



services limited

## Accusations of human rights violations against Coca-Cola factory workers in Colombia

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### 1 NUS Services contract details

#### Contracts

Compulsory deal on natural stills (starts August 2006, finishes April 2009)

Compulsory on colas (starts August 2006, finishes April 2011)

Compulsory on fruit carbonates (starts August 2006, finishes April 2011)

#### Brands

Coca-Cola (including vanilla variant), Diet Coke (including lemon variant), Cherry Coke, Fanta, Lilt, Sprite, Dr Pepper, Oasis, Minute Maid, all Schweppes-branded drinks, Canada Dry Ginger Ale, Roses lime, Capri-sun and Appletiser.

#### Contacts

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### 2 Constructive engagement with Coca-Cola

NUS Services' Ethical & Environmental Committee is involved in constructive engagement with The Coca-Cola Company (Coca-Cola) in relation to the issues outlined in this briefing. As part of the dialogue, Coca-Cola has been invited to respond to all the allegations against it. Coca-Cola has reviewed the accusations in this document and submitted the paragraphs in italics.

### 3 Summary and introduction

SINALTRAINAL is a union that represents food and drinks workers in Colombia. The union is calling for a worldwide boycott of Coca-Cola products because of alleged human rights violations in some of the factories used to make Coca-Cola products in Colombia<sup>1</sup>. The campaign, which

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<sup>1</sup> According to SINALTRAINAL, there are 13 unions that represent Coca-Cola workers in Colombia. In November 2004, SINALTRAINAL stated they represented 71% (around 389) of these unionised workers. SINALTRAINAL state that the other 12 Unions collectively had 161 members (making a total to 550). SINALTRAINAL claims it has around 2,300 members in total. It is not an International Union of Foodworkers (IUF) affiliate. The IUF represents 150,000 unionised Coca-Cola workers worldwide. The main Colombian IUF affiliate is SICO, but does not support the Colombian Solidarity Campaign's boycott. The third main union, SINALTRAINBEC, also an IUF affiliate, does not support the boycott. In November 2005, the IUF stated that SICO has 50 members at the Carepa plant, a large majority of the small workforce of totalling about 65 employees. It also challenged the SINALTRAINAL figures, citing evidence based on affiliation figures to CUT, suggesting that SINALTRAINAL's membership at all Coca-Cola plants

was endorsed by the World Social Forum in 2003, is centred on accusations that Coca-Cola bottlers worked with paramilitary groups to remove union activists and workers from factories through assassinations and intimidation. The Coca-Cola Company strongly denies any involvement with paramilitaries. According to the Colombia Solidarity Campaign (CSC), paramilitary forces have murdered a total of eight union leaders from Coca-Cola factories, with the most recent being in August 2002.

The broader picture of Colombia is a country in civil war. Estimates made in March 2005 put the figure of trade union members killed over the last 15 years in Colombia at 3,500, of which only 600 have been investigated resulting in just six convictions. In addition, over with 3,500 civilians are killed each year. According to the TUC, the three sectors with the greatest losses are health workers, teachers and oil workers. SINALTRAINAL believe that it is commonplace for multinational companies in Colombia to collude with paramilitaries and have cited other examples as Examples in the public domain include Drummond, Occidental Petroleum and Chiquita. The Coca-Cola Company points out that, in a country where violence against union members has deterred all but approximately 4 percent of the labour force from unionising, 31 percent of bottler Coca-Cola FEMSA's Colombia employees belong to unions.

A lawsuit was brought against The Coca-Cola Company and two bottling partners in a US court in 2001<sup>2</sup>. The Judge ruled that The Coca-Cola Company could not be tried because it did not have explicit control of labour issues in the factories in question, although the bottlers could be tried. In September 2006, the same court dismissed all remaining cases against the two Coca-Cola bottlers in Colombia, denied the plaintiffs' motion to amend the complaints to bring The Coca-Cola Company back into the lawsuit and directed the clerk to close the cases<sup>3</sup>. SINALTRAINAL have recently (November 2006) lodged an appeal against this ruling.

## **4 The accusations**

### **4.1 Bebidas y Alimentos factory (Carepa)**

Bebidas y Alimentos is an independently owned Coca-Cola bottler<sup>4</sup>.

#### **4.1.1 1994-1996 – Five union workers assassinated**

Between 1994 and 1996, three union members that worked at the factory were assassinated, and other workers were forced to renounce the Union, by paramilitaries. There are also allegations of kidnapped and torture of union members. One of the assassinations happened in the factory. In 1996, the manager responsible for the factory fled, also due to security concerns. The CSC has provided the following allegations<sup>5</sup>:

- The factory manager publicly announced that he had ordered the paramilitaries to destroy the SINALTRAINAL union.
- The factory manager was seen socialising with members of the paramilitaries.
- In response to threats against workers safety, the union repeatedly pleaded with the management to provide heightened security for its workers. The proposal was denied by the Company.
- Following the loss of union workers, the Company replaced experienced workers that had earned approx \$400/month with new employees earning \$130/month, Colombia's minimum wage.

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was not more than 150, adding that there are only about 2,000 permanent Coca-Cola workers in Colombia, so all unions together represent no more than 15%.

<sup>2</sup> The full complaint can be downloaded from [nussl.co.uk](http://nussl.co.uk) (under the 'E&E Issues' section, then 'E&E Briefings' - it is called the 'Bebidas y Alimentos's Carepá factory Complaint').

<sup>3</sup> <http://www.beurs.nl/nieuws/artikel.php?id=164715&taal=US>

<sup>4</sup> Bebidas y Alimentos is an independent franchise bottler. Coca-Cola does not own (and has not in the past owned) any percentage of the Carepá factory operation.

<sup>5</sup> Citing the Center for Labour Research & Education, UC Berkeley, as the source of the allegations.

*"Two different independent inquiries in Colombia – one in a Colombian Court, and one by the Colombian Attorney General's office – examined the issue of whether managers at a bottling plant conspired to intimidate trade unionists and found no evidence to support the allegations. Moreover, at no time during these proceedings did SINALTRAINAL or any of its members assert that The Coca-Cola Company had anything to do with the alleged wrongdoing"*

*"Furthermore, the allegations in question stem from the 1996 murder of Isidro Gil. Mr. Gil, a security guard and union worker, was tragically killed at a local bottling facility. In a lawsuit brought by SINALTRAINAL members in Colombia, a Colombian Court found that there was no evidence that managers at the plant were in any way involved in the murder. On the contrary, the Court concluded as follows: "Nowhere has it been established that any Company executive ever played a role in violating the aforesaid rights. Quite the reverse, the documents produced in this...action indicate that the violations...were reported to authorities, who are properly investigating them." The Court also noted that the bottler went further and took steps to heighten security at the plant and requested that the union members be placed in government programs designed to protect the victims of violence. Moreover, a separate investigation by the Colombian Attorney General into the murder concluded that there was no evidence that managers at the plant were involved"*

*"A few weeks after the Gil murder, criminals murdered Jose Libardo Herrera Osorio, who had taken over as the plant manager prior the Gil murder. Astonishingly, SINALTRAINAL lists Mr. Herrera as a murdered Union Leader, when in fact he was a manager. Mr. Herrera's tragic death underscores the fact that the violence in Colombia is not limited to trade unionists, but to business managers and many others from all walks of life. Non-union managers and other bottling partner employees have been murdered and kidnapped as well"*

*"In summary, the facts surrounding the murder of Gil simply do not support the outrageous allegations that The Coca-Cola Company or our bottler, in order to intimidate trade unionists, conspired with the criminals that committed these heinous crimes"*

*"The bottler did not engage in the practice of illegally and systematically replacing unionized workers with lower wage non-unionized workers. Any attempt to replace workers or reduce the salary of workers must be authorized by the Ministry of Labor, and such a plan never took place at the bottling plant" (PL, July 2004)*

In response to the above response, the Colombian Solidarity Campaign allege that the enquiry by the Colombian Attorney General's office was led by 'Rito Alejo del Rio', an ex-general that is accused of human-rights abuses including playing football with someone's head. Additionally, Juan-Carlos Galvis, Organisation Secretary for SINALTRAINAL told NUS Services in June 2005 that he was not aware of the Colombian court ruling, and that Colombian courts could not be relied on to deliver justice. The Colombian Solidarity Campaign echoed this in a second meeting with them on 01 July 2005, in which they stated that The Coca-Cola Company was wrong to describe either enquiry as 'independent'. They also pointed out that less than 1% of human rights abuses in Colombia are ever brought to court. Furthermore, Human Rights Watch and Amnesty have raised concerns about the Record of the Colombian Attorney General's Office<sup>6,7</sup>.

In response to the follow-up questions 'when was the ruling date, which court was it seen in, who was the judge, can we see a copy of the ruling?', the Coca-Cola Company provided the following response: *Circuit Criminal Court 10, Capital District, April 22, 1997, Docket No. T-109, Judge Carlos Alberto Forero Garcia. A copy of the decision is available on Cokefacts.org at: [http://www.cokefacts.org/facts/facts\\_co\\_court.shtml](http://www.cokefacts.org/facts/facts_co_court.shtml) The action was brought by five individuals, but I would find it hard to believe that*

<sup>6</sup> <http://hrw.org/reports/2002/colombia/>

<sup>7</sup> <http://web.amnesty.org/library/Index/ENGAMR230142004?open&of=ENG-COL>

*SINALTRAINAL was not involved and find it impossible that SINALTRAINAL would not be aware, as these five individuals allege in the case that they were members of the union's board of directors (see first paragraph in statement of facts in the judgement) (supplied by LB, July 2005)*

*"According to the document, it appears that the Special Prosecutor in the case was Jose Edelberto Herreno Rivera, Special Prosecutor, Human Rights Unit. I do not have any information regarding his personal background" (supplied by LB, July 2005)*

According to a report by Cokewatch dated 05 March 2004, Coca-Cola representatives have told a fact-finding delegation that its employees may have collaborated with paramilitaries in the deaths and torture of Colombian Union members. Coca-Cola have told NUS Services that Coca-Cola FEMSA's answer to the question 'can the Company be 100% certain that their employees were not involved' has been spun out of context.

The civil legal action associated with these allegations was dismissed in October 2006 (see Section 4.4).

#### 4.1.2 1997 – New allegations of harassment

The primary accusations detailed above relate to events before 1997. In 1997, the new manager of the Carepa factory (American businessman Richard Kirby, based in Florida) changed the factory management. Three years later, the workers at Carepa organised a new union (SICO), which is affiliated to the International Union of Food Workers (IUF). However at the end of 2002, factory management allegedly began to harass union members and officers through discriminatory job assignments and dismissals. In 2003, SICO announced that the contracts of the two most anti-union managers and legal advisors had been terminated.

*"It is important to note that two bottling plant managers have also been killed - and many other harassed- by illegal groups in Colombia. In February, 2003 Coca-Cola's Key Account Manager in Colombia (Luisa Fernanda Solarte, 29 years old at the time), was also killed during a terrorist attack, when a car bomb planted by the FARC – a left-wing guerrilla group - exploded inside a social sports club where she was exercising"*

#### 4.1.3 February 2004 – Removal of clauses protecting basic trade union rights

According to the IUF, in February 2004, as part of negotiations to renew the collective bargaining agreement, Bebidas & Alimentos' negotiators insisted on removing several essential contract clauses protecting basic trade union rights. These included the right of the union to represent employees in grievance hearings, and the role of the union in discipline and discharge cases against individual employees. On 02 April 2004, a general assembly of the union members voted unanimously to authorise the union negotiating committee to form a strike committee and to call a strike. On 15 April 2004, SICO and Bebidas y Alimentos reached an agreement that averted the strike. The final agreement reached saw the Company withdraw all its demands that these protective clauses be withdrawn. In addition the agreement included the reinstatement of one of two union representatives who had been dismissed two years earlier (the second for whom additional compensation was negotiated had found alternative employment and preferred not to return to work at the factory). In economic terms, improvements included a wage increase of 12% and additional financial benefits.

*"Regarding the version of the negotiations having been deadlocked due to the bottler's insistence on removal of protective clauses contained in the current collective bargaining agreement, we have been told by the bottler that the only clause which they requested be removed from the agreement states that SICO is the sole representative of the workers. The reason bottler negotiators requested at some point to remove such clause was that it prevented other workers who were not SICO affiliates from joining other unions - such as Sinaltrainal, for example - which is detrimental to their rights of association. Since the union negotiators did not accept such proposal, the bottler decided not to insist on it, so it was never an issue at the time the union voted the strike"*

*“Initially the negotiations were in a deadlock because bottler's negotiators refused to accept certain demands from the union, specifically dealing with disciplinary sanctions against workers, job transfers, and the hiring of new employees. In their proposal for a the new agreement, the union wanted such decisions to be made by the plant administration with their previous authorization, something which was not included in the previous collective bargaining agreement. After two weeks of negotiating, the union finally accepted not to include those additional rights, but then threw on the table the issue concerning re-hiring two former plant workers and union members who had been fired some time ago. According to the bottler, one of those ex-workers was fired last year after being caught robbing, and the other was fired about two years ago after being caught driving under the influence of alcohol; both of them initiated legal actions against the Company, and both of them lost their cases, since there was enough evidence against them. When the bottler refused consider such request, the union negotiators decided to vote the strike”*

*The strike would have been illegal, since it was voted for by the workers after the term allowed by Law had already expired, and thus it would have given management the right to fire any worker participating in it. However, in order to avoid further labor conflicts, the bottler and the union decided to reach an agreement before the labor authorities, in virtue of which the bottler decided to accept the only pending issue of the negotiation, that is, re-hiring the two former union members who had been fired with legitimate cause, and the union would not go into a strike”*

**In September 2004, Coca-Cola announced that there was a new collective bargaining agreement between Coca-Cola FEMSA and SINALTRAINAL. Coca-Cola volunteered the following:**

*“The signature of the last collective bargaining agreement between the Coca-Cola FEMSA bottling group in Colombia and SINALTRAINAL was conditioned to resolving the situation of a number of unionized employees who had been affected by the bottler's consolidation of its bottling operations in Colombia. The agreement between Coca-Cola FEMSA and SINALTRAINAL addresses the following: In the Cartagena, Valledupar, Cucuta and Barrancabermeja distribution units –which were formerly bottling plants- 24 workers were relocated, 27 accepted early retirement packages, and 5 agreed to leave Coca-Cola FEMSA after the recognition of an additional bonus. The union itself chose who would be relocated, after they agreed with the bottler the number of workers that would be eligible for such benefit. Bonuses for those who agreed to retire were equivalent to 50% above the indemnity that would be payable to them if Coca-Cola FEMSA would have terminated them from their jobs without having a legal cause to do so (highest indemnity contemplated by law). These bonuses are also consistent with the retirement offers made to employees by companies in Colombia which are restructuring their operations. As for those who accepted early retirement packages, most of them received between 5 and 10 years of anticipated severance compensation, taking into consideration legal retirement age, which is equivalent on average to 80% of their last annual compensation.*

*According to Coca-Cola FEMSA, there was constant communication during the entire negotiation process between the parties' directives, and this made it possible to reach an amicable agreement for the collective bargaining agreement. In fact, the parties signed a document in which SINALTRAINAL voluntarily undertakes to withdraw all judicial proceeding initiated by them against the administrative decision in virtue of which the Ministry of Labor authorizes the consolidation process, and Coca-Cola FEMSA agrees to impose no disciplinary sanctions against the protests staged by the union between September, 2003 and April, 2004. None of the relocated workers were adversely affected in their labor conditions; the jobs they were relocated to were determined jointly with the union and only a few were relocated to positions of a lower rank than their previous jobs, although their salaries were not impacted. Although SINALTRAINAL agreed to the retirement of 32 workers, none of their regional directives were affected. The whole process was carried forward in full compliance with the other collective bargaining*

*agreements signed between the parties, as corroborated by the consolidation authorization issued by the Ministry of Labor in August” (PL, September 2004)*

## **4.2 Panamco factories**

Panamco Colombia was a Coca-Cola bottler that was part owned by Coca-Cola. In 2002, Panamco Colombia was bought by Coca-Cola FEMSA<sup>8</sup>

### **4.2.1 Barrancabermeja**

The president and the vice-president of SINALTRAINAL have faced numerous death threats and at least two assassination attempts. The CSC has provided allegations that witnesses have reported seeing paramilitary leaders enter the factory freely and meet with factory managers. The allegations also claim that management has openly sided with paramilitary groups and released public communications accusing SINALTRAINAL of being a group of armed guerrillas.

*“Coca-Cola FEMSA claims they have never met with outlaw groups. In fact, the Bottler has gone on record by publishing, on various occasions, public statements rejecting anti-union violence by outlaw groups” (PL, July 2004)*

Note: NUS Services has been provided with copies of three press releases from the company condemning anti-union violence, and these are on [www.nussl.co.uk](http://www.nussl.co.uk)<sup>9</sup>.

### **4.2.2 Cúcuta**

The CSC has provided allegations that managers have accused SINALTRAINAL leadership of being ‘dangerous’ subversives, and that workers have been kidnapped, tortured, and interrogated about their union activities by members of the paramilitary. On 08 March 2004, a court ruled against the decision of Coca-Cola bottler Embotelladoras de Santander S.A. to sack an employee who was a SINALTRAINAL leader in Cúcuta. The employee (Rafael Carvajal) claimed to have been the victim of a fierce persecution by management. He had also reportedly suffered an armed attempt on his life by a guard inside the factory.

*“Rafael Carvajal was sacked for disciplinary reasons, and the accusations of threats by the management are untrue”*

### **4.2.3 Bucaramanga**

SINALTRAINAL claims that the factory management accused a member of the union's executive board of planting a bomb in the factory during a strike. According to the allegations, after beatings and torture, and expending six months in prison - prolonged by a lawsuit brought by Panamco against the workers for their trade union activities - the Regional Prosecutor released the workers, finding that there had not been a bomb in the factory.

Additional allegations claim that, in June 2001, all workers at the bottling factory were locked in against their will and threatened, and that those that did not renounce the Union were fired. It is alleged that Coca-Cola sacked more than 100 workers.

*“Since the incident involving the planting of a bomb in the factory is contained in a lawsuit currently pending in a US court, details regarding the investigation of that incident are subject to attorney-client and work-product privileges, and as such, cannot be shared outside of our Company or our Company’s legal advisors at this time. Coca-Cola FEMSA, however, has assured our Company that it has evidence to support the fact that there were indeed explosive devices inside the plant. The incident was investigated by the office of the Attorney General. During this investigation, some individuals were arrested, not because they were union affiliates but because the authorities had*

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<sup>8</sup> In April 2004, Coca-Cola FEMSA was 39.6% owned by The Coca-Cola Company.

<sup>9</sup> These documents can be downloaded from [nussl.co.uk](http://nussl.co.uk) (under the ‘E&E Issues’ section, then ‘E&E Briefings’ – called ‘lider sindical denuncia’, ‘Comunicado Prensa Femsa’ and ‘PANAMCO COLOMBIA NOV. 2002’)

*indications of their involvement in the terrorist attack. These individuals were later released after no conclusive evidence was found against them, and they still work for the bottler” (PL, July 2004)*

*“Regarding the second accusation, CC FEMSA claims it is untrue” (PL, July 2004)*

In August 2004, Luis Javier Correa Suarez, the President of SINALTRAINAL, alleged that Reynaldo Gonzalez and Martha Yaneth Orduz, managers of the Barrancabermeja bottler, were seen talking to two alleged paramilitaries (one of them named Saul Rincon) inside the factory grounds. The events relate to 02 October 2002 and 05 October 2002. It is alleged that the management of the bottling operation then filed a complaint in the Attorney General’s office, saying that Juan Carlos Galvis, the then Vice President of SINALTRAINAL in Barrancabermeja, was falsely accusing Saul Rincon of being a paramilitary. On 22 June 2004, the Human Rights Unit of the Attorney General’s Office in Barrancabermeja arrested Saul Rincon for alleged homicide, conspiracy to commit crime and the formation of armed groups.

*“According to the information provided by Coca-Cola Femsa in October, 2002 Mr. Saul Rincon approached the bottler as a customer, and met with the Customer Service Department to discuss the commencement of a commercial relation with the bottler, since he wanted to open a store in the town of Barrancabermeja. After he left the factory, Juan Carlos Galvis, the Vice President of SINALTRAINAL, told the Sales Manager that Rincon was an active member of a paramilitary group. As a result of the afore said, the bottler decided to report this situation to the office of the Attorney General, where they had already reported in August 29 that two other individuals (Miguel Castro and Luz Dary Casado) had visited the plant to request water donations and had later been signaled by a factory worker as being members of illegal groups. Copies of the complaints filed before the Attorney General’s office clearly show that the bottler never reported that Mr. Galvis was “falsely accusing Saul Rincon”. In fact, it is highly possible that Mr. Rincon was arrested by the Attorney General’s Office as a result of the complaints filed by the bottler.” (PL, September 2004)*

Juan-Carlos Galvis told NUS Services that, on 02 October 2002, he saw a meeting between factory supervisors Reynaldo Gonzalez and Martha Yaneth Orduz and paramilitary leader Saul Rincon. Company management told Galvis that he was a client. On 22 July 2004, Saul Rincon was captured and is currently detained for assassinating members of the oil workers union and setting up paramilitary groups.

Juan-Carlos Galvis has also told NUS Services that, on 04 March 2004, Migel Imbret entered the factory. Following this, the Union arranged a meeting with the factory management to inform them that he was part of the paramilitary. The managers claimed that they did not know this and thought he was a client. He then visited the factory again two days later. Galvis believes that the second visit had been authorised by one of the factory managers.

#### 4.2.4 Barranquilla

The CSC has provided information that workers involved in trade union activism have been threatened by paramilitary groups. In August 2002, paramilitaries murdered a former union activist. The murder occurred only nine days after a Colombian High Court accepted the defendant’s lawsuit against Coca-Cola and its partner.

*“Neither Coca-Cola nor Coca-Cola FEMSA have the slightest relation with the tragic death of Mr. Munera, the union activist referenced by the CSC. According to CC FEMSA, on April, 1997 Mr. Munera abandoned his work without offering any explanation. Since his absence lasted more than a month, on May 7, 1997 the bottler terminated his work contract, based on the unjustified absence and in accordance with Jurisprudence by the Supreme Court of Justice. In 1998, Mr. Munera filed a labour complaint against the bottler asking for his reinstatement into the position that he was holding at the moment of his dismissal. This complaint was solved in second instance in 2001 by the labour justice in favour of the bottler, since it was considered that the reasons invoked to terminate the contract were adjusted to the law. Mr. Munera then filed a “tutela” action against the*

*labour justice decision, alleging violation of the due process. This “tutela” action was rejected by the Supreme Court of Justice” (PL, July 2004)*

On 28 March 2005, four local SINALTRAINAL leaders in Barranquilla, Colombia, received death threats from the paramilitary group AUC. The IUF subsequently raised the case as a matter of urgency with The Coca-Cola Company. The Company gave assurances that they are in daily contact with their Colombian bottler FEMSA to ensure that everything possible is done to provide continued security to workers and union leaders within Coca-Cola bottling facilities<sup>10</sup>.

On 02 June 2006 the International Labour Rights Fund (ILRF) and United Steelworkers of America (USW) filed a new Alien Tort Claims Act case against the Coca-Cola Company and Coca-Cola FEMSA. The case charges managers at the factory in Barranquilla with conspiring with both the Colombian Administrative Department of Security (DAS) and the AUC paramilitaries to intimidate, threaten and ultimately kill SINALTRAINAL trade union leader Adolfo de Jesus Munera on 31 August 2002. The Complaint further alleges that the bottler has continued to meet with and provide access to paramilitaries, and that the paramilitary infiltration of the factory continues. On 25 July 2006, NUS Services learnt that the plaintiffs had voluntarily withdrawn the lawsuit.

#### 4.2.5 The restructuring of operations by Coca-Cola FEMSA

In spring 2004, Coca-Cola FEMSA was restructuring in Colombia. The changes were similar to those already carried out by FEMSA in its home country, Mexico, and involve the loss of jobs. The job losses affect several factories in Colombia that are non-union, and others organised by other Coca-Cola FEMSA unions. The IUF has told NUS Services that it is unlikely that SINALTRAINAL is a particular target of the restructure. The IUF has demanded that Coca-Cola FEMSA fully explain the need for restructuring in Colombia.

*“FEMSA have stated that they have shared with the pertinent Government authorities and all of their unions the reasons why the restructuring in Colombia has taken place. Among the reasons communicated to them are the following:*

- a) Carbonated Soft Drink per-capita consumption in Colombia has decreased significantly (in 1997 it was 189 8-ounce bottles, and in 2002 it was 129 8-ounce bottles);*
- b) KOF acquired a 16-plant operation with a very low use of its production capacity, which made it necessary to concentrate production in less plants, thereby increasing productivity;*
- c) Another reason deals with the obsolete equipment in those factories which ceased production operations, since most of their machinery dated back to 1971, whereas in the five plants where production was consolidated equipment only date back to 1988;*
- d) Market has drifted from returnable packages to one-way packages (in 1997 85% of packages were returnable, whereas in 2002 only 66% were returnable);*
- e) There has been a decrease in the bottler investment capacity, which has in turn forced them to focus only on those plants where they have one-way production technology, in order to achieve greater efficiencies;*
- f) Finally, there is a justification in the strategic location where the five remaining bottling facilities are placed, since they cover the most dense markets and have better access to distribution infrastructure”*

*“Please note that the Carepa operation is NOT part of FEMSA, so it was not affected by the latter’s consolidation process.”*

Note: Coca-Cola has provided NUS Services with a report on the restructuring of FEMSA operations in Colombia<sup>11</sup>.

<sup>10</sup> [www.iuf.org/cgi-bin/dbman/db.cgi?db=default&uid=default&ID=1972&view\\_records=1&ww=1&en=1](http://www.iuf.org/cgi-bin/dbman/db.cgi?db=default&uid=default&ID=1972&view_records=1&ww=1&en=1)

<sup>11</sup> The document can be downloaded from [nussl.co.uk](http://nussl.co.uk) (under the ‘E&E Issues’ section, then ‘E&E Briefings’ - it is called the ‘Restructuring FEMSA Document’).

According to the CSC, in February 2004, the Colombian Ministry of Social Protection (Labor) authorised Coca-Cola FEMSA to dismiss 91 workers. The allegations claim that 70 percent of those dismissed were union leaders. CSC states that SINALTRAINAL is calling for Coca-Cola FEMSA to relocate workers to other position within the factories or to transfer them to other factories, as is agreed in Articles 18 and 91 of the current collective bargaining agreements. CSC states that, in January 2004, a Colombian judge ordered the Company apply these articles to the workers at the factories in Barrancabermeja and Cúcuta.

*“According to Coca-Cola FEMSA, pursuant to the authorization from the Ministry of Social Protection (Labour), 57 unionized workers will be affected by the restructuring. This represents 17% of the total SINALTRAINAL population at Coca-Cola FEMSA. Articles 18 and 91 of the collective bargaining agreement, as well as the judge decision, demand that workers affected by the restructuring process be transferred to other plants where similar jobs are vacant or occupied by temporary or subcontracted personnel. However, the Ministry has verified that there are no such cases in which production jobs are vacant or occupied by temporary or subcontracted personnel” (PL, July 2004)*

On 09 March 2004, it is alleged that the administration of the factories in Cúcuta and Cartagena trapped workers in the bottling factories as a way of pressuring them to renounce their employment contracts in exchange for a small economic payment. Additionally, in March 2004, a Colombian judge and the Constitutional Court confirmed that the Company had committed the crime of illegally constraining workers, and the Company must pay out the salaries and re-hire the workers who were pressured to quit their jobs at a bottling factory in Medellin.

*“According to CC FEMSA, these claims are not accurate. Employees who were to be offered the voluntary retirement plan were invited to sit with the designated bottler representatives in order for them to hear what the bottler had to offer for every specific case. In all cases the offer was above the legal economic rights of the employee. During the course of the meeting, they had the liberty to leave the building, invite anybody they wanted (i.e. attorneys, family members etc.) and to talk amongst themselves. Inspectors from the government (Ministry of Social Protection) were always available for the meetings. On the other hand, the March, 2004 decision by a Colombian Judge ordering CC FEMSA to re-hire some former workers has nothing to do with the 2003 consolidation process, and was not based on illegal constraint of workers to quit their jobs, but on different premises” (PL, July 2004)*

On 23 March 2004, it was reported that Colombian Coca-Cola FEMSA workers were eight days into a hunger strike to protest against job cuts created through the restructure. The reports also allege that Coca-Cola FEMSA had visited the Centres of Attention of Social Security (who provide health services) to demand that they do not treat those workers on hunger strike until they cease their action. It is alleged Coca-Cola FEMSA has suspended six employees from the Bucaramanga factory over the action. Those involved are calling for improved labour rights and work security.

*“On Friday, March 26, Coca-Cola FEMSA’s new manager for Colombia met with SINALTRAINAL members. As a result, Coca-Cola FEMSA in offered SINATRAINAL the following:*

- *No disciplinary sanctions will be applied to approximately 12 SINALTRAINAL members who decided to stage the protest;*
- *A two weeks paid recovery time will be granted to employees who participated in the protest;*
- *Coca-Cola FEMSA will publish a statement condemning violence;*
- *As part of Coca-Cola FEMSA’s ongoing and active dialogue with employees, the Company will meet again with SINALTRAINAL members and listen to their proposals regarding the production process in Colombia. Further, transportation, permission to leave work and per diem expenses will be paid to those SINALTRAINAL members who attend the meeting.*

*The protest ended on the morning of Saturday, March 27. During the protest, Coca-Cola FEMSA treated all employees fairly and in accordance with local laws, and provided nearby medical assistance in case it was needed. While it is unfortunate that these employees chose to participate in this protest, it is important to note that the points of agreement reached are consistent with business practices Coca-Cola FEMSA already has in place, including respect for and active and ongoing dialogue with employees. Furthermore, Coca-Cola FEMSA has condemned violence against union workers and others from all walks of life on many occasions, including in press statements and advertisements in Colombian publications”*

*“It should be noted that all of the points of agreement were complied with in full by Coca-Cola FEMSA during the days that followed the protest” (PL, July 2004)*

During a meeting with SINALTRAINAL in July 2005, Juan-Carlos Galvis stated that 92% of The Coca-Cola Company’s operatives in Colombia are now sub-contracted.

#### **4.3 Additional evidence of Coca-Cola colluding with paramilitaries, provided by the Colombia Solidarity Campaign**

- Monthly payments from Jhon Ordoñez, an official of Panamco, to paramilitary leaders in Cúcuta, as of at least March 2003.
- A public announcement on 13 January 2003 by paramilitary forces that they intend to kill members of SINALTRAINAL for interfering with the business of Panamco at the Barranquilla facility, and that in doing so they are acting under instructions from management.
- Admissions by paramilitary leaders to Steve Dudley, a reporter for National Public Radio, that the paramilitary maintain bases at all Coca-Cola factories in Colombia in order to "protect them".
- A friendly meeting between high-ranking officials at Panamco and Carlos Castaño, leader of the AUC, the paramilitary group responsible for most of the violence against the workers.

*“All the accusations about meetings between CC FEMSA management and outlaw groups are untrue. Paramilitary groups are terrorists who have their own agenda and will do anything to get what they want. No credibility should be given to what they have allegedly said” (PL, July 2004)*

*“Let us be clear: The Company and the bottlers have repeatedly and publicly condemned violence against trade union workers and any other group in both press statements and in printed advertisements. Neither our Company nor our bottling partners maintain relationships with outlawed terrorist groups. The Coca-Cola Company can provide a copy of some of these materials upon request” (PL, July 2004)*

*“Our local bottlers have processes in place for addressing employee concerns. As an example:*

- *“On at least two occasions in which Coca-Cola FEMSA was made aware of violence against union worker Juan Carlos Galvis, the local bottler immediately addressed the situation with local police and requested investigations so that those responsible could be punished. Further, Coca-Cola FEMSA reiterated its request for verification of Mr. Galvis's additional security measures. (Upon request, The Coca-Cola Company can provide copies of the actual correspondence between Coca-Cola FEMSA and local police)”*
- *“In response to Coca-Cola FEMSA's repeated requests, local police confirmed their efforts to protect Mr. Galvis and other union members, especially relating to their ability to conduct union business”*
- *“Police response - August 28, 2003: “Following the letter in reference, I am communicating to your department that the National Police has always tried to guarantee the safety and tranquillity of the members of the SINALTRAINAL union, which includes Mr. JUAN CARLOS GALVIS as follows: We have*

*maintained constant security in the peripheral area around the residence and office of union leaders, through sporadic patrols, finding and assuring that there are no situations that would affect the tranquillity and performance of union activities”.* (PL, July 2004)

#### **4.4 The original legal case brought by the ILRF**

There was a civil legal challenge accompanying some of the allegations mentioned in this briefing. In 2001, the United Steelworkers of America (USW) and the International Labour Rights Fund (ILRF) filed a \$500m suit against Coca-Cola and two of its bottlers on behalf of SINALTRAINAL. On 31 March 2003, a US court in Miami ruled that Coca-Cola’s main Latin American bottler Panamco (Panamco Colombia has since been taken over by Coca-Cola FEMSA) and a second bottler, Bebidas y Alimentos, could stand trial for allegedly hiring right-wing paramilitaries from the United Self Defence Forces of Colombia AUC to kill and intimidate union leaders in Colombia. With regard to the Bebidas y Alimentos’s Carepa factory in Antioquia, the lawsuit contains accusations that the factory manager was coordinating the murders (see pages 20-26 of the Complaint)<sup>12</sup>.

Although Coca-Cola owned a share of Panamco, the judge excluded Coca-Cola and Coca-Cola-Colombia because its bottling agreement did not give it "explicit control" over labour issues in Colombia<sup>13</sup>. This ruling set a precedent that Coca-Cola has no legal responsibility for the employment practices of contract bottlers or franchise holders. The ILRF appealed, believing that Coca-Cola could have prevented the incidents. At the end of March 2004, a judge ruled that the plaintiffs could not appeal against the dismissal of Coca-Cola until after the entire case has been resolved.

The IUF point out that the fact that Coca-Cola was dismissed from the ILRF lawsuit does not prove anything about what actually happened on the ground in Colombia.

It should be noted that Coca-Cola states that they have been cleared of the allegations by two independent inquiries in Colombia – one in a Colombian Court. However, in response to this, the CSC states that, in Colombia, 99% of the cases of human rights abuses remains in the impunity (also see section 4.1.1).

The CSC points out that Coca-Cola has been retaliating to the charges against it by suing the plaintiffs for liable and slander<sup>14</sup>.

*“Coca-Cola has not sued the plaintiffs for slander. Coca-Cola FEMSA initiated in Colombia a legal action against SINALTRAINAL for defamation, but such action was not admitted by the Judge”* (PL, July 2004)

On 04 June 2005, SINALTRAINAL informed NUS Services that it was intending to initiate the US trial in early 2006, and that it would include an appeal against the decision not to be able to try The Coca-Cola Company as well as a case against the two bottlers. The case was led by the International Labour Rights Fund, the United Steelworkers of America, SINALTRAINAL and the eight named plaintiffs.

*“It is extremely unlikely, in fact virtually impossible, that the case will proceed to ‘trial’ at any point soon. The Coca-Cola Company was dismissed from the case in March 2003. Panamco’s Motion to Dismiss is pending. On May 10, 2005, the Court granted Defendant Bebidas’s Motion to Dismiss, which dismissed Bebidas from the litigation but gave the Plaintiffs one last opportunity to amend their complaint to include new or additional allegations to establish personal jurisdiction over Bebidas. On May 23, 2005, Plaintiffs filed a Second Amended Complaint attempting to do this. Bebidas has opposed this Complaint and the Court has not yet ruled. Thus, the case is still in the*

<sup>12</sup> The full complaint can be downloaded from [nussl.co.uk](http://nussl.co.uk) (under the ‘E&E Issues’ section, then ‘E&E Briefings’ - it is called the ‘Bebidas y Alimentos’s Carepá factory Complaint’).

<sup>13</sup> The ruling can be downloaded from [nussl.co.uk](http://nussl.co.uk) (under the ‘E&E Issues’ section, then ‘E&E Briefings’ - it is called the ‘Union Activist Court Documents’)

<sup>14</sup> There are a list of charges brought by Coca-Cola to the plaintiffs at [www.sinaltrainal.org](http://www.sinaltrainal.org)

*"motions" stage, and it appears it will remain in this stage for some time. Discovery, which has to be completed by all parties before a trial can start, has not even begun. In fact, the parties jointly agreed that trial would not take place before December, 2007. At the rate at which the litigation is progressing, I am not sure that December 2007 is out far enough. Most importantly, if the Court grants the bottlers' motions to dismiss, there will be no trial at any time in the foreseeable future, as there will be no defendants remaining in the case. At that point, plaintiff's can appeal the Court's rulings dismissing Coke and the bottlers from the case"* (supplied by LB, July 2005)

On 14 November 2005 Terry Collingsworth, of the ILRF, published a letter sent to Ed Potter detailing discussions that they had had in a meeting on 11 November 2005. The letter stated the Ed Potter had requested that, as part of any investigation, the plaintiffs sign an agreement precluding them from using any evidence gathered in court. The letter accused the Company of not knowing what had happened in relation to the allegations, and implied that it had misled University administrators, students, consumers and congress by denying the allegations.

On 29 September 2006, the same judge as in the 31 March 2003 ruling (Judge Martinez) dismissed all remaining cases against the two Coca-Cola bottlers in Colombia. On 05 October 2006, the court denied a motion by the plaintiffs to amend the complaints to bring The Coca-Cola Company back into the lawsuit and directed the clerk to close the cases. On 02 November 2006, SINALTRAINAL notified a U.S. federal court of its intention to appeal.

#### **4.5 Investigations into the issues**

In January 2004, an unofficial fact-finding delegation, led by New Your Council member Hiram Monserrate and supported by several US labour organisations, spent 10 days in Colombia interviewing Coca-cola workers and meeting with executives, politicians and activists. The delegation recommended that the Company drop retaliatory criminal charges against employees; issue a public statement denouncing anti-union violence; and establish an independent human rights commission. The report, published in April 2004, also alleges that there had been a total of 179 major human rights violations against Coca-Cola workers in Colombia, including nine murders<sup>15</sup>.

In March 2004, Douglas Daft, CEO of Coca-Cola, prevented the Company's General Counsel, Deval Patrick, from organising a pre-planned contingent of independent observers from inspecting bottlers in Colombia. Patrick had publicly committed to this during a speech to Equal Justice Works in Autumn 2004. A Coca-Cola Spokeswoman commented that, due to the exoneration by Colombian courts and the federal case in Miami, the delegation would be 'duplicative and unnecessary'.

On 19 January 2006, in an open letter to the following statement to the University of Michigan's Board of Regents, The Coca-Cola Company announced that it would be: *'facilitating the design and development of a credible, objective and impartial independent third party assessment in Colombia during the first quarter of 2006. The assessment will involve international labor organizations, non-governmental organizations and our most vocal critics. It will be conducted with the cooperation'*.

On 02 March 2006, the IUF released a statement announcing that The Coca-Cola Company had agreed to jointly request the United Nations, through its International Labour Organisation (ILO), to conduct an independent investigation into the alleged linked human rights violations in Colombia<sup>16</sup>.

On 22 July 2008 NUS Services learnt that the ILO investigation had taken place between 01 and 11 July 2008 and that the report was expected to be released on 15 September 2008. It is understood that the investigation focused on current practices rather than the historic issues.

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<sup>15</sup> Multinational Monitor, December 2004

<sup>16</sup> [www.iuf.org/cgi-bin/dbman/db.cgi?db=default&uid=default&ID=3142&view\\_records=1&ww=1&en=1](http://www.iuf.org/cgi-bin/dbman/db.cgi?db=default&uid=default&ID=3142&view_records=1&ww=1&en=1)

On 03 October 2008 The Coca-Cola Company provided the following statement to NUS Services in response to the September 2008 Killer Coke Newsletter, which alleged that The Coca-Cola Company had stated that the ILO investigation include the historic issues: *'This is an entirely independent exercise that the ILO has designed and conducted. Coca-Cola did not define the scope of the ILO assessment. That said, two different judicial inquiries, one by the Colombian courts and one by the Colombian Attorney General, found no evidence to support allegations that bottler management conspired to intimidate or threaten trade unionists. The scope of the requested evaluation encompasses issues covered by the ILO's fundamental conventions, including freedom of association, collective bargaining, forced labour, child labor, equal treatment, occupational safety and health, and wages and benefits in the Colombian context of business and organizational change. The request to the ILO and the agreed-upon scope of the assessment was always of current workplace practices. SINALTRAINAL has filed an official request with the ILO's Committee on Freedom of Association to look into the issue and that is the appropriate place within the ILO to address the historical issues.*

On 08 October 2008 the ILO released its report<sup>17</sup>.

On 17 October 2008, in response to the ILO report, the IUF released a statement welcoming the report but highlighting that the report had highlighted concern of systematic pressure on basic union rights<sup>18</sup>.

On 05 November 2008 the Committee issued the following statement:

*On the International Labour Organisation (ILO) published its long awaited report for the independent investigation into work and labour relations issues at Coca-Cola bottling plants in Colombia.*

*Prior to the investigation commencing it was stated that the investigation would not cover the historic issues and allegations at the heart of the boycott campaign, instead focussing on current work and labour relations issues.*

*Whilst the Ethical & Environmental Committee welcome the independent investigation, and the fact that the visits were made without prior notice, the Committee feel that the report is of limited value because of its focus on current practices. The Committee notes that there have been a number of legal cases relating to the historic issues in both Colombia and the United States, as detailed in our briefings, but maintain that there is still ambiguity about what actually happened at the Carepá plant in the mid-1990s in relation to the allegations management collusion with paramilitaries.*

*The Committee note that the report did find some issues of concern relating to current work and labour practices, specifically the consequences of outsourcing on labour relations. The Committee note that the International Union of Foodworkers intend to raise these issues with The Coca-Cola Company through their bi-annual meetings as a priority, and the Committee urge the Company to develop mutually-acceptable solutions as a priority.*

*The Ethical & Environmental Committee will continue to keep a watching brief on The Coca-Cola Company on its bottlers and keep its membership updated of all key developments.*

#### **4.6 NUS Services requests for information from Coca-Cola**

As well as commenting on the accusations in this briefing, NUS Services has asked Coca-Cola to provide the following information. Coca-Cola's responses are in italics.

- Please provide a chronological table that includes:
  - A comprehensive list of all (alleged and confirmed) incidents at the Carepa factory.

<sup>17</sup> <http://www.ilo.org/public/english/dialogue/sector/papers/food/mission.pdf>

<sup>18</sup> [www.iuf.org/cgi-bin/dbman/db.cgi?db=default&uid=default&ID=5433&view\\_records=1&ww=1&en=1](http://www.iuf.org/cgi-bin/dbman/db.cgi?db=default&uid=default&ID=5433&view_records=1&ww=1&en=1)

- Action taken by the factory management in response to each incident.
- Action taken by Coca-Cola in response to each incident.

Note: Coca-Cola has submitted all of the above, plus letter from Peggy Ann Kielland. All these documents are downloadable from [nussl.co.uk](http://nussl.co.uk)<sup>19</sup>.

*"It is important to note that one of the victims referred to in the list of incidents at the Carepa factory, Mr. Herrera, was killed by Paramilitaries after having reported to the authorities the murder of Mr. Gil and the harassment of other union members by illegal groups"*

*"It should be noted that Coca-Cola's bottlers have increased safety and security through transportation, loans to fund home and Union security, offer paid leave for employees considered to be in danger, job transfers and shift changes, security training, extensive life insurance and paid cellular phones for emergency use for all of SINALTRAINAL's Board of Directors"*

- Please provide dates and action points from all meetings between Coca-Cola and the management of the Carepa factory.

*"It is not possible to provide these details as meetings between bottler and Company cover a wide range of topics and are commercially sensitive"*

- Please provide copies of any internal investigations on the incidents at the Carepa factory.

*"Regarding the actions taken by Coca-Cola management, please note that during that period of time it was virtually impossible to visit the region, due to the violent armed confrontation between irregular groups, so there were no investigations at that time on such incidents; hence, the only internal investigation is the fact-finding trip Ben Garren and Marcos Jimenez (formerly Partner at the White & Case law firm) made back in October, 2001 which found no evidence of any wrongdoing on the part of our bottlers"*

*"Regarding the investigations carried out by authorities in connection with the incidents which took place, the only document at hand is the one in which a Colombian judge who was hearing a civil suit filed by union activists, found no evidence that any executive of the Carepa bottler had violated the union activists' rights."*

- Please provide copies of Coca-Cola press releases or statements (past and current) on the incidents at the Carepa factory.

*"Coca-Cola did NOT issue statements or press releases addressing Gil's murder, or any other of the referenced incidents at the Carepa factory"*

- When are the proceedings against the bottler due to start?

*"We don't know when they are due to start. In fact, at the moment, we are still waiting to hear if there will be proceedings. When the judge commented at the proceedings he said the discovery period needed to be extended because he needed to investigate whether it was in his jurisdiction or not. If he pronounces it is not in his jurisdiction, the case will be closed"*

- Where will it be heard?

*"If it is heard, it will be in a Miami court"*

- Who is leading on it for Coca-Cola?

*"As the case is currently not active, no one is leading on it. Should it become active, it will be led by Ben Garren, our Legal Counsel"*

- In the context of Colombia in civil war, what has Coca-Cola done to ensure that its bottlers are complying with national and international human rights and labour law?

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<sup>19</sup> These documents can be downloaded from [nussl.co.uk](http://nussl.co.uk) (under the 'E&E Issues' section, then 'E&E Briefings' – they are called 'List of Carepa factory incidents' and 'Peggy Ann Kielland Letter').

*“Coca-Cola has met on a number of occasions with bottler representatives to address the different situations created either by accusations from third parties, or by claims from bottlers’ workers, receiving assurance and evidence from each bottler that they have not only complied in every aspect with national and international human rights and labour law, but also provided continued assistance to those employees who have been affected by violence in Colombia. Coca-Cola has also assisted the bottlers in demanding from the competent authorities efficient and effective investigations –and exemplary punishment- whenever outlaw violence has affected their employees” (PL, July 2004)*

- NUS Services would like to see a copy of the report of the fact-finding trip by Ben Garren and Marcos Jimenez made in October 2001. Have there been any further investigations or reports?

*“The White & Case investigation, which found no evidence to support the allegations, is subject to attorney-client and work-product privileges, and as such, cannot be distributed outside of the Company or the Company’s legal advisors at this time. Additional internal review and confirmation of facts around recent incidents have continued on an ongoing basis, as new accusations have been raised” (PL, July 2004)*

- In relation to the human rights issues involving staff in Coca-Cola bottling factories in Colombia, or SINALTRAINAL, please detail all legal challenges currently in progress.

*“During the status conference held on April 23<sup>rd</sup>, following arguments by Coca-Cola counsel -including mention that Plaintiff’s filing of the amended complaint bringing Coca-Cola back into the suit was clearly sanctionable conduct - the Judge struck the new complaint. The Judge also warned Mr. Collingsworth that he does not think Plaintiff has the ability to amend the complaint as of right and warned him that he could only do what the law allows. The judge made no more decisions other than striking the complaint” (PL, July 2004)*

- On the 7th January 2003, a commission formed by Daniel Kovalik and Javier Correa met with Coca-Cola in Atlanta to discuss the issues concerning the Carepa factory. They claim that SINALTRAINAL submitted a proposal and that they are still waiting for a response. Has Coca-Cola responded yet? If not, why not?

*“According to Company and Bottler representatives who were present during the January 7th meeting at the Carter Center, specific issues regarding the Carepa plant were not discussed during the meeting, since Coca-Cola FEMSA does NOT operate the Carepa plant. The only agreement coming out of the meeting involved publishing a joint statement condemning violence. Coca-Cola FEMSA drafted the statement and sent it to Mr. Correa, and heard nothing back from him. Months later, we received a settlement demand that included a number of items; the settlement demand also complained that we had not provided the draft statement against violence. We rejected the settlement demand, but indicated we had provided the draft statement and had heard nothing in response. Finally, in the Fall of 2003, we contacted Mr. Kovalik and told him that, even if the parties were not willing to talk settlement, we should still agree on the statement against violence and publish it jointly. At that time, Mr. Kovalik told us that his clients were unwilling to agree to a statement against violence unless it was part of an overall settlement of the case” (PL, September 2004)*

- On 22 June 2003, SINALTRAINAL put a 27-point document of claims and demands to TCCC CEO Douglas Daft (also handed to Douglas Daft’s PA at the Company’s following AGM). To date they have received no response. Has TCCC received the document? Has it replied to SINALTRAINAL? If not, why not?

*“We do not have a record of that letter. We would be glad to address any questions if they resend it to us” (supplied by LB, July 2005)*

- In relation to the statement in our briefing that ‘Bebidas y Alimentos is an independent franchise bottler’, they alleged that the manager of the bottler was also the manager of Indega, the main Coca-Cola affiliate? Please could you comment on this. Additionally, what % of Indega is owned by TCCC?

*“Indega was the first name of what is today Coca-Cola Femsa in Colombia (Indega was acquired by Panamerican Beverages and became Panamco Indega and later Panamco Colombia, and then it was acquired by Coca-Cola Femsa). Before Coca-Cola Femsa acquired Panamco Colombia, TCCC had approximately 25% of Panamerican Beverages and approximately 35% of Femsa, so after Femsa bought Panamerican Beverages the stake rose to approximately 45%. TCCC has no ownership in Bebidas & Alimentos de Uraba. Mr. Richard Kirby was the General Manager of Indega, before it was acquired by Panamerican Beverages. A couple of years before it was acquired by PB (around 1990), Kirby left Indega and kept the Carepa franchise -which was not part of Indega's territory-, a franchise he still operates through Bebidas & Alimentos de Uraba. Mr. Kirby, who is an American citizen, left Colombia many years ago to retire in the U.S., and the General Manager of Bebidas & Alimentos de Uraba during the last years has been Mrs. Sylvia Enciso, who never worked for Indega”(supplied by PB, July 2005).*

- On 08 July 2004, it is alleged that Coca-Cola presented a petition to the Ministry of Social Protection to revoke SINALTRAINAL's statutes, specifically articles 2 and 7 that make it possible for shop keepers, informal workers and other people in the agro-industry to join the Union. This petition was accepted on 10 August 2004 (resolution 2994). SINALTRAINAL appealed to a Court of law, and on 24 February 2005 a magistrate ruled that the Ministry decision was in contravention of international labour treaties. It is reported that Ministry officials have not accepted the Court's ruling.

*“There was no attempt by TCCC to "de-legalise" SINALTRAINAL's right to represent temporary or contract workers who are employed by companies such as ours. In 2002 SINALTRAINAL wished to extend its existing remit to cover all independent (non company affiliated) workers in the food and drink sector. This did not appear to be within the law which is why the Ministry rejected their proposed new bylaws designed to extend their scope. Under Colombian law and like many other countries, industry trade unions must be made up of workers who belong to different companies within the same industry. It is certainly true that TCCC did not support an extension of the union's mandate to cover all independent workers in the food and drink industry, which would have covered entire supply chains from Coca Cola customers to independent drivers and could have caused significant disruption to Coca Cola's FEMSA business. The Ministry's decision does not in any way affect the legal existence of SINALTRAINAL or the rights and benefits of its directives and affiliates and there has been no downgrading at all of the union's right to continue representing our workers, a right we fully support” (EP, September 2005).*

## **5 Timeline of the campaign against Coca-Cola**

The Colombian Solidarity Campaign is supporting SINALTRAINAL call for a worldwide boycott of Coca-Cola products (initially this was just for one year until 23 July 2004, but has been extended indefinitely). Luis Eduardo Garcia, a SINALTRAINAL member and former worker in the Carepa factory, carried out a 40-day tour of the UK and Ireland during November and December 2003 promoting the boycott. As a result, University College Dublin SU (the largest campus in Ireland), the Northern Ireland branch of UNISON and several smaller organisations have announced boycotts.

Similarly, Luis Adolfo Cardona, another SINALTRAINAL member and former worker in the Carepa factory, has been touring USA universities. In October 2003, there were campaigns running at more than ten American universities. At least two (Bard College, New York and Lake Forest College near Chicago) decided to stop selling Coca-Cola products. In the US, there are

calls to spread the campaigns and boycott to SunTrust Banks Inc. of Atlanta because of the bank's close ties to Coca-Cola. At the end of 2002, SunTrust owned 130-million shares of Coca-Cola. SunTrust is one of the largest lenders to Coca-Cola, and the two companies have key executives on each other's boards of directors.

In the UK in October 2003, it is reported that there were 'Killer Coke' campaigns running at the University of the West of England, Cardiff University and Stirling.

In November 2003, Middlesex University SU tabled a resolution for the 2004 NUS Conference that would end the NUS Services Coca-Cola contract.

In spring 2004, SOAS SU passed a motion banning Coca-Cola products from sale in Union outlets. In response to this, NUS Services has produced a commercial briefing for Students' Unions.

In March 2004, student representatives at Carleton College, Minnesota, voted to end their Coca-Cola contract after a meeting with Coca-Cola executives.

In April 2004, a motion was tabled at NUS Services Convention by Middlesex Students' Union and the School of African and Oriental Studies (SOAS) Students' Union, but was rejected in favour of a statement and motion from NUS Services' Ethical and Environmental Committee. The motion passed was as follows:

- 1) To mandate the Ethical and Environmental Committee to maintain a constructive dialogue with The Coca-Cola Company on the issues in question.
- 2) To mandate the Ethical and Environmental Committee to prepare papers for NUS Services Convention 2005 relating to:
  - The allegations concerning The Coca Cola Company.
  - Guidelines concerning the next contract.
  - To continue to keep shareholders fully/regularly briefed during the year 2004/2005.

In April 2004, Students at the National College of Art and Design in Dublin voted to have the two Coca-cola vending machines removed from the College.

Also in April 2004, at the Coca-Cola annual meeting, several shareholder activists spoke out against the issues in Colombia. Douglas Daft responded to calls for an independent investigation by stating that 'objective' investigations had already taken place and that the facts the activists were citing were not true.

Over summer 2004, comedian Mark Thomas had an anti-Coca-Cola comedy tour around the UK. An email list called 'ukstudentsagainstcoke' was launched.

In August 2004, it was reported that Coca-Cola vending machines at Stirling University had been vandalised.

In September 2004, there were rumours of motions proposing Coca-Cola bans at Middlesex, Stirling, Bradford, Sussex, University of Manchester, and the University of London. The University of East Anglia approached NUS Services for advice relating to the issues.

In October 2004, there was a 10-day anti-Coca-Cola tour comprising Edgar Paez (Director, SINALTRAINAL) and Amit Srivastava (Director, India Resource Centre). The tour climaxed with an anti-Coca-Cola rally at the European Social Forum, London. Students at Leeds Metropolitan University Students' Union proposed a motion to ban Coca-Cola. The Mark Thomas anti-Coca-Cola comedy tour is advertised in The Guardian.

In November 2004, a similar motion was subsequently passed as policy at Leeds University Students' Union, and mandates the Union to oppose future Coca-Cola and other compulsory sole contracts through NUS Services. NUS Services also learnt that Middlesex Students' Union had passed a policy, through a referendum, that banned Coca-Cola from being sold in the Union.

Also in November 2004, the website-based boycott initiative Karmabanque<sup>20</sup> created a Coca-Cola boycott campaign. The campaign received widespread promotion through The Ecologist magazine<sup>21</sup>. In January 2005, Ethical Corporation reported that the campaign is a partnership between Max Keiser (reported as an anti-capitalist stockbroker) and Zac Goldsmith (the editor of the Ecologist). The campaign involves establishing a hedge fund that will short sell Coca-Cola shares, giving any money made to people that have 'been exploited by the company'.

On 25 November 2004, it was reported that Queen's University Belfast Students' Union passed a motion to support the boycott<sup>22</sup>.

In January 2005, it was announced that Leeds Union would host an activist conference against Coca-Cola on 26 February 2005. NUS Services learnt that students at Leicester University Student's Union were planning to oppose Coca-Cola. Goldsmiths College Students' Union approached NUS Services for advice relating to the issues.

In February 2005, Coca-Cola Enterprises reported that activists had been switching Coca-Cola vending machines off in Unions at the University of London, Leeds, Kent and Brighton. Towards the end of February, the Edinburgh Evening News ran an article on a proposed boycott motion at Edinburgh University Students Association. It was reported that the motion would be subject to a vote on 09 March 2005.

Also in February 2005, NUS Services received two resolutions relating to Coca-Cola to be considered at AGM at Convention on 22 March 2005. Middlesex University Students Union submitted a motion resolving not to consider Coca-Cola bottlers for the stills soft drink deal up for renewal at Convention, and not to consider Coca-Cola bottlers for the carbonates deal in at Convention 2006 unless representatives of the Colombian and Indian stakeholders are satisfied with a resolution to the issues in question. In response, the Ethical & Environmental Committee submitted a 'delete all and replace' amendment that seeks to reaffirm the Company's position on constructive engagement. Leeds University Union submitted a motion that resolved that NUS services would not enter into any more compulsory contracts. Leeds later amended this to read sole-supply contracts. In response, the Board submitted a 'delete all and replace' amendment that seeks to reaffirm the Company's position on such deals.

On 04 March 2005, it was reported that 15 student protesters were demonstrating outside of the Bristol Coca-Cola Enterprises depot. Subsequently, it was reported that Bristol University Students' Union had passed a motion at their AGM to join the boycott<sup>23</sup>. Also in March, it was reported that the 09 March motion at Edinburgh gained 118 votes for to 42 against, but was not formally passed due to a lack of quorum.

On 16 March 2005, University of Manchester Union held a vote on an outright boycott of Coca-Cola products. The motion received 285 votes in favour, but was 15 votes short of quorum.

On 22 March 2005, NUS Services' Convention passed a mandate that committed the Ethical & Environmental Committee to continue the process of constructive engagement. The resolution that was passed was passed in preference to the Leeds and Middlesex resolutions. The mandate passed also included the deferral of guidelines concerning future contracts until Convention 2006.

On 05 April 2005, NUS Conference passed a resolution that resolves to:

- i. To publicise the allegations against Coca-Cola and the findings of NUS Service's E&E Committee to all member unions.
- ii. To distribute material produced by the Columbia Solidarity Campaign, the Indian Resource Centre (IRC) and NUS Service's Ethical & Environmental Committee to all Constituent Members.
- iii. To mandate the NUS Environment Committee to research the validity of the Indian and Colombian allegations through engaging with stakeholders such as SINALTRAINAL

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<sup>20</sup> [www.karmabanque.com](http://www.karmabanque.com)

<sup>21</sup> [www.theecologist.org/article.html?article=484](http://www.theecologist.org/article.html?article=484)

<sup>22</sup> [www.lasc.ie/news/queenuniversity.html](http://www.lasc.ie/news/queenuniversity.html)

<sup>23</sup> [www.killercoke.org/nl0309.htm](http://www.killercoke.org/nl0309.htm)

and IRC and to work with student action groups such as People and Planet to publicise these issues on campus.

- iv. For NUS to follow advice from the NUS Environment Committee on the use of their share holding in NUS Services at NUS Services Convention 2006 in relation to renewal of Coca-Cola contracts and Coca Cola's compliance with SINALTRAINAL's demands.

On 06 April 2005, NUS Services learnt that Aberystwyth Guild was facing a motion that would commit the Guild to supporting the boycott.

In week commencing 25 April 2005, Michigan University's Dispute Review Board, comprising of two students, two faculty members, two staff members and the assistant director for purchasing, met with senior representatives of The Coca-Cola Company to cross examine them over the Colombian and Indian allegations.

In May 2005, a motion on Coca-Cola was passed at Sussex University of Sussex Students' Union. The motion made provisions for banning Coca-Cola products from Union outlets.

On 06 May 2005, Coca-Cola's new Head of Labour relations met with an umbrella group of students and administrators from at least twelve US universities to discuss the allegations relating to Colombia and India. Representatives attended from Georgetown, Duke, California, Michigan and Illinois.

On 12 May 2005, an emergency motion on banning Coca-Cola products was submitted to Liverpool John Moors University. The motion was not passed.

On 04 June 2005, SINALTRAINAL informed NUS Services that it was intending to initiate the US trial in early 2006. It will include an appeal against the decision not to be able to try The Coca-Cola Company as well as a case against the two bottlers. The case will be led by the International Labour Rights Fund, the United Steelworkers of America, SINALTRAINAL and the eight named plaintiffs.

On 06 October 2005, NUS Services was informed that Royal Holloway Students' Union, University of London, was possibly facing a Motion opposing Coca-Cola.

In October 2005, ukstudentsagainstcoke launched their website [www.uksac.revolt.org](http://www.uksac.revolt.org).

On 14 October 2005, Oxford University Students' Union passed a motion supporting the boycott<sup>24</sup>. The Union is not a member of NUS Services.

03 November 2005. After a two year campaign, the University Senate at New York University voted to ban Coca-Cola from the campus.

On 07 November 2005, NUS Services was informed that Surrey Students' Union was facing a motion on Coca-Cola.

On 09 November 2005, Edinburgh University Students' Association debated a Coca-Cola boycott motion at their AGM. It was reported that the motion was passed, but that it was not quorate.

On 11 November 2005, it was reported that a motion on Coca-Cola at Leeds Union was not debated in depth because not enough people were present to make it quorate.

On 24 November 2005, University of Sussex Students' Union AGM passed a motion to remove Coca-Cola products from its three bars and two shops. Dispensation was subsequently granted for Sussex to stock Virgin branded soft drinks.

On 12 December 2005, it was reported that a motion was passed at Liverpool Guild that would mean that the Union applied for dispensation to stock supplementary bottles of cans of Virgin Cola in the Union bars

On 29 December 2005, The University of Michigan announced that it had decided to stop selling Coca-Cola products on its three campuses<sup>25</sup>. In June, the university said it would renew contracts

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<sup>24</sup> [www.ousu.org/main/yourunion/council/councilagendas/agendasmt05/agenda1stmt05](http://www.ousu.org/main/yourunion/council/councilagendas/agendasmt05/agenda1stmt05)

<sup>25</sup> [www.wsbtv.com/news/5728302/detail.html](http://www.wsbtv.com/news/5728302/detail.html)

with Coke beyond 2005 only on a conditional basis until the company performed an independent audit and put a corrective plan in place.

On 30 March 2006, NUS Conference did not pass boycott policy. A motion on constructive engagement was passed as policy.

On 06 April 2006, it was reported that the University of East Anglia Students' Union had passed boycott policy on Coca-Cola. The Ban relates to the sale of Coca-Cola in the shop only.

On 11 April 2006, the University of Michigan accepted the proposal from The Coca-Cola Company which paved the way for the third party, independent investigation into the issues surrounding Coca-Cola in Colombia. This reverses the 29 December 2005 decision.

On 29 September 2006, the campaign against Coca-Cola was set back by Judge Martinez's ruling that dismissed all remaining cases against the two Coca-Cola bottlers in Colombia. On 05 September 2006, the same court denied a motion by the plaintiffs to amend the complaints to bring The Coca-Cola Company back into the lawsuit and directed the clerk to close the cases.

On 25 January 2007, the University of East Anglia Students' Union overturned its boycott policy in a ballot of members by 563 votes to 410 votes.

On 09 March 2007, NUS Services learnt that Manchester University Students' Union had passed boycott policy.

On 13 September 2007, The University of Portsmouth Students' Union informed NUS Services that they had passed a motion to boycott Coca-Cola products and has collected 1,000 signatures in support their campaign

In September 2008 Mark Thomas published his book *Belching out the devil* about Coca-Cola.

## **6 Who is backing SINALTRAINAL's call for an international boycott?**

### **6.1 Backing:**

Colombian Unions

- SINALTRAINAL

Student Unions (in order of the date that a motion was passed)

- Carleton (College, United States of America) Student Assn.
- Around 20 other Student Associations in the United States of America
- University College Dublin SU
- Trinity College Dublin SU
- School of African and Oriental Studies Students' Union, London
- Middlesex University Students' Union
- Leeds University Students' Union
- Queen's University Belfast Students' Union
- Bristol University Students' Union
- Oxford University Students' Union
- University of Sussex Students' Union
- Manchester University Students' Union
- University of Portsmouth Students' Union

Other Unions

- UNISON members passed a resolution at their national conference in June 2004 resolving to "support the call to boycott Coca Cola products"
- United Steelworkers of America
- Teachers Union Ireland, via motion passed
- Northern Ireland branch of UNISON

- NIPSA, the Northern Ireland Public Services Association<sup>26</sup>
- Service Employees International Union passed a resolution at their national convention 2004 resolving to "support the world-wide call to boycott Coca-Cola and work to win broad AFL-CIO support for the campaign against killer Coke..."<sup>27</sup>
- Communications Workers of America (CWA) passed a resolution at their national convention 2004 that resolves "that unless the Alien Tort Claims Act lawsuit is settled by October 15 2004 and the safety and rights of workers in the Coca-Cola Colombian bottling factories are protected, the CWA will support SINALTRAINAL's divestment and boycott campaign against Coca-Cola and SunTrust Bank, and will urge our members to do the same"<sup>28</sup>
- American Postal Workers Union (APWU) passed a resolution at their national convention 2004 that resolves "That the national American Postal Workers Union requests that the United States Postal Service remove all Coca-Cola products from all postal facilities, and that State and Local American Postal Workers Unions, stop purchasing all Coca-Cola products until this issue [Colombian] is resolved"<sup>29</sup>
- The Labor Council for Latin American Advancement passed a motion rebuking The Coca-Cola Co. for their human rights violations in Colombia<sup>30</sup>
- The American Federation of Teachers (AFT) passed a resolution at their national convention in 2004 that resolved to "encourage AFT locals and individual members to participate in a letter writing campaign to the Coca-Cola Company to pressure its Colombian branch to stop its persecution of employees seeking union representation and to respect basic trade union rights..."<sup>31</sup>
- The International Longshore and Warehouse Union passed a resolution resolving "That the ILWU join the boycott of Coca-Cola and do all it can to publicize the boycott around the world"<sup>32</sup>

#### Organisations and charities

- International Labor Rights Fund
- Colombia Solidarity Campaign
- South Asia Solidarity Group
- Scottish Socialist Party

## 6.2 Not backing:

#### Colombian Unions

- SINALTRAINBEC
- SICO

#### Other Unions

- International Union of Food Workers (IUF)
- TUC
- Affiliated trade unions T&G and Amicus
- SIPTU (Dublin drinks, tobacco and warehouse distribution branch)

#### Organisations and charities

- Justice For Colombia
- War on Want<sup>33</sup>
- Amnesty International

The IUF, TUC and JFC do not support the campaign because only one of the three main unions representing Coca-Cola workers in Colombia is supporting the boycott<sup>34</sup>.

<sup>26</sup> Reported by the Colombian Solidarity Campaign

<sup>27</sup> Reported by the Colombian Solidarity Campaign

<sup>28</sup> Reported by the Colombian Solidarity Campaign

<sup>29</sup> Reported by the Colombian Solidarity Campaign

<sup>30</sup> Reported by the Colombian Solidarity Campaign

<sup>31</sup> Reported by the Colombian Solidarity Campaign

<sup>32</sup> Reported by the Colombian Solidarity Campaign

<sup>33</sup> A boycott motion at the Amicus AGM on 25 February 2006 was not able to take place because the meeting was inquorate

## 7 What is SINALTRAINAL calling for?

SINALTRAINAL's public list of demands is as follows:

- 1) Mitigate the pain of the victims by making integrated reparations that include compensation for the damages caused.
- 2) Publicly recognise that it benefited from the crimes committed by paramilitary groups continually carried out against the human rights of the workers and the communities.
- 3) Commit itself to not making any new attacks on our people, and that it hands over to justice those criminals who carried out actions to its benefit.
- 4) Negotiate with the union a code of conduct to safeguard workers' lives in the presence of international observers.

## 8 Relevant initiatives announced by The Coca-Cola Company

In 2004, the Company outlined Project Citizenship - a voluntary set of standards and principles on ethical and environmental issues for bottlers. Progress is monitored through a self-assessment questionnaire, comprising 185 specific questions, that is used by the parent company to monitor bottler performance and standards. By 2005, the initial stage had covered 65% of the Company's production volume, and the Company planned to roll it out the remaining bottlers as soon as possible.

At the beginning of 2005, The Coca-Cola Company created the new post of 'Head of Labour Relations' based at the global headquarters in Atlanta. The post was filled by Ed Potter, formerly working for the International Labor Organisation.

On 10 March 2005, The Coca-Cola Company announced a new pilot assessment process relating to workplace standards in bottlers. The pilot assessment process will begin in 2005 at different bottler locations, including countries in Africa, North America, Europe and South America. The Company has requested that all bottling partners allow access to their facilities for this purpose. The assessments will evaluate current workplace practices including wages and hours, facility security, freedom of association, collective bargaining, and health and safety measures. The Company will be working with Cal Safety Compliance Corporation, which is described as 'an independent, global leader in workplace assessments'<sup>35</sup>.

On 15 March 2005, senior representatives of The Coca-Cola Company met with IUF affiliates and the IUF General Secretary. The two sides discussed union rights issues in a number of countries, including Colombia. A joint statement was agreed and signed that includes the following commitments<sup>36</sup>:

- All Coca-Cola workers have the right to join a union without pressure or interference. This right should be exercised without any form of retaliation, repression or other forms of discrimination.
- The Coca-Cola Company and the IUF will continue to have twice-yearly meetings to review, among other things, the exercise of trade union rights by Coca-Cola workers worldwide.

It should be noted that this is the first common document signed by both Coca-Cola and the IUF.

On 26 April 2005, one week before The Coca-Cola Company's annual meeting, the Coca-Cola Foundation announced the donation of \$10 million to create an organisation that will be called the 'Colombian Foundation for Education and Opportunity'. Its function will be to work with non-governmental groups to provide education and other opportunities for those affected by four

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<sup>34</sup> Full reasons for not backing can be read at [www.tuc.org.uk/international/tuc-6913-f14.cfm](http://www.tuc.org.uk/international/tuc-6913-f14.cfm)

<sup>35</sup> [www.cscs-online.com/](http://www.cscs-online.com/)

<sup>36</sup> [www.iufdocuments.org/www/documents/coca-cola/jtstate-e.pdf](http://www.iufdocuments.org/www/documents/coca-cola/jtstate-e.pdf)

decades of violence in Colombia. Specifically the Foundation will work with NGOs to contribute to the academic and work opportunities for sectors where indices of violence are highest. The Foundation will be an independent non-profit institution administrated by the Board of Directors, including the president of the Central Unitaria de Trabajadores (CUT)(the equivalent of the TUC). The creation of the Foundation reportedly has the support of the International Labor Rights Fund and the United Steelworkers Union.

In May 2005, the Company announced that it was developing a Global Human Rights Policy. The Committee will be invited to comment on the draft.

On 11 May 2005, the Company confirmed that it was looking to create a 'Student Working Group' in the United States to provide a forum for inclusionary discussions with representative of student organisations. In October 2005, the student contingent of the group withdrew from the process through a public letter citing that the Company had refused to cooperate on an independent commission into the Colombian allegations, and new allegations of human rights violations from Turkey and Indonesia<sup>37</sup>.

As stated in section 4.5, on 19 January 2006, in an open letter to the following statement to the University of Michigan's Board of Regents, The Coca-Cola Company announced that it would be: *'facilitating the design and development of a credible, objective and impartial independent third party assessment in Colombia during the first quarter of 2006. The assessment will involve international labor organizations, non-governmental organizations and our most vocal critics. It will be conducted with the cooperation'*.

Also as stated in section 4.5, on 02 March 2006 the IUF released a statement announcing that The Coca-Cola Company had agreed to jointly request the United Nations, through its International Labour Organisation (ILO), to conduct an independent investigation into the alleged linked human rights violations in Colombia.

## 9 Links

<http://citizenship.coca-cola.co.uk/workplace/student.asp>

[www.coca-cola.co.uk/citizenship/](http://www.coca-cola.co.uk/citizenship/)

[www.coca-cola.com/worldwide/flashIndex1.html](http://www.coca-cola.com/worldwide/flashIndex1.html)

[www.cocacola-femsa.com.mx/](http://www.cocacola-femsa.com.mx/)

[www.cokefacts.org](http://www.cokefacts.org)

[www.colombiasolidarity.org.uk/](http://www.colombiasolidarity.org.uk/)

[www.iuf.org/en/](http://www.iuf.org/en/)

[www.laborrights.org](http://www.laborrights.org)

[www.labournet.net/default.asp](http://www.labournet.net/default.asp)

[www.justiceforcolombia.org](http://www.justiceforcolombia.org)

[www.sinaltrainal.org](http://www.sinaltrainal.org)

[www.uksac.revolt.org](http://www.uksac.revolt.org)

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<sup>37</sup> [www.studentsagainstsweatshops.org/docs/Coke\\_Public\\_Statement.doc](http://www.studentsagainstsweatshops.org/docs/Coke_Public_Statement.doc)