



**Chiquita
Brands
International**

MEMORANDUM

RECEIVED
MAY 8 1992
Law Department

TO: [REDACTED]
FROM: [REDACTED]
DATE: May 8, 1992
RE: Fundiban - Colombian Military

[REDACTED] you requested a written opinion regarding potential Foreign Corrupt Practices Act ("FCPA") issues arising under a fact situation described to me over the telephone. My preliminary opinion was that your proposed course of action should not result in FCPA problems.

The facts described are as follows. Guerrilla activity has been on the increase in the Santa Marta area over the past months. To counteract this growing threat, members of the Colombian military have approached Santa Marta industry leaders in an effort raise funds for the purchase of vehicles and other equipment. Apparently, the major weakness the Colombian military has in dealing with the guerrilla insurgency is the lack of mobility in the area.

Compañía Frutera de Sevilla ("CFS") would provide \$21,000 to be applied towards the purchase of a vehicle. This contribution would be made to Fundiban, a trade association of banana exporters in the Santa Marta area. We do not control Fundiban or its decisions, since we are only one of at least three members of the organization. Fundiban will, using contributions from its members, acquire the vehicle and transfer it to the Colombian military authorities in Santa Marta.

These facts should not, in our opinion, raise FCPA concerns. The FCPA allows for direct or indirect facilitating payments. In our view, this contribution is being made to assist the Colombian military in a nondiscretionary activity (i.e., they are already required to counteract the guerrilla activity). In this regard, the fact that the contribution is being made indirectly through an intermediary does not obviate FCPA analysis.

I would also like to point out three final factors. First, under the FCPA, CFS' books and records must accurately reflect the payment made to Fundiban and its purpose. For example, the CFS accounting entry could read as follows:

(b)(6), (b)(7)c

"Cash (or check) contribution to FUNDIBAN in the amount of \$21,000 to be applied toward the purchase of vehicles for the Colombian military. These vehicles will be used for counterinsurgency efforts near Company facilities in the Santa Marta area."

Second, we have assumed that contributing a vehicle to the Colombian military does not violate Colombian law. You should have [redacted] confirm in writing (or have him initial this memo). In either case, please have [redacted] fax me a signed document as well. If the payment violates Colombian law, please contact me immediately. Finally, to conform with our FCPA policy, please report this contribution on your next quarterly FCPA report.

I discussed this with [redacted] our FCPA expert, who agreed with my original assessment. Should you have any questions, please feel free to contact me.

cc: [redacted]

[redacted] (via fax - Santa Marta)