

April 7, 2008

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ALSO BY E-MAIL TO arthur.tannenbaum@nyu.edu

Re: *Ban of Coca-Cola Products on NYU Campus*

Dear Mr. Tannenbaum:

Thank you for your continued consideration regarding the Coca-Cola ("Coke") ban at NYU. As concerned members of the NYU community, we urge you to continue the ban and respect the intention of the Senate's vote. Coke has not satisfied the conditions outlined in the Resolution passed by the University Senate on November 3, 2005 (the "Resolution") and therefore, lifting the ban and reinstating Coke products is not warranted.

The Resolution calls for a ban to be enacted on December 8, 2005, "unless prior to that date, Coca-Cola and the Commission have agreed upon a final protocol for an independent investigation into allegations of The Coca-Cola Company's complicity in human rights violations against the SINALTRAINAL union in Colombia..."¹. Coke's participation in the Commission was not in good faith, and did not ultimately result in any protocol. The purpose of the Commission was for Coke to dialogue with students and administration from concerned schools in order to develop a mutually acceptable strategy. Coke simply agreeing to any investigation apart from the Commission, without any input from schools, does not meet the terms of the Resolution.

Clearly, circumstances have changed since the Senate voted on the Resolution to ban Coke. When the Resolution was passed, the Commission was thought to be a few weeks away from finalizing a protocol for an investigation. Since talks between Coke and the Commission broke down, we have, if anything, moved backwards in the process. Coke's failure to reach a resolution with the Commission should not give them license to choose any organization they wish to do an investigation. Either the Commission needs to be reformed, or a similar group must be created.

Oversight by the Commission or a similar body is necessary because Coke has demonstrated that they cannot be trusted to choose a competent monitoring body on their own: this is not the first time they have claimed to have submitted to an investigation. Prior to the institution of the ban at NYU, Coke paid for an investigation by Cal-Safety Compliance Corporation. This investigation satisfied neither the Commission nor the University Senate because Cal-Safety was widely discredited and found to be unreliable by the monitoring communityⁱⁱ. The intent of the Resolution is clear: in order for the ban to be lifted, the investigation must be done by a credible, independent body. Further, students and administrators from concerned schools must have a voice in the process of selecting an investigative body and agreeing on a protocol for the inquiry.

The organization from which Coke has requested an investigation, the International Labor Organization ("ILO"), meets none of these criteria. An independent party is one that does not have relations with either side of a dispute. The fact that Ed Potter, Coke's Director of Global Labor Relations, sits on the ILO (and has for many years) presents a strong conflict of interestⁱⁱⁱ. It would be unethical for the ILO to conduct an investigation into Coke's labor affairs. Ed Potter's participation in the ILO has been affected by his connection to Coke in the past. Due to blocks by Ed Potter, along with other employer reps and the government of Colombia, the ILO has consistently voted against creating a Commission of Inquiry to investigate the violence against labor unions in Colombia for several years^{iv}.

Furthermore, the ILO is not qualified to do such an investigation as its purpose is to work on an international level to develop minimum standards for labor rights, not to investigate corporate practices^v. The ILO has completed admirable projects in all corners of the world, working with governments to help impoverished workers; however, they are not a corporate monitoring body and they do not presume to be so. There has been no evidence that the ILO has prepared the staff, skills, or resources necessary to do such an investigation, or even developed a timeline. Any ILO inquiry into Coke's practices in Colombia would not be deemed credible in the human rights or labor rights communities, and as an academic institution, NYU would be imprudent to blindly accept it as independent or reliable.

The credibility of this investigation is also suspect when SINALTRAINAL has reported that Coca-Cola FEMSA, owner of most of the Coke bottlers in Colombia, has visited its plants with the message that upper management will hand-select the employees allowed to give testimony in an ILO investigation^{vi}. This is a perfect example of why an experienced monitoring body with an established methodology is needed and why a specific final protocol for an investigation was wisely called for in the Resolution.

Aside from all this, in the two years since Coke began claiming an ILO investigation would occur, no clear steps have been taken by Coke or the ILO to move the inquiry forward. In April of 2006, the University of Michigan reinstated Coke products on their campus, giving Coke deadlines for an assessment of the conditions in Colombia to be complete by March 31, 2007 and a plan of action to be complete by May 31, 2007. Coke missed those deadlines^{vii}, and another year has passed. It seems that an investigation will not take place even by the ILO, as Coke prefers, unless increased pressure is put on Coca-Cola, not less.

Also, when interviewed in April of 2007, Coca-Cola spokesperson Kirsten Whit “said the ILO presence in Colombia is not specifically for the Coca-Cola company, but to monitor all corporations.^{viii}” Yet, it is a labor-site specific investigation that NYU’s resolution expressly requires. The investigation Coke and the ILO are claiming to have in the works is clearly not what the NYU Senate resolution calls for.

We are currently unaware of any indication that any students or administrators have had a part in developing a final protocol with Coke. In addition, United Students Against Sweatshops (USAS), and members of the original Commission, have indicated to us that they do not support an ILO investigation. Please find a letter attached from Zack Knorr of USAS. The Worker Rights Consortium (WRC) has this to say on the ILO:

"The ILO is a tripartite body responsible for establishing international standards related to labor and employment law and providing governments with expert advice and guidance in undertaking reforms of their legal and administrative systems. The ILO conducts research on a variety of matters related to labor issues. However, the ILO does not generally conduct investigations of alleged labor rights violations at particular worksites and it does not have a significant track record of doing so. The only project we are aware of involving anything along these lines is the ILO’s monitoring program in the apparel sector in Cambodia, a program which has had mixed results. We are aware of no precedent of the ILO acting as an impartial investigator in a high profile labor dispute. We are not familiar with the details of the proposed ILO investigation of the Coca-Cola bottling plants in Colombia or its current status."

They also said that the Commission for the Verification of Codes of Conduct (COVERCO, based in Guatemala), International Center for Corporate Accountability (ICCA, based in New York), or Human Rights Watch would all be good possibilities for investigation should Coke still refuse to work with the WRC.

Until Coke enters a dialogue with NYU in good faith, to determine a final protocol and to identify a satisfactory, truly independent investigatory body, the terms of the Resolution are not satisfied and NYU is not justified in lifting the ban. As it stands, the Resolution speaks to the will of NYU’s community, and it is your responsibility to protect the intention of the Senate’s vote—we hope you will keep in mind all the students, alumni faculty, student clubs and councils who mobilized in support of that vote.

While we do not support any motion to reinstate Coke products on campus based on the potential ILO investigation, we wish to note that we do hope for a productive dialogue with Coke so that everyone in the University community may arrive at a positive result. It is our intention as a community and as consumers to encourage and expect social responsibility among from the vendors with which NYU conducts business. Our campaign worked in good faith with NYU’s system of representatives and showed that the will of the campus and the Senate was to act in solidarity with the workers of SINALTRAINAL. Those workers are still living under threats and violence today, and it is our imperative to demand better from Coca-Cola before its products are returned to our campus.

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We think an appropriate response to Coke's request would be for the Senate to work to re-establish a dialogue with Coke representatives, a process in which we would happily take part. If members of the Senate are especially anxious to reinstate Coke products on campus (despite the lack of any logistical or financial repercussions to NYU resulting from the ban^{ix}), we would welcome a meeting with members of the Commission and members of the Senate. Lifting the ban, however, is not only unwarranted, but also a hasty and excessive response. It would be more appropriate for the Senate to act prudently by encouraging a dialogue with Coke to move toward the true realization of the intention of the Resolution.

We hope that you will consider our concerns in the coming weeks as this issue is presented before the various bodies of the NYU governance structure. If you should have any questions regarding the above, or if you would like to arrange a meeting so that we can discuss the issue further, please do not hesitate to contact us (information below). Thank you.

Very truly yours,

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Cc: Scott Nova, Executive Director of WRC
Zack Knorr, International Campaigns Coordinator, USAS
Ray Rogers, Campaign to Stop Killer Coke
Sasha Hammad, Campaign to Kick Coke Off Campus, NYU
Dave Hancock, Campaign to Kick Coke Off Campus, NYU
Kristin Campbell, Campaign to Kick Coke Off Campus, NYU
Jeff Olshansky, NYU Law Students for Economic Justice

ⁱ NYU Senate meeting minutes, 11/3/05

ⁱⁱ United Students Against Sweatshops (USAS) statement, 4/15/05, "Cal-Safety Compliance Corporation is Not a Credible Monitor for Coca-Cola's Labor Practices"

ⁱⁱⁱ Coca-Cola press release, 1/25/06, "The Facts: The Coca-Cola Company and Colombia"

^{iv} Polaris Institutes, 4/11/07, "U. Michigan renews contracts with Coca-Cola, investigations continue"
http://www.polarisinstitute.org/u_michigan_renews_contracts_with_coca_cola_investigations_continue

^v ILO Constitution

- vi ILRF press release, "Another "Classic Coke" Move to Deny and Delay Accountability for Human Rights Violations in Colombia"
- vii Polaris Institute press release, 4/11/07, "U. Michigan renews contracts with Coca-Cola, investigations continue" http://www.polarisinstitute.org/u_michigan_renews_contracts_with_coca_cola_investigations_continue
- viii Washington Square News, 2/11/08, "Coke Ban May Be Lifted By Summer," <http://media.www.nyunews.com/media/storage/paper869/news/2008/02/11/University/Coke-Ban.May.Be.Lifted.By.Summer-3200828.shtml>
- ix NYU Senate meeting minutes, 11/3/05