



Federación por la Autodeterminación de los Pueblos Indígenas



1st December 2021

Open letter from civil society to consumer goods companies re: concerns over Strategic Lawsuit Against Public Participation by palm oil company in Ecuador

We are writing to seek your engagement regarding serious ongoing human rights and environmental harms connected with the operations of Energy & Palma, which is part of La Fabril group, its *Extractora San Carlos* palm oil mill and its third-party suppliers and business partners. It is our understanding that several multinational companies including Nestle, Pepsi, Kellogg and General Mills have direct sourcing relationships with Energy & Palma and La Fabril group, and therefore bear a responsibility to uphold human rights and environmental standards.

Civil society groups in Ecuador have raised concerns with us over legal action brought by the palm oil company Energy & Palma against afro-descendent human rights defenders in the Esmeraldas Province.

The Afro-Ecuadorian community of Barranquilla de San Javier was established as a commune in 1997. In 2000 it was granted land titles over 1500 hectares of communal territory. Community members began to defend their ancestral territory from palm oil companies that were deforesting areas of the Chocó forest. The community has been seriously affected because their sources of livelihood, mainly related to the forest, have disappeared following the deforestation caused by the company to replace it with palm monoculture. The community have reported that the rivers they depend on have been polluted by effluents from both the plantation and the palm oil mill, causing permanent impacts on their health.

At the end of 2019, Barranquilla de San Javier community members held peaceful protests, including blocking an access route, to demand that the palm oil company Energy & Palma withdraw from the 251 hectares it had invaded within the commune's territory, return the land, stop polluting its water sources and stop deforesting the Chocó Forest.

After the protests were violently repressed, the company filed a legal complaint against the community leaders, demanding US\$320,000 in compensation, for its palm harvest allegedly lost during the action carried out by the Barranquilla de San Javier community. On September 8, 2021, Judge Fernando Saldarriaga, of the Multicompetent Judicial Unit of the San Lorenzo canton, Esmeraldas province, ordered four land rights defenders from the Barranquilla de San Javier community to pay US\$151,000 to Energy & Palma.

The defendants maintain their innocence, having demonstrated in the trial that Energy & Palma had at least four alternative ways to remove the palm fruit from its plantation. The community and local organisations have denounced this case as an act of intimidation aimed at preventing them from carrying out environmental complaints against the company, the legal claims they have over their territory and draining the resources of the community. If the ruling is confirmed it would set a worrying precedent for defenders and communities affected by agribusiness operations and investments throughout the country and have a broader chilling effect, deterring community leaders and others from speaking out against human rights abuses by industrial plantation and extractive companies.

Given the above serious ongoing human rights and environmental harms and risks connected with Energy & Palma's operations, we respectfully request that Nestlé, Pepsi, Kellogg and General Mills fully disclose and explain its process of ongoing supply chain due diligence with regard to Energy & Palma, the *Extractor San Carlos* palm oil mill, Fabril Group and its third-party suppliers and business partners, with particular attention to the protection of human rights, community land rights and environmental defenders. We urge you to immediately suspend sourcing from Energy & Palma and conduct an investigation into the actions taken against the environmental human rights defenders. Multinational consumer goods companies should take the following actions:

- urge Energy & Palma to drop all charges against human rights defenders;
- investigate legal and customary ownership of lands claimed by Barranquilla de San Javier, and reinstate these lands to the community complainants, should irregularities be found;
- articulate and adopt a clear set of policies and procedures to require La Fabril Group and all suppliers to ensure Zero Tolerance for violence, intimidation, and criminalization of environmental human rights defenders.

Signatory organisations and individuals:

1. Amazon Watch
2. Asia Indigenous People's Pact (AIPP)
3. ASM Law Office, Indonesia
4. Comisión de Justicia y Paz, Colombia

5. COSPE, Italy
6. CRED-GIGI, Italy
7. Entrepueblos-Entrepobles-Herriarte-Entrepobos, Spanish State
8. La Federación por la Autodeterminación de los Pueblos Indígenas (FAPI), Paraguay
9. Forest Peoples Programme (FPP), UK
10. Friends of the Earth USA
11. Front Line Defenders, Ireland
12. Indigenous Peoples Partnership (IPP), Myanmar
13. Indigenous Peoples Rights International (IPRI)
14. International Work Group for Indigenous Affairs (IWGIA)
15. ISCOS-CISL, Italy
16. The Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP), Nepal
17. Michel Forst, Former UN Special Rapporteur on the Situation for Human Rights Defenders
18. Observatorio Ciudadano, Chile
19. Project HEARD, Netherlands
20. Rainforest Action Network (RAN)
21. Rettet den Regenwald, Germany
22. Salva la Selva, Spain
23. Sierra Leone Land Alliance, Sierra Leone
24. Sin Olvido Tierra, Colombia
25. Somos Génesis, Colombia
26. Tebtebba Foundation
27. Un Ponte Per, Italy
28. YAKU, Italy