabierta.com/index.php?option=com_content&id=3984 (Obtained 05/23/12)
 51. Cfr http://www.eltiempo.com/mundo/estados-unidos/ARTICULO-WEB-NEW_NOTA_INTERIOR-9533764.html
 52. El Tiempo, Judicial, Inquiries to Chiquita executives regarding money given to the paramilitary. <http://www.eltiempo.com/archivo/documento/CMS-4456680> (Obtained 05/23/12)
 53. Cfr <http://www.verdadabierta.com/component/content/article/156-captura-de-rentas-publicas/3952-ex-paramilitar-protesta-por-preclusion-a-favor-de-bananeros> (Obtained 3/31/12)
 54. Opcit. Document 202-4, Entered on FLSD Docket, 2009. pg.225
 55. Fifth, at a November 20, 2003 Board meeting, the Board received another presentation regarding owned versus purchased fruit models. The Board also received an update on the status of negotiations with Banacol. At the time, the deal consisted of a \$54 million cash payment, \$25 million (NPV) in preferential discount on pineapples, and an eight-year purchasing contract for bananas and pineapples, with an above-market price for bananas (NPV \$42 million) and a preferential discount for pineapples (NPV \$25 million). Ibid pg. 228
 56. El Espectador, Judicial Writings, Chiquita Continues in Colombia, September 5, 2009, <http://www.elespectador.com/impreso/judicial/articuloimpreso159808-chiquita-sigue-colombia> (Obtained 04/18/12)
 57. Ibid.
 58. <http://www.banacol.com/NewsDetail/200/1/Historia> (Obtained 04/19/12)
 59. Ibid.
 60. <http://somo.nl/>
 61. Fruitpoint-Banacol Quick Scan
 62. Ibid pg. 2
 63. Ibid pg. 3
 64. <http://www.mensenmeteenmissie.nl/>
 65. Ibid pg. 2
 66. Fruitpoint-Banacol Quick Scan pg. 1
 67. Ibid pg. 2
 68. Ibid pg. 2
 69. Ibid pg. 4
 70. Ibid pg. 3