

To: Carmen Suro-Bredie, Chairman, Trade Policy Staff Committee (TPSC)

From: TransAfrica Forum, AFRODES USA and Washington Office on Latin America (WOLA) on behalf of the Network for Advocacy in Solidarity with Grassroots Afro-Colombian Communities (NASGACC) and partner organizations in Colombia¹

Re: Request for Comments Concerning Free Trade Agreement with the Republic of Colombia (Docket Number USTR-2009-0021)

Date: September 15, 2009

1. Introduction

- 1.1 Per the public announcement "Request for Comments Concerning Free Trade Agreement with the Republic of Colombia," the interagency Trade Policy Staff Committee (TPSC) is conducting a review of the Free Trade Agreement with the Republic of Colombia [signed on November 22, 2006, and amended on June 28, 2007] to specifically address issues raised about the extent to which Colombians are able to exercise their fundamental labor rights. In addition to the specific questions for comment, the public is also invited to comment on other issues relevant to the FTA. In this context, the Network for Advocacy in Solidarity with Grassroots Afro-Colombian Communities (NASGACC) is submitting the commentary below to emphasize two central issues regarding the FTA which should be considered at the same level of importance as the overarching labor question:
- a) The existence of structural racism in Colombia, combined with the ongoing armed conflict and the deep-seated inequalities it perpetuates, disproportionately affect African descendants in the country and continue a process of historical and contemporary exclusion that the Colombian government fails to adequately address². The U.S.-Colombia Free Trade Agreement was formulated in this context of extreme violence, inequality and impunity, which does not enable Afro-Colombian communities and other ethnic groups to participate equally in national development plans. The chapters regarding investment, intellectual property and environment in the FTA do not take into

¹ *Document prepared by TransAfrica Forum, AFRODES USA (Association of Internally Displaced Afro-Colombians) and Washington Office on Latin America (WOLA) on behalf of the Network for Advocacy in Solidarity with Grassroots Afro-Colombian Communities (NASGACC) and in consultation with representatives with the following partner organizations in Colombia: AFRODES Colombia, PCN (Black Communities Process) [which represents 68 Colombian grassroots organizations and community councils], CAVIDA (Comunidades Auto-determinacion, Vida, Dignidad), COCOMOPOCA (Consejo Comunitario de la Asociacion Campesina del Atraro), Community Council of Bajo Naya, Community Councils of Curvaradó and Jiguamiandó, Consejo Comunitario Regional Mayor para Comunidades Negras and the Association of Bio-diversity and Humanitarian Zones. The document also benefited from additional comments and information provided by various groups (see footnotes) and the NGO Justice and Peace (Justicia y Paz). NASGACC is a national network of human rights activists, scholars and non-governmental organizations dedicated to promoting international policies and programs toward Colombia that support and strengthen the territorial and human rights of Afro-Colombian communities. Current members: AFRODES USA (Association of Internally Displaced Afro-Colombians), TransAfrica Forum (TAF), Washington Office on Latin America (WOLA), Public Citizen, PBI Colombia, Global Rights, American Friends Service Committee (AFSC), Chicago Religious Leadership Network, USOC, Roland Roebuck, Joseph Jordan, Ajamu Dillahunt, Arturo Escobar, Agustin Lao, Norma Jackson, Grupo Tangare, Monica Y. Rizo Madrid.

² For additional information regarding the situation of racial discrimination in Colombia, see "Concluding observations of the Committee on the Elimination of Racial Discrimination – COLOMBIA," August 2009 <http://www2.ohchr.org/english/bodies/cerd/docs/co/CERD.C.COL.CO.14_sp.doc>

account the legal and constitutional rights of Afro-Colombians and their development interests. On the contrary, the language in these chapters violates their collective property rights and, consequently, would increase the poverty, discrimination, exclusion and persecution that are already devastating their communities.

In this context, there is grave concern that passage of the U.S.-Colombia FTA will intensify the pressure and influence of illegal and legal armed groups and drug traffickers on collective and ancestral territories and their natural resources—generating greater internal forced displacement. This displacement is instigated by the expansion of large scale development projects known as “mega-projects” (the extensive cultivation of oil palm, sugarcane, and resource exploitation of gold and other minerals) designed to benefit actors within the illicit and global markets. This economic development model has created an infrastructure in which crimes against humanity are committed to defend economic interests.

b) Despite the existence of international and national legal mechanisms determining that communities must be consulted and integrated into decision-making processes whenever political or administrative measures could potentially affect their cultural integrity, traditional authorities were never consulted in the process of crafting the FTA.

Furthermore, when communities are displaced, the expansive foreign investor rights contained in the FTA, and their additional protection by powerful illicit as well as government actors, empower multinational corporations and local companies investing in such projects—making it difficult for average citizens to reclaim their land and exercise their rights, even in the rare circumstance that they win a court order. The cases of the peace communities of Cacarica (Jiguamiandó y Curvaradó) in the Chocó region and of Alto Mira in the Nariño department exemplify this situation. In both cases, the collective territories were violently or illegally confiscated for the extensive cultivation of oil palm. This confiscation was executed with the assistance of INCODER, the Colombian state entity responsible for titling lands. Even though legal recourse exists in favor of communities to reclaim land, to date neither the land, rights or possessions of the communities have been returned.³

[Relevant legal mechanisms]: Colombia has ratified the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, together with the Optional Protocol to the Covenant on Civil and Political Rights. Both stipulate that all peoples have the right of self-determination and that, by virtue of that right, they “freely determine their political status and freely pursue their economic, social and cultural development.” In addition, the 1991 Colombian Constitution and Colombia’s Law 70 of 1993 legally ensure that the rights of Afro-Colombians and the historical discrimination they have endured since slavery are officially respected and recognized. Law 70 was drafted to be in accordance with ILO (International Labour Organization) Convention 169, to which Colombia is a signatory, and which is applicable to Afro-Colombians.

2. Labor Rights and Afro-Colombians

³ See “Colombia: The Curvaradó and Jiguamiandó humanitarian zones: Communities in resistance in Colombia,” Amnesty International, 24 February 2009 <<http://www.amnesty.org/en/library/info/AMR23/001/2009>>

- 2.1 Extensive development has taken place prior to the passage of the U.S.-Colombia FTA in ports throughout Colombia. This development has caused the forced displacement of thousands of Afro-Colombians throughout the coastal regions—impacting already displaced communities and threatening the safety and security of countless more. In the case of the municipality of Buenaventura (Valle de Cauca, Colombia), approximately 17,000 families from five neighborhoods were displaced from their homes to give way to the expansion of the Buenaventura Maritime Port. Traditional fishermen have also been displaced from the area due to fishing restrictions implemented in the context of the megaproject, “Container Terminal in Buenaventura (TCBUEN).”
- 2.2 The labor rights situation remains grave for Afro-Colombians throughout the country, regardless of location. Efforts to expand the bio-fuel industry in Colombia continue to increase incentives for the private and public sector to increase profits by under-cutting labor rights. Colombia’s lucrative sugar industry benefits from tax break incentives as demand for sugar-based bio-fuel increases. The majority of sugar cane cutters, at least 80% according to some estimates, are Afro-Colombian. Workers are heavily exploited and forced into an indirect relationship with their employers through “associative cooperatives” in which they receive a wage approximately 45% lower than workers hired directly by firms because they receive payment based on the quantity of cane produced. Their indirect employment status means they are prevented from legally demanding better conditions because regular labor laws do not cover them. Sugarcane workers in these so-called cooperatives work up to 16 hours a day without a break, suffer serious health issues and harsh work environments, and are forced to deduct funds from their meager wages for education, healthcare, and other social benefits. Interviews by members of NASGACC of Afro-descendant oil palm workers employed in such “associative cooperatives” indicate that these workers face situations of exploitation similar to those faced by their counterparts in the sugarcane industry.
- 2.3 The recent strikes by sugarcane workers are clear indicators of the Afro-Colombian labor and employment situation. Afro-Colombian and Indigenous peoples disproportionately comprise the sugar cane industry work force. In the fall of 2008, 10,000 Colombian sugar cane cutters staged a 56-day strike in protest of horrendous working conditions. Police forces throughout the country, particularly in the Cauca region, responded violently, through force and harassment, to the organizing efforts. The strike produced some limited wage improvements, but workers are still being denied the right to permanent employment and a direct contract with their employer. The strike also culminated with a hunger strike in Bogotá, Colombia.⁴
- 2.2 The port of Buenaventura (Valle de Cauca, Colombia) serves as an important example of the tenuous circumstances that organized labor faces throughout the country. The overwhelming majority of workers in the port are Afro-Colombian. Large corporations on the coasts rely on skilled manual labor for grueling and dangerous work. With low wages and non-existent workers compensation, employees hurt on the job have no guarantees. Efforts to organize port workers in coastal towns have been met by fierce criticism by government and business leaders. The “associative cooperative model” has

⁴ See, “Video from the Field in Colombia - Sugarcane Cutters Hunger Strike,” Witness for Peace, September 2008 <<http://www.witnessforpeace.org/article.php?id=584>>

also been institutionalized in the port and, in effect, has de-centralized workers, removed social security and broken down formal union structures.

- 2.3 It has been estimated that over 50% of Colombian imports (predominately sugar, corn, coal and coffee) and exports travel through the port of Buenaventura. With the pending FTA, port expansion and road revitalization have been prioritized. The Port Society of Buenaventura has privately run the port since 1994 and its highly strategic position has ensured additional contracts to be granted. The port of Buenaventura is one of the most egregious offenders with regards to on-the-job injuries and death. Between 1994 and 2008, 31 people were killed working in the port, with no charges filed. Despite efforts to organize Buenaventura's port workers, less than half of the ports' estimated 6,000 workers have any affiliation with the port's union, Sintramaritimo. Union leadership and members often face threats, discrimination and attacks. After multiple requests by Sintramaritimo leadership, minimal security precautions were provided, including a cell phone. Unfortunately, these inadequate measures do little to protect the lives of employees.⁵
- 2.5 Overall, the exclusion, marginalization and discrimination experienced by the Afro-descendant population in Colombia are reflected in a dire lack of opportunities, competition, benefits, and access within the labor market. Afro-descendants are often under-employed or work independently and earn wages three times below the national average. Afro-Colombians are under-represented in the government and international and national private companies, despite the large number of Afro-Colombians who have the necessary skill-set to fill such positions. A careful analysis of financial institutions, state entities and international businesses in the major cities throughout the country corroborate this under-representation. Furthermore, the process of privatizing state entities (entities that have historically provided labor opportunities for Afro-descendants in their own territories, such as in the case of Buenaventura on the Pacific Coast) has meant that there have been cases in which workers brought from the interior of the country have replaced Afro-Colombian workers and Afro-Colombian workers with equal or greater levels of work experience and training have often been forced to accept lower wages and, thus, an even lower standard of living.

3. Violence and Impunity

- 3.1 The U.S. has invested over \$5 billion in the Colombian war since 2000 through Plan Colombia – a plan that has not adequately impacted the chain of production and prohibition of cocaine. Moreover, the strategy of aerial fumigation to destroy illicit crops in Colombia has contributed to forced displacement as well as increased food insecurity in Afro-Colombian rural areas. According to the independent, Colombian think tank *Fedesarrollo*, the FARC (Revolutionary Armed Forces of Colombia) controls 50 to 55 percent of cocaine trafficking in Colombia, while paramilitaries control 45 to 50 percent. Recently, the director of the United Nations High Commission for Refugees expressed worry over the resurgence and growing influence of paramilitary groups and noted they

⁵ For additional information, see "Afro-Colombians Autonomous Rights Undermined: Systematic Repression and the U.S. - Colombia Free Trade Agreement: Full Report," TransAfrica Forum, Pages 12-13 <<http://transafricaforum.org/files/AC%20Colombia%20Report%20FINAL%20May%20Day08.pdf>>

are believed to operate in 15 percent of the 1,119 municipalities in Colombia.⁶ Colombian human rights and grassroots organizations are continuously denouncing the presence of paramilitaries operating in their areas that have regrouped. Many of them have done so in areas heavily patrolled by the Colombian army, particularly in the case of Chocó, Buenaventura and Tumaco. In only 2009 a long list of assassinations, death threats and harassment against Afro-Colombian leaders and members of their communities have occurred.⁷

- 3.2 Foreign aid often passes through loopholes whereby paramilitaries and politically connected businessmen use profitable projects, such as oil palm production, to allegedly launder money. This process has generated countless acts of homicide, land theft and internal displacement, particularly in Afro-Colombian communities where large amounts of palm and other crops destined for illicit and global markets have been cultivated on stolen land. This is the particular case with the Jiguamiandó and Curvaradó peace communities on the Pacific Coast, where approximately 140,000 acres of collective territory were violently or illegally confiscated for oil palm cultivation. These communities had been given special protective measures by the Inter-American Court of Human Rights. Nevertheless, their inhabitants continue to be consistently under siege by paramilitary groups protecting the interests of oil palm companies operating in the area. The inability to detect links to narco-paramilitaries, violent crimes and land seizures continue to raise serious concerns about the ability of institutions such as the United States Agency for International Development (USAID) to administer foreign aid without implicitly subsidizing drug trafficking. Last year, the United Nations stopped its investment in the palm sector in Colombia.
- 3.3 The armed conflict in Colombia (reflected in the daily realities of combat, harassment and large military operations) disproportionately affects civilians. The government has a long way to go as far as adequately protecting civilians against attacks and human rights violations. In certain cases, units of the Colombian military have been found to work in complicity with paramilitary groups in committing human rights violations. In addition to standard weapons, homemade explosives are also used by illegal armed groups and result in civilian casualties and enormous economic damages in Departments such as Nariño, Cauca, Valle, Chocó, Bolívar, Meta, Putumayo, and Guaviare. There following three regions in particular have been hit hard with regards to civilian violence: the Jiguamiandó-Curvaradó river basin zone (Chocó region), Buenaventura (Valle de Cauca region), and Tumaco (Nariño Department, Colombia). Between 1996 and 2009, over 120 leaders and community members have been assassinated along the Jiguamiandó-Curvaradó river basin zone. In two years, from 2006 to 2007, there were 797 registered murders in Buenaventura while the area had been under surveillance by around three-thousand police and marine authorities. Between January and August of 2009, there have been 117 registered disappearances and 175 registered violent deaths in Buenaventura. Furthermore, in Tumaco, the Diocese of Nariño department noted that between January and June of 2009 at least 206 people had been assassinated.⁸

⁶ Begg, Kirsten, "UN 'concerned' over polarization in Colombia," 22 June 2009 <<http://colombiareports.com/colombia-news/news/4663-un-concerned-over-polarization-in-colombia.html>>

⁷ For complete report see Annex 1: "List of Incidents Against Afro-Colombians Attributed to or Suspected to Have Been Committed by Re-grouped or Non-demobilized Paramilitaries in 2009."

⁸ According to the registries of the NGO Justice and Peace (Justicia y Paz).

- 3.4 The “para-politics” scandal whereby over 170 Colombian politicians (including members of Congress, Governors, Mayors and municipal authorities) are either under arrest or investigation by the judicial authorities for having ties to right-wing paramilitaries of the AUC, is highly disturbing and problematic for Afro-Colombian territorial rights. Particularly worrisome is that Afro-Colombian representatives who form part of the Afro-Colombian Congress and the Uribe coalition parties who allegedly have ties to paramilitaries and are now in detention traveled to Washington, D.C. in order to advocate for policies and economic projects with U.S. policymakers and donors that were not consulted with the Afro-Colombian community councils. According to revelations made public in the Colombian press last week by the notorious former AUC leader Freddy Rendon alias “El Aleman,” who is responsible for some of the worst atrocities against Afro-Colombians in Uraba, Chocó, he gave money to Representative Edgar Ullises Torres to finance a trip to the U.S. Rendon also “testified before the Supreme Court of Justice that not only did he finance and support politicians in Chocó, but that he also personally loaned them money, some of which they still owe him.”
- 3.5 The projects promoted by politicians embroiled in the para-politics scandal include the FTA, Plan Pacifico, oil palm projects and the creation of a Presidential Inter-Sectoral Commission for Afro-Colombian, Raizal and Palenque Peoples. For example, Edgar Ullises Torres continuously stressed the need to promote problematic agro-businesses in Curvaradó, despite having knowledge about the problem of illegal palm cultivation there. Afro-Colombian grassroots groups were seriously weakened by the actions taken by these representatives and their allies in Washington, D.C. since these proposals were a false presentation of the community councils’ interests and, in some cases, formed part of other agendas—including one linked to paramilitary economic projects. This activity also led to divisions among the Afro-Colombian people and seriously undermined the capacity of the community councils and traditional leaders to present the recommendations produced via the law 70 mechanisms to U.S. policymakers.
- 3.6 During the height of paramilitary infiltration of the Colombian Congress, when an estimated 30 percent of the Colombian Congress had such links, various changes in national policy (including the Forestry Law and Rural Development Statute) significantly undermined the territorial rights of Afro-Colombian and Indigenous Peoples. These two laws were later rendered unconstitutional by Colombia’s Constitutional Court because the right to previous consultation had not been met for these communities. Also numerous atrocities and crimes were committed against Afro-Colombians, including high profile massacres, massive displacements, and the fraudulent appropriation of Afro-Colombian territories by illegal armed groups and businesses. Most Colombian lawmakers did not act to prevent, stop or seek justice for these acts. Although the Attorney General and Supreme Court of Colombia have taken action against many politicians with such ties, the “para-politics” scandal is far from resolved and more action and time is needed before this problem is addressed enough to guarantee that past criminal activity is brought to justice and guarantees are put in place that such activity, which is gravely damaging to ethnic rights, is no longer taking place. The former Director of the Colombian intelligence agency (Departamento Administrativo de Seguridad [DAS]) had also been fired due to evidence of corruption and evidence of collaboration with paramilitary groups. The United Nations report determined that these investigations were exemplary

- 3.7 We are also troubled by the recent United Nations investigations accusing Colombian soldiers of killing hundreds of civilians during the past six years and falsely identifying the dead as guerrilla fighters as well as the illegal wire-tapping by Colombia's intelligence service DAS of Afro-Colombian leaders, political opponents of the government, human rights defenders and US non-governmental organizations (including the Washington Office on Latin America [WOLA], which is a member of NASGACC). It is also important to highlight the investigations of two high rank military officers, Rito Alejo del Rio and Francisco Rene Pedraza, for their responsibility in massacres committed in San Jose de Apartado, Chocó (Operation Genesis, 1997) and Rio Naya, Valle del Cauca (2001). In 2007, the paramilitary leader Salvatore Mancuso identified Generals Rito Alejo del Rio, Martin Carreño, and Ivan Ramirez as principal contributors to the expansion of the paramilitary activity in the Chocó region.
- 3.8 A 2009 report by IDMC (Internal Displacement Monitoring Centre) explains that, according to a recent survey, threats by illegal armed groups towards civil society have become the principal cause of forced displacement in Colombia. Human rights violations caused by government forces (such as systematic extrajudicial executions) continue to persist, and human rights defenders (particularly leaders of internally displaced persons) continue to be publicly discredited and under persistent attack by certain government actors. This is particularly the case with community councils and leaders in Afro-Colombian communities, who continue to defend their cultural and territorial rights under these dangerous circumstances.
- 3.9 Since 1996, the intensification of the armed conflict in Afro-Colombian communities has coincided with the beginning of the process to collectively title their lands and with the implementation of "wars" against drugs and against terrorism financed through Plan Colombia with resources from the United States. In the last 15 years, hundreds of Afro-Colombian lives have been sacrificed by legal and illegal actors in the name of territorial and economic interests. The following cases remain in impunity and the family members continue to wait for justice: Marino Lopez (decapitated and mutilated by paramilitaries on February 24, 2007; Yolanda Ceron (Catholic nun assassinated by the paramilitary group Bloque Libertadores del Sur on September 19, 2001 due to her support of Afro-Colombian communities' efforts against palm oil expansion in their territories against their wishes; Francisco Hurtado (trade union leader assassinated on February 12, 1998); Orlando Valencia (community leader assassinated by paramilitaries on October 15, 2006 due to his defense of Afro-Colombians right to reject oil palm cultivation in their territories); Edilson Torres (killed by the FARC on October 18, 2006); Felipe Landazury, Maria Cecilia Obando, Armenio Cuellar, Rodrigo Lopez (murdered in 2008) and the massacre of 12 youth in Buenaventura (2005). There are also massacres and assassinations that have been committed in San Jose de Apartado, el Rio Naya, Buenaventura, Rio San Juan, and other countless places that remain unsolved.

⁹ United Nations (UN). 29 February 2008. Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General. Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia. (A/HRC/7/39) [Page 8].
<http://www2.ohchr.org/english/bodies/hrcouncil/docs/7session/A.HRC.7.39.pdf> [Accessed Sept. 2009]

- 3.10 The Justice and Peace law, a “flagship” law of the Uribe administration, has not produced what it promised to in terms of truth, justice and reconciliation for victims of the internal armed conflict. On the contrary, 15 paramilitaries responsible for crimes against humanity were extradited to the U.S. and progress in many cases involving Afro-Colombians and others remains stalled. Former AUC commander, Freddy Rendon (known as “El Aleman”) is awaiting extradition to the U.S. for crimes related to drug trafficking. He also faces charges in Colombia being responsible for the assassination of over 450 persons. Colombian experts and jurists believe that the extradition of paramilitaries has created obstacles to truth, justice and reparations for the victims and their families. In many of the cases involving these men, and in the particular case of Afro-Colombian communities, those who are suffering are afraid they will never know where the bodies of their loved ones are located and, as such, may never be able to bury them in accordance to Afro-Colombian traditional burial practices.

4. Additional Concerns

- 4.1 Colombia has the second largest Afro-descendant population in Latin America (after Brazil). Although the national statistics agency in Colombia (DANE) insists that only 10.6% of the population self-identified as Afro-Colombian in its last census, the accuracy of the census methodology has been challenged by international and national non-governmental organizations, scholars, and activists working on Afro-Colombian issues that maintain that it is actually over 26% of Colombia's approximately 45 million people.
- 4.2 The Afro-Colombian civil rights movement has overcome immense obstacles to achieve full recognition of their political and social rights and economic reparations in the form of collective control of ancestral territories and resources. Colombia is undergoing the worst displacement crisis in the Western Hemisphere and ranks second only to the Sudan in terms of the number of internally displaced persons. Over 380,000 Colombians were violently displaced from their homes last year and women and children are disproportionately affected. A 2008 report entitled “Life in the Face of Adversity” by the Association of Internally Displaced Afro-Colombians (AFRODES), reveals that in the municipalities in Colombia with a significant Afro-Colombian population approximately 652,489 women were displaced.¹⁰
- 4.3 As of May 2009, the internal armed conflict in Colombia has produced over 3.1 million internal displaced persons according to government statistics and more than 4.6 million according to non-governmental figures. Generally, it is acknowledged that there is persistent under-registration of internally displaced persons by the government system. According to a 2008 report by the Observatory on Racial Discrimination at the University of the Andes in Colombia, Afro-Colombians have been found to be the principal victims of forced displacement in the country and are 84% more likely to be displaced than a Colombia who is “mestizo” (persons of mixed European [Spain] and Amerindian ancestry).¹¹ After verifying the data in Colombia’s sole displacement registry, the

¹⁰ See “Life in the Face of Adversity: The Human Rights Situation of Internally Displaced Afro Colombian Women (*Spanish language publication*),” Global Rights, April 2009, Pages 21-22.

<http://www.globalrights.org/site/PageServer?pagename=vidas_ante_la_adversidad>

¹¹ See Racial Discrimination and Human Rights in Colombia <<http://odr.uniandes.edu.co/pdfs/DerHechos/inglesinformeodr.pdf>>

Follow-up Commission for Forced Displacement Public Policy found in 2008 that 21.2% self-identified as Afro-Colombian. If one applies this to the approximate number of internally displaced persons in Colombia (4.6 million) you get an estimated 975,200 displaced Afro-Colombians.¹²

- 4.4 Upon examining the situation of internal displacement in Colombia in 2004, the Colombian Constitutional Court determined that the Colombian government was not taking sufficient steps to address the underlying structural problems that have led to a disproportionately high number of Afro-Colombians being internally displaced. The court issued a decree (T-025 de 2004) that confirmed the rights of internally displaced persons (IDPs) were constantly being violated and released a series of orders for different government entities to develop actions and design integral public policies to rectify the situation and provide compensation for victims. This included specific recommendations for targeted attention to ethnic groups and regarding the cultural damage incurred as a result of the loss of their territories. Furthermore, 80% of Afro-Colombian IDPs live in the poorest and most dangerous areas of the major cities, which only increases their vulnerability and marginalization and can lead to further displacements. Living in these urban centers also has an additional detrimental affect on their cultural and spiritual practices.
- 4.5 The Court found that nearly half of the entire Afro-Colombian population had been affected by internal displacement and confirmed the troubling sub-registration of Afro-Colombian IDPs in particular, who were not being included in the government's IDP database and, thus, not receiving state assistance. The decree specifies three main causes of the disproportionate amount of displacement suffered by the Afro-Colombians: i) a structural exclusion of Afro-Colombians which increases their vulnerability and marginalization, for example, 80% of Afro-Colombians do not have their basic needs met; ii) agricultural and mining megaprojects which operate illegally in their ancestral territory and lead to displacement; iii) the lack of adequate judicial and institutional protection for Afro-Colombians' collective territory which facilitates the presence of illegally armed actors in these lands.¹³
- 4.6 In 2007, the Colombian Constitutional Court found that the Colombian government had not advanced enough with regards to incorporating targeted measures into its policies to address the situation of displaced persons in the country. It reaffirmed that a differential focus was needed that duly values the particular necessities of the Afro-descendant displaced population and affirmed that the effective enjoyment and exercise of their collective and individual rights had been limited.¹⁴ As a result, the Court decision (Auto 005 of 2009) provided a detailed account of the particular causes of forced displacement and ordered actions for specific government entities to take to ensure differentiated policies would be implemented and rights to prior and informed consent would be guaranteed.
- 4.7 In the context of the increasing bio-fuel industry in Colombia, there are additional concerns about the contribution of oil palm production to forced displacement and

¹² Ibid, Page 20.

¹³ For additional information, see Annex 2, "WOLA-USOC Letter to USAID Re: African Oil Palm in Colombia," June 23, 2009.

¹⁴ Colombian Constitutional Court (Auto 005 of 2009).

murder in Afro-Colombian communities. In 2005, President Uribe announced an initiative to increase oil palm production from 750,000 acres to 15 million acres. The Colombian government plans to use the FTA to allow Colombian palm oil to enter the U.S. duty free and increase national profits.

- 4.8 Throughout the Americas, Colombia has become the largest palm oil producer is exporting approximately 35% of its product as fuel. In areas such as the department of Nariño in Colombia, oil palm plantations continue to spread through historically Afro-Colombian lands and the government has proposed that by 2020 seven million hectares will be used for export crops, including oil palms. In the 1960s, only about 18,000 hectares were planted with oil palm, yet by 2003 these palm plantations grew to 188,000 hectares—not counting fields planted but not yet producing. It is important to note that the majority of community councils, the highest administrative authority in Afro-Colombian collective territory, are completely opposed to large-scale monoculture crop cultivation due to its negative impact on the environment and food security.
- 4.9 At the core of the forced displacement issue lays a rampant disregard for community and individual rights concerning decision-making processes that affect their livelihoods. As a result of community pressure from Afro-Colombians and Indigenous Peoples, Colombia's constitution was rewritten in 1991 and upheld collective territorial rights. Law 70 (1993) stipulated that these communities need to be consulted via the “previous consultation mechanism” and give their approval prior to any new projects planned on their land. This law has not been enforced and Afro-Colombians continue to increasingly be forced off of their lands without compensation by fighting between paramilitaries, guerrillas and Colombian military forces. Communities have lost their autonomy with regards to the administration and control of their lands because of this displacement. Approximately 5.4 million titled acres of collective territory have been lost due to forced displacement.
- 4.10 A tangible example of this is the concession the Colombian government has granted to the foreign mining company *Anglo Gold Ashanti* to mine 50,000 hectare of land. This land is within territory that the Community Council of the People's Peasant Organization of Alto Atrato (COCOMOPOCA) had asked to be collectively titled. Consequently, the Colombian government rejected the request of the Council and the Ashanti company (along with its subsidiary Kedhada) plan to pursue mining exploitation in the Bolívar department and have submitted requests for concessions in the Northern Cauca region (6.5 mil hectares). The Colombian government has not implemented any kind of consultation process with the affected communities. It is also worth noting that the Anglo Gold Ashanti is categorized by the Permanent Peoples' Tribunal (PPT) as a multinational company known for supporting paramilitary groups in different parts of the world.¹⁵
- 4.11 In the Northern Cauca Department, the state institution responsible for granting mining concessions (Ingeominas) granted a license to exploit gold to foreigners in 413 hectares located in ancestral territories governed by the Community Council of La Toma (Suarez municipality). According to the Afro-Colombian non-governmental organization PCN (Black Communities Process), approximately 1,502 families are facing eviction. The

¹⁵ Per data provided by Community Council of the People's Peasant Organization of Alto Atrato (COCOMOPOCA).

concessions will have devastating effects on the traditional small scale Afro-Colombian miners and their families, which have inhabited these territories since 1636 and make a living primarily from small scale gold mining. The Community Council of La Toma consists of five villages: Yolombo, Gelima, Dos Aguas, El Ato and La Toma. 6500 of the 7000 hectares are asked in concession have by the Anglo Gold Ashanti company. Afro-Colombian leaders predict that, as the Community Council of La Toma faces displacement, other Afro-Colombian communities in the municipalities of Suarez, Buenos Aires and Santander de Quilichao are likely to become displaced in the future given that Ashanti and Consigo Resort (a subsidiary of Ashanti) are allegedly looking for permanent license to exploit the gold in these municipalities. Afro-Colombian leaders are concerned that this type of economic development, done without the proper consultation mechanism, will not benefit the local communities. Rather it will lead to displacement and leave hundreds of traditional Afro-Colombian artisan miner families with no means of sustaining themselves. This already happened in the 1980s with Afro-Colombian communities in the Chocó department.

- 4.12 The trade and foreign assistance policies of the United States must be rooted in ethical practices that do not exploit human lives and environmental resources. We must demand accountability for our own policies and practices that have consequences in Colombia, including violations to Condition F of the human rights conditions pertaining to the US military assistance to Colombia, which states that Colombian armed forces should distinguish between civilians and combatants in their operations and protect the territorial and property rights of Afro-Colombians and Indigenous Communities.
- 4.13 Efforts have increased to portray the FTA as beneficial to Afro-Colombian rights, over the protests of the Afro-Colombian grassroots, community councils and members of most of the communities. If the Colombian government is sincerely concerned with finding a sustainable, effective solution to raise the quality of life for Afro-descendants in the country, it should support the long-term developmental plan for Afro-Colombian, Raizal and Palenque Communities that has already been formulated with the leadership of Afro-Colombian community councils and leaders and should provide ample technical and financial resources for its swift implementation. Colombia has provided minimal to no funding for the actual execution of these development projects and land management plans.

5 Recommendations

5.1 Fair trade cannot happen in an environment where fundamental human rights continue to be blatantly undermined. In this light, we submit the following recommendations to the interagency Trade Policy Staff Committee (TPSC) regarding the U.S.-Colombia Free Trade Agreement and next steps:

- 5.1.1 USTR should revise and re-negotiate the Chapters found in the Free Trade Agreement that refer to investment, intellectual property and the environment. These must be revised so that they guarantee the previous consultation process and consultation with the affected communities and ethnic organizations in a free and informed manner that ensures that their fundamental rights and economic development interests are reflected in these revisions. In general, no project designated for Afro-Colombian collective

territories or ancestral lands should be implemented without a previous consultation process that is done in a free and informed manner and that is in accordance with the Colombian Constitution and national legislation.

- 5.1.2 The Colombian government must implement all previous accords it has made with the Afro-Colombian communities in relation to guaranteeing the regulation of Chapters IV, V y VII of Law 70 of 1993. These chapters relate to natural resources, mineral resources and development respectively.
- 5.1.3 The Colombian government must implement Colombian Constitutional Court Order 005 of 2009 that determines institutional responsibilities and mechanisms whereby: a) a differentiated policy towards Afro-descendant internally displaced persons is designed and implemented in consultation with Afro-Colombian IDP and grassroots groups; and, b) there is coordination with the community councils and ethnic organizations in plans designed to protect and to characterize the ancestral territories of the Afro-Colombians. FTA approval must be conditioned on the above. Also consideration of the FTA should not move forward until the internal displacement situation of Afro-Colombians is significantly improved and the large-scale illegal and violent usurpation of Afro-Colombian collective lands is resolved. Without this taking place, Afro-Colombians' economic development will remain stunted and they cannot assert autonomy with regards to matters concerning their development. These rights are found in Law 70 of 1993 of the Black Communities, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and other national and international regulations on the matter.
- 5.1.4 Afro-Colombian communities that have lost their territories due to violent and other illegal means, including fraud, must have their property and rights restored. They should also receive reparation and compensation for their economic, cultural and material losses. In order to do this effectively, the Colombian authorities need to work with the traditional Afro-Colombian authorities and organizations to define and implement mechanisms and conditions that allow for such restitution, reparation and compensation to take place.
- 5.1.5 The right to territory is an implicit condition of the identity and self-affirmation of Afro-Colombians. A revised commercial agreement, once it takes into account the guarantees recommended in 5.1, should only take place after the authorities fully title the collective territories of Afro-Colombians recognized by Law 70 of 1993 that are located outside of the Pacific region.
- 5.1.6 A revised FTA that includes the recommendations made in 5.1 and has met the approval of the traditional Afro-Colombian authorities and organizations should integrate the investment initiatives and other economic projects that are found in the Long Term Integral Development Plan for the Afro-Colombian, Raizal and Palenque populations. This plan should be fully funded and supported by the Colombian government and it should provide the technical assistance to Afro-Colombian communities necessary to implement it.

- 5.1.7 The Colombian government must establish non-military protection mechanisms that lead to a reduction in homicides, massacres and internal displacement of Afro-Colombian persons.
- 5.1.8 The FTA should also be conditioned on the complete revamping of the Colombian intelligence agencies, including the DAS. The U.S. must insist on accountability for the illegal operations undertaken by the DAS against Afro-Colombian communities and others in order to further economic interests. The Colombian authorities must be urged to put into place safeguards that guarantee that such illegal activity no longer takes place.

End Note: For more information on the forced displacement crisis and proposed solutions, see “Declaration and Recommendations of Humanitarian and Human Rights Advocacy Groups on the Forced Displacement Crisis in Colombia (July 2009)” [<http://www.wola.org/media/Colombia%20IDP%20Declaration%20-%20July%202009.pdf>]. For more information on Law 70 of 1993 and previous consultation mechanisms, see “Law 70 of Colombia (1993): In Recognition of the Right of Black Colombians to Collectively Own and Occupy their Ancestral Lands. (English Translation)” [http://www.benedict.edu/exec_admin/intnl_programs/other_files/bc-intnl_programs-law_70_of_colombia-english.pdf].

ANNEXES

APPENDIX I

List of Incidents Against Afro-Colombians Attributed to or Suspected to Have Been Committed by Re-grouped or Non-demobilized Paramilitaries in 2009¹

Murders

- January 26* -Three Afro-Colombian bodies were found floating in the river flowing out of the Guapi-Cauca municipality, Cauca Department. The bodies were later identified as fishermen from the settlement of Saija located in Timbiquí Municipality. The persons killed were Eliseo Castro, Wiston Hurtado Quintero and Richard Hurtado Quintero. Although there is insufficient information to know the motives of the crime it is worth noting that the area is a hot zone for all the armed groups (military, paramilitary, and guerrilla) and serves as a contested zone for the narcotics trade.
- April 10*- Ana Isabel Gomez Perez, President of Junta de Desplazados del Municipio de los Cordobas (Cordoba) and member of the Committee of Family Victims of Cordoba (Comfavic), was killed April 14, 2009. Ms. Isabel is originally from the Chocó.
- April 19*- Claudia Fernanda Ramos Camacho, an Afro-Colombian teacher in Rio Mira hired by CRIC, was killed on April 19, 2009.
- May 4th* - A typist from the Ministry of Education of Tumaco was murdered on her way to work. Unofficial estimates claim that in Tumaco in 2009 at least one person a day has been killed. This comes in spite of heavy policing and military operatives by the local and national government. Locals suspect that these authorities have been infiltrated by criminal groups and are thus ineffective.
- May 20*- Estrella Hinestrosa Robayo, leader of ASODESS and IDP women's advocate, was killed in Granada Meta, May 20, 2009.
- June 6* -Otavio Castaño, from the municipality of Guapi in Cauca, was disappeared. The morning of June 11th residents of the neighborhood discovered that Mr. Castaño had been murdered with a chainsaw when they found pieces of his body. The killing was allegedly committed by the paramilitary group “Los Rastrojos” who had previously extorted Mr. Castaño for money.
- August 28, 2009*- The Diocesis of Tumaco issues an action alert calling attention to the fact that in Tumaco, Nariño assassinations continue to take place on a daily basis. The Diocesis believes that the Medicina Legal figure that reports that 173 homicides took place between January and June 2009 is not an accurate figure. The Diocesis believes that other reports that have the number at 260 is more correct. The Church reports that in Tumaco there are fosas comunes (graves) located in the Rivers Chagui, Candelilla del Mar, la Guyacana and other areas near the Ecuadorian border. The paramilitary activity in Tumaco is believed to explain many of these deaths.
- September 4, 2009*- Continued paramilitary operations in the Afro-Colombian territories of Cacarica, Chocó Department, lead to the assassination by paramilitaries of a fishermen known as “Chemita.” He was killed in Tumaradó on the river Atrato despite the fact that this area is under the patrol of the 15th Brigade of the Colombian Army and the Uraba police.
- *September 8, 2009*- Benjamin Gomez, an Afro-Colombian inhabitant of the Caño

¹ Compiled by the Washington Office on Latin America.

Manso Humanitarian Zone in Curvaradó, Chocó Department, has died. His body, apparently bearing signs of violence, was found on August 28, 2009. In the days leading to his death, members of the community were repeatedly threatened with death and internal displacement by suspected paramilitaries. They note that the conflict has significantly deteriorated in the area and that these groups do not respect the lives of children, youths and women including those who are pregnant. The Church has received in the past two months reports of at least 9 deaths utilizing torture of youths including three girls.

-Mr. Gomez was a beneficiary of provisional measures of protection of the Organization of American States (OAS) Inter-American Court of Human Rights. His death follows the assassination of Ualberto Hoyos in October 2008, also in Caño Manso, where Mr. Hoyos was gunned down in front of witnesses. Mr. Hoyos had survived a previous assassination attempt in September 2007. These killings take place in the context of the population's attempt to return to the collective and ancestral Afro-Colombian territories from which they were forcibly displaced from 1997 onwards. Despite the Human Rights Ombudsman, the Colombian Institute for Rural Development (INCODER) and the Colombian Constitutional Court having issued repeated resolutions for the lands to be returned to their rightful owners, almost no land has been given back, enabling the unlawful occupants to consolidate their presence in the collective territory with each passing day.

-Palm oil companies and cattle ranching interests are widely alleged to have collaborated with paramilitary groups to usurp Afro-Colombian collective territories, and indeed 23 palm industrialists in Curvaradó are under investigation for the crimes of conspiracy to break the law, forced displacement, land usurpation, falsification of public documents and environmental crimes. Nonetheless, the investigation has stalled for over a year. As of today, no person has been convicted for the attempted assassination of Mr. Hoyos in 2007 or for his death in 2008. The case remains in impunity despite U.S. interest in the matter.

Harassment and Internal Displacement

-July 24- Clara Portilla, member of the Organization of Displaced Persons (OPD) from the Nariño Department received a written racist death threat from the Black Eagles paramilitary group. In this threat, the paramilitaries threaten to kill her if she does not leave town within 72 hours.

-August 6 - The Council of Black Communities of Western Nariño (COPDICONC) reported that in Sidón, Cumbitara Municipality (Nariño Department) experienced armed confrontations between the paramilitary groups Los Rastrojos and The Black Eagles. According to local press this led to the deaths of 42 paramilitaries belonging to these groups and an unknown number of civilian deaths and disappearances. COPDICONC notes that the Afro-Colombian community residing in this area is confined and unable to flee. There is concern that the New Generation paramilitaries, allies of the Black Eagles, who are currently operating near Sidón, will begin operations in Sidón that could lead to violations against the persons who are currently unable to flee. COPDICONC notes that

combat operations and activities of the various paramilitary groups in Cumbitara and Policarpa have led to the deaths of 84 persons in July 2 alone. COPDICONC is planning a special assembly whereby they will be sending an SOS to the international community asking that members of their community council receive refugee status in another country because the Colombian authorities have not taken action on their repeated calls to protect their lives.

August 28, 2009- The Diocesis of Tumaco states that there are reports of at least 50 forced disappearances in Tumaco. It also reported that at least 10 internal displacements had taken place in the coast of Nariño year. Over a thousand of these persons had fled to Tumaco.

Threats:

-Afro-Colombian partners in Buenaventura informed us on *March 10, 2009* that a paramilitary group was distributing pamphlets announcing that persons deemed undesirable by the paramilitaries (drug dealers, thieves, prostitutes, etc.) will be “socially cleansed.” We find this development to be particularly disturbing given the paramilitary demobilization process and recent efforts by the Colombian authorities to increase the presence of the military in this port city. Recent interviews done by WOLA in June with victims from Buenaventura indicated that the threat remains and that paramilitaries have taken actions (killings and disappearances) against persons, their family members are too afraid to report these violations to the authorities.

-On *March 13, 2009* Adom, Adacho, Asociación Orewa, Asociaciones Comunales, Codegeved, Comisión Nacional de Reparación, Cocomacia, Defensoría del Pueblo, Diócesis de Quibdó, Fedeutch, Foro Interétnico Solidaridad Chocó, Mujer y Vida, Oficina departamental de Paz, Personería de Quibdó, Red departamental de Mujeres Chocoanas. Ruta Pacifica de Mujeres and Unión Desplazada Del Chocó are asking that action is taken regarding pamphlets containing death threats against civil society organizations in Quibdó and Chocó. These organizations are concerned about the threat of death and harm that exists against them and others, as well as, the terror campaign that paramilitaries are orchestrating against the civilian population. They note that paramilitaries are threatening to individually and collectively kill, persecute massacre ethnic leaders in order to impose their economic, political and military projects in the region. They are especially concerned for the welfare of the large number of IDPs situated in Quibdó and their leaders since this population is very vulnerable to attack.

-In *April 2009*, Afro-Colombian IDP leaders Erlendy Cuero Bravo, delegate of AFRODES to the National Coordination Table on IDPs (CND) and Ricauter Angulo, Coordinator, National Municipal Table of IDPs in Cali, situated in Cali received pamphlets from the Black Eagles threatening them for their working in defending victims’ rights.

-Senator Piedad Cordoba, Afro-Colombian Senator threatened by the Black Eagles paramilitaries, in pamphlets distributed *May 2009*.

-On *May 29, 2009*, a strange man entered the office of the Municipal Association of Women (ASOM), an affiliate of the Black Communities Process (PCN) in La Balsa community, Buenos Aires Municipality in Cauca. The unknown man entered the office

and began to ask for well-known Afro-Colombian advocate Clemencia Carabalí. When he was informed that she was not in the office, the man told the other women in the office that “*she should watch out for her family and not involve herself in what does not pertain to her.*”

-The same threat was made to Liliana Sandoval of ASOM, once the man determined that she worked with Clemencia. Various Afro-Colombian women advocates from ASOM have received similar cellphone threats. In July 15th, an unknown man entered in Clemencia’s house apparently in an attempt to steal her computer, which was located in the last room at the far end of the house. The man passed through the house paying not attention to other electronic devices in the house. Clemencia’s brother prevented the man from taking the computer with him.

-On May 31st 2009 in Vigia del Fuerte, Antioquia, various threatening and accusatory pamphlets were distributed. These pamphlets falsely accuse and threaten the life of missionary Jose Nelly Mena, among others. The Dioceses of Quibdo urges local and national authorities to make a full investigation and punish the material and intellectual actors of this crime. Additionally, they ask for the proper mechanisms to ensure the safety of Jose Nelly Mena and other religious leaders.

-Hugo Rivera Aquiñonez is the legal representative for the IDP association “El Porvenir” in the municipality of Tumaco. On Sunday June 14th 2009, two unknown individuals were searching for Mr. Rivera with the intent of murdering him. Mr. Rivera was able to escape with the help of neighbors and family members.

-August 28, 2009- The Diocesis of Tumaco that at least 62 educators including various educational administrators have received death threats. Members of Afro-Colombian community councils and the internally displaced population are all under threat. This situation has lead many to flee their territories and seriously weakened the organizational processes of the Afro-Colombians. They are noting an increased in forced recruitment by illegal armed groups of minors and a growing presence of such groups throughout the neighborhoods and towns in the municipalities in Nariño.

Security Issues Concerning Members of AFRODES in Bogotá

-In recent months the Association of Internally Displaced Afro-Colombians (AFRODES) has received numerous threats and been subjected to strange and menacing persons coming to their office. It is recommended that Carlos Franco of the Vice President’s office meet with the core members of AFRODES to discuss their security situation and develop actions that can be taken to ensure their safety.

AFRODES played a key role in helping the Colombian Constitutional Court gather the information necessary to do its hearing on Afro-Colombian IDPs. This hearing led to the Order issued by the Court in January 2009 that orders the Colombian State to take actions to reverse the poor situation faced by Afro-Colombian IDPs. AFRODES also recently released a joint report with Global Rights on the situation of Afro-Colombian IDP women that provides useful information and recommendations for how the particular concerns of such women can be addressed.

Other Reports of Paramilitary Activity:

-The Noanamito Afro-Colombian community of Lopez de Micay (Cauca Department) reported in January 2009 an increase in paramilitary presence in their area and increased activities on the part of the “New Generation” paramilitaries. They fear that the increased presence of this group is going to lead to human rights abuses.



LLEGO LA HORA DE LA LIMPIEZA SOCIAL

AHORA LE TOCA EL TURNO A LAS MALPARIDAS PUTAS BASUQUERAS Y SIDOSAS, VENDEDORES DE DROGAS, LADRONES CALLEJEROS Y APARTAMENTEROS, JALADORES DE CARROS, SECUESTRADORES Y JOVENES CONSUMIDORES

YA LOS TENEMOS IDENTIFICADOS

Para el pueblo en general, Ustedes han notado una creciente de la violencia, robos o atracos, prostitucion y consumo de droga... etc. en los últimos tiempos, debido a todo esto nuestra organización ha tomado la irrevocable decisión de atacar la violencia con VIOLENCIA.

Ya no van a contagiar de SIDA a nadie más, solamente a los gusanos.

Tienen las horas contadas, todas las putas de los bares y cantinas y las malparidas prepagos.

Han contagiado a mucha gente de SIDA. Prepárense HIJUEPUTAS...!

Todo malparido que se encuentre en estos bares después de las 10:00 PM no responderemos si caen inocentes. Este más con su familia.

Jóvenes, no los queremos ver en las esquinas parchados drogándose, estamos en limpieza esto es serio. No consuma droga, estudie mas y esté con sus padres reciban sus consejos y los buenos ejemplos. Esto esta PODRIDO.

Vendedores de Drogas, últimamente se esta creciendo el negocio de hasta vender droga en las esquinas, ya no mas, métanse esa droga por el CULO ARRIBA, no mas

Ladronuelos, dejen trabajar a la sociedad. Pilas que están PILLADOS.... JUICIO O MUERTE; USTED LO DECIDE... YA TENEMOS UNA LISTA DE BARRIDO INICIAL.

La organización lo ha decidido así, esta limpieza se necesita.

Empezaremos muy pronto, le pedimos perdón a la sociedad si caen inocentes.
ESTO ES SOLO POR UNOS MESES

SEÑOR PADRE DE FAMILIA ESTE MAS CON SUS HIJOS, NO SEA UNO DE ELLOS LOS QUE CAIGA EN ESTA LIMPIEZA... DIALOGEN.

Ogdis.

Si Usted encuentra esta hoja, sáquele varias copias y repártalas a los amigos, vecinos, o a un familiar suyo que no caigan por no enterarse.

La organización no puede entregar esta hoja en cada casa, por eso pedimos su colaboración.



March 11, 2009

Barack Hussein Obama
President of the United States
White House
Washington, DC
United States of America

RE: A petition from Afro-Colombian Community Councils and grassroots organizations

Dear Honorable President Barack Obama:

The Afro-Colombian organizations in Colombia would like to congratulate you and wish you great success as President of the United States. As part of the global African Diaspora we are proud of your triumph and share it with you as a collective triumph for all those that struggle to institute democratic values, respect for the sovereignty of the people, and for the defense of human rights.

We would like to take this opportunity to briefly share with you the current state of Afro-Colombians and point out a few aspects of United State's policies towards Colombia. The U.S.-Colombian relationship is crucial to our Afro-Colombian communities and therefore we urge you to establish a direct channel of communication with our organizations. We believe that your government will be able to develop joint cooperative mechanisms for a policy that is more inclusive with Colombia. Likewise, we are confident that your government will be able to play a prominent role in the fight against racism and discrimination. Now that we are approaching the evaluation of the Durbin Process, we encourage your firm involvement in this process.

According to our estimations and public documents from the Colombian government, there are a total of 11 million Afro-Colombians. We live on the Caribbean and Pacific coastlines of Colombia; the valleys of Magdalena, Cauca, Patía and in the largest cities of the country such as Cali, Cartagena, Barranquilla, Medellín, and Bogotá. Apart from constituting a significant number, our participation in the public arena, in politics, and in the distribution of goods and services is minimal.

In 1991, the Colombian Constitution was amended to recognize the ethnic plurality of our country. The Afro-Colombian movement succeeded in achieving the adoption of the "Law for the Black Communities", also known as Law 70 of 1993. Between 1991 and 1993 these grassroots organizations worked to have many of our collective land rights recognized for our communities. The titles of our collective territory, consisting of 5,600,000 hectares were recognized, along with our Community Councils, the administrative authorities of our territories. The Afro-Colombian movement has grown within the past 15 years at the urban and rural levels. It has positioned itself within the national and international political and cultural arena forming solidarity networks. We are building on this foundation to achieve greater consolidation and solidarity, which are the

guarantees of a better future. Though we have seen progress within these endeavors, the systematic violation of our human rights and the hindered development of our economy, politics, society and culture, and the equal opportunity to participate in these arenas continue. The armed conflict along with our government's denial to acknowledge the plight of our lands and the historic exclusion and discrimination of our people has prevented the Afro-Colombian population from progressing. Unfortunately, this is the reality of our situation.

The armed conflict in our regions has caused massacres, disappearances, forced displacement, assassinations, bombardments, continuous armed combat, and the expropriation of our collective territories. These actions have created a humanitarian crisis equal to those taking place in Africa. Nearly half of our population is affected by internal displacement in one way or another. Out of the 4 million internally displaced persons in Colombia, 30 % of these are Afro-Colombian. The intensity in which these events are taking place is leading to our extinction. This situation leads us to believe that the Afro-Colombian Diaspora is experiencing an ethnocide. It is our understanding that the cause of this ethnocide is motivated by the simple reason that our communities live in territories rich in biodiversity. Potential economic gain is taken from us for political and geo-strategic purposes; as is the case in Buenaventura, the North of Cauca, Atrato, Magdalena, and Tumaco. We, the Afro-Colombian communities, join our nation in calling for a peaceful political negotiation to the armed conflict. We believe the U.S. government can play an important role in this process that goes beyond military and economic aid.

Our legislative advances include "Prior Consultation", a fundamental right for all Afro-Colombian and Indigenous persons, recognized by Convention 169 of the ILO, which requires the Colombian government to consult with these respective groups before passing laws that may endanger or affect their territorial and environmental rights. Despite this legislation, our national government continues to violate our legal right to prior consultation. Amongst the most recent and serious cases of these violations are extractive mining projects, port expansions, the exploitation of our coastline, the FTA, and the imposition of mono-cultivations such as palm oil or African palm in our territories. The majority of the Community Councils oppose these projects because of their impact on the territorial and cultural integrity of the Afro-Colombian territories. The palm oil projects are particularly problematic for the communities because of the links to paramilitary groups which are responsible for grave human rights violations in addition to violations to their collective territorial rights. Consequently, the U.S. financial support for these palm oil projects through the United States Agency for International Development (USAID), is an issue we hope to discuss with your government.

As grassroots communities, we are particularly concerned about the pending U.S. Colombia Free Trade Agreement which will not only affect our communities' labor force but will also create great disadvantages for rural Afro-Colombian communities as the agreement it is not designed to assist small businesses and farmers.

The investment regulations included in the FTA do not protect the Afro-Colombian communities but instead are solely created to protect the interest of foreign investment. Unjust competition within the agricultural sector will traumatically increase, affecting a majority of our agricultural production that is already suffering from the armed conflict, without any guarantee of developing an auto-sustainable and competitive production. The population is experiencing vast poverty (84 % of the population is considered poor), unemployment and lack of basic services that will further exclude the population from participating in the FTA design. Likewise, the agreement does not contain any provisions to improve roads for transportation, communication, commercialization, access to credit or technical assistance, politics, and land development. On the contrary, it provides mechanisms that will increase the economic, social and cultural crisis we live in and perpetrate the historical exclusion and discrimination that have marginalized us from our nation's progress. While Afro-Colombian organizations have formulated proposals for sustainable development projects that should be considered in our country's political economy, the Free Trade Agreement was formulated without considering any of these plans.

Furthermore, the path of the Free Trade Agreement is stained with the blood of Afro-Colombians, indigenous, unionist, community leaders, families, members of the Afro-Colombian Community Councils, professors, and defenders of human rights, all of whom have fought with dignity for a better life that guarantees the sustainability of our natural resources.

Within the framework of Plan Colombia, a policy that has been in effect since the Clinton administration, there have been fumigations of illicit cultivations with glyphosate, a chemical that has been banned from the United States. These fumigations have had a devastating impact on our territories. They have contaminated our potable water supplies, contributed to the degradation of our ecosystem, increased food insecurity, and have also generated the internal displacement of thousands of our brothers and sisters, to whom our government has yet to offer adequate assistance or appropriate reparations. Our communities have autonomous initiatives to manually eradicate coca from our territories, all of which have yet to receive any support from the government. The Colombian government has failed to follow through in cases where agreements have been made between the communities and the government. Our communities have held a radical position of zero tolerance for the presence of illicit cultivation in our collective territories; a position that has been paid for even with our lives. Our commitment is firm but we cannot do it alone.

You and your campaign team have succeeded in reviving the national and global collective conscience based on responsibility that can achieve positive change towards peace and wellbeing. You have emphasized the need to care for not only those close to us, those we love, but also those that are in need, because change is only possible through unity. We understand and share your message. Even though violence has submitted us to another forced migration (similar to that of the colonization of the Americas), with the same consequences such as pillage, social fragmentation, which is destroying our bonds, drowning our offerings, and closing the path we had cleared in the search for a better

tomorrow with wellbeing and dignity for our people. We have a responsibility to our history and ancestors whom were forced across the Atlantic and taught us through their daily struggles a message of dedication and solidarity, with a common objective of freedom. They shared your positive message of hope. You can count on us. Can we count on you?

Mr. President, the following points are of our utmost concern with regards to protecting our rights and of which we hope to discuss with your government:

1. The inclusion of Afro-Colombian issues in the bilateral agenda between Colombia and the United States.
2. The imposition of large scale national and international projects that were implemented without prior consultation with our communities and that were implemented through intimidation, internal displacement, assassinations, and the massacring of Afro-Colombians.
3. The current guidelines for the Free Trade Agreement and the politics on the ‘War on Drugs’.
4. Programs of cooperation, specifically those implemented through the United States Agency for International Development (USAID).
5. Intellectual property.
6. The violations against autonomous development and the right to prior consultation.
7. The forced internal displacement of Afro-Colombian communities and the loss of our collective territories.
8. The participation of the United States government in the political solution to the internal armed conflict and the strengthening of Colombia’s democracy and governance.

With the firmness inherited from our ancestors and with hope in your government, we await the opportunity to begin a dialogue that will bring about the progress of our people towards equality and dignity.

We respectfully ask that you respond or direct any questions to Charo Mina Rojas, Association for Internally Displaced Afro-Colombians USA (AFRODES USA) at (434) 760-0663 or saynotofta@renacientes.net.

Respectfully,

1. ACADESAN Consejo Comunitario General Del San Juan
2. ACONUR
3. Afrojuveniles Del Copey "COPE"
4. Afrolibertario
5. ANPAC. Asociación nacional De pescadores artesanales De Colombia
6. Asamblea De Los Resistente Charco - Nariño
7. Asociación Afrosanmartin Del Corregimiento De EL PERRO
8. Asociación Afro Juvenil De La Mata

9. Asociación Campesina Del San Juan "ACADESAN"
10. Asociación Comunidades De Cacarica (CADIVA)
11. Asociación De Comunidades Negras Campesinos y Pescadores "ASCOMPES"
12. Asociación De Comunidades Negras De Boquerón "ACONDEBO"
13. Asociación De Comunidades Negras De Chinela "Leoncio López Bello"
14. Asociación De Comunidades Negras De Costilla
15. Asociación De Comunidades Negras De El Paso "ASOCONEPÁ"
16. Asociación De Comunidades Negras De Guacoche "CARDONAL"
17. Asociación De Comunidades Negras De Guaimaral "Bienvenida Castrillo Cárdenas"
18. Asociación De Comunidades Negras De San Bernardo "SAHAYA"
19. Asociación De Comunidades Negras Las Palmitas "AFRO PAL"
20. Asociación De Consejos Comunitarios De López De Micay
21. Asociación De Consejos Comunitarios De Timbiquí
22. Asociación De Jóvenes Afrodescendientes De Tamalameque
23. Asociación De Jóvenes "Afroariguani"
24. Asociación De Jóvenes Afroguaymaraleros José David Socarras "VIRRO"
25. Asociación De Jóvenes Negros De San Bernardo "ASJONES"
26. Asociación De Mujeres Afrodescendientes Por La Vida Amav
27. Asociación De Mujeres Afrodescendientes y Del Caribe Graciela Chaines
28. Asociación De Mujeres Municipales De Buenos Aires
29. Asociación De Negros De La Mata "ASONEMA"
30. Asociación De Negros Jóvenes De Costilla "ASOJONECO"
31. Asociación De Negros Unidos Del Río Yurumanguí "APONURY"
32. Asociación De Negritudes De Sabana "ASONESA"
33. Asociación De Organizaciones De Comunidades Negras Del Cesar "KU - SUTO"
34. Asociación De Pescadores Artesanales "ANPAS"
35. Asociación De Pescadores De San Bernardo "ASPESAMBER"
36. Asociación De Productores Agropecuarios, Dulces Y Servicios Etno-Turísticos De Palenque (Asopraduse)
37. Asociación Fraternal De Comunidades Negras De Cajibío - Cauca - AFRANET
38. Asociación Juventud Afrodescendientes De Badillo
39. Asociación Juvenil BENKOS KU SUTO Cartagena
40. Asociación Juvenil KU SUTO Barranquilla
41. Asociación Juvenil KU SUTO Palenque
42. Asociación Kasimba-Cali
43. Asociación Municipal E Comunidades Negras "KIKE ÁVILA"
44. Asociación Para El Desarrollo Juvenil De La Costa Pacifica Juventud 500
45. Asociación Red De Juventudes Del Cesar "REDJUVENSAR"
46. Asociación Titanio - Cali
47. Asociación Zonas Humanitarias y Zonas Biodiversidad De Jiguamiandó, Consejo Comunitario
48. ASOMUTRAP. Asociación de la mujer trabajadora Del litoral Pacifico Buenaventura Valle
49. CEPAC Buenaventura Centro De Pastoral Afrocolombiana
50. Colectivo Local De Jóvenes De Buenaventura

51. Consejo Comunitario Alto Rio Iscuande
52. Consejo Comunitario Afrocolombiano De Guaymaral Marcelino Ochoa Almenarez "Catelo"
53. Consejo Comunitario Afrovenadense "Manuel Salvador Suárez Almenarez"
54. Consejo Comunitario Amansa Guapo
55. Consejo Comunitario De Amansaguapo – Bolívar
56. Consejo Comunitario De Aracataca – Magdalena
57. Consejo Comunitario De Arroyo De Piedra. – Cartagena
58. Consejo Comunitario De Badillo "José Prudencio Padilla"
59. Consejo Comunitario De Barú. – Bolívar
60. Consejo Comunitario De Bayunca. – Bolívar
61. Consejo Comunitario De El Perro Carlota Redondo De Álvarez
62. Consejo Comunitario De Guacamayal. – Magdalena
63. Consejo Comunitario De Guacoche "Los Cardinales"
64. Consejo Comunitario De Guacochito "Arcilla, Cardón Y Tuna"
65. Consejo Comunitario De Hatoviejo – Bolívar
66. Consejo Comunitario De Isla Del Rosario – Cartagena
67. Consejo Comunitario De La Haya. – Bolívar
68. Consejo Comunitario De La Plata Bahía Málaga
69. Consejo Comunitario De La Vereda La Gloria
70. Consejo Comunitario De Ladrilleros
71. Consejo Comunitario De Los Venados – Cesar
72. Consejo Comunitario De Luruaco – Atlántico
73. Consejo Comunitario De Orika – Cartagena
74. Consejo Comunitario De Palos Prieto
75. Consejo Comunitario De Pilamos
76. Consejo Comunitario De Pontezuela. – Cartagena
77. Consejo Comunitario De Repelón – Atlántico
78. Consejo Comunitario De Saco – Atlántico
79. Consejo Comunitario De San Cayetano. – San Juan Nepomuceno
80. Consejo Comunitario De Sevilla – Magdalena
81. Consejo Comunitario De Tucurinca – Magdalena.
82. Consejo Comunitario Del Alto y Medio Dagua
83. Consejo Comunitario Del Bajo Mira y Frontera
84. Consejo Comunitario Del Bajo Naya
85. Consejo Comunitario Del Río Cajambre
86. Consejo Comunitario Del Río Calima
87. Consejo Comunitario Del Río Mallorquín
88. Consejo Comunitario Del Río Raposo
89. Consejo Comunitario Del Río Yurumangui
90. Consejo Comunitario General Del San Juan
91. Consejo Comunitario La Alsacia
92. Consejo Comunitario La Toma
93. Consejo Comunitario Mayor Del Patia Grande Sus Brazos y La Ensenada De Tumaco ACAPA
94. Consejo Comunitario Ma Kankamaná De San Basilio De Palenque – Bolívar

95. Consejo Comunitario Mayor Del Río Anchicayá
96. Consejo Comunitario Pasa Caballo
97. Consejo Comunitario Rescate De Nuestros Ancestros Del Río Mejicano
98. Consejo Comunitario Unicosta parte Baja
99. Consejo Comunitario Unión Del Río Changüí
100. Consejo De Mujeres De Buenaventura
101. Corporación Centro De Pastoral Afrocolombiana - CEPAC
102. Corporación Ancestro
103. Corporación Palenque Siglo XXI
104. Empresa Comunitaria Brisas De Agua Blanca.
105. Funda Mojarra Del San Juan
106. Fundación Para El Desarrollo De Las Comunidades Negras "FUNDECOMUNEG"
107. FUNDEMUJER
108. Grupo De Jóvenes De Suárez (ASNAZU)
109. JUBCA Jóvenes Unidos por el Bienestar De Calima
110. JUNTA DE ACCION COMUNAL Barrio el firme parte baja
111. Juventud Simañera Afrodescendiente "JUSIAFRO"
112. Kussuto – Pasacaballo
113. KU MAJANÁ
114. KU - M'GENDE
115. MINGA Por Buenaventura
116. Mina Vieja
117. Oncaproteca
118. Organichar
119. Organización Afrosierra "Bartola Herrera"
120. Organización Afrojuvenil En Busca De Un Buen Futuro
121. Organización Afrosierra "INÉS MEJÍA"
122. Organización Afrojuvenil "Jorge Eliécer Gaitán"
123. Organización De Comunidades Afrodescendientes Del Copey "COPE"
124. Organización De Comunidades Negras "AFROAURORA"
125. Organización De Comunidades Negras De Los Brasiles "SAN MARTIN"
126. Organización De Comunidades Negras De El Paso De Los Adelantados
127. Organización De Comunidades Negras De Camperucho "Ramona Almenarez"
128. Organización De Comunidades Negras "Juan González Mena"
129. Organización De Comunidades Negras "Loma De Calenturas"
130. Organización De Comunidades Negras "Sabanas Del Vallito"
131. Organización De Jóvenes Afrodescendientes "Lomeros En Acción"
132. Organización De Juventudes Afrovenadenses "Yendi Yen Rodríguez"
133. Organización Juvenil De Comunidades Negras "Boca De La Miel Del Vallito"
134. Organización Juvenil De Comunidades Negras De La Aurora "Unidos Por Una Misma Causa"
135. Organización Juvenil De Comunidades Negras "Reimundo Pallares"
136. Organización Sinecio Mina - Puerto Tejada Cauca
137. Palenque Del Alto Cauca
138. Palenque KUSSUTO

- 139. Palenque Regional El Congal
- 140. Pastoral Afrocolombiana
- 141. Proceso De Comunidades Negras - PCN
- 142. Red De Consejos Comunitarios Del Caribe

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Bogotá, D. C., Colombia

CIMARRON**MOVIMIENTO NACIONAL POR LOS DERECHOS HUMANOS****DE LAS COMUNIDADES AFROCOLOMBIANAS**

Personería Jurídica N° 0619 de Nov. de 1987

Reg. C.C. S0006355 – NIT 800.198.802-2

Letter on the Afro-Colombian Situation

Bogota, December 1 2008

Dear Mr. Barack Obama, President-elect of the United States:

The Board of Directors of the Afro-Colombian National Movement CIMARRON takes this opportunity to express to you our kindest regards and congratulate you on your historic victory in the presidential election. CIMARRON is the Afro-Colombian National Association that promotes the autonomous organization, social development and education of the Afro-Colombian communities, seeking the true exercise of their human rights and the elimination of racist practices that have historically affected the nation. CIMARRON, Winner of the International Human Rights Award of the French Republic in 1997, has 48 offices and coordinates the National Union of Afro-Colombian Non-Governmental Organizations. CIMARRON also supports the Afro-Colombian Women's National Network, and it is associated with the Afro-American Organizations Network and other human rights networks and non-governmental organizations in Latin America and the U.S.

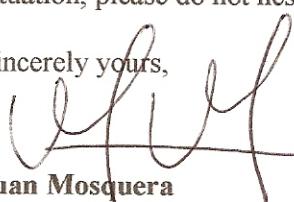
CIMARRON wants to bring to your attention that the current Colombian government has not acknowledged the dramatic situation of Afro-Colombian rights. Most Afro-Colombians live in extreme poverty, without equitable access to education, health, employment and social services. Moreover, the main direct victims of the internal armed conflict that affects Colombia are people of African origin and indigenous persons who live in the regions most affected by the war.

It should be underlined that both the Uribe administration and the Colombian private sector have deliberately ignored the rights of Afro-Colombians in the Free Trade Agreement (FTA) negotiation process and related activities. Neither CIMARRON nor any other Afro-Colombian non-governmental organization has received a concrete answer from the Colombian government as regards to the opportunities and threats that the FTA would bring to Afro-Colombians.

Based on the aforementioned reasons, CIMARRON encourages you to postpone the FTA with Colombia. CIMARRON believes that both the Uribe government and the private sector should revise their positions in order to implement effective measures that prevent the negative effect that an FTA of this kind would have not only on Afro-Colombians but also on indigenous people, peasants and poor workers. These measures should include affirmative action programs to eradicate racism-related abuses, as well as public policies to promote opportunities for Afro-Colombians to be equitably included in all aspects of national life.

Thanks in advance for your attention. If your advisors want to have more information on the Afro-Colombian situation, please do not hesitate to contact us directly and/or visit our website www.cimarronracismo.org

Sincerely yours,



Juan Mosquera
Executive Director
Bogota



Leonardo Reales
Coordinator
New York