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THE BUSINESS OF DEFORESTATION

A land trafficking case in the Peruvian Amazon for large-scale palm oil production of the Melka group involving former officials of the Ucayali regional government investigated for corruption offenses

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THE BUSINESS OF DEFORESTATION

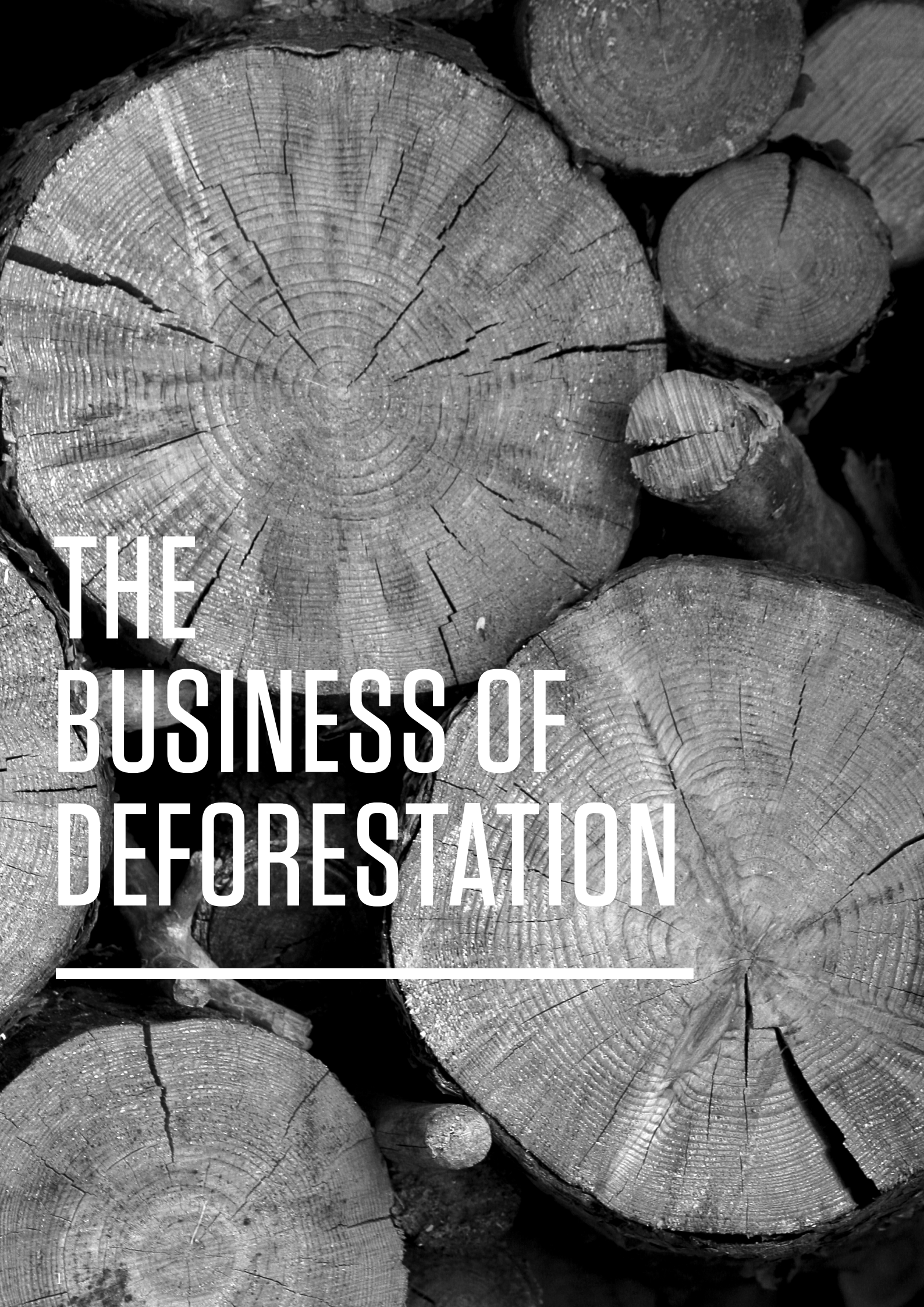
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THE BUSINESS OF DEFORESTATION



Foto: Aramis Castro

1. IN THE HEART OF THE DEAD FORESTS

Ucayali is not only the sub-national region with the most deforested lands of the Peruvian Amazon, it is one of Peru's territories where for years a system of land trafficking has been established that has facilitated the entrance of investors of palm oil and cacao projects in zones of primary forests. One of the most recent cases is the Czech-American businessman Dennis Nicholas Melka who raised capital in Malaysia up to the heart of the Peruvian jungle to do business bypassing national standards.

Melka's financial plan has been launched in the last five years at the cost of cutting down forests. More than 13 000 hectares of land has been acquired by this entrepreneur through the creation of a network of more than 20 companies with the help of law firms in Peru.

The palm oil projects, which were mainly in the hands of Peruvian capitals, are marked today in the country by a growing interest of foreign entrepreneurs such as Dennis Melka,

who maintains ties with Malaysian investments, a pioneer country in oil palm cultivation, where today the land is increasingly scarce.

In the midst of the arrival of these investors, residents of local communities and indigenous peoples of the Peruvian Amazon denounce land usurpation, aggravated damage and corruption at the epicenter of Melka's operations, the Loreto and Ucayali sub-national regions. In this report, we reveal how the foreign entrepreneur's companies acquired the lands through intermediaries and implemented different strategies in the midst of serious allegations of corruption and land trafficking in the Ucayali region, which has the greatest amount of deforestation in Peru¹.

The Prosecutor's office specializing in corruption offenses by public officials of Ucayali and the Prosecutor's office specialized in environmental matters, as well as the regional headquarters of the Anti-Corruption Attorney's Office², have investigated these facts and their protagonists: public officials, land traffickers, front men and representatives of Melka's companies.

In this investigation 'The business of deforestation' developed by Convoca, in alliance with Proética, we trace

the modus operandi of the people and companies involved from the countryside to the offices of the sub-national regional government of Ucayali and the agencies that investigate the case. The investigation reveals how Dennis Melka companies reported for the deforestation of more than 13 000 hectares of forests in an accelerated climate change scenario were benefited from one of the main offices of the Regional Sectoral Agriculture Directorate of Ucayali.

The Peruvian government in 2016 was committed to manage and implement more than USD 316 million, including donations and loans from international cooperation and Multilateral Development Bank funds to address climate change challenges from the main source of Greenhouse Gases Emissions³: the increasing deforestation and areas of cattle feeding for the expansion of the agricultural frontier in the Amazon.

In parallel, persons that operate from the State participate in the traffic of lands. Corruption at various scales is intimately related to the access to our Peruvian Amazon land.

2. THE PLAN OF “NATIONAL INTEREST” AND OIL PALM

Large-scale oil palm plantations in the jungle were promoted by law. In May 2000, Supreme Decree 015-2000-AG of the Ministry of Agriculture announced the cultivation of this monoculture to be of national interest for the period 2000-2010. The measure appeared in the same context that encouraged the approval of the law of investment in the Amazon.

The purpose of the supreme decree, according to the researcher Juan Luis Dammert⁴ analysis for the Grupo de Análisis para el Desarrollo (GRADE), was to encourage the cultivation of oil palm as a “strategy to fight against migratory agriculture.” That is to say, to promote that the farmers remain in a determined area and do not deforest zones that soon they would abandon.

“The Peruvian government in 2016 was committed to manage and implement more than USD 316 million”

The decree included the approval of a National Plan to Promote Oil Palm that had among its objectives the cultivation of palm in an area of 50 000 hectares for 2010. The goal was close to being fulfilled. For that year, according to the GRADE report, there were about 44 000 hectares of oil palm. By the middle of 2016, the figure had already surpassed the 77 000 hectares of cultivated area.

Despite the optimism in the figures and goals outlined, there were some points in the Plan that had no basis in the future projections made, according to GRADE study. For example, more than 1.4 million hectares of potential areas for oil palm development were estimated, but no indication was given



on how this figure was calculated. Also, over the years, it was found out that in many of the areas identified in the Plan no oil palm plantation had been developed; and in areas not included in the map, projects had been developed or were planned. The Plan, which had its future projection until 2010, would prepare the ground for the investments that followed in the coming years for various business groups and the entrance of Dennis Melka's investments in the Peruvian Amazon.

2.1. Entrepreneurs from Asia arrive to the Peruvian Amazon

The Peruvian Amazon is considered by the palm oil businessmen in the world as an ideal territory for this crop while for the Peruvian government it became a priority to promote this type of investment by claiming that there was a deficit in the production of palm oil. The first talks with Malaysian businessmen interested in palm oil go back to 2007

when talks began with investors from important global companies: Kausar Corporation and Sime Darby. The first company signed an agreement with the Ministry of Agriculture to associate itself with Peruvian oil palm farmers and get access to lands. In 2000, Supreme Decree 015-2000-AG announced the cultivation of oil palm plantations in Peru to be of national interest. The following year, the Ministry of Agriculture developed a plan to promote the crop that would last until 2010. In that scenario investors from Malaysia arrived, country with which Peru signed an Agreement for the Promotion and Reciprocal Protection of Investments in 1995⁵. The negotiations were led by officials of the Peruvian Foreign Ministry themselves and representatives of the Private Investment Promotion Agency (Proinversión). This last agency was especially interested in the subject because since 2007 it had been in charge of the Use of Biofuels Program (PROBIOCOM) and had a group specialized in agricultural exploration and associativity that had been identifying lands suitable for the production of agroenergy crops.

According to official documents of the Peruvian Foreign Ministry, the objective of the agreement between the Kausar Corporation and the Ministry of Agriculture was to “develop the oil palm production chain, transfer technology, secure financing, maintain and operate real estate, produce palm oil byproducts and carry out other activities related to the field”. But negotiations with this company were cut short. And it was another company from Malaysia that took its place: Sime Darby Plantations, one of the world’s palm oil giants in search of new lands.

In Peru, there are more than 77 527 hectares of oil palm, according to the National Association of Palm farmers (Junpalma). Most of the crops, 39%, are found in the San Martín region (mainly in the province of Tocache), 38% in Ucayali, 18% in Loreto and only 5% in Huánuco. The largest plantations belong to national companies of the Romero Group: Palmas del Espino and Palmas de Shanushi. The presence of foreign investors could reshape the outlook. That is why the Peruvian Foreign Ministry asked the sub-national regional governments of Loreto, Ucayali, San Martín and Huánuco to establish in which areas of their territory oil palm cultivation was possible because the company requested the government to have access to 100 000 hectares of land in

the Amazon. The best way to guarantee this request was to do so through the high state authorities, between the national governments of Malaysia and Peru⁶.

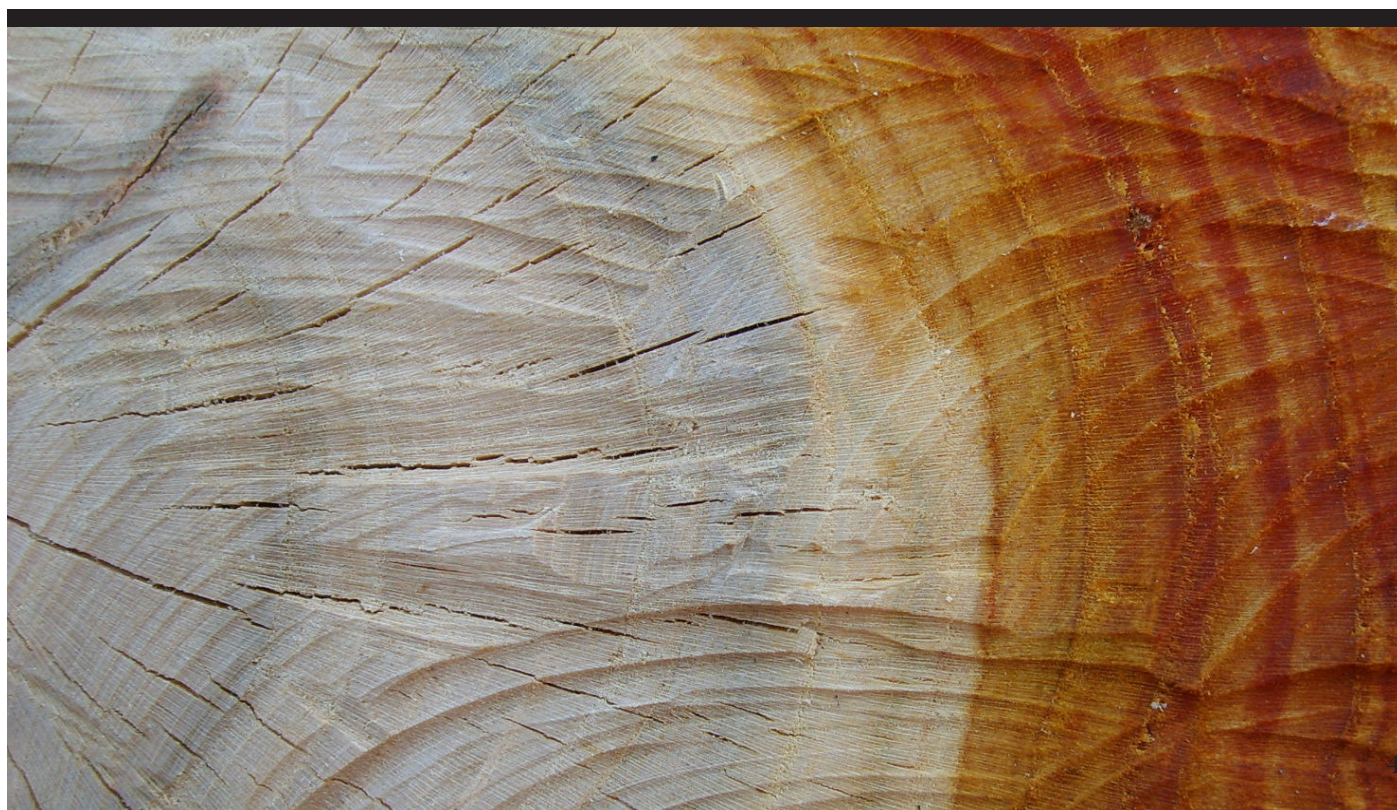
However, officials from sub-national regional amazon governments, with the exception of the San Martín region, put obstacles to provide information on the available lands for oil palm plantations because they wanted to negotiate directly with the companies and make the most of this opportunity for their regions⁷. They did not want to stay out of the game and do not get benefits. Under these conditions, the negotiation with Sime Darby Plantations were also cut short.

“The first talks with Malaysian businessmen interested in palm oil go back to 2007”

While this was happening in the national government, the operations of another businessman of American origin and with Czech nationality had already taken root in the Amazon as a result of a direct negotiation with the sub-national regional governments of Loreto and Ucayali and having access

to privileged information regarding the state of the land in these regions. This entrepreneur is Dennis Nicholas Melka, today investigated by the authorities of the Public Prosecutor’s Office of Peru for the deforestation of more than 13 000 hectares in Loreto and Ucayali. Most of it is located in Ucayali: over 10,000 hectares for the production of oil palm on a large scale.

Until 2015, the Peruvian Foreign Ministry officials claimed that Melka never knocked the national government’s doors to access the amazonian land unlike other Malaysian companies. However, in 2014 a new name began to emerge at the Public Prosecutor’s Office: Felda Global Ventures Holdings, one of the world’s largest palm oil companies accused of deforestation in Malaysia. In August 2014, the digital media specializing in investments sharesinv.com said that among Felda’s expansion plans was Peru. In its 2015 annual report⁸, Felda reported Asian Plantations Limited as part of its conglomerate of companies, which has Melka as one of its founders. Financial movements of investors in palm oil are connected. The lands of the Amazon are the most desired and behind it a game of interests and land dispossession of the most vulnerable with the endorsement of some State officials is fabricated.

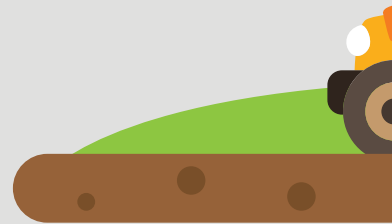
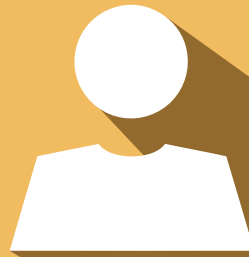


FORMS OF LAND ACQUISITION IN TI

The strategies used by cocoa and palm oil entrepreneurs have aroused suspicions and have been damaging to

DIRECT PURCHASE FROM PRIVATE INDIVIDUALS (3,000 HECTARES)

The company acquired land through serial contracts. There have also been cases in which people sold their plots to the company after having obtained proof of ownership certificates from the Regional Agriculture Directorate in Ucayali.



PURCHASE FROM THE STATE (4,759 HECTARES)

The company acquired lands based on the Law of National Assets through the Regional Agriculture Directorate in Ucayali. The lands were then used to grow oil palm.



PURCHASE FROM A FARMERS ASSOCIATION (5,000 HECTARES)

The company bought land at low cost from small farmers' associations. In some cases, the land was sold at an average of 100 soles per hectare.



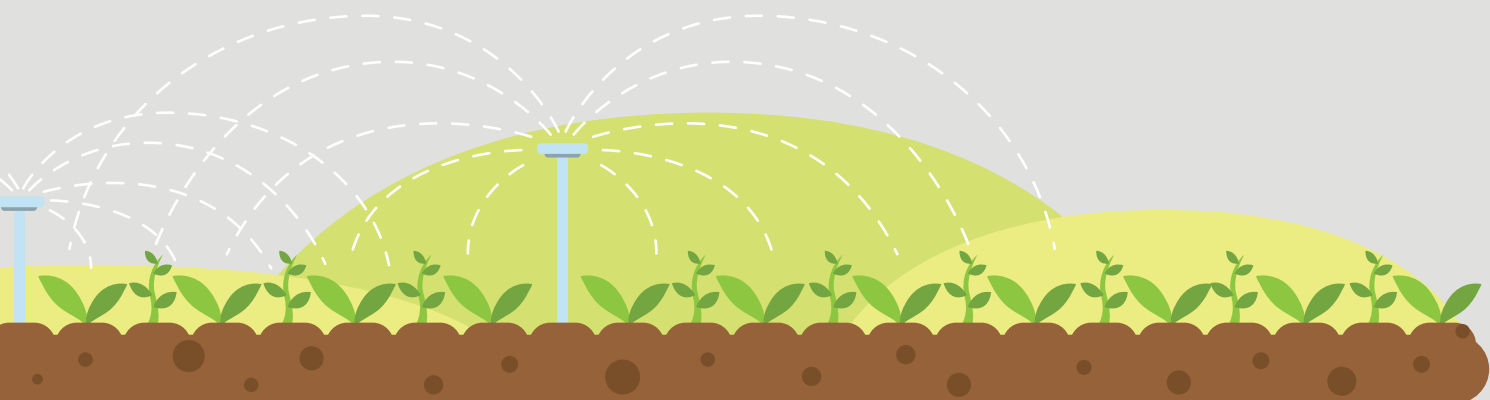
THE PERUVIAN AMAZON

preneurs to acquire lands, which have
a group of farmers who lost their lands.

LOS NEGOCIOS DE LA DEFORESTACIÓN

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3. THE ENTRY OF DENNIS MELKA

Dennis Melka started operations in 2010 after having founded two years prior Asian Plantations, a palm oil company in Asia. The Singapore-based company has more than 20 000 hectares of crops in Sarawak, Malaysia, where the company acquired land at low price from settlers, which in some cases Malaysian authorities granted concession later “without any tedious bidding process”, according to a May 2013 report from the Sarawak Report portal⁹. In this controversial story appears the figure of Leonard Linggi, a Malaysian politician who was a member of the Asian Plantations directory, where Dennis Melka is co-founder and CEO.

As we will see, the way of operating in Malaysia was repeated in the Peruvian territory.

To get access to the lands of the Amazon, Dennis Melka created a group of 25 companies with the help of law firms. All registered in the National Superintendency of Public Registries (SUNARP) as companies dedicated to the cultivation of oil palm or cacao. In the early years only three appeared as active.

However, companies’ activities grew: up to February 2016 there were 16 in full activity. Those with the most presence were Cacao del Peru Norte SAC, with a cacao plantation in Tamshiyacu, Loreto, and companies with oil palm projects in Ucayali: Plantaciones Ucayali SAC, which in the fortnight of May 2016 changed its name to Ocho Sur U SAC, and Plantaciones de Pucallpa SAC, which also changed its name to Ocho Sur P SAC.

It is not the first time Melka companies change their name to operate in the Peruvian Amazon. This time, the modification occurred a few days after, at the end of April 2016, the Roundtable on Sustainable Palm Oil (RSPO) ordered to stop the development of new plantations until Plantaciones de Pucallpa SAC can demonstrate that it has not cleared forests in Peru.

The RSPO is a global organization that brings together institutions interested in the palm oil sector and certifies that the production and trade of this product is sustainable and respectful of human rights. Therefore, the order of this organization was given in response to the complaint of the Santa Clara de Uchunya community that said that Melka’s company was planting palm on their ancestral lands¹⁰. In November 2016, the company withdrew from the RSPO¹¹.

This departure came after a succession of contested facts not only in Ucayali but also in Loreto. In early 2013, Melka and its operators began to buy land from farmers at low costs. They arrived to an organization known as “The buffaloes” in the Loreto region, which grouped 45 farmers and ranchers who owned 49.7 hectares of land and ended up selling it for 5 000 soles (about 1 800 dollars at the time). One hundred soles each hectare (37 dollars).

“They told me that if I did not sell my land, the State would take it away from me. Why? Because I have not planted all the hectares they gave me. Since I did not have much understanding of the subject and I was afraid, I accepted the 5 000 soles. Then I looked for advice and I realized it was a hoax: the government can not take your land for not cultivating it in its entirety”, said farmer Walter Muñoz Quiroz for the publication “Amazonía Arrasada”¹².

Alberto Fujimori’s government

had given the land free of charge to these farmers as part of a demagogic agricultural development policy. Due to the extension of the properties, the beneficiaries had only managed to work part of them. Melka’s emissaries soon negotiated with the landowners. In a few weeks Cacao del Norte, Melka’s company, obtained about 3 000 hectares in Tamshiyacu, Loreto. The problem was that much of the land was covered with trees that eventually disappeared to sow oil palm or cacao. Without obtaining any permission from the authorities, trees like Cedrelinga, Garapa, Virola and Maytenus laevis were cut down, according to a report of damage done in October 2013 by the engineer Ezra Noriega from the Regional Program of Management of Forest and Wildlife Resources of Maynas. The forest lost around 2 000 hectares.

In order to gain access to the lands in Ucayali, Melka managed to weave links with officials of the sub-national regional government that today are investigated by the authorities of the Public Prosecutor’s Office and the Anti-Corruption Attorney’s Office. Among them is the engineer Miguel Angel Seijas del Castillo, then in charge of the Regional Directorate of Agriculture of Ucayali, who evaluated Dennis Melka’s Plantaciones Ucayali proposal to plant oil palm in large scale in the village of Bajo Rayal in the district of Nueva Requena. Seijas argued that it was necessary to promote alternative crops to the coca leaf in the region. This justification was not accidental.



Foto: Sandra Gutiérrez



Melka was a consultant to the United Nations Office on Drugs and Crime (UNODC) in 2013, according to an e-mail from Roberto Arbitrio, executive director of this institution¹³, dated July 17, 2016. This communication, revealed in the documentary “Nuestro Hombre en Coca-landia” by the German television station WDR (WestDeutscher Rundfunk), would reveal that Melka was able to take advantage of the information he accessed at UNODC to do business in the Peruvian Amazon. UNODC has as one of its objectives to work with small farmers planting oil palm to replace coca leaf plantations in already deforested places. But in this case, the companies of Melka got access to land to cut down trees¹⁴.

In May 2012, Alfredo Rivera Loarte, then representative of the United Nations Office on Drugs and Crime (UNODC) in Tocache, became a bank agent and partner of Melka’s company, Plantaciones de Ucayali (now Ocho Sur

“Fujimori had given them land free of charge as part of a demagogic agricultural development policy”

U SAC). From this position he could have up to USD 10 000 of the funds of the company available only with a signature according to the company’s

entry in the public registry.

Melka’s land allocation applications to the sub-national regional government of Loreto also mention that among the benefits of its investments is the establishment of the first palm oil cooperative in Iquitos, for which it is proposed “to work closely with the United Nations”.

“We work with the communities of Caynarachi or Yurimaguas, which have been successful. It is no longer our responsibility what the consultants do once they end their relationship with us”, the UNODC Communications Office pointed out in reference to the case of Rivera Loarte, one of Melka’s operators, as mentioned in the publication of Convoca, “Amazonia arrasada”.



Foto: John Bevan

4. ACCESS TO LAND

Ucayali is the amazon region that concentrates the largest amount of permanent production forests deforested in Peru. Since the middle of the last decade, areas destined to oil palm have increased. In 2006, Ucayali recorded 6 641 hectares of oil palm cultivation and in 2012 it shot up to 17 000 hectares, according to figures from the agrarian agencies of Tocache, Aguaytía, Pucallpa and Yurimaguas¹⁵. At the same time that this crop expanded in the region, there were also more than 10 000 hectares deforested by oil palm production between 2010 and 2014. Such an impact is also evident in the regions of Loreto and San Martín, at a time in which the Peruvian State should prioritize the protection of forests that are vital for carbon sequestration.

According to an analysis published by Proética¹⁶, up to mid-2016, more than USD 316 million in international funding was recorded to preserve forests and tackle climate change. Among the components considered for investment are the titling and management of native lands; early warnings to curb deforestation, indigenous forest management, monitoring of forest cover with a participatory approach, among others. Deforestation is proceeding fast and parallel to the implementation

of projects to address the problem, despite international commitments such as the Paris Agreement and REDD+ projects financed by the Forest Investment Program (FIP), the Forest Carbon Partnership Facility (FCPF) or the Joint Declaration of Intent with Norway and Germany.

In this scenario, Dennis Melka and his operators managed to implement various strategies to access the lands of the Amazon, to clear forests and replace them with oil palm and cacao plantations. Ucayali was the epicenter. Plantaciones de Ucayali (now Ocho Sur U.S.A.C.) and Plantaciones de Pucallpa S.A.C. (now Ocho Sur P.S.A.C.) accessed to more than 13 000 hectares using three ways until the end of 2014: direct purchase from private individuals (about 3 000 hectares), purchase of the State land (4 759 hectares) and purchase of land to a farmers' association (5 000 hectares). Let's see what happened in each case and which officials are involved.

4.1 The game of proof of ownership certificates

In Ucayali, while the expansion of oil palm plantations was taking place, the amount of land given to private individuals also skyrocketed. In the 2011 - 2014 period, more than 3 500

certificates of land ownership were granted, according to figures from the Regional Sectoral Agriculture Directorate of Ucayali (DRAU)¹⁷. In those years, the DRAU was in charge of Miguel Seijas del Castillo and Celia Prado Seijas. Within this office of the regional government of Ucayali, the Directorate for the Physical and Legal Regularization of Agricultural Property approved the granting of proof of ownership certificates that had to be given to people who showed that they had worked the land. The management of the DRAU had hundreds of requests for proof of ownership certificates in its office¹⁸, but the office responsible for approving these requests was the Directorate of Physical and Legal Regularization which was in charge of Luis Pasquel Quevedo (2011 - 2013) and then José Crespín Sempértegui (2013 - 2014).

From 2015 until July 2016, with the new director of the Regional Sectoral Agriculture Directorate of Ucayali (DRAU), Isaac Huamán Pérez, the amount of granted certificates was declining but the conflicts inherited from previous governments remained. In several cases, the lands given through these certificates, overlap farmers' lands or comuneros' territory. This happened with the native community Nuevo Paraíso¹⁹, which was granted title to their lands in 1998 and then in March 2016, an individual title was registered on behalf of another beneficiary within Nuevo Paraíso.

The grant of a proof of ownership certificate allows a private individual to acquire land from the State that he can use and then obtain the title of the property. The path to request a proof of ownership certificate begins and ends at the Regional Sectoral Agriculture Directorate of Ucayali (DRAU) and the responsible to approve this document is the Directorate for the Physical and Legal Regularization of Agricultural Property of Ucayali that belongs to the DRAU. To get access to this certificate, which is renewed annually, the interested party should request the visit of a technician to make a report in the field that will subsequently be evaluated in the DRAU where it will be resolved if the request proceeds or if there will be observations to it.

From the initial request to the publication of the certificate's resolution it can take between 15 to 30 days. The visit made by the technician is a fundamental part of the process²⁰. After the decision is made, citizens who do not agree with the results can appeal to the DRAU and after that the waiting time is another 20 days.

Although hundreds of people have benefited from this modality to acquire land, there are also people who claim to have lost possession of their land because of mismanagement by DRAU officials to favor third parties. In the list of beneficiaries are the Melka companies: Plantaciones de Ucayali (now Ocho Sur U S.A.C), Plantaciones de Pucallpa SAC (now Ocho Sur P S.A.C.) and natural persons who later sold their lands to Melka companies.

Precisely one of the three modalities of the companies of the Czech-American entrepreneur to get access to the lands was through the purchase of proof of ownership certificates or land titles to individuals. Under this method, Melka companies managed to acquire about 3 000 hectares, of which a thousand correspond to the village of Bajo Rayal, located in the district of Coronel Portillo in the Ucayali region, two and a half hours from the city of Pucallpa, the capital of the sub-national region.

In Bajo Rayal, there are a dozen farmers who are facing Ocho Sur U SAC, former Plantaciones de Ucayali, for the 1 000 hectares of land they possessed until 2013. The following year, in June 2014, their certificates were suddenly canceled to be granted irregularly²¹, in proven cases by the authorities of the Public Prosecutor's Office in Ucayali (detailed in case No. 2014-70-0), to third parties who subsequently sold to Melka's company, then called Plantaciones de Ucayali SAC²².

According to the inquiries of the Office of the Corporative Provincial Prosecutor of Ucayali Specializing in Corruption Offences by Public Officials, field technician Carlos Garaycochea "would have recognized that the ocular inspection reports of August 2013" for the irregular grant of proof of ownership certificates to people linked to Plantaciones de Ucayali (now Ocho Sur U SAC), were made following the "insistence" of engineer Luis Armando Pasquel Quevedo, who was in charge of the Directorate for Physical and Legal Regularization of Agricultural Property, that depended of the Regional Sectoral Agriculture Directorate of Ucayali (DRAU) headed by Celia Prado Seijas, also investigated by the Office of the Prosecutor of Ucayali Specializing in Corruption Offences by Public Officials.

In September 2014, Pasquel Quevedo testified before the Prosecutor's Office of Ucayali that the inspection made by the engineer Garaycochea was carried out when he was no longer in the position. However, what he did not mention in his account was that while he was in charge of the Directorate for Physical and Legal Regularization he received the work plan that Garaycochea carried out in early August 2013 as it appears in the accessed documents for this research.

As part of the work plan, there was the questioned eye inspection that Garaycochea had planned in the village of Bajo Rayal, an area that has been in conflict to date due to the alleged favoring of Dennis Melka's Plantaciones de Ucayali in the granting of land to third parties who later sold their plots to the company.

The questioned plan in which this inspection is registered was filed on July 24, 2013, just one day before Pasquel left the post of director of the Directorate for Physical and Legal Regularization of Agricultural Property of Ucayali. As we shall see below, the procedure was marked by various irregularities.

The technician Garaycochea assured the Prosecutor's Office that the inspection was done without the presence of the people who requested it because he wanted to "keep his job". Among the supposed beneficiaries of the proof of ownership certificates as a result of this irregular procedure, appear the settlers Carlos Ramírez and Hugo Macuyama.

Convoca talked with Carlos Ramírez at his home - a humble dwelling of a human settlement in Yarinacocha - district in Ucayali. The villager said he did not know how his signature arrived at the request for proof of ownership certificate or the inspection report made by the engineer Garaycochea. This statement is the same one he gave to the Prosecutor's Office in which he even indicated that his signature was false.

So, who was behind this transaction?, the various documents that are part of the 2014-70-0 tax investigation reveal that the person who obtained the certificates of the lands in which appear the names of Carlos Ramírez and Hugo Macuyama is Javier Bartra, the brother-in-law of Alfredo Rivera Loarte, then manager of Plantaciones de Ucayali (now Ocho Sur U SAC) who has been fundamental for the acquisition of lands in favor of Melka in this region of the Amazon. The lands have passed from hand to hand amid denunciations of fabricated documents.

According to the inquiries of the Public Prosecutor's Office, Javier Bartra (the brother-in-law of Rivera Loarte, a man close to Melka) was able to sell the land to Plantaciones de Ucayali thanks to a "power of attorney". However, the villagers deny having signed that document.

But these are not the only irregularities. Among the settlers who allegedly lived in Bajo Rayal and obtained proof of ownership certificates that were later seized by Dennis Melka's company, we can find persons established in other regions of the country like Sonia Amasifuen Clariano of Lima and Edward Villegas Reyes of the region La Libertad. These cases raise suspicions because the law requires that a person who requests and subsequently receives a proof of ownership certificate must have proved that he has worked the land in the area.

The review and analysis of the documents as well as the interviews carried out for this report also allowed to know that at least nine people who requested the irregular field visit in charge of Garaycochea to obtain the proof of ownership certificates of the lands, handed over the certificates of these lots of Bajo Rayal through notarized letter to Jose Renzo Puyen, lawyer of Plantaciones de Ucayali, the company of Dennis Melka.

The process was done in a short time. The proof of ownership certificates was given to these people on October 11, 2013 and on November 7, in less than a month, the certificates of these lands ended up in the hands of Plantaciones de Ucayali SAC. These people instead of starting to work the lands that the Regional Agriculture Directorate of Ucayali granted them, they preferred to

give them to the company of Melka. The purchase of the lots was also made for very different amounts. Joysi Chávez and Rosaura Yimachi, who sold their land and who were interviewed for this report said they did not remember how much money they received from the Melka company, handed over the certificates in favor of Plantaciones

“The documents, the account of the villagers who claimed that their signatures were falsified and the series of irregularities detected in the process of the purchase of the lands were not enough”

de Ucayali for 33 200 soles and 23 544 soles respectively, as stated in the notary's office where the transaction was made.

In the work plan of the ocular inspection for the granting of the proof of ownership certificates in favor of the villagers, who later sold the lands to the company of Melka, also appears a visit to Plantaciones de Ucayali on

August 1st of 2013. The technician Garaycochea, who was in charge of the supervision, said that the manager of the then company, Alfredo Rivera Loarte, participated in the field visit from a white car. But Rivera Loarte denied it in front of the prosecutor despite the evidence of the company's clear participation in these operations.

The documents, the account of the villagers who claimed that their signatures were falsified and the series of irregularities detected in the process of the purchase of the lands were not enough to move forward the investigations of the Public Prosecutor's Office: the prosecutor investigation was closed in February of 2017. In the conclusions of the case, signed by prosecutor Percy Panduro Rengifo, it was indicated that there were no “indications” that showed that the ex-officials involved “abused their position” to “grant privilege to the company Plantaciones de Ucayali SAC”. The Public Prosecutor's Office also concluded that it was not “possible to determine what the complainants claimed” since it was not possible to consider only “speculation of what was manifested” but that there had to be “objective and convincing material evidence”. The former officials' charges were for crimes against the public administration, in the modality of concussion, illegal sponsorship, incompatible negotiation or improper use of the position.

Foto: John Hughes



4.2. Serial Contracts

The lands that ended up in the hands of the companies of Dennis Melka were acquired under different modalities. In addition to the aforementioned properties, in the small Zanja Seca village, other properties were purchased, as the then Manager of Plantaciones de Ucayali, Alfredo Rivera Loarte, admitted in a statement in front of the First Public Prosecutor's Office Specialized in Environmental Matters of the Judicial District of Ucayali²³, which was held in October 2013.

In this statement, Rivera Loarte acknowledged that there were some landowners adjoining Zanja Seca who denounced the company but that Plantaciones de Ucayali (now Ocho Sur U SAC) had a hundred cases in which they had paid for "improvements to owners" and that later "people appeared" who claimed "to be the owners". When being consulted on the names of the people who sold the lands to the then company Plantaciones de Ucayali, Rivera mentioned Teobaldo Jesus Vega and Sulma Soto Isuiza. The representative of the company said that he bought 77 and 91 hectares respectively, as well as "other (hectares) to an approximate of 100 people [sic]".

Convoca got access to this hundred contracts and found - after building a database - that Plantaciones de Ucayali bought directly between February and October 2013, more than 990 hectares for just over 900 000 soles. The lands acquired by Plantaciones de Ucayali ranged from one to 40 hectares in size and were located in the villages of Bajo Rayal and Zanja Seca.

In the contracts the company discourse was legalized: it is pointed out that these people occupied the area by an "involuntary error", that they did not have right to occupy the zone, nor interest in claiming their lands and that they would leave the zone to give it in a "peaceful way". The payment was made by Plantaciones de Ucayali, according to the documents.

The lands were acquired in the midst of a conflict with the settlers.

The former governor of the Bajo Rayal village and now affected by the cancellation of his proof of ownership certificate, Emerson Ponce Claudio, questions the activities of Plantaciones de Ucayali (now Ocho Sur U SAC): "The company comes with security and tells us we can not work in our farm because it is part of a legal process, but two or three days pass and they are planting oil palm in the place", he says.

5. The officials involved

5.1. Lands of farmers under suspicion

The authorities involved in the complaints of land trafficking under the modality of purchase of land to individuals and the proof of ownership certificates are mainly of the Regional Sectoral Agriculture Directorate of Ucayali. They are accused of benefiting the companies of Melka.

Since the well-known Plantaciones de Ucayali and Plantaciones de Pucallpa began their operations in Peru, at the end of 2012, the Regional Sectoral Agriculture Directorate of Ucayali (DRAU) had as directors Miguel Seijas Del Castillo and Celia Prado Seijas. In that period, 2012-2014, the grant of proof of ownership certificates skyrocketed and 2 886 were handed over. These decisions triggered the claim of farmers who accused DRAU officials of favoring a group of people with the grant of proof of ownership certificates, while they were prevented from accessing this benefit.

As a result, the former director of the DRAU, Celia Prado Seijas, was one of the officers investigated by the First Prosecutor's Office in Crimes of

Corruption of Ucayali Officials. Prado Seijas is accused of taking advantage of her post. The case, registered with the fiscal folder number 193-2015 and with the preliminary investigation phase already completed, was sent to the Second Office of the Corporative Provincial Prosecutor of Ucayali Specializing in Corruption Offences by Public Officials as Convoca was able to know after consulting various sources of the Prosecutor's Office of Ucayali.

This investigation also includes Miguel Ronald Dávila Henderson, former official of the Regional Agriculture Directorate and husband of Cecilia Seijas Prado. A third former official investigated in this case is José Daniel Crespín Sempertegui, also of the Regional Agriculture Directorate.

Another case in which Celia Prado Seijas was investigated began in May 2014 with the folder number 070-2014. In this process he is accused of alleged land trafficking after favoring third parties and is investigated together with Luis Armando Pasquel Quevedo, former director of the Directorate for the Physical and Legal Regularization of Agricultural Property of the DRAU; Carlos Garaycochea Pérez, the field technician of this office involved in the inspection to grant proof of ownership certificates to persons related to the company; Alfredo Rivera Loarte, legal representative of Plantaciones de Ucayali (now Ocho Sur U S.A.C.) and Javier Bartra Yuimachi, the brother-in-law of Rivera Loarte that sold the lands to the company of Melka.

Until June 2017, the DRAU had not resolved the case to respond to the farmers' claim. While in the Prosecutor's Office of Ucayali, the process was closed in February 2017.

LOS NEGOCIOS DE LA DEFORESTACIÓN

Proética
INSTITUTO DE INVESTIGACIÓN Y PROMOCIÓN

CONVOCA



THE ROUTE TO ACQUIRE LANDS IN UCAYALI

The role of the Regional Directorate of Agriculture of Ucayali and the officials in charge of signing off proof of ownership certificates in favor of figures linked to companies of the Melka group.



REGIONAL GOVERNMENT OF UCAYALI

The conflicts between farmers and Melka companies began in 2012, under the leadership of Jorge Velásquez Portocarrero. He oversees the Regional Directorate of Agriculture of Ucayali (DRAU), the office responsible for certifying proof of ownership. Prominent figure: Jorge Velásquez Portocarrero (regional director, sentenced for corruption offences).

REGIONAL DIRECTORATE OF AGRICULTURE OF UCAYALI (DRAU)

In the years during which the Melka companies began their operations, the path for requests begins and ends at the DRAU. In 2013 mainly, Miguel Seijas del Castillo and Celia Prado were the main figures. Prominent figures: Miguel Seijas del Castillo (2012-2013), Celia Prado (2013-2014), former directors of the DRAU, and involved in the investigation of a prosecutor specializing in corruption offenses by public officials, favoring Plantaciones de Ucayali SAC and Plantaciones de Pucallpa SAC, granting them proof of ownership.

DIRECTORATE FOR THE PHYSICAL REGULARIZATION OF AGRICULTURE

Office responsible for accepting proof of ownership. A specialist is sent to request the visit of a specialist who would produce a report, which would be reviewed to determine if the application was accepted. Prominent figures: Luis Pasquel Quevedo (2011-2013), Celia Prado (2013-2014), oversaw the DRAU's Directorate for the Physical Regularization of Agricultural Property. Both have been investigated by a prosecutor specializing in corruption offenses by public officials, favoring Plantaciones de Ucayali SAC and Plantaciones de Pucallpa SAC, granting them proof of ownership.

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The former director of the DRAU, Celia Prado, stated for this investigation that “nothing was found” and that she was not aware of the alleged false signatures in the process of delivery of the certificates because in those days she just began her activities in charge of the DRAU. Prado also pointed out - in reference to the role of Pasquel Quevedo - that she could not put her “hands in the fire” for former officials of the DRAU and only responded for the post that she had. Pasquel Quevedo was the Director of the Directorate for the Physical and Legal Regularization of Agricultural Property that approved the disputed proof of ownership certificates. Which were given to people who indicated that they did not sign any document.

Upon being consulted about the cancellation of the proof of ownership certificates to the group of farmers from Bajo Rayal, the director of this office, Isaac Huaman Perez, responded that this happened “because the other beneficiary” could have shown more ownership rights. As we know, there were other reasons.

5.2 Purchase of land to the State

At the end of 2012, Plantaciones de Ucayali SAC (now Ocho Sur U SAC) acquired a little more than 759 hectares to the State in the village Zanja Seca. The purchase was made thanks to the National Property Law through the Regional Agriculture Directorate of Ucayali that was then headed by Miguel Del Castillo Seijas. These lands were then destined to oil palm cultivation in the hands of the Melka group.

The calculation of the hectares was made after the evaluation of an expert who valorized the land in 343.18 soles for each of the 1 961 hectares classified as suitable for permanent cultivation and 113.17 soles for the 2 798 hectares classified as useful for grazing, according to a report prepared by the Office of Legal Advice of the Regional Government of Ucayali, document this



investigation got access to.

The National Property Law, usually used for the sale of buildings, was used in this case, arguing that it was a project of regional interest and, consequently, national. The installation of palm oil projects is considered of interest for the country. However, the aforementioned rule requires the sale of the good to be approved through the report of an official of the Ministry of Agriculture (MINAGRI). In this case, the ministry took more time than stated to prepare the document, and the regional government applied the rule of positive administrative silence and preferred to interpret this delay as the approval of the project. This way nothing stood in the way of a sale in favor of Plantaciones de Ucayali S.A.C. (Ocho Sur U S.A.C.)²⁴.

Due to the sale of these State lands, engineer Miguel Seijas Del Castillo, then director of the DRAU, has been investigated by the Office of the Corporative Provincial Prosecutor of Ucayali Specializing in Corruption Offences by Public Officials, following a complaint filed in early 2013 by members of the Pearl Oil Palm Farmers Association. They accused him of having favored Dennis Melka's company.

In the Prosecutor's Office Specialized in Environmental Matters of Ucayali the accusation for crimes against forests

and the misuse of agricultural land has been investigated for the regional ex-governor of Ucayali, Jorge Velásquez Portocarrero; the ex-director of the DRAU, Miguel Seijas Del Castillo and the regional vice president Carlos Henderson Lima. The accusation against Velásquez is due to the approval of regional executive directorial resolution No. 1207-2012-GRU-PE of November 9, 2012, which approves the economic feasibility study “for the sowing of 4759.77 hectares of oil palm” as it appears in fiscal folder 072-2013²⁵.

5.3. Associated farmers

A third modality to access the lands of the Amazon was through the purchase of 5 000 hectares to an association created by farmers and ranchers. This way, the Association of Agricultural Producers Las Palmeras de Tibecocha gathered small associations that later sold their properties to the Melka group. The person responsible for selling the land to Plantaciones de Pucallpa SAC (now Ocho Sur P SAC) was Carmen Rosa Quispe Bardales, president of the association. The first sale was made on August 16, 2012, when the company of Melka delivered to the farmers 33 checks for a value of 118 000 soles, as it appears in the documents Convoca got access to.

5.4 The case of Santa Clara de Uchunya

Since late 2015, residents of the community of Santa Clara de Uchunya, located just over two hours from the city of Pucallpa and on the banks of the Aguaytía River, are facing Plantaciones de Pucallpa SAC (now Ocho Sur P SAC). The population, mostly engaged in fishing and fruit harvesting for sale, requires the respect and titling of more than 20 000 hectares of land considered as ancestral because they have been recognized as a community since the mid 70's. Currently, the community has a little more than 200 hectares titled.

In the case of Santa Clara de Uchunya the figure of the proof of ownership certificates has again appeared. The conflict has increased because territories that the community claims as its own, have been granted to at least 17 people and communities who are working in the area, according to the inquiries of the First Provincial Prosecutor's Office Specialized in Environmental Matters of Ucayali.

In the fiscal folder 122-2015 of this case, the representatives of Plantations of Pucallpa SAC (now Ocho Sur P SAC), Walter Alejandro Wutsch, Dennis Melka, Alfredo César Rivera Loarte and Julio César Rivera Mesa are reported as well as workers of the company. In this same folder is included in the complaint the regional president Manuel Gambini Rupay for the alleged crimes against natural resources.

The director of the agronomy agency of Coronel Portillo of the DRAU, Jose Antonio Delgado Inga, said that they can not give proof of ownership certificates of territories of native communities because they do not have a document that specifies the extensions of the territory of the communities.

Another office of the DRAU related to the case is the Native Communities Directorate. The official of that

area, Antonio Collantes Zegarra, acknowledged that "there was a material error and some proof of ownership certificates were issued" which were later canceled.

The Director of the DRAU, Isaac Huamán Pérez, has a particular way of questioning the request of extension of the lands presented by the native community. "If all the communities have 1 000, 20 000, 30 000 hectares, why didn't they titled 40 years ago?" He asked without putting on the table the various obstacles that native communities must face in order to obtain their title deeds.

"I will not do anything against the right of the mestizo possessor to benefit the indigenous, when in time they have not been interested," added Huamán after stating that he offered to grant 700 hectares to the Santa Clara de Uchunya community but the community did not accept.

Regarding the alleged use of the lands where Plantaciones de Pucallpa SAC operates (now Ocho Sur P SAC) and which are claimed by Santa Clara de Uchunya, the director of the DRAU pointed out in his own way that it is a "half-truth" because the company is implementing in this territory the Strategic Productive Alliance Program (PAPE), through which the company gives a credit to farmers and technical assistance. In return, they sell their crop to the company and with that money they pay the credit. "Isn't it an opportunity for them? Or we want them to stop doing that and go plant coca. You have to think about everything", said Isaac Huamán Pérez.

In a communiqué dated November 4, 2016 and published in Ucayali newspapers, the company said that it is "media manipulation to put the population and authorities against the company".

The lawyer of the Instituto de Defensa Legal Juan Carlos Ruiz criticizes the granting of territories through the proof of ownership certificates because the legal support that the DRAU considers to give them does not specify its use and

go against international agreements because they affect titling processes of ancestral territories, such as the case of the Santa Clara de Uchunya community confronted to Plantaciones de Pucallpa SAC (now Ocho Sur P SAC)²⁶.

Mid-November 2016, community representatives came to Lima to file their lawsuit and demand a solution to the issue. In their complaint they included a list of 17 persons who had been given proof of ownership certificates of what the community considers to be their ancestral territories. In this list of names, a minor of 16 years old even appeared.

In April 2016, the request to cancel the grant of these certificates was declared inadmissible through the Regional Director Resolution 208-2016-GRUP-DRA and it was approved that the process should return back to square one and the persons involved can present themselves and request these certificates again.

Isaac Huamán of the Regional Agriculture Directorate of Ucayali said in December 2016 that this office will not give more territory to the Santa Clara de Uchunya community but will maintain the decision to grant them an extension of 750 hectares because, he asserts, the other plots do not belong to them.

In June 2017, the Ombudsman Office issued a report²⁸ warning about the conflict in the Santa Clara de Uchunya community and considered that the DRAU should have a land classification in order to grant land titles and proof of ownership certificates suitable for crops.

The report also recommended that the Regional Government of Ucayali refrain from "granting proof of ownership certificates and titles to third parties, on lands used or occupied by indigenous peoples in an ancestral way".

Convoca identified that some names in the claims of land trafficking in Santa Clara de Uchunya also appear in the case of Bajo Royal.

THE NETWORK AND AMAZON LANDS IN UCAYALI

Authorities and figures
(now Ocho Sur U.S.)



**UCAYALI IS THE REGION
WITH THE GREATEST
DEFORESTATION OF
PRODUCTION FORESTS**

Jorge Velasquez Portocarrero
Former regional governor of
Ucayali (2011-2014). The
government oversees the
Regional Sectoral Agriculture
Directorate of Ucayali (DRAU)



BEFORE

Miguel Dávila Henderson
Former head of the Forestry and
Wildlife Executive Directorate
of Ucayali (2011-2014),
subordinate to the regional
government. Cecilia Prado
Seijas' husband.



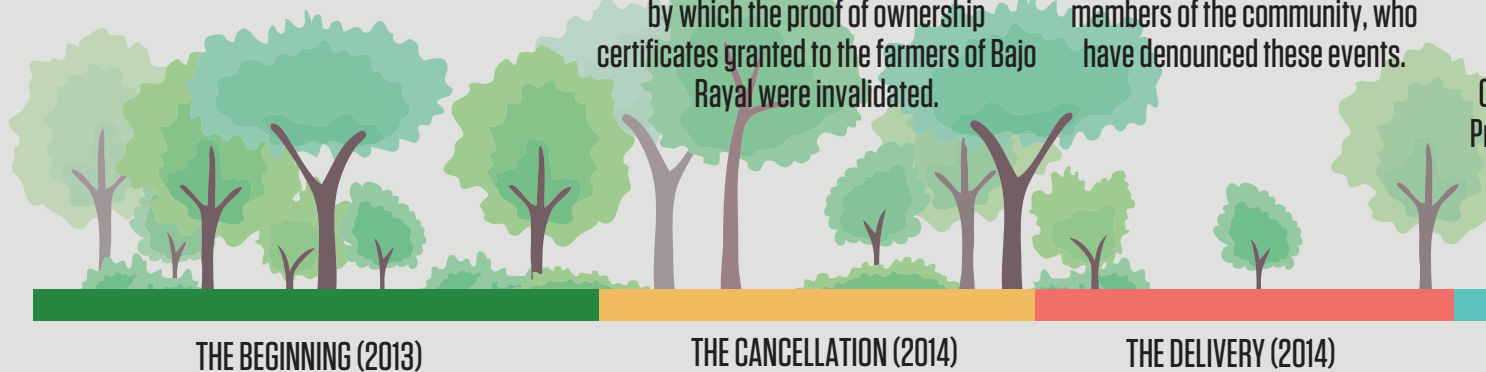
Luis Armando Pasquel Quevedo
Former director of DRAU's
Directorate for physical and legal
regularization of agricultural
property (2011-2013)

THE PROCESS

In 2013, a dozen farmers in the village of Bajo Rayal had proof of ownership of nearly 1,000 hectares.

In 2014, the Regional Agriculture Directorate of Ucayali, presided over by Celia Prado Seijas, approved a resolution by which the proof of ownership certificates granted to the farmers of Bajo Rayal were invalidated.

The DRAU granted proof of ownership to third parties in territories that previously belonged to farmers and members of the community, who have denounced these events.



figures who participated in the acquisition of lands in favor of Plantaciones de Ucayali S.A.C.
S.A.C.) and Plantaciones de Pucallpa S.A.C. (now Ocho Sur P S.A.C.)



Cecilia Prado Seijas
Former director of DRAU
(2013-2014). She approved
the proof of ownership
certificates granted to
private individuals.



Manuel Gambini Rupay
Current governor of
Ucayali (2015-2018)

NOW



Jorge Augusto Tijero Tirado
Former adviser to the regional
governor of Ucayali (2015),
Manuel Gambini Rupay. At the
beginning of 2015, while working
for the regional government, he
also served as consultant to
Plantaciones de Ucayali SA.



DENNIS MELKA
ACQUIRED MORE THAN
12,000 HECTARES OF
LAND IN UCAYALI UNTIL
THE END OF 2014



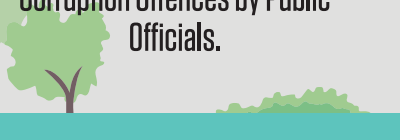
Alfredo Rivera Loarte
Director of Operations
at Plantaciones de
Ucayali SAC
(2013-until now)



Dennis Melka
American-Czech businessman
who directed Plantaciones de
Ucayali SAC and Plantaciones de
Pucallpa SAC. He has been
accused of deforesting more than
13,000 hectares of forest in the
Peruvian Amazon.



Some of the landholders of these
lands who benefited from the DRAU's
decision sold them to Plantaciones
de Ucayali, according to a
preliminary investigation by the
Office of the Corporative Provincial
Prosecutor of Ucayali Specializing in
Corruption Offences by Public
Officials.



THE SALE (2014-2015)

LOS
NEGOCIOS DE LA
DEFORESTACIÓN

6. ADMINISTRATIVE AND JUDICIAL PROCESSES THE MELKA GROUP AND PUBLIC OFFICIALS ARE FACING

In Ucayali, and other regions of the Peruvian Amazon, the management of regional and municipal governments has been characterized by timber trafficking and corruption. In 2012, an Environmental Investigation Agency (EIA) investigation reported on the system used to export illegal timber from Peru to the United States. The document also reports on the *modus operandi* used to export wood of endangered species.

In the case of palm oil, the activities of Plantaciones de Ucayali (now Ocho Sur U SAC) and Plantaciones de Pucallpa (now Ocho Sur P SAC) have been questioned more than once and not only by citizens affected by the operations of these companies, but also by institutions of the Peruvian State.

In December 2014, the Ministry of Agriculture and Irrigation ordered to stop Plantaciones de Ucayali (now Ocho Sur U SAC) activities and in September 2015 it issued the same order for Plantaciones de Pucallpa (now Ocho Sur P SAC). In both cases this measure was given due to the deforestation of more than 11 000 hectares. In the Loreto region, it was also ordered in 2014 to halt the activities of Cacao del Perú Norte due to more than 1 900 hectares deforested by the company. But the operations were not stopped despite the resolution of the Ministry of Agriculture.

In the Public Prosecutor's Office, other proceedings against former DRAU officials and executives of Melka companies continue their course as a complex case, as stated in fiscal file 072-2013. The Prosecutor's Office Specialized in Environmental Matters of Ucayali has investigated the responsibility of the former regional governor of Ucayali,

Jorge Velásquez; the former director of the DRAU, Miguel Seijas Del Castillo and the former regional vice president Carlos Henderson Lima for crimes against forests and improper use of agricultural land.

In that process, the former governor Velasquez is accused of crimes against natural resources for not "checking the laws, regulations and regional ordinances" prior to authorize the beginning of work in more than 4 700 hectares of Plantaciones de Ucayali (now Ocho Sur U SAC). Likewise, the approval in favor of the company, according to the prosecutor investigation, would have been carried out without considering the impact on the environment.

The First Public Prosecutor's Office Specialized in Environmental Matters of Ucayali also initiated a preliminary investigation to representatives of Plantaciones de Pucallpa (now Ocho Sur P SAC) for the alleged crime against forests executed with heavy equipment in the Tibecocha sector. The investigation was in response to Washington Bolívar Díaz denunciation, native leader of the Santa Clara de Uchunya community. These inquiries, included in fiscal file 122-2015, were the ones that led the Ministry of Agriculture and Irrigation to approve the resolutions that ordered the stop of activities of Plantaciones de Pucallpa, now Ocho Sur P S.A.C., in September 2015.

In the preliminary inquiries of this prosecutor investigation, information was also collected on

alleged acts of corruption between former officials of the DRAU, settlers and representatives of the former Plantaciones de Pucallpa S.A.C. (now Ocho Sur P S.A.C.). In January 2016, the Office of the Attorney Specialized in Environmental Crimes of the Ministry of the Environment asked the Prosecutor's Office to prepare a preliminary investigation against the defendants, including Dennis Melka, Alfredo César Rivera Loarte, among other company executives; as well as Celia Prado Seijas, former director of the DRAU; Manuel Gambini Rupay, current regional governor of Ucayali and other public officials. Gambini has blamed the previous administration of Jorge Velásquez Portocarrero for the destruction of the forests of Ucayali in the hands of Melka's companies in spite of the denunciation against him.

In mid-January 2016, Gambini Rupay testified for the Prosecutor's Office that he did not know Dennis Melka or the representative of his companies in Ucayali, Alfredo Rivera Loarte. The governor stated that he did not have any "coordination or relation with the company Plantaciones de Pucallpa SAC" and that he did not owe "favors" to this company.

However, Gambini Rupay management of the region was challenged due to the conflict of interest that involved his former advisor Jorge Tijero Tirado, who besides his work in the public sector was also an advisor for Plantaciones de Ucayali SAC, now Ocho Sur P S.A.C. At the beginning of 2015, this



official was hired in the regional government, according to the register of suppliers of the State of the Ministry of Economy and Finance. Gambini has acknowledged to the Public Prosecutor's Office that Tijero worked in the office of "Technical Advice of Agriculture Management"²⁹.

In 2014, Gambini, who was also mayor of the district of Irázola, was denounced for the alleged crime of money laundering from drug trafficking and corruption to the Public Prosecutor's Office and to the Public Attorney's Office. Another person who appears in this complaint is the brother of Manuel Gambini, Juan Peter Gambini, who has been investigated for alleged money laundering.

In the Office of the Corporative Provincial Prosecutor of Ucayali Specializing in Corruption Offences by Public Officials there is another investigation against former officials of the DRAU. Former director Celia Prado Seijas appears in the inquiries made to determine if she took advantage of her post to negotiate with land owners the sale of their lands to Plantaciones de Ucayali (now Ocho Sur U SAC).

The farmers of Bajo Rayal stated in the presence of prosecutors that they repeatedly complained to Prado Seijas about the invasion of their lands by the company and that she never listened to them. In the best case scenario, what she asked them was to negotiate with the company. "If you want I can talk to the company myself to help you, so they pay well for your properties, we have already talked with the company and they are willing to talk. In addition, there is no other way left because the company has already worked in areas they mistakenly entered", is what, according to the farmers, Celia Prado answered to those complaining, as stated in the documents of the prosecutor investigation. Prado Seijas denied these statements to Convoca.

Despite the fact that the complaint against Celia Prado and former DRAU officials was closed, the Office of the Corporative Provincial Prosecutor of Ucayali Specializing in Corruption

Offences by Public Officials received in early 2017 a new complaint against the former Director of DRAU's Directorate for physical and legal regularization, José Crespín Sempértegui, which now is part of the case No. 2016-330-0. The crime Crespín is accused of is embezzlement and falsifying documents because he allegedly participated in the grant of proof of ownership certificates granted with the submission of false signatures. This complaint, as known by Convoca, contains indications of the file 2014-70, closed in February of this year, which was also investigated by the Office of the Prosecutor of Ucayali Specializing in Corruption Offences by Public Officials.

In the fortnight of May 2017, despite the evidences detected, the Prosecutor's Office Specialized in Environmental Matters of Loreto declared unfounded a complaint against the founder of Cacao del Peru Norte, the businessman Dennis Nicholas Melka, for crimes against forests. In response, on May 22, the Attorney Specialized in Environmental Crimes of the Ministry of the Environment, Julio Guzmán, filed a new complaint in the same Prosecutor's Office of Loreto accusing Melka of being the author behind the deforestation. Next to him have been denounced, two other executives of the company: Rubén Antonio Espinoza, legal representative, and Ernesto Vega Delgado, chief of operations of the company³⁰.

While the investigations in the Prosecutor's Office Specialized in Environmental Matters of Loreto and Ucayali are progressing slowly, 223 properties - more than 10 000 hectares- belonging to Plantaciones de Ucayali SAC (now Ocho Sur U SAC) and Plantaciones de Pucallpa SAC (now Ocho Sur P SAC) were transferred to La Fiduciaria SA, a company specialized in trusts funds and stating on its website that it dominates more than 50% of the fiduciary market in Peru and for each operation it adapts to the "new structure" that its clients need. Among them, influential mining companies like Yanacocha and Poderosa, fisheries companies like Copeinca and Hayduk, or fossil fuel

companies like Maple or LNG.

The transfer between the companies of Melka and La Fiduciaria took place on September 2, 2015, the same day that the Ministry of Agriculture ordered Plantaciones de Pucallpa S.A.C. (now Ocho Sur P SAC) to stop its activities. The reason was more than 5 200 hectares of forests cut down without authorization³¹.

The modality of the transfer used by Melka's companies was the trust fund. That is to say, a contract was made so that, in this case, La Fiduciaria manages or invests the goods for its own benefit or that of a third party. This way no judge could order a precautionary measure on the assets of these companies to comply with the compensation to the State for damage to the natural heritage.

Between June and July of 2016, La Fiduciaria put in public auction the estates (the deforested lands) of Plantaciones de Pucallpa S.A.C. and Plantaciones de Ucayali S.A.C but it was declared deserted. Convoca knew that later a bidder acquired the goods auctioned, but La Fiduciaria avoided giving more information about it. This bidder turned out to be United Oils, one of the companies from the Melka group, which acquired the land - advised by the Hernández law firm - for USD 62 million.

With the start of 2017, United Cacao Limited's strategy - operated in Ucayali by Plantaciones de Pucallpa and Plantaciones de Ucayali- has been to separate Melka's participation from the company. The questioned businessman moved away from the companies the first days of January according to a statement from the company itself.

However, the commercial cycle and the *modus operandi* of the companies created by Melka repeat themselves again and again.



Foto: John Bevan

7. CONCLUSIONS

- The Czech-American businessman Dennis Melka and his operators managed to implement, with the help of Ucayali regional government authorities and through the companies Plantaciones de Ucayali (now Ocho Sur U SAC) and Plantaciones de Pucallpa SAC (now Ocho Sur P SAC), different strategies to get access to more than 13 000 hectares of Amazon land, while clearing forests and replacing them with crops of oil palm and cacao in Ucayali, the sub-national region that concentrates the greatest amount of deforestation in the Peruvian jungle.

- Melka companies got access to over 12 000 hectares in Ucayali under three modalities: direct purchase of private individuals (about 3 000 hectares), purchase of the State land (4 759 hectares) and purchase of land from a farmers' association (5 000 hectares). There are allegations of falsifying documents and deception in the acquisition of land.

- Current and former authorities of the Ucayali regional government are investigated by the Public Prosecutor's Office for the way in which Melka companies got granted access to the lands and the deforestation. The former regional governor of Ucayali Jorge Velásquez Portocarrero is investigated for crimes against forest and forest formations and improper use of agricultural land, along with several officials of the Regional Agriculture

Directorate of Ucayali (DRAU). The current governor Manuel Gambini is investigated for crimes against forests and forest formations along with other officials who continue to have positions in the DRAU.

- DRAU officials such as Celia Prado Seijas, former director of this office is investigated by the Office of the Corporative Provincial Prosecutor of Ucayali Specializing in Corruption Offences by Public Officials.

- Other officials investigated, such as Luis Pasquel Quevedo, former director of the Directorate for the Physical and Legal Regularization, are involved in the crime of land trafficking. He is accused of having favored third parties in the grant of proof of ownership certificates.

- There are indications of land trafficking in favor of Plantaciones de Ucayali, due to the use of individuals in the request for proof of ownership certificates that the company later acquired.

- The current regional governor, Manuel Gambini, also faces serious allegations. In 2014, Gambini, who was also mayor of the district of Irázola, was denounced for the alleged crime of money laundering from drug trafficking and corruption to the Public Prosecutor's Office and the Public Attorney's Office. Another person who appears in this complaint is the brother of Manuel Gambini, Juan Peter Gambini, who has been investigated for alleged money laundering.

- Gambini Rupay has denied any link with Dennis Melka's companies, even told the Prosecutor's Office that he did not know this businessman, nor the representative of his companies in Ucayali, Alfredo Rivera Loarte, and that he did not have any "coordination or relation with the company Plantaciones de Pucallpa SAC" and that he did not owe "favors" to this company. However, his former advisor Jorge Tijero Tirado worked in the office of "Technical Advice of Agriculture Management"³² and at the same time was an advisor for Plantaciones of Ucayali S.A.C., now Ocho Sur P S.A.C.

- A dozen of farmers from Bajo Rayal village of the Ucayali region reported to the authorities that they had lost about 1 000 hectares of land due to the irregular grant of proof of ownership certificates issued by the Regional Sectoral Agriculture Directorate of Ucayali, which favored third parties who in turn sold their lands to Plantaciones de Ucayali (now Ocho Sur U SAC) of the Melka group.

- In Ucayali, while oil palm crop extensions were growing, the grant of land to private individuals also skyrocketed. In the 2011 - 2014 period, more than 3 500 certificates of land ownership were granted, according to figures from the Regional Sectoral Agriculture Directorate of Ucayali (DRAU). The increase in the grant of proof of ownership certificates, approved by the Regional Sectoral Agriculture Directorate of Ucayali, has triggered disputes due to the overlap of farmers' lands and native communities' lands.

- The Santa Clara de Uchunya community demand respect for their ancestral territories and has requested an extension of more than 20 000 hectares. They denounce that other communities, led by Plantaciones de Pucallpa (now Ocho Sur P SAC), have deforested in areas they consider part of their ancestral land. The comuneros have denounced several officials of the DRAU involved in the grant of the more than 12 000 hectares under different modalities and that includes the present regional governor of Ucayali, Manuel Gambini Rupay.

- Land titling is a practice that has been postponed by the Regional Sectoral Agriculture Directorate of Ucayali due to the grant of proof of ownership certificates.

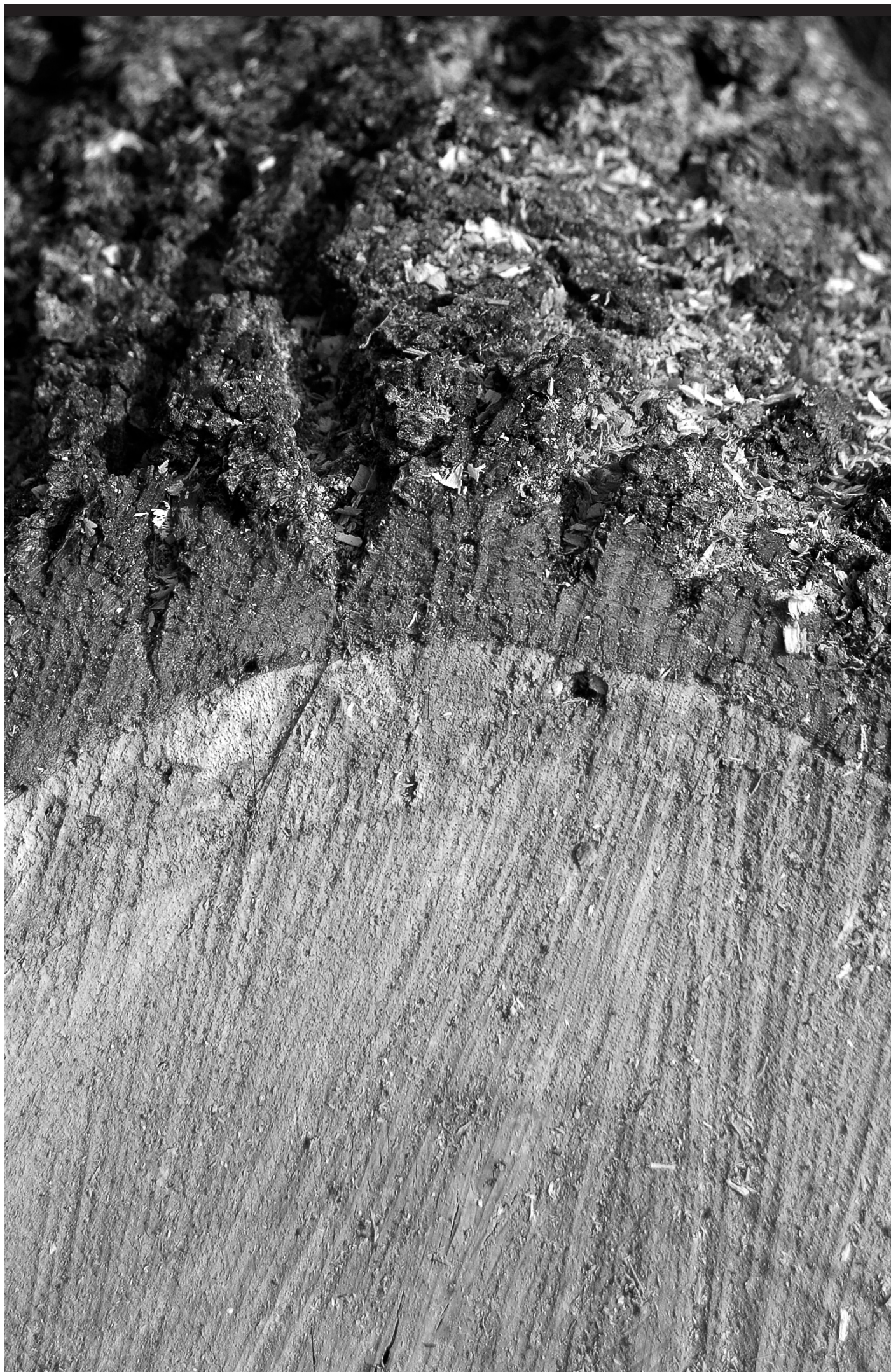
- Investigations in the Public Prosecutor's Office are progressing slowly while the Melka group has undertaken several strategies to prevent authorities from taking control of the deforested lands. One of them is the transfer of the assets of Ucayali companies to a fiduciary.

- There is evidence that demonstrate how easy was for Melka companies to gain access to the Ucayali lands while dispossessing farmers and communities from their lands.



8. NOTES

1. Quantification and analysis of the deforestation in the Peruvian Amazon for the 2010-2014 period - Ministry of the Environment http://geoservidor.minam.gob.pe/geoservidor/Archivos/Documentos/Memoria_Descriptiva_Cambios_Cobertura_Bosque_2014.pdf.
2. Translator's note: in this occasion the term "fiscal" has been translated as "prosecutor" and the term "procurador" as "attorney". For the Peruvian legal system a "fiscal" and a "prosecutor" are both public officials (lawyers) that can participate in a judicial process, but a "fiscal" is the one who initiates the investigation for an alleged crime. Once it is over, he accuses or files the investigation, and in the criminal process he asks for the penalty to be imposed before the judge. On the other hand, a "procurador" is involved in the investigation only if the State was aggrieved. During the criminal process, he requests the reparation amount, which must be fixed by the judge.
3. The GHG inventory of 2000 - Ministry of the Environment <http://cambioclimatico.minam.gob.pe/mitigacion-del-cc/los-niveles-de-emisiones-del-peru/el-inventario-de-gei-del-2000/>
4. ¿Agroindustria en la Amazonía? Posibilidades para el desarrollo inclusivo y sostenible de la palma aceitera en el Perú - Grupo de Análisis para el Desarrollo (GRADE) http://www.grade.org.pe/wp-content/uploads/LIBROGRADE_palma.pdf
5. Agreement for the Promotion and Reciprocal Protection http://www.rree.gob.pe/promocioneconomica/invierta/Paginas/Acuerdos_de_Promocion_y_Proteccion_Reciproca.aspx
6. Foreign Ministry officials said that they were aware of these facts in the investigation "Amazonia arrasada" elaborated by journalists Milagros Salazar, Dánae Rivadeneyra and Ghiovanni Hinojosa and published by Convoca.
7. This was informed by the authorities of the regional government of Loreto for the investigation "Amazonia arrasada" elaborated by Convoca.
8. Memoria anual 2015 del grupo Felda http://ir.chartnexus.com/fgv/docs/ar/ar_2015.pdf
9. Dirty Dayak Datuks - BN's Crony Candidates - Sarawak Report <http://www.sarawakreport.org/2013/05/dirty-dayak-datuks-bns-crony-candidates/>
10. RSPO statement: <https://es.scribd.com/document/334763441/25-Apr-2016-Plantaciones-de-Pucallpa-Pre-Dec-Cp>
11. See CASE TRACKER Plantaciones de Pucallpa - RSPO: <http://www.rspo.org/members/complaints/status-of-complaints/view/88>
12. This investigation was elaborated by journalists Milagros Salazar, Dánae Rivadeneyra and Ghiovanni Hinojosa and published by Convoca in alliance with OXFAM and Kené Instituto de Estudios Forestales y Ambientales: <http://convoca.pe/especiales/AMAZONIA/>
13. Roberto Arbitrio LinkedIn <https://it.linkedin.com/in/roberto-arbitrio-b144945>
14. Different sources interviewed by the journalist Dánae Rivadeneyra for the investigation "Amazonia Arrasada" published by Convoca, explained that the officials of the regional government of Ucayali gave information to Melka regarding the state of the lands, their owners and the possibilities of sowing oil palm on large scale.
15. Quantification and analysis of the deforestation in the Peruvian Amazon for the 2010-2014 period - Ministry of the Environment http://geoservidor.minam.gob.pe/geoservidor/Archivos/Documentos/Memoria_Descriptiva_Cambios_Cobertura_Bosque_2014.pdf.
16. Boletín N°01 de Gobernanza Climática, Junio 2016. Proética. https://www.dropbox.com/sh/p93fca2pq8o3vs/AAABL_6dMvKcd94g4jxCFFkCsa/2016/Bolet%C3%ADnGobernanzaClim%C3%A1ticaN%C2%B01.pdf?dl=0
17. According to information provided by the regional government of Ucayali through requests for information requested for this investigation.
18. According to the DRAU officials who were interviewed for this report.
19. See Convoca report, "Paraíso perdido: La doble titulación amenaza la Amazonía". <http://www.convoca.pe/especiales/paraisoperdido/la-doble-titulacion-amenaza-la-amazonia>
20. DRAU director Isaac Huamán Pérez explained in an interview for this investigation the first week of October 2016.
21. As stated in Regional Sectoral Resolution No. 106-2014-GRU-P-DRSAU dated June 2, 2014.
22. According to the inquiries made by the Office of the Corporative Provincial Prosecutor of Ucayali Specializing in Corruption Offences by Public Officials
23. Case N° 3006015201-2013-72-0 investigated by the First Public Prosecutor's Office Specialized in Environmental Matters of the Judicial District of Ucayali.
24. Investigation "Amazonía arrasada" by Convoca <http://convoca.pe/especiales/AMAZONIA/>.
25. Documents can not be made public due to the confidentiality agreement with the sources.
26. ¿Cómo despojar a las comunidades nativas de sus territorios ancestrales a través de las "constancias de posesión"? - Instituto de Defensa Legal <http://www.justiciaviva.org.pe/blog/como-despojar-a-las-comunidades-nativas-de-sus-territorios-ancestrales-a-traves-de-las-constancias-de-posesion/>
27. Deforestación por cultivos agroindustriales de palma aceitera y cacao. Entre la ilegalidad y la ineficacia del Estado- Defensoría del Pueblo <http://www.defensoria.gob.pe/modules/Downloads/informes/varios/2017/Informe-de-Adjuntia-001-2017-DP-AMASPPI.MA-P.pdf>
28. The Laundering Machine - EIA Global https://content.eia-global.org/posts/documents/000/000/501/original/The_Laundering_Machine_ENG.pdf?1475785276
29. These statements appear in fiscal folder 122-2015.
30. Convoca Report "Tamshiyacu: Las tierras del desamparo" <http://www.convoca.pe/especiales/AMAZONIA/las-tierras-del-desamparo.html>
31. Las pruebas de la Amazonía arrasada y la nueva maniobra del grupo Melka - Convoca <http://www.convoca.pe/agenda-propia/las-pruebas-de-la-amazonia-arrasada-y-la-nueva-maniobra-del-grupo-melka>
32. These statements appear in fiscal folder 122-2015.



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