

To  
RSPO Secretariat Sdn Bhd  
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No 5, Jalan Bangsar Utama 1  
59000 Kuala Lumpur, Malaysia  
Tel: +603 23021500 Fax: +603 22014053  
Email:

Date: November 18, 2015

Dear Sir,

### SUBMISSION OF COMPLAINT

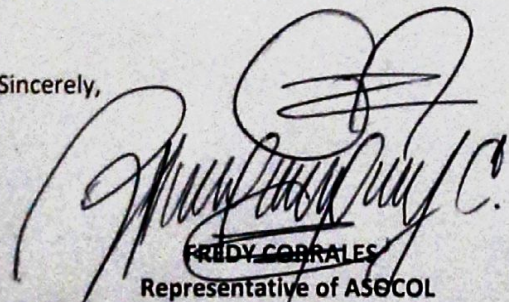
We, Fredy Antonio Corrales, representative of the Colombian Association for Displaced Peoples' Prospects (ASOCOL), Adelfo Segundo Rodríguez, representative of the Association of Returning Displaced Farmers (ASOCADAR), Senator Iván Cepeda, Senator Alberto Castilla, and Representative Alirio Uribe, present this complaint to the complaints and grievances process of the Roundtable on Sustainable Palm Oil (RSPO) against EXTRACTORA LA GLORIA SAS, a Colombia-based company that is an ordinary member of the RSPO.

We present this complaint to the RSPO on behalf of the victims of Bellacruz that are members of ASOCOL and ASOCADAR and as Colombian citizens and defenders of human rights.

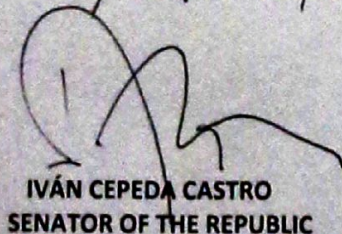
Name: Iván Cepeda Castro, Alberto Castilla and Alirio Uribe  
Position: Congressmen of the Republic of Colombia  
No. Address: Cra 7 No. 8-68 offices 636B, 525B, 506B. Bogotá, Colombia  
Telephone: (57) 1 3824416, 3823716, 3824484.  
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The details of the complaint are outlined below. The attachments include additional data and information. We understand that the RSPO Secretariat will assess this complaint in accordance with the RSPO complaints and grievances process and the rules of its dispute resolution authority.

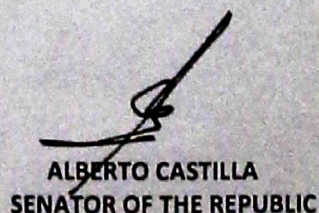
Sincerely,



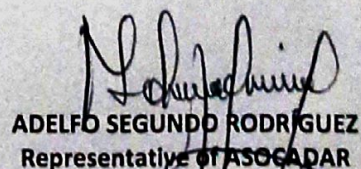
FREDY CORRALES  
Representative of ASOCOL



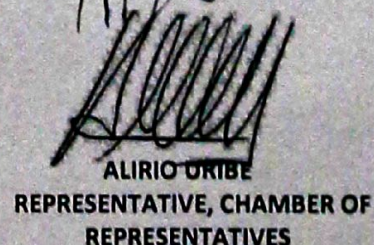
IVÁN CEPEDA CASTRO  
SENATOR OF THE REPUBLIC



ALBERTO CASTILLA  
SENATOR OF THE REPUBLIC



ADELFO SEGUNDO RODRÍGUEZ  
Representative of ASOCADAR



ALIRIO URIBE  
REPRESENTATIVE, CHAMBER OF  
REPRESENTATIVES



**A: Description of the name, address and location, and nature of the Company being complained about:**

Extractora La Gloria, ordinary member of the RSPO, member No. 2-0501-14-000-00. The company is currently registered with the Valledupar Chamber of Commerce. Its office address is Tv 23 No. 97-73 of. 702 in Bogotá.

**B: Description of the action taken by me/ us to try to settle the issues (please provide details based on chronological event)**

The facts giving rise to this complaint are outlined below, including direct mentions of the entities to which we have appealed seeking a resolution of the present conflict.

1. The former Hacienda Bellacruz- today Hacienda La Gloria- occupies 9,000 hectares in the municipalities of La Gloria, Pelaya and Tamalameque, in southern Cesar Department. Many of the palm oil crops processed by the La Extractora La Gloria plant are located in this area, formed out of several lots registered between the 1930s and 1970s. The Marulanda Ramírez family consolidated La Hacienda, first on behalf of ALBERTO MARULANDA GRILLO and CECILIA RAMIREZ DE MARULANDA, and later on behalf of the company M.R. INVERSIONES LTDA, today M.R. DE INVERSIONES S.AS (ownership history and no-lien certificate No. 196-10389).
2. Due to irregularities in Hacienda Bellacruz's ownership and transfer history, the Inspector General of Colombia began a clarification process for the property with Incora<sup>1</sup> (today Incoder).<sup>2</sup> In 1994, the process was completed, declaring that the Hacienda contained seven lots with 1,500 hectares of fallow land (Resolution 1551 of 1994). According to Colombian law (Law 160 of 1994), the Constitution dictates that fallow lands must be used to guarantee poor rural populations' (small rural farmers, indigenous and Afro-descendant peoples) access to the land.
3. Since 1986, farmers have occupied and customarily owned part of said fallow land, which is comprised of 13 rural districts or administrative units.
4. Colombia has experienced more than 60 years of armed conflict, exacerbated by the actions of paramilitary groups. A number of paramilitary groups were active in Cesar, including the Self-Defense Forces of Santander and Southern Cesar (*Autodefensas de Santander y Sur de Cesar*), which began operations in Pelaya in 1996 with support from CARLOS ARTURO MARULANDA, son of ALBERTO MARULANDA GRILLO and CECILIA RAMIREZ DE MARULANDA, according to the ruling convicting JUAN FRANCISCO PRADA MÁRQUEZ, his former commander.
5. Hacienda Bellacruz, the company that is the subject of this complaint, has been at the centre of multiple human rights violations. Beginning February 14, 1996, paramilitary groups with support from the military and the police, insulted the area's occupants, burned their houses and destroyed their crops, forcibly displacing an estimated 480 families. The paramilitary groups assassinated peasant leaders Jaime Laguna, Eduardo Donado and brothers Eliseo and Eder Narváez Corrales. According to affidavits, there are mass graves on the estate. Domestic judicial authorities<sup>3</sup> and

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<sup>1</sup> National Institute for Agrarian Reform

<sup>2</sup> National Institute for Rural Development, a state agency in charge of administering the nation's land (fallow land)

<sup>3</sup> The State Council has made a number of declarations recognizing the State's responsibility for its failure to act against paramilitary operations in Bellacruz.

international human rights bodies<sup>4</sup> have verified these claims. Despite warnings from the Inter-American Commission on Human Rights in 1999, impunity prevails.<sup>5</sup>

6. On October 7, 2010, MR Inversiones transferred the title of Hacienda La Gloria to Fiduciaria Cafetera S.A, which then formed the Fideicomiso Dolce Vista. Since 2008, the defunct Panamanian company La Dolce Vista Inc owned more than 45% of Sociedad MR Inversiones' shares, through La Dolce Vista Sucursal Colombia.
7. La Extractora La Gloria was established in 2010 to develop, produce, commercialize, profit from and carry out agro-industrial activities.
8. La Extractora La Gloria SAS, Frigorífico La Gloria SAS and MR Inversiones SAS<sup>6</sup> make up the GRUPO AGROINDUSTRIAL HACIENDA LA GLORIA S.A. SUCURSAL COLOMBIA, known until 2011 as LA DOLCE VISTA SUCURSAL COLOMBIA. The parent company of GRUPO AGROINDUSTRIAL HACIENDA LA GLORIA SUCURSAL COLOMBIA is GRUPO AGROINDUSTRIAL HACIENDA LA GLORIA, registered in Panama. Their shareholders are Tigris Energy (75%), whose partners are Strategic Venture and Sinergy- through a "special purpose vehicle known as Fundación HJDK" registered in Panama-; Bio Palm Corp (13.57%) and Estrategic Venture (11.43%). Despite the fact that companies within the group share registered offices and legal representatives, the business group's existence has not been declared under Colombian corporate and tax law (see figure).<sup>7</sup>
9. Due to the lack of information provided by GRUPO AGROINDUSTRIAL HACIENDA LA GLORIA; the fact that many of the companies that make it up are registered in countries like Panama and the Cayman Islands, which are or have been on the OECD's list of tax havens and/or off-shore jurisdictions; and the existence of financial vehicles like Fundación HJDK; it is not possible to identify all the partners and investors and the origin of the capital that supports EXTRACTORA LA GLORIA SAS' legal activities.
10. LA DOLCE VISTA, today GRUPO AGROINDUSTRIAL HACIENDA LA GLORIA SA, did not exercise due diligence when it acquired the former Hacienda Bellacruz in 2010. It did not research the property history, including the ownership history and no-lien certificate, identified with registration folio number 196-1038, which included Incora's 1994 resolution declaring the existence of fallow land within the estate (see ownership history and no-lien certificate).<sup>8</sup> In that matter, Incoder concluded that: "(...) FIDEICOMISO DOLCE VISTA only needed to carefully read registration folio number 196-1038 to know that annotation 22 referenced Resolution No. 1551 from April 20, 1994, through which the General Management of Incora declared the following lots fallow: LOS BAJOS, CAÑO NEGRO, SAN SIMÓN, VENECIA, POTOSI, MARIA ISIDRA y SAN MIGUEL" (see Incoder document).
11. The year that LA DOLCE VISTA acquired the property, Incoder began recovering unduly occupied fallow lands. During this process, it determined that of the Hacienda's 1,500 hectares declared fallow in 1994, 1,200 remained within the property (Resolution 0481 of 2013). In 2015, Incoder modified this decision (Resolution 334), annulling the clarification process for the property. In

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<sup>4</sup> See United Nations Economic and Social Council briefing on Colombia: Hacienda Bellacruz, August 8, 1996. E/CN.4/Sub.2/1996/NGO/9.

<sup>5</sup> IACHR, 1999, Third report on the human rights situation in Colombia.

At: <http://www.hchr.org.co/documentoseinformes/documentos/html/informes/osi/cidh/CIDH%203er%20Informe%20Colombia%20Intrduccion.html> Consulted March 30, 2013.

<sup>6</sup> In 2008, La Dolce Vista State, alongside members of the Marulanda Ramírez family, became partners of this company, and in 2009, la Dolce Vista held 100% of its stocks.

<sup>7</sup> A business group is formed when the activities of all of its entities seek an objective determined by a parent or controlling company, without prejudice to the legal independence of each business unit as it develops its social objective (Article 28, Law 222, 1995 and Commerce Code, Article 260). They are required to declare themselves for tax and accounting purposes.

<sup>8</sup> The ownership history and no-lien certificate (*Certificado de Tradición y Libertad*) is a public document that contains the legal acts related to a property, written in consecutive chronological order, which indicates the property's owner or owners. The Superintendence for Notaries and Registries issues the certificate.

October 2015, Incoder restarted the property clarification process (Auto 179, October 26, 2015).<sup>9</sup> Administrative inconsistencies within the State's land agency do not exempt companies from demonstrating "legal ownership" of the land.

12. The Colombian state, in compliance with its international duties to recognise the rights of victims of forced uprooting, committed itself to provide comprehensive care and reparations (Laws 387 of 1997 and 1448 of 2011). Land restitution to victims of dispossession or forced abandonment is a state obligation. Companies have a responsibility to contribute to the process within the framework of the UN Business and Human Rights standards. Farmers at the Hacienda Bellacruz requested that the Land Restitution Unit return and formalize their ownership of the land from which they had been violently expelled. These farmers had not been able to return to their land due to the State's inconsistencies and the palm oil plantations built by Extractora La Gloria and their investors.
13. For the reasons mentioned, the palm plantation and extraction mill were not built with the free, prior and informed consent of the claimant farmers, the main party affected. In addition, the Business Group failed to create spaces for dialogue and negotiation even though it is a known fact that farmers have demanded rights over Hacienda La Gloria's plots since 1990.
14. The municipalities where La Extractora La Gloria operates are considered within the so-called high-risk zones, due to the presence of armed groups, the State's institutional weakness, corrupt practices, and high levels of poverty and vulnerability. In 2012, a self-proclaimed "anti-restitution army" formed but was denounced as an illegal armed group that had threatened members of ASOCOL. Leaders of the association have reported threats from the private surveillance and security company "Seguridad Vélez LTDA," which provides security services to the business group of which LA EXTRACTORA LA GLORIA is a part.<sup>10</sup>
15. On June 30, 2015, facing delays in the fallow land recovery process and the lack of a State response to their petitions, approximately 180 families decided to voluntarily return, without institutional accompaniment, to the plots in La Hacienda Bellacruz- today La Gloria- which Incora had declared fallow in the 1990s. The following day, the police and private armed staff subjected these families to a violent process of eviction. A person that the farmers have identified as a non-demobilized paramilitary member was also present.<sup>11</sup>
16. The business group of which Extractora La Gloria is a part has not publicly denounced these aggressions against the claimants' human rights. On the contrary, Germán Efromovich, stockholder of the business group asserted in the press that the murder of farmers claiming rights to the land was not his company's problem.<sup>12</sup> The group also began judicial action against the protection measures granted by the Constitutional Court to the safeguard the integrity of the a number of the claimants to the fallow land, displacement victims that had formed ASOCOL and

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<sup>9</sup> There is currently a legal discussion within the Constitutional Court about whether the resolutions declaring 1,500 hectares within the Hacienda as fallow should lose their executive force, by virtue of a *tutela* (expedited legal proceeding to safeguard fundamental rights) submitted to the court by ASOCOL on behalf of people that have not had their rights to reparations guaranteed.

<sup>10</sup> Right of petition sent by the Colombian Association for Displaced Peoples' Prospects (ASOCOL) to the Ms. Miriam Villegas, director of INCODER, and a response to the right of petition sent by Congressman Iván Cepeda to the Superintendence of Surveillance, October 1, 2012.

<sup>11</sup> Verdad Abierta, "Campesinos ocupan la finca La Bellacruz," July 1, 2015 available at: <http://www.verdadabierta.com/lucha-por-la-tierra/5863-desalojan-a-la-fuerza-a-campesinos-que-retornaron-a-la-finca-bellacruz>.

<sup>12</sup> Verdad Abierta, "La tierra no violó los derechos humanos," September 7, 2011, available at: <http://www.verdadabierta.com/despojo-de-tierras/3529-la-tierra-no-vio-los-derechos-humanos>

ASOCADAR.<sup>13</sup> The decision was substantiated by the existence of a possible threat or impact on the right to life, the right to this process and to the land.

17. Inside Hacienda La Gloria sits the Forest Reserve Buffer Zone of the upper Caño Alonso River basin,<sup>14</sup> declared as such on January 29, 1987. According to farmers' complaints as well as reports from Corpocesar (regional environmental authority) and the Ministry of Environment, there is no environmental baseline or Environmental Management Plan for the forestry reserve, as required by environmental regulations. The lack of such instruments does not exempt EXTRACTORA LA GLORIA from its responsibility to prevent, mitigate and repair the environmental impact of its business operations. The palm facilities have affected the reserve zone's buffer area<sup>15</sup> and have caused forest cover to decrease from 445 to 77 hectares. In February 2014, the Comptroller for Environmental Affairs began an investigation to determine the environmental impact of the palm monoculture on the Forest Reserve Buffer Zone of the upper Caño Alonso River basin and monitor compliance with environmental obligations in the area affected by Hacienda La Gloria. The area's inhabitants have also warned about the decline in the Caño Alonso riverbeds and the drying up of the Singararé, El Carmen and Simaña streams, sources of water for human and agricultural consumption.

Within this context, the business group did not exercise due diligence in guaranteeing compliance with Colombian law; controlling and preventing risks that harm to human rights, avoiding situations of complicity through act or omission, and taking advantage of the vulnerability of land claimants and forced displacement victims. This situation bears no relationship to companies' commitments to abide by business and human rights standards, the United Nations Global Compact, and the RSPO Principles and Criteria. The Hacienda La Gloria Agro-Industrial Group is member of the UN Global Compact and Extractora La Gloria<sup>16</sup> is a member of the RSPO Principles and Criteria.

### **Unfulfilled and/or Violated Principles**

As described above, we believe that the Extractora La Gloria SAS, which belongs to the Hacienda La Gloria Agro-Industrial Group, does not comply with the following RSPO principles:

Principle 1.1. Given that it does not provide clear and sufficient information regarding the Business Group.

Principle 2.1. The Business Group has not declared itself to Colombian authorities and the crops were planted without an Environmental Management Plan for the Forest Reserve, which goes against national business and environmental regulations.

Principle 2.2. Property ownership claims in the areas where Extractora La Gloria grows the majority of its crops have been called into question at national and international judicial bodies. Farming communities have demanded the formalization of their customary land rights, which were violently denied by paramilitary groups. These groups were supported by members of MR Inversiones, the company that sold the former Hacienda Bellacruz to the Hacienda La Gloria Agro-Industrial Group.

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<sup>13</sup> Verdad Abierta, "Yo tutelo, él tutela, ellos tutelan... el caso Bellacruz," September 29, 2015. available at <http://www.verdadabierta.com/lucha-por-la-tierra/5995-yo-tutelo-el-tutela-ellos-tutelan-el-caso-bellacruz>.

<sup>14</sup> The forest area is located completely within the territory of Hacienda La Gloria. A number of aquifers that make up the Caño Alonso river sit within the wooded area and are an important water flow within the region. According to the Cesar Autonomous Corporation (regional environmental authority), the zone is the only wooded area containing a large number of wild and aquatic animal species.

<sup>15</sup> Preparing the land for plantation-building changes land use, affecting the dynamics of water and wild animal populations: a one-time forest use permit, levelling the earth, changing drainage dynamics, and altering groundwater levels.

<sup>16</sup> [https://www.unglobalcompact.org/system/attachments/79641/original/COP\\_2014.pdf?1399413149](https://www.unglobalcompact.org/system/attachments/79641/original/COP_2014.pdf?1399413149).

Principle 2.3. Business operations have not recognized the rights of farmers who are also displacement victims, in contravention of businesses' duty to guarantee free, prior and informed consent regarding land use.

Principle 4.4. While installing and processing palm crops, Extractora La Gloria affected the Caño Alonso Forest Reserve Buffer Zone and the Singararé, El Carmen and Simaña streams.

Principle 5.2. The company has not avoided damaging the Caño Alonso Forest Reserve Buffer Zone, a specially protected habitat such as installing palm crops over the Reserve's environmental buffer zone.

Principle 6.4. The company has neglected the claimants, despite the fact that they have been the most affected by its business activities. The company has also refused to create negotiation platforms.

Principle 6.13. The company has benefited from grave human rights violations of vulnerable farmers, who were also forcefully displaced by illegal armed actors.

The company has not publicly rejected the threats and intimidations against the claimants. It even requested that the Constitutional Court lift the cautionary measures protecting the victims.

### **C: Other persons contacted by us in attempt to settle the issues**

The organisations representing the Bellacruz farmers and victims contacted the Attorney General's Office and requested that the aforementioned human rights violations be investigated. Similarly, these organisations have appealed to Incora/Incoder to recover the fallow lands, and requested the Land Restitution Unit to file a lawsuit for the restitution and formalization of fallow lands to which they were violently deprived. The threats were reported to the National Protection Unit, the National Police, the Constitutional Court and several Congress members, including signatories to this complaint.

### **D: Any other relevant facts and/or other materials to support this complaint**

1. Questions and answers regarding the Incora and Incoder's intervention in the "Hacienda Bellacruz" rural land title, today known as "Hacienda La Gloria".
2. A diagram explaining the Hacienda La Gloria Agro-Industrial Group's business structure.
3. Property registration of Hacienda Bellacruz, today known as Hacienda La Gloria: 196-1038 y 196-39010.
4. Ruling of the Supreme Court of the Bogotá Judicial District carried out by the Peace and Justice Courtroom against Juan Francisco Prada.
5. Attorney General's Office, investigative proceeding against Algreto Ballena, August 22, 2013.
6. Constitutional Court's order, Judge GLORIA STELLA ORTIZ DELGADO, July 22, 2015.
7. Incoder/Incora's Resolutions: Resoluciones 1151/94, 0481/2013, 334/15; Executive Order 179, October 26, 2015.
8. Accusation of environmental damage in Hacienda La Gloria, September 25, 2013, and the Comptroller's letter dated February 12, 2014 confirming the beginning of a special proceeding regarding the case.
9. Documents indicating the legal representation of the main companies that make up the Hacienda la Gloria Agro-Industrial Group.