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Dialogue between Alliance Sud and Nestlé The case of Colombia

For five years, Alliance Sud and Nestlé have been engaged in a high-level dialogue which is innovative in more than one respect. Alliance Sud has led two fact-finding missions into Nestlé's operations in Colombia. These have produced concrete improvements, although the basic conflict between the multinational and trade unions remains. This dossier presents a summary of the main outcomes of the dialogue. Nestlé has taken the report into consideration and accepted most of its recommendations.

In late October 2005, watchdog organisation Multiwatch – with which Alliance Sud is affiliated – put Nestlé “on trial” in Berne. The multinational tried unsuccessfully to impede the event. Its interventions resulted in a dialogue with Alliance Sud which started in spring 2006 under the seal of confidentiality. The parties decided to examine the case of Colombia. Alliance Sud carried out an initial fact-finding mission, at its own expense, in April 2008. It discovered a complex situation where the legacy of the past weighed heavily on relations between Nestlé and its main Colombian trade union, Sinaltrainal. Its findings drew a conflicting picture of Nestlé, with both good and bad aspects. The organisation drew up a list of around 40 proposed remedial measures, of which a little over half were accepted by the multinational.

In June 2010, Alliance Sud made a follow-up trip to Colombia. Although certain problems remain, Nestlé seems more open and has implemented most of the recommendations. This positive development was recognised by most interlocutors, with the exception of Sinaltrainal. A fundamental atmosphere of distrust exists between Nestlé and the union, leading to almost unmanageable confrontations. Alliance Sud, which is drawing up a fresh set of recommendations, believes that mediation is essential. Nestlé Colombia must also show how it intends to combine ambitious economic targets with greater social and community responsibility.

This is the first time that Nestlé has engaged in such an in-depth dialogue with an NGO. The dialogue has resulted in real improvements on the ground and a change in attitude on Nestlé's part. It has also enabled the development of an innovative approach and has shed light on the cultural and psychological aspects of the conflict between a multinational and a trade union.

Michel Egger, Alliance Sud

The origin of the dialog

On 29 and 30 October 2005, the NGO (Non-Governmental Organisation) platform Multiwatch organised a kind of “trial” in Berne on the “Nestlé case”, with which Alliance Sud and a number of its constituent members were associated. Nestlé responded negatively to this event and tried to impede it, in particular by contacting the heads of two of Alliance Sud’s constituent members, the Swiss Catholic Lenten Fund and Caritas; with the latter it had collaborative links. The NGOs did not enter into discussion, but Caritas said that it would be interested in a dialogue between Nestlé and Alliance Sud. The multinational agreed to such a suggestion in principle.

Alliance Sud enters into dialogue with Nestlé

A process was initiated under conditions of confidentiality, an essential precondition to establish a basis of trust, to ensure open information from Nestlé and to prevent exploitation of the dialogue by the multinational for PR purposes or use of information by the NGOs for campaign purposes. It was decided that the dialogue should not be limited to fairly abstract discussions of the company’s social and environmental responsibilities, but should deal with a specific case. The case chosen was that of Colombia, a country that has become symbolic on account of the complexity of the problems there, the acuteness of the dispute with the trade unions and the particularly difficult and challenging situation that, according to Nestlé, “requires foreign business to be constantly at the leading edge and to develop very high standards in terms of working relations, and social and environmental commitments”. Peter Brabeck-Letmathe, who was still Nestlé’s CEO at the time, invited Alliance Sud to go to Colombia to help them form an impression.

Nestlé in Colombia

Nestlé is a company of major significance in Colombia. It set up there in 1944 and has several factories in various areas of the country: Bugalagrande (food products, milk products, coffee and beverages), Dosquebradas (chocolate, biscuits, sugar), Florencia (milk precondensation), Mosquera (pet food) and Valledupar, in association with the company DPA (milk products). Founded in January 2003 and with a presence in several countries in Latin America, DPA (Dairy Partners of America) is a joint venture between Nestlé and the New Zealand cooperative Fonterra. In March 2004, it acquired the assets of Cicolac Ltd (including the factory in Valledupar) – which until then had belonged entirely to Nestlé – and relaunched production of powdered milk in Colombia.

Nestlé enjoys a certain prestige in Colombia thanks to its long-standing presence, its economic stature and its well known products. 90% of what it sells is produced locally and just 13% of what it manufactures is exported to other markets. 80% of the raw materials that it uses come from the country. It has around 9000 suppliers and works with more than 2500 farmers. It is the biggest coffee buyer in Colombia (13% of national production) and the fifth biggest milk buyer. It directly employs 2500 permanent and temporary staff and indirectly employs around 1800 (sub-contractors). Its products can be found in two thirds of shops and 99% of households in the country.

Two missions therefore took place to Colombia in April 2008 and June 2010, at Alliance Sud’s own expense. The aim of the first was to gain an overall and differentiated view of Nestlé’s activities and

policy in Colombia, as well as of their effects on the country's development, peace, human and trade union rights. The second mission was to verify and assess implementation of the recommendations made by Alliance Sud and agreed to by Nestlé. The two missions were led by an Alliance Sud delegation made up of the directors of the Swiss Catholic Lenten Fund, Caritas and Bread for all, the Alliance Sud case leader and representatives of the Swiss embassy in Bogota. Two representatives of specialised NGOs (Switzerland-Colombia Working Group, Swiss Program for the Peace Promotion in Colombia - SUIPPCOL) took part in the first mission. On each occasion, over the course of a week, the delegation had the opportunity to visit several production sites (Bugalagrande, Florencia, DPA in Valledupar), and talk to Nestlé management in Bogota, as well as trade union representatives and numerous other players from government, local authorities, the political arena, churches, farmers' groups and civil society organisations.

These missions gave rise to substantial reports that have been discussed at high-level meetings bringing together directors of Alliance Sud and a number of its constituent members as well as, from Nestlé's side, managers from Zone Americas, the region to which Colombia belongs, and the public relations and communications departments. These reports did not set out to establish THE truth, but to give an account of what the Alliance Sud delegation was able to gather, bearing in mind that they did not have the means to verify or clearly establish everything, and that they were faced with sometimes very polarised and contradictory information provided by the various parties. Alliance Sud's role was not to judge or act as arbitrators, but to listen, question, understand and critically analyse Nestlé's activities and policies as well as statements from all players, in order, in the end, to draw up recommendations aimed at correcting problems identified. Members of the delegation sought to be as intellectually honest and impartial as possible, while being engaged observers. The two missions benefited from the openness and cooperation of Nestlé, of the trade unions and of all other interlocutors. The presence, as requested by Nestlé, of a representative from the Swiss embassy gave the delegation and its work a significant degree of trustworthiness and credibility.

The ultimate aim of the process, for Alliance Sud, was to help generate greater respect for human and trade union rights on the part of Nestlé, improve living and working conditions for the multinational's employees and suppliers, support community development and resolve particular problems. It quickly became apparent that such progress would require, in particular, a transformation in relations between Nestlé and Sinaltrainal, the trade union with the most members in Nestlé Colombia factories. Confrontational relationships between a company and the trade unions are completely normal. However, in the case of Nestlé and Sinaltrainal, they have become so acute that they are almost unmanageable and counter-productive for both sides, as well as for employees and communities.

Colombia: a difficult and complicated situation

Companies and trade unions do not operate in a vacuum but in a particular context that will to a greater or lesser degree determine the way they are, the way they act and the relationships that they have. The context in Colombia is particularly complicated and difficult. The two missions in 2008 and 2010 identified several factors and essential points that have a direct impact on Nestlé and the trade unions, their "culture", "psychology", behaviour and interactions.

From an economic point of view, since the 1990s, Colombia has opted for a policy of accelerated integration into the global market, in particular through liberalisation of trade and promotion of foreign

investments, which have so far failed to have any significant benefit for the poor (60% of the population) but have led to ever greater social inequalities. One of the results of this policy has been the arrival of many new multinationals and an intensification of their presence, especially in the mining industry, agricultural plantations and strategic zones, sometimes – as was proven to be so in the case of Chiquita – with paramilitary complicity. The State has reduced its role to simply setting out framework conditions, without any real capacity or willingness to regulate the private sector. On the contrary, it has promoted deregulation and greater flexibility in labour relations, has weakened workers' rights (Act 50 of 1990, for example, which authorises dismissals "without just cause") and has furthered precarity in employment conditions (growing use of temporary workers and subcontracting, etc.). Changes such as these have caused tremendous suffering to the labour market and the trade unions.

The result has also been a climate of increased competition from which Nestlé – with a presence in Colombia for 67 years – has not escaped, in particular in relation to local businesses such as NalCho and Quala. According to its own data, Nestlé Colombia produces lower results than the Group average. Its managers complain about a structural loss of competitiveness related in particular to costs per employee (salaries and social benefits) that are higher than the market average – between 34% and 70%, depending on the factory. Added to this are economic phenomena such as the sharp fall in 2009 in sales of powdered milk due to overproduction of milk and Venezuela's embargo on products from Colombia, resulting in certain Nestlé factories operating at just 30 or 50% capacity.

From a political point of view, the eight years of Alvaro Uribe Vélez's presidency led to a marginalisation of civil society and opposition parties. All groups opposing the government were considered potential enemies, and sometimes even allies of "terrorists". This was especially the case in relation to human-rights campaigners and trade unions. Alvaro Uribe Vélez's presidency was characterised by an very strong anti-trade union policy. According to the International Confederation of Free Trade Unions (ICFTU), even though the number of trade unionists killed each year fell from 205 in 2001 to 48 in 2009, Colombia is still the most dangerous country in the world for trade unions and the worst in terms of violations of trade union rights. In spite of a strengthening of judicial structures and investigative services in recent years, the number of solved assassinations remains very low and impunity rates extremely high.

Thus, 13 employees and ex-employees of Nestlé, most of them Sinaltrainal trade union leaders, have been assassinated since 1986. The most recent was Gustavo Gomez, Nestlé employee and Sinaltrainal member, killed on 21 August 2009 in Dosquebradas. Investigations were carried out and are still ongoing, but the perpetrators of these crimes have still not been identified or their motives established. The one exception is the case of Luciano Romero, assassinated in September 2005 by three paramilitaries, who have been found guilty of the crime; however, given the lack of clarity, not in the verdict, but in the judge's remarks (without legal scope) on the possible involvement of Nestlé managers, Sinaltrainal consider the case still open. The trade union is, on the whole, convinced that Nestlé is responsible, at least indirectly, for the assassinations of trade unionists and the acts of violence against them. It does not hold back from making these kinds of accusations public. Nestlé has repeatedly refuted these allegations, which it considers unjustified and deeply injurious. The Alliance Sud delegation did not collect any information attesting to complicity between Nestlé and the paramilitaries in relation to the assassinations and threats of which some employees who are members of Sinaltrainal have been victim.

It remains to be seen whether the replacement of Uribe as head of State by former defence minister Juan Manuel Santos and the nomination of Angelino Garzon – former trade unionist and Colombian ambassador to the International Labour Organisation (ILO) – to the vice-presidency will lead to an improvement in the situation, both in terms of the anti-trade union violence and the fight against impunity.

As far as security is concerned, with significant sums invested by the Uribe government having led to the country's strong militarisation, security levels have improved for the man in the street and for investors. However, it varies enormously from one region to another. Nestlé Colombia and its trade unions have not been spared by the violence of the last two years from paramilitaries and the Revolutionary Armed Forces of Colombia (FARC). The assassination of Gustavo Gomez, attempted homicides, acts of violence and various threats against trade union leaders, and also Nestlé managers and employees, have led from time to time to a strong sense of insecurity. Having said that, in Caqueta, the milk-producing region where Nestlé is the only company of significance and where the governor, Luis Cuellar, was killed before Christmas 2009, pressure on Nestlé from FARC has considerably reduced since the attacks in 2007 and 2008 against the Florencia factory, a transporter and milk refrigeration centres. That is why the company plans to gradually recommence milk collection in northern districts, which had been cut by half since 2008. On the other hand, the increased presence of FARC in Valle del Cauca and the threats against Nestlé have led to a resurgence in tension and, for example, a military presence around the Bugalagrande factory during the collective bargaining in May 2009.

From a psycho-sociological point of view, one key factor is the *weight of the past*. The country has been structurally scarred by 150 years of violence and civil war, a constellation of conflicts (in part armed) that have translated in particular into serious violations of human rights, a general climate of social mistrust and an absence of a culture of dialogue. If the past weighs heavily, it does so all the more because people are often unaware of it. It is not sufficiently taken into account and is exploited by the various players. This lack of historical memory leads to constant repetition of conflicts and their causes. This situation, which is deeply rooted in individual psyches and in the collective unconscious, has a direct impact on Nestlé and Sinaltrainal, in part determining their highly confrontational relationship. As the two missions established, there exists between Nestlé and Sinaltrainal – to borrow an expression used by one interviewee – an accumulation of “bitter and painful memory”. A memory built up of frustrations, hurt, and personal and collective traumas, such as the liquidation of the Cicolac factory (Valledupar) in 2003, allowing it to be taken over by DPA, a process that led *de facto* to the almost complete obliteration of the local branch of Sinaltrainal. The weight of the past is, of course, intensified even further by the climate of threats and violence – sometimes deadly – against trade unionists and also members of the company's management.

2008 mission: positives and negatives at Nestlé

During its mission in 2008, the Alliance Sud delegation identified several positive points, but also some problematic aspects of Nestlé's policy and activities in Colombia.

Positive points

Nestlé has invested significantly in Colombia, and continues to do so (CHF 30 million in 2008 and 2009) at all levels – factories, production processes, suppliers – and in many areas: staff training, occupational health, water consumption, waste-water treatment, recycling of waste and rural development. In Caquetá, for example, through its Dairy Development Plan, launched in 1974 and, more recently, its “silvopastoreo” programme, it has helped transform farming structures to make milk production more efficient, environmentally friendly and of better quality by offering technology transfers, micro-credits, advice, etc.

In terms of *social and environmental responsibility*, Nestlé says that it ensures that it complies meticulously with local laws. It has set in train several programmes aimed at better establishing its Corporate Business Principles and the standards of the UN Global Compact (of which it is a member) into its management system, practices and among employees. It endeavours, in particular, to implement its “creating shared value” concept, an approach based on a three-tier pyramid: compliance (respect for the law and internal principles); sustainable development; creating shared value by reducing poverty, improving health and *empowering* citizens.

Nestlé products are generally appreciated by consumers for their quality, but are considered rather expensive. Since 2002, Sinaltrainal has repeatedly attacked Nestlé for contamination problems, product-expiry issues, incorrect repackaging and misleading labelling. However, given the high standards developed by Nestlé with respect to safety and quality control, it is difficult to conclude that there is a deliberate policy to boost profits at the expense of the safety and health of the consumer. These irregularities seem to be mainly cases of accidents and one-off problems.

In terms of *working conditions*, Nestlé offers salaries 2.5 to 3.5 times higher than the legal minimum wage, as well as numerous social benefits including educational support for the children of employees, supplementary health programmes and preferential mortgage loans that have enabled 97% of La Rosa employees (Dosquebradas) and 77% of Bugalagrande employees with more than three years' permanent employment to become homeowners. It has implemented a huge programme to improve health and safety at work (ergonomics, working to reduce accidents).

Nestlé deplores the anti-trade union culture in Colombia and believes in a gradual improvement in the situation, which, it is convinced, can largely be accounted for by historical factors. It refutes the accusations made by Sinaltrainal that it has a “hostile policy towards trade unions”. At 65%, unionisation at Nestlé is considerably higher than the national average of 4.6%. The company has granted trade unions significant collective annual benefits in terms of paid leave (permanent and temporary), travel allowances, plane tickets and various other forms of financial aid. Some 25 hours a week at each factory can be used for trade union activities.

In relation to *security*, Nestlé is heavily involved in the Ideas para la Paz Foundation initiative which, together with the government, other businesses and international and local NGOs, has drawn up voluntary principles on security and human rights and launched an implementation pilot project. The aim of this initiative – which is supported by the Swiss embassy in Bogota – is to encourage

businesses to put human rights at the heart of their activities, to conduct impact assessments, and to carry out projects focused on human rights. Nestlé takes the safety of its employees seriously. It cooperates with the authorities and with the trade unions to reduce risks and to respond appropriately to threats by: alerting the authorities at the highest level; communicating with victims, families, trade unions and those working in the factories; providing additional support for those threatened (body guards, armoured cars, paid leave, temporary re-housing, plane tickets), etc. Nestlé has strengthened its selection and hiring procedures for its security staff and those from private companies that it engages.

Problematic points

These various instruments and practices in relation to social and environmental responsibility do not mean that Nestlé Colombia is “perfect”, as former president, Felipe Silva, recognises: “For us this is a learning process and we are still far from the summit of the ‘creating shared value’ pyramid.” There is sometimes a big difference in practice between the way Nestlé perceives itself and the way it is perceived from the outside: while the company may not be as bad as Sinaltrainal maintains, it is certainly not as good as it claims, or used to claim, to be.

During its *2008 mission*, the Alliance Sud delegation identified several problematic points:

- *Corporate culture*: while Nestlé is mindful of the wellbeing of its staff and its good relations with various stakeholders, its approach often remains technocratic, penny-pinching and focused on turning a profit. It has developed a whole range of indicators (sometimes sophisticated) for measuring the company’s financial, environmental and social performance. However, the dominant impression is that instruments are more important than human beings. In particular, managers at local level lack the tools, the sensitivity and the training necessary to interact and communicate appropriately with the community and other players. This is particularly the case at DPA in Valledupar.
- *Dealing with the past and conflict sensitivity*: the situation in Colombia requires that all players take on board the full extent of its complexity, incorporate all its aspects – including psycho-sociological – in strategic decision-making and actions, and constantly adapt as the situation develops. However, Nestlé lacks a historical memory. Its awareness of the weight of the past and of the unspoken – in particular in its relations with Sinaltrainal – is still weak and full of gaps. The same is true of its sensitivity to conflict, which does not seem to extend much further than a statement of a rather vague principle of “neutrality”. Its understanding of conflict is limited. Nestlé does not seem to have any real method to assess and analyse not only the risks caused by its actions and expressions, but also the possibilities of contributing proactively to peace.
- *Trade union policy*: the high level of unionisation in its factories does not mean that Nestlé cannot be faulted with respect to trade union rights. According to Sinaltrainal, Nestlé attempted to obstruct its creation in 1982 – by preventing its official registration – and has ever since been trying to undermine the trade union and put a spanner in its works. Sinaltrainal members and some workers complain of forms of psychological pressure designed to dissuade new employees from joining the trade union, obstacles put in the way of trade union work, such as the difficulty of gaining access to production areas, use of repressive sackings linked more or less directly to union activities, and an unwillingness to enter into dialogue.
- *Security and human rights*: overall, the approach to “security” remains too narrow. Two points in particular raise questions. Firstly, until the spring of 2008, Nestlé had never condemned in the media

the attacks and threats made against trade unionists, nor had it distanced itself publicly from their perpetrators. Secondly, in spite of real efforts, the measures adopted in relation to the profiles, backgrounds, motivations and human rights training of employees of private security firms are still inadequate.

- *Employment conditions:* The delegation identified several factors that have in part led to greater instability in employment conditions. The introduction of different salary structures (30% difference) for employees hired before and after 2004 violates the basic principle of fairness – “equal pay for equal work” – and represents a source of frustration and tension among employees. Even if the new salaries are still higher than the average for the sector, they scarcely (not taking into account social benefits) exceed the living wage, as defined by the Colombian Department of Statistics, to cover the basic needs of a family of four. According to the trade unions, this level of pay forces numerous DPA employees to take a second job in order to make ends meet. Temporary workers constitute another major source of friction between Nestlé and the trade union. Between 2005 and April 2008, the proportion of temporary workers in Bugalagrande rose from 20% to 25%; in Valledupar, it is even higher (35%) and exceeds the upper limit of 31% set by Nestlé as a condition for ensuring employment stability in the collective agreement at the Dos Quebradas factory. Finally, in recent years, Nestlé Colombia has contracted out a large number of its activities to third-party companies where, according to the trade unions, employment conditions are very bad.

- *Relations with producers:* while farmers appreciate the fact that Nestlé offers a stable market and immediate payment – a source of security – some complain of inadequate prices, even if higher than the market, a lack of transparency in remuneration policies, a reduction in the services offered in the way of agro-veterinary advice, and discrimination between large and small milk producers.

- *Community relations:* in spite of its numerous social programmes, Nestlé has been described as a “capsule” in relation to communities. Firstly, Nestlé’s relations with communities have for a long time been considered secondary to its “core business”. And secondly, managing the constant tensions with Sinaltrainal – which considers itself the legitimate representative of the community and therefore the essential intermediary between it and the company – has required a lot of energy, putting at risk attention paid to communities. Consequently, there is no regular, in-depth dialogue to speak of with the various stakeholders in the areas where the company exists. Authorities complain of inadequate or reduced involvement in the development of their region: weak attachment to the area, a lack of training and recruitment for young people in Bugalagrande, and a lack of large-scale social projects in Valledupar. They expect Nestlé to provide greater clarity and consistency in its policies and communication, as well as a more wide-scale and systematic approach – capable of having a structural impact – in its community programmes.

2010 mission: evaluation of the implementation of the Alliance Sud recommendations

At the conclusion of its 2008 report, Alliance Sud set out some forty recommendations aimed at correcting these various problem areas. They were the topic of high-level discussions with Nestlé. The multinational accepted just over half of the recommendations, of which several important ones. For various fundamental reasons and reasons relating to difficulty of implementation, it also rejected others such as the creation of the position of an ombudsman for human rights in Vevey and/or a mediator in Colombia, discussion with Sinaltrainal about political topics (other than those relating to labour rights and working conditions), limiting the number of temporary workers, giving consideration to a living wage rather than the statutory minimum wage as the basis for calculating staff remuneration, and training staff on conflict sensitivity.

In June 2010, Alliance Sud carried out a new mission in Colombia to verify the measures taken by Nestlé as a follow-up to these recommendations, and to assess any changes to the situation. One of the key elements of the type of process initiated in Colombia being continuity, the mission was surprised by the major changes to the management team since 2008. Although the new team members showed interest and motivation, there is still some way to go before all the local managers become fully engaged in the ongoing dynamics and possess an in-depth understanding of the issues. In addition, there is not the same level of awareness and implementation at the various production sites. The difference in corporate culture between Nestlé and DPA is still obvious.

Generally speaking, Alliance Sud, like most of the participants, including the NGOs, noticed the positive developments made by Nestlé Colombia over the last two years. The company seemed more open and able to question itself. It tries to establish avenues for more positive and constructive relations with the unions and the communities. Nestlé itself admits that it has been impacted by the dialogue process.

More specifically, Nestlé Colombia has taken the recommendations made by Alliance Sud seriously. It has implemented them in a systematic manner. The following actions taken are noteworthy:

- *Trade union policy:* almost 80% of the new permanent employees belonged to a union. Nestlé has developed and formalised opportunities for periodic dialogue with the unions. It has facilitated access to the plants. It has launched several initiatives for training employees on human rights and labour law and training managers on how to better interact with the unions. It has granted more space and rights to minority unions and, on an experimental basis in one factory (Dos Quebradas), has allowed Sinaltrainal to make presentations on union rights and collective agreements during introductory sessions for new employees. In February 2009, for the first time in its history, Nestlé welcomed a Sinaltrainal leader, who was in Switzerland for a short stay, for a courtesy visit to Vevey. On the whole, the four rounds of collective bargaining with Sinaltrainal from 2008 to 2010 went well. The one in Bugalagrande, for example, was completed in five weeks, half the time taken in 2006; unlike previous rounds, it was peaceful and without any damaging acts. At Valledupar, in 2009, Sinaltrainal, which trumped its competitor Sinaltrainbec, was very satisfied with the result.
- *Security and human rights:* Nestlé has reinforced the procedures for good practices in the matter of security. Security has been anchored in the highest hierarchical level of the company. A precise protocol has been worked out and applied in the case of crisis. Communication from Nestlé has become more proactive: on several occasions, the company has taken a public stand where there were problems. Nestlé has made more representations to the government. It proposed to Sinaltrainal,

without success, several joint actions relating to whistle-blowing and requests for investigations. In 2010, Nestlé changed its security company and bolstered its control mechanisms. It increased its commitment in the development and implementation of the "Guidelines for Colombia" (*Guías Colombia*) on security and human rights, initiated by the Ideas para la Paz Foundation. In collaboration with the Foundation, it also launched a training programme for its security services, in respect of human rights, starting in June 2010.

- *Employment conditions:* overall, Nestlé has increased the number of permanent employees and reduced the number of temporary workers. It has also reduced the number of its subcontractors. Nestlé reported that it has taken measures in relation to control, training and coaching to guarantee decent working conditions at its suppliers and subcontractors, who are contractually bound to observe Nestlé's principles in the area of social and environmental responsibility. In certain cases it has changed partners.

- *Dealing with the past and conflict sensitivity:* Nestlé has launched and supported several measures for dealing with the past. In this regard, it has established workshops and two reconciliation centres (Bugalagrande and Caqueta) in collaboration with the Fundación para la Reconciliación y Paz. The method chosen proposes a course designed to heighten awareness of and work through the deep-rooted causes, particularly the unhappy memories that have accumulated, that are the basis of conflicts and can incite people to use aggressive language and resort to physical violence. The aim, through justice and truth on a personal level, is to create a new culture and psychological environment of integration which will allow a change of attitude, mindset and language. Up until June 2010, only one Nestlé manager in Bugalagrande had taken the training course. Leaders from Sinaltrainal participated at the first meeting, but then withdrew. At the same time, within the company, Nestlé also launched the writing of a collective book, together with current and retired employees and their families, on the history of the Bugalagrande plant and its relations with the local community. This is a way of reclaiming and healing the historical, corporate and personal memories.

- *Relations with producers:* even though it had not formally committed itself, Nestlé has made efforts in terms of transparency to inform farmers, in a proactive way, about its price structuring.

- *Community relations:* As for its relations with the communities, Nestlé has made efforts to come out of its "capsule". At its various sites, Nestlé has taken diverse psycho-social and communication measures to improve its relations with the families of its employees, the communities and their leaders: measures such as enlisting specialised advisors, training and recruiting local young workers (Bugalagrande), public activities (sports, recreational, artistic), supporting social and ecological community projects (providing food and water, toy libraries, schools, agricultural training, tree planting). During the strike launched in spring 2010 by Sinaltrainbec in Valledupar during collective bargaining, DPA put a milk contingency plan into place so that the farmers, suppliers and community would not be affected. DPA also mobilised local and regional authorities in order to find a peaceful solution to the conflict. While the governor of Cesar praised the "intelligent manner" in which DPA managed the situation, Sinaltrainbec criticised these measures which, to some extent, neutralised the impact of the strike.

Nestlé-Sinaltrainal: dialogue between the deaf

Contrary to most participants in the Alliance Sud delegation, the unions have not changed their perception of Nestlé. They do not acknowledge the steps taken by Nestlé. As far as they are concerned, the company has not changed. They believe that neither the relations with Nestlé nor the working conditions have improved, and that they have even deteriorated. This difference in perception is due primarily to four factors: the perpetuation of certain problems, a competitive relationship, a radical difference in approach, and a basic mistrust.

- The *perpetuation of certain problems*: even though the unions admit that dialogue has improved, they claim at the same time that this does not lead to any concrete improvements.

The unions complain particularly about the following problems: Nestlé's continuation of two systems of remuneration; inadequate remuneration and DPA mortgage rates that are too high, leading to precarious living conditions in a region characterised by high household debt; continued "excessive" use of temporary workers and subcontractors who provide bad working conditions; a sustained anti-union policy expressed, in particular, through harassment by some managers of members of the Sinaltrainbec unions; problems relating to occupational health and product quality caused by greater pressures to increase productivity; insufficient technical and agronomic support given to small farmers, particularly in Cesar.

In Valledupar, the reproaches by the authorities have not really changed compared to 2008 in relation to a lack of commitment on the part of DPA with respect to social and environmental responsibility. The Alliance Sud delegation has the impression that in Nestlé's projects for the community, the workers and their families, its approach often continues to be very top-down and paternalistic. This approach results more from an accumulation of small projects (often not very costly and bordering on charity) rather than a real social agenda shaped with the community, in touch with its main problems. Nestlé, and maybe even to a greater degree DPA, do not include the community enough beforehand. They have a tendency to do projects for the people, rather than *with* them, based on what they perceive the needs of the people to be rather than based on what the real needs of the people are, as expressed by the people themselves.

- A *competitive relationship*. On the one hand, Sinaltrainal considers itself the representative not only of the employees, but also of the people, hence the community. It thus perceives the efforts by Nestlé to break out of its "capsule" and get closer to the families, the workers and the communities as usurping its prerogatives and as being a "threat", or a strategy to isolate and marginalise the union. On the other hand, Sinaltrainal has to be able to take credit for all the advances benefitting the workers as being the results for which it has struggled.

- A *radical difference in approach*. On more than one occasion, the Alliance Sud delegation had the impression of standing before two totally opposite and almost irreconcilable planets, Nestlé's and Sinaltrainal's respective visions of the world and the glasses through which they look at situations being totally different. At Nestlé, problems are often viewed as deficiencies and imperfections that can be corrected through technical and practical improvements. At Sinaltrainal, they are considered instead as political issues that concern human rights and the global strategies of the company. Thus, Sinaltrainal wishes to address Nestlé's choices of policy and their implications, while Nestlé intends to discuss only practical matters and the issues relating to employment conditions.

- A *basic mistrust*¹. There is a fundamental lack of trust between Nestlé and Sinaltrainal which is fuelled by the weight of past situations that have not been dealt with, along with the inherent burden of things that have been left unsaid. Whereas Sinaltrainal complains that it is not really being heard and that there is a gap between what the company says and what it does, Nestlé suffers from the two-pronged strategy – pragmatic (local) and political (national) – pursued by Sinaltrainal (see box below). Each party denounces the "doublespeak" of the other. When their managers meet, each thinks the other has a hidden agenda, that they don't tell the truth, that they manipulate information and that their ultimate aim is to harm the other, by one means or another. For example, Sinaltrainal does not believe the figures provided by Nestlé on its economic situation and based on which Nestlé justifies certain measures such as maintaining two categories of salaries. Nestlé, for its part, cannot accept the fact that the union, the day after a high-level discussion, submitted a complaint to the ILO without having notified Nestlé the day before. For Nestlé, this is simply unacceptable but for Sinaltrainal, it is a way of demonstrating its political independence and its refusal to compromise itself with Nestlé, and confirming that dialogue does not take anything away from confrontation.

All of that results in relations that are often tantamount to dialogue between the deaf, a series of misunderstandings and accusations. This is obvious, in particular, with respect to the dialogue at the national level. In 2008, there was discussion of an agenda based on a proposal by Sinaltrainal including 14 points; in 2010, the battle over an agenda continued, based this time on a "Proposal for full reparation" (also including 14 points) submitted by the union in September 2009. Sinaltrainal broke off the dialogue process in May 2010. It thought that Nestlé was trying to impose its views unilaterally, whereas for Nestlé, it was only a proposal intended to establish priorities.

For the Alliance Sud delegation, the very complex and paradoxical constellation of relations between Sinaltrainal and Nestlé certainly reflects a very unequal (political and economic) balance of powers. Yet it also shows a (cultural) context marked by violence, the lack of any real dialogue, the burdens of the past, and things that have been left unsaid. It is characteristic of what psychologists call a "double bind". This kind of situation cannot be solved in a logical and direct manner. Its resolution can only be achieved through a lateral or vertical circumvention, i.e. through a change of level and consciousness. Conversely, as long as the same level is maintained, all efforts will fail: "The more things change, the more they stay the same."

¹ 1 Mistrust between "social partners", which is particularly strong between Nestlé and Sinaltrainal, is a characteristic of Colombia, as was noted by a high-level ILO (International Labour Organisation) tripartite mission to Colombia in February 2011: "In this regard, the Mission was strongly of the view that the lack of trust between Colombia's tripartite constituents is the most important obstacle to progress towards full respect of the rights guaranteed by ILO Conventions Nos. 87 and 98 and towards a better future for all Colombian Society. Distrust generated by the mistakes and abuses of the past remains strong and will not be eliminated easily. Many of those with whom the Mission met expressed open mistrust of the motives and objectives of others, and this clearly constrained their readiness or ability to react positively to the initiatives or actions taken by them. Colombia must break this cycle of distrust." (ILO, *Conclusions of the High-level Tripartite Mission to Colombia*, 14-18 February 2011).

Sinaltrainal: a radical and combative trade union

The context in Colombia explains why a union can view itself not only as a social partner, but also as a political player. If that is not the case for the DPA majority union (Sinaltrainbec) in Valledupar, it is on the other hand the case for Sinaltrainal, which has a presence in all Nestlé plant sites in Colombia. Established in 1982 with 31 Nestlé and Cicolac employees, it had almost 1,500 members in April 2008, from Nestlé and Coca-Cola.

Although a minority in the context of Colombian unions, and rather radical, Sinaltrainal is eager to establish alliances with other sectors of civil society and social movements. It consciously follows a two-pronged strategy.

On the one hand, at the *local level*, it efficiently, in a concrete and pragmatic manner manifested in each plant, carries out the traditional activity of a union whose goal is to improve working conditions, especially through negotiating collective agreements.

The president of Sinaltrainal, Javier Correa, in this context, told the Alliance Sud delegation that he hoped that the relationship with Nestlé could become an example for Colombia in terms of social partnership.

On the other hand, at the *central and national level*, Sinaltrainal champions a global political agenda of class struggle for the arrival of a democratic and post-capitalist Colombia. It is engaged in a fight against globalisation and the neo-liberal government policy symbolised perfectly by the multinationals, including Nestlé. For the union, Nestlé's policy in Colombia is nothing more than the implementation of the "unfair" Nestlé global policy on a worldwide basis. This results in three things. *Firstly*, a rather ideological approach to problems, with the risks of general speeches and over-interpretation that can arise as a result. *Secondly*, strong campaign activity – public denunciations, lawsuits, Lelio Basso People's Tribunals, etc. – in a rather aggressive style. *Thirdly*, a will to internationalise the struggle through solidarity groups abroad and by engaging some decision-making bodies like the International Labour Organisation (ILO), the Interamerican Commission on Human Rights and courts in the United States. This will is all the greater as the union believes that it is not being heard in Colombia – neither by Nestlé, nor by the political and judicial authorities which, according to the union, "systematically take the side of the multinationals". In 2007 and 2009, Sinaltrainal submitted two complaints to the ILO against the Colombian government in respect of alleged violations of union rights by Nestlé and in respect of all of the cases of assassinations of unionised employees at Nestlé. Both the government in Bogota and the ILO refuted the allegations made by Sinaltrainal.

In other words, if the search for solutions is the driving force at the local level, confrontation dominates at the central level. But for Sinaltrainal, the two levels and the two approaches cannot be separated and must be addressed imperatively. In this time of globalisation, and moreover in the context of Colombia, defending the rights and interests of workers also requires a transformation of economic structures.

Despite some real successes made to improve working conditions, Sinaltrainal, like the union movement generally in Colombia, has been losing ground for a number of years. It says that it has lost over 1000 members at Nestlé in 15 years, particularly following the liquidation of Cicolac and the closure of distribution centres whose work has been subcontracted. From the leaders and members of the union, the delegation sensed a frustration with the present, a nostalgia for the past and a concern about the future. The more the union feels weakened in its relationship with Nestlé, and thus threatened, the more radical it becomes. Conversely, the stronger it feels, like in Valledupar where it is making progress over its competitor, Sinaltrainbec, the more it shows itself to be conciliatory and cooperative.

Mediation as a possible outcome

Alliance Sud does not pretend to have the solution. However, in its 2010 report, it outlined some ways to attempt to break the deadlock and reinforce the process started two years ago. The objective is not to eliminate the conflicts between Nestlé and Sinaltrainal, but to bring them to a manageable level to allow the parties to consider more constructive relations, to work on genuinely seeking joint solutions to some problems and to devote more energy to improving working conditions and the lives of the employees and developing communities.

The proposed path involves six areas:

- 1) Enter into mediation with a third-party mediator, an international, independent person or organisation acceptable to both parties, to help Nestlé and Sinaltrainal to change perspective and level, so as to allow them to get out of the "double bind" relationship and take into account all of the things that have been left unsaid and the unconscious elements undermining their relations.
- 2) Bring about the changes in attitude necessary to establish a minimum foundation of trust, without which nothing will change. In its contacts with the employees, the unions and the community, Nestlé is called on to take a more *bottom-up* approach, i.e. a more participatory and inclusive approach. Its culture needs to become less technocratic, which requires further training of its managers to enhance their ability with regard to perception, interaction and subtle communication with the various *stakeholders*, in particular the unions. Nestlé also needs to better inform the unions by allowing appropriation, to consult them before making decisions and to include them to a greater extent in community projects, while respecting the differences in approach and perspectives. In this context, Sinaltrainal, as the delegation notified its management, must also take some steps. Without giving up its two-pronged agenda, which is completely understandable, it would no doubt be wise for the union to sometimes adopt a less aggressive tone, better buttress its public allegations and avoid over-interpreting facts that result not so much from Nestlé's political will but rather from isolated and localised accidents or mistakes. This would serve to garner more weight and credibility for the union's actions.
- 3) Raise the conflict awareness of Nestlé's managers. Nestlé needs to go further in analysing and taking into account the situations in which it finds itself which are both very complex and difficult, because they are conflicting and polarised, and at the same time very fluid. And it needs to do so not only to better assess the risks associated with its activities, but also to seize and realise the opportunities to build peace in Colombia, particularly in terms of social investments, political dialogue and community commitments.
- 4) Step up work on dealing with the past, not only in Bugalagrande, but also in Valledupar, where memories continue to be very marked by the "liquidation" of Cicolac. All of the Nestlé executives should take part in the Fundación para la Reconciliación y Paz workshops. This recommendation applies to the leaders of Sinaltrainal as well.
- 5) Resume dialogue at the national level, interrupted in May 2010, first by reaching (possibly with the aid of a mediator) an agreement on the rules and defining the conditions and resources, without seeking to impose its own agenda. Nestlé should be prepared to discuss some issues which are not priorities for it, but which are priorities for Sinaltrainal, such as the issue with respect to suppliers and subcontractors.
- 6) Continue to work on resolving the critical problems and points that remain.

During a high-level meeting in November 2010, Nestlé accepted most of the recommendations made by Alliance Sud and committed to implementing them. However, it rejected any recommendations that might impact its competitiveness or that it considered as falling under collective bargaining.

Perspectives and conclusions

The relationship between Nestlé and Sinaltrainal is profoundly paradoxical. Nestlé Colombia has the stated ambition to become a leader in the Group with respect to social and environmental responsibility. In order to achieve this, it needs a strong and confident union that feels that it is being heard and respected in its own role and interests. It is not in Nestlé's interests to have to deal with a union that acts radically because it feels weakened, vulnerable, unrecognised and marginalised. For its part, Sinaltrainal is concerned with ensuring its survival – politically and as a union – at a time when its influence and mobilising force is declining in a rapidly-changing Colombia, and when its international endeavours have, until now, met with scant success. In this sense, it is not in the interests of Sinaltrainal to see a company that is little by little withdrawing its stakes in Colombia because it is no longer competitive enough or because it would end up exhausted from managing conflicts and image problems. Conversely, the more Nestlé can thrive by improving itself as far as social and environmental responsibility are concerned, the more Sinaltrainal can profit from this both in terms of economic support and image: recognition that it is thanks to the union that Nestlé has improved.

Alliance Sud has three issues or concerns that are worth highlighting.

The first is that when he arrived, at the beginning of 2010, the new president of Nestlé Colombia decided to make Nestlé more competitive and to double its business volume by making its products more accessible. How does Nestlé intend to combine this ambitious economic objective with a will to become more committed to community development, the reduction of poverty and empowerment of the people who are key to the creation of shared value? The market leaders are eager to improve the profitability of the company to raise the average level of the Group. How will Nestlé reconcile the tension between return on capital and its commitment to social development, and the interests of the local *stakeholders* and those of its *shareholders* around the world? What room to manoeuvre is left for Nestlé Colombia to manage this reconciliation? When will its executives be evaluated and rewarded based not just on financial, but also on social and ecological criteria?

The second is that Colombia and the European Union signed a free trade agreement in May 2010 that threatens the 400,000 Colombian milk producers and their families; 60% of these producers are very small and do not benefit from economies of scale. Although Nestlé could no doubt buy European milk at a better price than local milk, how will it assume its responsibility to all of the farmers who depend on it, who have made investments to comply with Nestlé's requirements and are thus indebted, and who are afraid that Nestlé will end up abandoning them?

Finally, will the approach taken and measures implemented in Colombia, thanks to the dialogue with Alliance Sud, be just a special and isolated case for Nestlé or will they become an example applicable

for the whole Group worldwide? For Alliance Sud, dialogue will only have meaning if the results and recommendations of its missions in Colombia, particularly with respect to corporate culture, union and community relations, salary and employment policies (temporary workers, suppliers and subcontractors), not only bring about a process of improvement and structural change in the mid and long term in Colombia, but also have an impact on the policies and practices of the entire Nestlé Group, particularly in other markets of the South.

Michel Egger, May 2011

<http://www.alliancesud.ch>

Translated from French

Michel Egger is responsible for International Trade Policy at Alliance Sud. He is the head of the regional office in Lausanne. He has been in charge of the whole dialogue process with Nestlé on behalf of Alliance Sud. Contact: michel.egger@alliancesud.ch