



28 May 2019

Wilhelm Mohn
Head of Sustainability Initiatives
Norges Bank Investment Management

Cc: Eli Ane Lund
Head of Secretariat
Council on Ethics for the Government Pension Fund Global

Request to NBIM to use shareholder influence to insist that consumer goods company Alicorp cease business with RSPO condemned oil palm plantation in Peruvian Amazon

We are writing in reference to NBIM's investments in the Peruvian-based consumer goods company Alicorp S.A.A. (PE:ALICORC1). We wish to inform you of our grave concerns regarding Alicorp's palm oil supply chain, and particularly its sourcing of palm oil which has been traced to the plantation operated by Ocho Sur P SAC (formerly Plantaciones de Pucallpa SAC, "PdP"), responsible for serious human rights violations of Indigenous Peoples and severe environmental damage in the Ucayali region of the Peruvian Amazon. This constitutes a contravention of clauses a) and c) of Section 3 in the Guidelines for observation and exclusion of companies from the Government Pension Fund Global.¹ Alicorp's failure to ensure that its suppliers respect human rights and avoid deforestation clearly falls short of NBIM's expectations to companies, as set down in the expectation documents on human rights and climate change.

Background

- The oil palm plantation in question was established on the customary lands of the Shipibo indigenous community Santa Clara de Uchunya ("the Community") without their free, prior and informed consent (FPIC) and in violation of their property rights over their customary lands, thereby violating indigenous peoples' rights over lands and resources, protected by Peruvian law and obligatory international human rights law applicable in Peru. The result of these operations (which began in 2013) has been the destruction of over 7,000 hectares of the Community's forests.² These forests – most of which were old-growth - included areas which the Community relied on for hunting, fishing and gathering, including medicinal plants and traditional construction materials. Environmental impacts include the destruction and contamination of water sources and vital habitats for wildlife.
- Since forest destruction began, community leaders and members as well as their representatives have taken multiple steps to protect their forests and hold the company and implicated government officials

¹ https://etikkradet.no/files/2017/04/Etikkraadet_Guidelines- eng_2017_web.pdf

² Following investigations, on 2 September 2015, the Director of the General Directorate for Agricultural Environmental Matters (*Dirección General de Asuntos Ambientales Agrarios*) within the Ministry of Agriculture published its findings, in which it concluded Plantaciones de Pucallpa destroyed 6,824.30 hectares of mostly primary forest (99.69% of the lands it acquired) without any environmental or agricultural license. The government agency issued Plantaciones de Pucallpa with an order to suspend operations. See *Resolución de Dirección General N° 270-2015-MINAGRI-DVDIAR-DGAAA*, https://drive.google.com/file/d/0BwOMuvfs9a4ZHp5WfNmWW03Q0U/view?usp=drive_web

to account. This has included the filing of formal complaints to criminal and environmental prosecutors amongst other measures. Nevertheless, those who have stood up to the operations have faced multiple attempts on their lives, death threats and intimidation.³

- On 2 September 2015, and following formal complaints presented by the Community, the General Directorate for Agricultural Environmental Matters (*Dirección General de Asuntos Ambientales Agrarios*) within Peru's Ministry of Agriculture ("MINAGRI") published its findings. These concluded that PdP had destroyed 6,824.30 hectares of mostly primary forest (99.69% of the lands it acquired) without any environmental or agricultural license. As a result, PdP were issued with an order to suspend operations.⁴
- On 5 December 2015, the Community filed a complaint to the Roundtable on Sustainable Palm Oil (RSPO), the leading global body certifying the sustainable production of palm oil of which PdP was an active member. On 25 April 2016, the RSPO's Complaints Panel issued a preliminary decision to prohibit PdP "from carrying out any further land clearance and planting activities pending the resolution of [the] complaint".⁵
- In May 2016, follow-up field investigations by the Ministry of Agriculture found that the company was continuing its operations in breach of the suspension orders issued by the Ministry of Agriculture and the RSPO.⁶
- On 25th July 2016, the Ministry of Agriculture fined the company approximately \$150,000 for barring its representatives from supervising the plantation's operations and for failing to comply with the suspension order.⁷ This fine was never paid. Throughout this period, PdP engaged in a series of manouevres to evade responsibility and delay resolution of the RSPO complaint and legal processes.⁸ These evasive actions included an auction of company assets in July 2016,⁹ when the plantations were transferred to their current operator, Ocho Sur P, as well as ultimately withdrawing from the RSPO membership in October 2016 to avoid sanction.¹⁰
- All of these actions were highly publicized in Peruvian and international media to the extent that on 6 April 2017 the RSPO issued an unprecedented condemnation of the company in which it determined that "Plantaciones de Pucallpa cleared approximately 4489 hectares prior to becoming an RSPO member and ... continued to clear at least 1237 hectares of land, of which 423 hectares is considered primary forest, without submitting a New Planting Procedure," concluding that there was "clear evidence that compensation liability would have been incurred." The RSPO Complaints Panel went on to state that PdP activities had contravened RSPO P&C 7.3, at the same time breaching "the RSPO Code of Conduct 2.1 and 2.3 on transparency in reporting and the commitment of members to open and transparent engagement with interested parties, and actively seeking resolution of conflict."¹¹
- In August 2017, State Environmental Prosecutors in Ucayali formalised their investigation into Plantaciones de Pucallpa, establishing that the case included both acts of organised crime and crimes against forests. The case has since been referred to the National Prosecutor's Specialised Organised Crime Unit in Lima.

³ See list of acts of violence or threats against the Community Santa Clara de Uchunya in annex to speech by Shipibo leader Robert Guimaraes to the UN Permanent Forum on Indigenous Issues, 24 April 2019: <https://www.forestpeoples.org/sites/default/files/documents/Discurso%20ONU%20RGV%20FECONAU.pdf>

⁴ Resolución de Dirección General N° 270-2015-MINAGRI-DVDIAR-DGAAA, https://drive.google.com/file/d/0Bw-OMuvfs9a4ZHp5WfNmWW03Q0U/view?usp=drive_web

⁵ https://ap8.salesforce.com/sfc/p/#90000000YoJi/a/90000000PYA/daan1DgYwG9Q8Jx40FjZ6XuHI9qMFehyB7wQEq_whW8

⁶ <http://www.forestpeoples.org/topics/rights-land-natural-resources/news/2016/05/peruvian-environmental-prosecutor-documents-planta>

⁷ <http://www.forestpeoples.org/sites/fpp/files/private/news/2017/01/Res%20361-2016-DGAAA%20Eng.pdf>

⁸ See RSPO complaint: <https://askrspo.force.com/Complaint/s/case/50090000028Es1LAAS/detail>

⁹ <http://www.forestpeoples.org/en/topics/rights-land-natural-resources/news/2016/06/buyers-beware-trash-and-run-melka-group-plans-sell>

¹⁰ <http://www.forestpeoples.org/en/topics/agribusiness/news/2016/11/melka-group-company-peru-withdraws-rspo-shipibo-complaint-exposes-l>

¹¹ http://www.forestpeoples.org/sites/default/files/documents/Complaints%20Panel_Apr17%20%281%29.pdf

- On 15 December 2017, the Fourth National Court for Preliminary Investigations (a criminal court in Ucayali) issued the palm oil company with an injunction ordering the immediate suspension of all logging and deforestation.¹² Regrettably, and as a result of the transfer of PdP's assets to Ocho Sur P, this order remains unenforced.
- During 2018, and despite the Community's calls for justice including in a hearing at the Inter American Commission on Human Rights,¹³ their customary lands surrounding the plantation continued to experience ongoing forest clearance and were reported internationally as a hotspot for deforestation in the Peruvian Amazon. This destruction, which is either directly or indirectly driven by the presence of the plantation, is taking place in lands currently classified as 'State permanent production forest' (BPP) in which any land use change is strictly prohibited by Peruvian law.¹⁴
- On 17 April 2018, evidence published by investigative journalists in Peru demonstrated that palm oil produced by Ocho Sur P was being acquired for processing by several different mills in the region, including Industrias Palm Óleo S.A.C., Oleaginosas Amazónicas (OLAMSA) and OLPESA. In response to the investigation, Alicorp confirmed that they purchased around 4,500 tonnes of crude palm oil monthly from the three mills in question, with 69% of the total (3,100 tonnes) sourced from Olamsa. Olamsa's managing director, Rubén Meléndez Rossel, also confirmed that Alicorp was buying more than 90% of Olamsa's produce at the time thereby confirming the provenance of palm oil from the condemned plantation.¹⁵
- On 24 May 2018, following the publication of this investigation, Alicorp issued a response acknowledging the results of the investigation, stating, "we have identified that two suppliers are supposedly purchasing a percentage of crops with an unsustainable origin. In response to these cases and those which may be detected in the future, we are going to work with our suppliers, as part of the RSPO certification process, with the aim that they supply us exclusively with sustainable crops."¹⁶ In September 2018, Peru's highest constitutional court, the Constitutional Tribunal, formally admitted a lawsuit filed by the Community in 2018 which challenges the plantation and the Regional Government of Ucayali for the illegal acquisition of their customary lands. The case and its progress is widely known in Peru and in the region given its emblematic status.¹⁷
- In recent months, Alicorp's commercial ties with Ocho Sur P specifically have been the object of media attention in Peru.¹⁸ Despite further requests for information made to Alicorp by the Community and its representatives, as of 20 May 2019, the Company had not provided any evidence to demonstrate that it no longer continued to purchase crude palm oil processed by the mills in question, nor had it indicated what measures it was taking to address these concerns.
- In response to this situation, the Community and its allies recently brought a formal complaint against Alicorp (as well as the miller and RSPO member, OLPESA) to the RSPO through its complaints mechanism.¹⁹ The complaints directed against Alicorp and OLPESA hold that their purchases of Ocho Sur's palm, produced through clearance of primary forests and in violation of the Community's rights over their traditional lands, are a violation of the Principles and Criteria and Code of Conduct of their

¹² <http://www.keneamazon.net/Documents/Press-Release/Nota-de-Prensa-001-2018-KENE/Nota-de-Prensa-001-2018-KENE.pdf>

¹³ <https://www.youtube.com/watch?v=ZH809nYti2M&t=2990s>

¹⁴ https://maaproject.org/2019/hotspot-peru2018/?fbclid=IwAR3IFsqFeK2_9kv4z_g2CYu9sXwJLbdmrb0i2AQ8cBiQ_PBo5_bd-T0UB5M

¹⁵ <http://palmas-para-nadie-deforestacion-en-la-amazonia.convoca.pe/capitulo2.html>

¹⁶ Original Spanish: "hemos identificado que dos proveedores estarían comprando un porcentaje de frutos de origen aparentemente no sostenible. Frente a estos casos y los que se detecten en el futuro vamos a trabajar con nuestros proveedores, como parte del proceso de certificación RSPO (Mesa Redonda sobre el Aceite de Palma), en buscar que nos abastezcan de manera exclusiva con fruto sostenible." <https://es.scribd.com/document/394571119/Respuesta-de-Alicorp-del-24-de-mayo-de-2018>

¹⁷ E.g. see national (<https://www.facebook.com/larepublicape/videos/10156018468237017/>), regional (<https://www.youtube.com/watch?v=ZH809nYti2M&t=2990s>) and international (<https://www.dw.com/en/death-threats-for-peruvian-palm-oil-activists/a-42652689>) coverage respectively.

¹⁸ Convoca, 30 November 2018, "El gigante de la industria de alimentos y los sobrevivientes de la palma", <http://palmas-para-nadie-deforestacion-en-la-amazonia.convoca.pe/capitulo2.html>

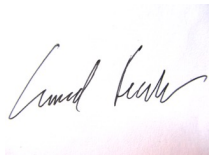
¹⁹ <https://www.servindi.org/actualidad-noticias/18/04/2019/18-de-abril-2019-en-la-amazonia-peruana-continua-la-lucha-entre-el>

RSPO membership. Alicorp faces considerable reputational and commercial risks as a direct result of its commercial relationship with Ocho Sur P. This is aggravated by its failure to provide evidence and documentation clarifying its links with the company in question when requested by the Community and their representative organization, the Federation of Native Communities of the Ucayali.²⁰

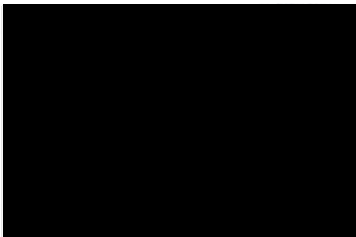
As a significant investor in Alicorp, we trust that this situation is of serious concern to NBIM given its ethical commitments to uphold human rights and ensure protection of the environment. We respectfully request that you leverage your institution's considerable influence with Alicorp by ensuring the company definitively remove Ocho Sur P's palm oil from its supply chain, as well as adopt stringent procedures to prevent any further sourcing of commodities linked to deforestation and human rights violations. Such a move would ensure compliance with NBIM's commitments and provide a clear signal of Alicorp's stated intention not to profit from the violation of Indigenous Peoples' human rights and industrial-scale deforestation in the Peruvian Amazon.

We are grateful for your consideration of this urgent matter. Please do not hesitate to contact us with any additional questions you might have.

Yours sincerely,

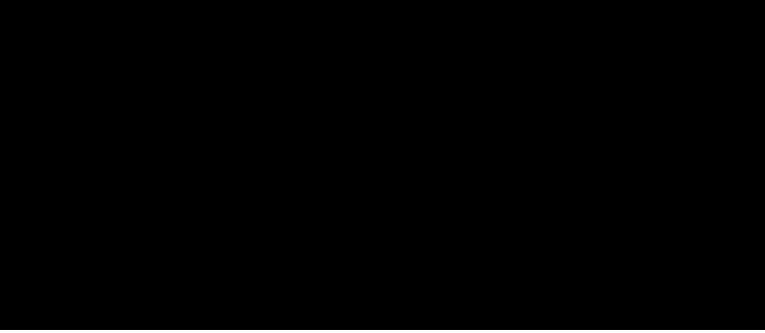


Dr Conrad Feather
Policy Advisor
Forest Peoples Programme



Santa Clara de Uchunya

²⁰ Since details emerged that Alicorp was acquiring FFB/palm oil originally from Ocho Sur P, the Community's representative indigenous organisation, FECONAU, sent a letter to the company on 4 February 2019, expressing their concerns and requesting an explanation and documents to clarify their links with Ocho Sur P. To date, Alicorp has not issued any response.



Federation of Native Communities of Ucayali

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Dr Juan Carlos Ruiz Molleda
Lawyer and Coordinator
Constitutional Litigation and Indigenous Peoples Program
Instituto de Defensa Legal

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Vemund Olsen
Senior Adviser
Rainforest Foundation Norway