

NOT ALL THAT IS GREEN IS GOOD

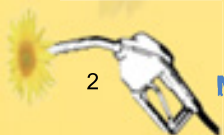
**EXPANSION OF
PALM OIL & SUGAR CANE
PRODUCTION
AND FREE TRADE
AGREEMENTS BETWEEN
THE EU, COLOMBIA, PERU
AND CENTRAL AMERICA.**





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Introduction

At the same time as Olivier de Schutter, United Nations Special Rapporteur on the Right to Food, urged the G20 to “put an end to public biofuel **mandates** and fiscal **subsidies**, which are a major factor in rising food prices and an important driver of the rush towards farmland in developing countries”, the EU is about to ratify Trade Agreements with Colombia and Peru and an Association Agreement with Central America (AA).

These agreements aim among other things to increase EU imports of basic commodities and in particular raw materials for agrofuel production, increasing the pressure on natural resources such as land and water, as pointed out by the Trade Sustainability Impact Assessments (TSIA) commissioned by the European Commission.

The EU Council will present these agreements for ratification without the possibility of amendments to the European Parliament (EP) during the first half of 2012. This paper aims to draw the attention of MEPs as to the potential impact of the consolidation of free trade in raw materials such as sugar cane and oil palm, as well as the potential impacts of the expansion of these monoculture plantations in Colombia and Guatemala, where serious human rights violations have been documented.

At present the **EU** depends by 50% on imported raw materials for its energy needs, a figure that could reach 65% by 2030. According to Directive 2009/18/EC by 2020, 20% of total energy demand in the EU will come from a renewable source, and 10% of the consumption of petrol and diesel will come in the majority of cases from ethanol and biodiesel derived from agrofuels.¹ To meet these objectives, Action Aid estimates that between 2.5 and 3 million hectares will need to be devoted to oil palm plantation.² **Tropical countries like Central America, Colombia and Peru**, have favorable climatic conditions for the production of raw materials such as sugar cane and oil palm and at the same time, low environmental, labour and fiscal standards, as well as a marked inequality the distribution of land all of which facilitate the industrial monoculture plantation of these materials. As discussed later in this report, some European-funded companies have benefited from the precarious human rights situation in these countries.

The **governments of Central America, Colombia and Peru** aim to consolidate these agreements by liberalizing tariffs on raw materials, and thereby responding to demand by the EU to increase their exports and encouraging foreign direct investment in the sector by EU countries and other domestic and foreign investors. Thus the **EU** would ensure the necessary import of raw materials to meet their goals and provide interested companies in the sector with favorable investment conditions in these countries.

Aside from the economic terms negotiated for agrofuels in the agreements, it is important to fully address the situation by taking into account the complexity of the discussion. To talk of agrofuels is much more than merely talking about free trade and investment; **it is to talk of human rights, climate change, environmental protection, and the economic, food and energy crisis.** It is to talk about the future of humanity as a whole and the need for an alternative development model. Unfortunately these dimensions of the discussion were not taken into account during the negotiations, limiting the approach to the issue to a mere matter of market access.



2. AGROFUELS WITHIN THE EU TRADE AGREEMENTS WITH CENTRAL AMERICA, COLOMBIA AND PERU: DRIVING FORCE FOR DEVELOPMENT?

The issue of agrofuels is incorporated into these agreements under the title of Market Access. However, there are other provisions and titles, in particular that on Trade and Sustainable Development, which relate to the production of agrofuels and will be addressed below:

The agreements encourage the expansion of agrofuel production for export.

The targets set in the agreements' general provisions tend to facilitate access to markets for raw materials for agrofuel production by encouraging the increase of thriving export production in Central America, Colombia and Peru by:

- Progressive and gradual liberalization of trade in goods resulting from the implementation of agreed measures for the removal of customs duties;
- Liberalization of current payments and capital movement related to direct investment;
- Creation of an environment that increases the flow of investments with the aim of improving the conditions of establishment between the parties under the principle of non discrimination.

The agreements consolidate the elimination of the export tariff for ethanol and palm oil.

The definitive elimination of tariffs on a range of products, including ethanol and palm oil, largely satisfies the expectations of the Southern governments participating in these negotiations. For some time these governments demanded the negotiation of free trade agreements, as they considered that the General System of Preferences (GSP +) – a unilateral and temporary mechanism which grants zero tariffs on exports of several of these products - does not provide sufficient guarantees of stability for investment and therefore, for increased production. The Colombian Government has expressed satisfaction over the results obtained in market access through the gradual elimination of tariffs on raw materials, inputs and intermediate goods. In particular it considers that the agreements are beneficial to the businessmen engaged in the cultivation of palm, after having gained free access to crude oil and refined oil.³ Clearly, the elimination of tariffs for ethanol and palm oil represents a stimulus to production for export.

The Agreements also favor the elimination of export taxes and grant the parties the reciprocal benefits of national treatment. **This framework would be very favorable to the EU as the third largest consumer of ethanol fuel worldwide after the United States and Brazil. This is indicated by data provided by the Central American Economic Integration System (SIECA) who report that the ethanol trade between the EU and Central America has experienced an increase of 36% from 926,000 USD in 2003⁴ to 34.5 million USD in 2006.⁵** This is also reflected in the increase of hectares of land used for production and investment in this sector. Examples of this are investments made by five business groups of oil palm merchants in the Pacific coastal areas of Central America and in the northern departments of Guatemala.⁶ This expansion occurs in a context of high levels of social inequality, seri-

ous agrarian conflicts, higher than average infant malnutrition and vulnerable indigenous and small farming communities. It is also worth mentioning the case of the Bajo Aguan region of Honduras where the expansion of monoculture plantations in particular for the industrial production of palm oil has led to a serious agrarian conflict that has claimed the lives of 42 small farmers in less than two years.⁷

The agreements offer advantages for the establishment of European investments in the production of agrofuels.

In the agreements negotiated establishment means any productive economic activity in the commercial and industrial sphere, both related to the production of goods, and in the provision of services. In this sphere the Agreements are intended to provide greater stability and legal protection to European investments established in the Central American countries, Colombia and Peru through clauses such as National Treatment and Most Favoured Nation. These foresee the establishment of European companies engaged in extensive cultivation of raw materials that could be used for the production of agrofuels in Central American countries, Peru and Colombia. Friends of the Earth for example have noted the interest of Louis Dreyfus (France), BASF (Germany), Nidera (Netherlands) and Bayer (Germany).⁸ This is also foreseen by the Colombian government in its report on the negotiation: *"under the Agreement, investment flows between the EU and Colombia will be promoted given the commitment to stability, transparency and protection of investments."*⁹ **Throughout this report similar illustrative examples are included to demonstrate European interest in the agrofuels sector in countries like Guatemala and Colombia, which hint at the future increase in European investment in the sector.**

In their respective titles of Trade and Sustainable Development the Agreements exclude the possibility of sanctions and do not give special treatment to the production of agrofuels.

The objective of introducing the title of trade and sustainable development – which for the first time is included in this type of trade agreement - is to *promote dialogue and cooperation between the Parties*¹⁰ and to *strengthen compliance with the labour and environmental legislation of each Party and international conventions incorporated into the agreements.*¹¹ What at first seems to be progress is not really, for two fundamental reasons:

- There is a decrease in standards established in the SPG + mechanism¹² which currently applies to these countries. For example, in the case of the Trade and Sustainable Development title of the Agreement with Central America, 8 core labor conventions and environmental standards are included. This represents a decrease from the 27 Conventions covered under GSP +.
- The adoption of this cooperative approach between the parties expressly excludes the application of a dispute settlement mechanism and thereby eliminates the possibility of sanctions, and also establishes that *the provisions of this title shall not be used as a disguised restriction to trade or investment.*¹³



In summary, as stated in the report: Business Interests before Human Rights: *"Violations of these standards are therefore excluded from the FTA's dispute settlement mechanism, and sanctions such as temporary withdrawal of trade concessions or, indeed, the suspension of the entire Agreement cannot be applied here. Even complaints about human rights violations can only be referred to the Council on Trade and Sustainable Development – a body whose decisions have no binding force. Furthermore, non-governmental actors cannot turn to the Council at all – that right is reserved exclusively for the participating governments."*¹⁴

What then is the practical use of this title? What happens if once the agreements have entered into force they establish a company dedicated to the production of agrofuels on land that has been forcibly evicted?

Added to this, it is important to note that **none of the agreements include special considerations in this title on trade in agrofuels**, unlike those relating to trade in forest and fishery products. This contradicts the caution that the EU has adopted internally in its policy on this issue, after considering the environmental and socio-economic impacts associated with production. In 2008 the EU Environment Commissioner stated: *"We have seen that the environmental problems caused by bio-fuels and also the social problems are bigger than we thought they were. So we have to move very carefully"*¹⁵, a statement which was recently echoed in September 2011 when the European Environment Agency Scientific Committee ¹⁶ stated that the increase of material for agrofuels would not only have serious consequences for the right to food but also *"would place enormous pressures on the Earth's land-based ecosystems"* and also that production would result in emissions.¹⁷

Agreements for whose benefit? The impacts on economic, social and cultural rights and the environment resulting from the expansion of agrofuel production have not been taken into account.

It is therefore important to ask whether what is in principle favourable in commercial terms is also favourable in terms of the welfare of the people and communities in the southern countries.

Although the Trade Sustainability Impact Assessments (TSIA), commissioned by European Commission in relation to the negotiations of these agreements, do not include an assessment

of possible impacts on human rights in a comprehensive manner, they do warn about the risks associated with the expansion of agrofuel production once the agreements come into force, recommending measures for monitoring and mitigation.

- In the case of the TSIA commissioned by the European Commission on trade with the Andean Community, *"the Trade Agreement results in the increased production of agrofuels for export and it so to be expected that deforestation will increase as woodlands are cleared for the expansion of sugar cane and palm oil."*¹⁸ The study adds that environmental impacts may threaten the lifestyle of those living in poverty, as is shown by the evidence of the case studies presented below in this report.
- The TSIA commissioned for Central America notes that the increase of these agrofuel sectors where the land is used as a resource, will increase pressure on the life of the population in some rural areas and on indigenous peoples. In particular, in the case of Honduras, Nicaragua and Guatemala, it was found that the pressure on land due to increased cultivation of palm moves the agricultural frontier to forest areas, while in El Salvador increased sugar cane plantations for agrofuels may lead to reductions in other crops, including corn, a staple of the population's diet.¹⁹

The agreements ignore and deepen the existing asymmetries between the EU and Central American countries, Peru and Colombia.

These agreements help to strengthen the character of the primary export economies of Central American and Andean countries and consequently promote their further integration into the international market provided for in the agreements, causing these countries to become particularly vulnerable to instability in raw material prices on the international market.

In the case of the trade agreement with Colombia, there is particular concern about the potential for legislative change to favour certain interests over the interests of national policy. The EU is calling on Colombia to change its domestic legislation on fuel and agrofuel mixtures because of the difficulties that current legislation would mean for the income of the European automotive market once the Agreement enters into force²⁰. This is a good example of how such agreements with the EU seek to impose laws in partner countries in order to satisfy commercial interests, thereby reducing the political space of these countries to autonomously define their development policies.



3. IMPACT ON HUMAN RIGHTS OF THE PRODUCTION OF RAW MATERIALS FOR USE IN THE PRODUCTION OF AGROFUELS: COLOMBIA AND GUATEMALA

Inclusion of monocultures and social exclusion? Agrofuel expansion in the current context in Colombia and Guatemala.

For 50 years, **Colombia** has been living through a political, social, and armed conflict which continues to cause serious violations of human rights and international humanitarian law (IHL). The country has between 3 and 5 million internally displaced persons²¹ and these last 20 years it is estimated that 70,000 people were murdered in socio-political violence. In its armed expression, the conflict encompasses complex interests that pit guerrillas (FARC and ELN), against paramilitary and military forces of the state. Colombia is also the third most unequal country in the world²² with 37.2% (50.3% in rural areas) of the population in poverty and 16% in extreme poverty.²³ In 2010, 32 human rights defenders were killed²⁴ and 60 indigenous people were killed between January and July 2011.²⁵ Colombia continues to be the country with the highest number of murders of trade unionists in the world (49 were reported in 2010).²⁶ As discussed below, the areas of oil palm and sugar cane for the production of biofuels in Colombia are among the areas most affected by violations of human rights and IHL.

Colombia is the fifth largest producer of palm oil in the world and the first in Latin America and its production accounts for a little over 85% of all vegetable oils and fats produced in the country.²⁷ In the National Development Plan 2010-2014 agrofuels are considered one of the pillars of development strategy. In 2010, some 402,012 hectares of land were estimated to be planted with **oil palm**. The current President Santos, foresees an 80% increase in production during his administration (2010-2013), while the palm traders' association Fedepalma projects 743,000 hectares by 2020, more than double what is currently planted. For more information please see map in annex, page 11.

According to figures from Fedepalma, in Europe the UK and Benelux (the Netherlands, Belgium and Luxembourg) are the largest importers of palm oil cultivated in Colombia. On the other hand **sugar cane** production is concentrated in the Cauca river valley; where by 2010, 218,311 hectares of land had been planted, representing an increase of 4.8% compared to 2009. An increase is also predicted in the production of ethanol from sugar cane, from 287.1 million litres of fuel ethanol in 2010, to 400 million litres in 2013 (which will be used to generate 264 MWh).²⁸

In 1996 Peace Accords were signed in Guatemala, after 36 years of internal armed conflict which was described by the UN as a genocide against Mayan people and left some 200,000 victims dead and more than 1 million people forcibly disappeared. Today Guatemala is a country that still has high levels of poverty and where malnutrition affects the majority of the population - especially indigenous peoples and within this group, women. The low tax burden standing at around 11% of GDP, the lowest in Latin America, does not allow the State to ensure access for the majority of the population to economic, social and cultural rights. Unequal land distribution is so high that some 8% of the population now owns 80% of arable land. In this context of poverty and inequality, the impact of agrofuel production is reflected in the change in land use. Ten years ago 29% of land currently occupied by monoculture plantations of

oil palm, was used for the cultivation of basic grains.²⁹ These numbers coincide with increased demand and higher prices of agrofuels on the international market. In the particular case of Guatemala, climatic conditions favour the yield of oil per hectare, making Guatemala a highly efficient country for the production of palm.³⁰

As in Colombia, the expansion of industrial plantations for the production of biofuels is focused on the cultivation of oil palm and sugar cane. The production of ethanol from **sugar cane** has increased fourfold in recent years, and according to figures provided by the Banco de Guatemala in the year 2008, 86.7% of ethanol fuel was exported to the EU countries - Switzerland, the Netherlands and Italy.³¹ The cultivation of **palm oil** has also been expanded until reaching 101,784 hectares in 2010. This increase reflects the projected expansion of national and international companies, such as the North American company Palmas del Ixcán in the west of the country which plans to plant as much as 100,000 hectares by 2017 with the aim of producing oil for export to its subsidiary in Texas (Green Earth Fuels) to produce agro-diesel. This company has an investment fund called "Riverstone Holdings", which is co-financed by Goldman Sachs (U.S.) and The Carlyle Group (British group).³² The existence of a loan has also been reported for 26 million USD by the Central American Bank for Economic Integration (CABEI), of which Spain is a partner outside the region, which financed the establishment of the Chabil Utzaj refinery for the production of sugar cane in the Polochic Valley - a case which is detailed later in this report.³³

Reported impacts and rights violations related to the expansion of sugarcane and oil palm monoculture plantations

Inequality and exclusion in Colombia and Guatemala are closely linked with the concentration of land ownership. Worryingly, the Gini index³⁴ for both countries shows the highest values in Latin America, with the implementation of land rights fundamental to guaranteeing the right of communities to food. In this context of inequality and poverty numerous violations of land, food, labour and environmental rights have been documented resulting from the expansion of sugarcane and oil palm plantations. In the following sections, data collected from various investigations carried out in relation to this phenomenon are presented and analyzed.

➔ Expansion and displacement: violation of the right to land and territory.

As discussed above and recalled by the Committee on Economic, Social and Cultural Rights, **in the case of Colombia**, "the policy encouraging agro-exporting goods, such as agro-fuels, may deprive peasants from cultivating their lands". In particular, the Committee expressed concern about "the unequal distribution of lands owned by a minority of the population, as well as about the absence of a genuine agrarian reform, as recommended in the previous concluding observations of the Committee"³⁵. The magnitude of the crisis of dispossession of land in Colombia has reached between 6.8 and 10 million hectares.³⁶ The illegal armed actors in the internal conflict - guerrillas and paramilitaries - have taken over



land areas by establishing their political and economic influence and used this land as corridors to export drugs or to import weapons. In some cases, these dynamics have led to alliances between paramilitaries and entrepreneurs (sometimes with the knowledge of the State) with the aim of illegally appropriating land for agribusiness. This is reflected in statements made by one of the paramilitary leaders, Vicente Castano: “(...) *in Urabá there are palm crops. I myself got the businessmen to invest in these projects (....)*”. These statements refer to the collective territory of Curvaradó and Jiguamiandó, where 29,000 acres were usurped from Afro-Colombian communities, of which 7,000 have been illegally planted with oil palm.³⁷ In the new Law on Victims and Land Restitution (Law 1448) the Government has announced that it will recognize the legal ownership of land to victims of forced displacement, yet the same law includes an exception in cases where industrial projects have been implemented in the territory to be returned. Where it is considered that these lands were purchased in “good faith”, the victims could be obliged to rent the land to the company or become a partner in the project. Thus, restitution is not real and would likely result in legalization of the theft and of the forced displacement. Small farmers, Afro-Colombians and indigenous peoples would also find it more difficult and sometimes impossible to continue with their traditional activities of agriculture, fishing and hunting, which in turn place at risk their right to food not to mention their worldview and concept of living.

In the case of **Guatemala** there have been over a thousand disputes over land ownership until 2011, relating to almost 3,000 kilometers of land, and involving more than a million people.³⁸ Public support is mainly oriented to the export sector and trade liberalization of agriculture benefits a privileged elite dedicated to the expansion of monoculture plantations. In 2009 the companies involved in palm oil cultivation concentrated a total of 100,000 hectares, while sugarcane companies have concentrated 230,000. The main documented mechanisms used by the private sector to take over the land are the offer of money in amounts never before seen by small farmers, coercion, violence, and the use of state institutions to enable them to manage the regularization of land in their favour. The latter mechanism involves the use of forced evictions of small farmer and indigenous communities: 99 evictions have been carried out by civil and military forces during the last three years of the former social democratic government.³⁹ Several companies operating in the agrofuel industry have used this mechanism, namely, the company Padesa in the municipalities



Photo: CUC, Comité de Unidad Campesina de Guatemala

of Fray Bartolome Las Casas and Chahal, INDESA in the municipality of El Estor, and the “Chabil Utzaj S.A.” refinery in Panzós and y El Estor municipalities.⁴⁰ All of the aforementioned municipalities are situated in the departments of Alta Verapaz and Izabal (northwestern Guatemala) in which the majority of the population is of maya qeq’chi descent, and is being violated with these practices which undermine their world view of nature and the relationship with the land and natural resources.

➔ **Average income and malnutrition, two sides of the same coin: violation of the right to food.**

In recent years, the extension of land destined for basic crops for grain production in **Colombia** has drastically reduced, while food imports have increased considerably.⁴¹ In this regard it is important to note that *“inequality, poverty and hunger in the country, have more acute manifestations in terms of ethnicity, colour and gender. Most indigenous communities are in a situation of poverty, homelessness and food insecurity. These indicators are also extremely high in the Afro-Colombian population and for women.”*⁴² The lack of state policies to promote food production is one reason why some 60% of the rural population lives below the poverty line, and why despite Colombia being considered a middle income country, more than 500,000 children are chronically malnourished⁴³, and at least five thousand die from this each year⁴⁴. In this context it is clear that the food sovereignty of rural communities has been seriously affected by expanding monoculture plantations, which in most cases are allocated to the production of agrofuels. This is illustrated in cases documented by the international mission held by Colombian social movements to verify the impact of agrofuels in 2009⁴⁵. In the region of Tumaco (Nariño department) the mission observed that oil palm companies illegally occupied areas of land and that for example in the community of Peña Alegría, a territory of the Awa indigenous people in the process of legalization, the company Astorga exercises territorial control of the river and has left the community with only 30 hectares of land and a severe food crisis.

In **Guatemala**, as in Colombia, there is an extremely high rate of child malnutrition characterized by parameters of discrimination and social exclusion that mainly affect the indigenous population. In 2010 chronic malnutrition in children under five affected 50% of the population, the highest rate in Latin America, and the fourth highest worldwide.⁴⁶ Despite this serious situation, Guatemala allocated fewer resources than its Central American neighbours to promote food security and has gone from self-sufficiency in yellow corn production to depend on 72% of U.S. exports.⁴⁷ The sectors most affected by hunger and poverty are also the most vulnerable to new scenarios that hinder access to land, and the food and natural resources needed for agricultural work. Aggravating factors include the rise in basic food prices and the expansion of new crops for industrialization.

As mentioned above, palm oil companies are already competing for people’s land in large parts of Guatemala, thereby reducing the area devoted to crops. Moreover, the arrival of these plantations has changed the dynamics of production and patterns of consumption, as well as the structure of the soil itself, affecting small farmer production. In a study carried out in the community of Sayaxche, Peten (north of Guatemala), it was found that the dependence of a salary as the sole source of wages in families, has placed them in a more vulnerable situation in relation to food.⁴⁸



→ **Inhuman labour conditions: violations of labour rights.**

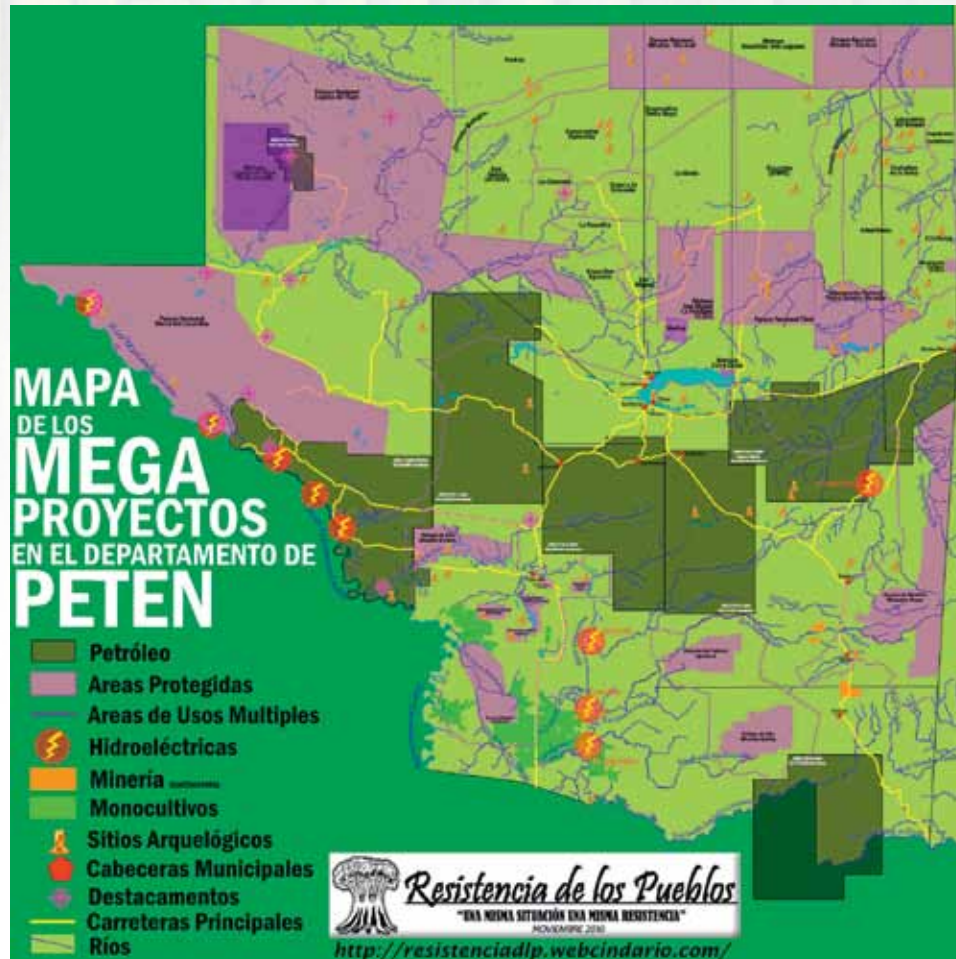
In **Colombia**, about 10,000 sugar cane workers marched in 2008 to protest about the inhumane conditions in which they were working on the plantations. Among other things they denounced daily wages of 7 thousand pesos (2.5 €), and 7-day working weeks. Following these events the workers came to certain agreements with the Government, but this did not change the working conditions which were maintained under the model of Workers Associated Cooperatives (*Cooperativas de Trabajo Asociado* - CTAs). These models allow companies to outsource workers through third parties, which are not subject to labour and contracting laws and do not recognize the right to collective bargaining. In this regard, the Deputy Prime Minister, Angelino Garzón, said *"the main violators of labour rights are these Cooperatives. It is unfair that workers who provide labour services through the CTAs are not protected by labour laws but by the trade regime, this is a setback of more than 200 centuries for our country."*⁴⁹ As part of the discussions preceding the signing of the USA-Colombia FTA, the Presidents of both countries - Obama and Santos - signed a Labour Action Plan, in which Colombia committed, among other things, to dismantle the CTAs, and create a dedicated Ministry of Labour to ensure respect for labour rights. However, the Government has not yet advanced in dismantling these cooperatives and the CTAs continue to hire some 800,000 workers in the sugar cane and oil palm industries.

As in Colombia, in **Guatemala** the data collected in most plantations and processing plants in the country show a systematic violation of workers' labour rights ranging from wages below the minimum wage of 68 Quetzales per day (6.65 €) set to work in rural areas and working long hours⁵⁰. Low pay forces families to combine this income with the cultivation of basic grains for family consumption. A recurring phenomenon in the agricultural context of Guatemala is the closure of the plantations and refineries leaving a large number of workers unemployed, without access to social support and due payment of wages from their final working months. In June 2009 the "Chabil Utzaj" refinery in the valley of Polochic laid off around 500 workers, as will be discussed in more detail later in this report. In this context, it is women who suffer particularly harsh conditions as they have to fulfill their role at home and work on the plantation and because they are subjected to severe wage discrimination. Cases have been reported among workers in plant nurseries in which the payments made to male workers for equal hours worked are higher than those made to women.⁵¹

→ **Are agrofuels a source of clean renewable energy? Impacts on the environment.**

In the case of **Colombia**, reports submitted by civil society organizations and the Trade Sustainability Impact Assessments (TSIA) carried out at the request of the European Commission during the trade agreement negotiations, establish that the potential impacts on the environment from the use of fertilizers and pesticides, excessive use of water sources, pollution

(smoke and liquid waste) and soil degradation of agrofuel production will have highly negative effects on the human rights of the rural population. This could aggravate, inter alia, deforestation which according to the Colombian government is advancing at an annual average of 238,000 hectares (data between 2005 and 2010), while according to experts *"there are no less than 470 hectares of forest cleared each year, a rate of destruction that could devastate the country's total forest cover in less than 146 years."*⁵²



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In **Guatemala**, deforestation is a recurring problem in many parts of the country, such as the municipality of La Libertad, in Sayaxché (Peten northern Guatemala) where more than 59,602 hectares of forest have disappeared in five years. The testimonies of the population show that the sharp increase of monoculture oil palm and sugar cane plantation has accelerated deforestation of the remaining forests during this decade and has exerted strong pressure on biodiversity. The reduction and degradation of the Maya Biosphere Reserve in the department of Petén is a clear example. In some documented cases, reports warn that the streams and rivers have been diverted – namely in the municipality of Ocos to be discussed later in this report - in others, reports warn of the contamination of water sources as they become outlets for the waste produced during the oil extraction process - this is the case of the village of El Pato, the first place where the company REPSA was established.⁵³ In all cases, communities report that companies involved in palm cultivation use large amounts of water during their activities, seriously affecting the survival of communities. In the long term, it is anticipated that population growth, pollution and scarcity of land and water sources will generate conflicts over the access and use of natural resources.



4. CONCLUSIONS

The consolidation of the liberalization of tariffs on raw materials derived from ethanol and palm oil in the framework of the agreements between the EU and Central America, Colombia and Peru will stimulate the expansion of agrofuel production for export to the EU. This situation favours a secure supply of these raw materials into the EU community area, allowing the EU to meet its energy needs at low prices, while helping to strengthen the primary export model of the Central American countries, Colombia and Peru.

The negotiated agreements provide investors with regulatory frameworks that favour establishment in these countries, which leads to a predicted increase in companies and in European investment in the production of agrofuels.

In Colombia and Guatemala agrofuel production is associated with various troubling human rights violations such as forced displacement, violent and illegal evictions, and violations to the right to dignified work and the right to food. In this context, given that the agreements encourage the expansion of agrofuels and direct European investment in the sector, the EU runs the risk of compromising its responsibility in such violations and contributing to an increase in these crimes.

The production of biofuels is also associated with negative impacts on the fragile Central American and Andean ecosystems, affecting biodiversity and threatening indigenous peoples, Afro-descendants and small farmers, because of pressure on their lands and ways of life.

Warnings are being ignored in relation to the negative impacts of agrofuel expansion included in the Trade Sustainability Impact Assessment commissioned by the European Commission itself. The titles of Trade and Sustainable Development incorporated into each of the agreements in question, does not include special treatment for the trade in agrofuels and their cooperative approach does not allow for sanctions for violations of international standards within the framework of the agreements.

For these reasons we urge that prior to voting on these agreements, parliamentarians from the EU and its Member States carry out the following actions:

- Promote a hearing where the concerns of social organizations from both the EU and Central America, Peru and Colombia can be heard, in relation to the impacts of agrofuel production on the full respect of human rights, via the Committee on Development (DEVE), the Sub-Committee on Human Rights (DROI) and the Delegation for relations with the countries of the Andean Community and Central America;
- Commission an impact report on human rights for each of the Agreements prior to the vote. In this report special attention should be given to how the expansion of agrofuels threatens indigenous peoples, Afro-descendant and small farming communities, workers and women, in Central America, Colombia and Peru; and
- Ask parliamentary questions to the European External Action Service requesting information on how they have taken into account the warnings in the Trade Sustainability Impact Assessments (TSIA) and what measures they have envisaged to prevent and remedy these impacts, and to ensure that the EU is acting in accordance with the recommendations issued by United Nations bodies on this issue, in particular the Special Rapporteur on right to food.



**We also ask parliamentarians from the
EU and Member States in the context
of overall EU policies to:**

- Promote from within the European Parliament the ratification of ILO Convention 169 by the EU as a whole, to ensure that free, prior and informed consent is guaranteed for indigenous peoples and Afro-descendants before the establishment of European investments in their collective territories and before establishing business relationships with companies in their territories;
- Promote, through the adoption of a resolution of the European Parliament, a review of EU policy on trade, energy, and development cooperation, to ensure that these are consistent with international human rights standards, and in particular promote the adoption by the European Union of guidelines on agrofuel production and consumption along the lines indicated by the UN Special Rapporteur on the right to food;⁵⁴
- Include in future cooperation policies, budget lines for the promotion of small-scale agriculture for small farming communities, Afro-descendants and indigenous peoples; and
- Support and encourage discussion on the need to reduce the energy requirements of the EU and explore the development of other types of renewable energy within the Community which respect human rights.



ANNEXES: SITUATION OF EMERGENCY IN INDIGENOUS AND PEASANT COMMUNITIES IN COLOMBIA AND GUATEMALA

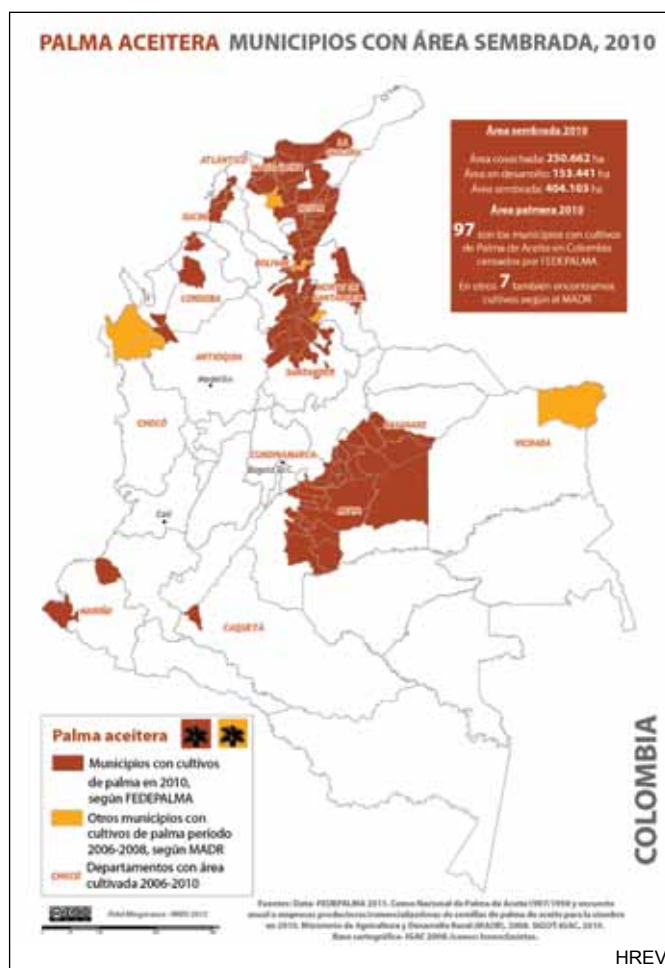
COLOMBIA

Las Pavas: forced displacement⁵⁵...

The community of Las Pavas, located in the department of Sur de Bolívar in Colombia, and composed of 123 families, was forcibly displaced by paramilitaries two times and finally expelled from their territory by the national police in 2009. The expulsion, considered by the attorney for the community to be “an illegal eviction because it did not take into account the land claims made by the small farmers,” occurred when INCODER, a State institution, sold 1,800 acres of this land to a consortium of palm oil companies called San Isidro palm CI and CI Tequendama SA (a subsidiary of DAABON). The actions leading to the forced expulsion of these families were declared illegal by the Colombian Constitutional Court on May 6, 2011, which ordered that the land be returned to the community, and obliged the Colombian government to reopen the process of the legalization of the land initiated by the community. At a meeting on March 25, 2011, during the negotiation process between the community and government, the community was informed that the land would be returned to them provided they lent it to the palm company. The Constitutional Court has declared that the affected families may not be evicted until the terms of ownership (*extinción de dominio*) have been legally clarified.

Meta and Vichada: indigenous peoples at risk of extinction ...

In 2009, Colombian social movements organized an international mission in order to verify the impacts of agrofuel expansion in several small farming, Afro-Colombian and indigenous communities in five regions of Colombia⁵⁶. The mission visited the communities and noted the impacts of the cultivation of sugar cane and oil palm for the production of agrofuels. In particular they found that the rights to life and personal integrity, food, land, environment, culture and labour rights were the most affected. The mission verified “in situ” that these projects have a direct impact on the rights of the sikuani and kuiva indigenous peoples, semi-nomadic peoples who live in Meta and Vichada and have been declared at risk of physical and cultural extinction by the Colombian Constitutional Court.⁵⁷ The effects on the fragile ecosystems of the Colombian plains are disastrous, “the constant use of fertilizers in the water sources for the production of palm oil and sugar cane has polluted watersheds, and caused different diseases in the population human and animal, threatening food sovereignty”.⁵⁸ Other indigenous peoples such as the amorua, puinabe, saliva, piaroa and piapoco, have not been consulted as required by ILO Convention 169 and Colombian law. It is anticipated that as a result of the Trade Agreement there will be an expansion in the production of agrofuels in these regions, which will adversely affect the indigenous population. As the Trade Sustainability Impact Assessment (TSIA) has already warned; “people living in the eastern regions of Vaupes, Guainía, Vichada, Meta, Arauca, Casanare and Guaviare, where sugar cane production will increase, would be particularly obliged to move.”⁵⁹



GUATEMALA

Forced eviction, violence, killings and hunger in the Valley of Polochic...

The area known as Polochic includes several municipalities in the departments of Alta Verapaz and Izabal and has a population of 220,000 inhabitants - 90% Mayan quech'í and Pocomchi. The lands irrigated by the Polochic river are highly fertile, which has attracted agribusiness investment to the area, such as the Chabil Utz'aj sugar refinery⁶⁰ and the company called Inversiones Promotoras de Desarrollo S.A (INDESA), which promotes the expansion of plantations of palm oil for agrofuel. Since January 2011 social unrest and violence against the small farmers in this region has increased and in March a series of forced evictions began of 12 communities located in this valley. As a result of these evictions some 565 families, 2,169 people, which would include around 325 children under 5 years of age were displaced, three farmers were killed, and housing and materials for the cultivation of basic grain crops intended for consumption were destroyed.⁶¹ The food situation was aggravated when the Chabil Utzaj refinery failed to comply with the provisions of the Planting Agreements issued by the Public Ministry, which allowed displaced communities whose crops had not been burned, to gather their crops which had been planted during the previous months. At the same time rumours spread related to the existence of arrest warrants against the small farmers and people from the non-governmental and civil society organisations who accompanied them. Faced with this grave situation on June 20, 2011, the Inter-American Commission on Human Rights granted precautionary measures in favor of the 14 evicted communities and asked the Guatemalan State to implement urgent measures to guarantee their right to life and physical integrity, and their right to food and shelter. However, the government has not implemented these measures and at present the displaced population, including children, the elderly and women, are living dispersed around the edges of the evacuation areas with little or no access to housing, and under surveillance and intimidation from the company's private security guards. The population is drinking unsafe water and lacks access to sanitation facilities and traditional crops, nor do they have the possibility of seeking other sources of income for food purchases.



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Photo: CUC, Comité de Unidad Campesina de Guatemala

Contamination and changes in water sources in communities in Ocos and Coatepeque⁶²...

The area affected by the diversion of several rivers⁶³ comprises some 21 communities in various municipalities in the departments of Quetzaltenango, San Marcos and Retalhuleu. These communities suffer from cyclical flooding of their lands, the last occurring in October 2011 due to overuse and pollution of rivers caused by the establishment of the agribusiness sector company Bananera Nacional S.A (Banasa). This company built dams to protect their banana and palm oil plantations, and via mechanical pumps ejected large amounts of water from their farms towards the river Pacayá. The floods have caused incalculable damage to the communities who have not received any compensation to date. Another major problem is the increasing dryness of the land resulting from the excessive amount of water used in irrigation of the vast plantations of oil palm, also a result of the diversion of water from rivers for the palm plantations. Some of the affected communities have reported that several wells have dried up and that access to clean water for human consumption is declining in the summer season. Pollution of rivers from waste from plantations and refineries also poses a serious risk not only to the food sovereignty of communities but to their health. This situation particularly affects women, who are obliged to travel greater distances to fetch water from wells and who come in direct contact with contaminated water when washing clothes.⁶⁴



Photo: Resistencia de los pueblos



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