



Bogotá, May 20, 2016

Mr.  
Jan Gruiters  
General Director of PAX  
Godebaldkwartier 74  
3511 DZ Utrecht  
The Netherlands

Ref: PAX letter to Energy companies of March 1, 2016

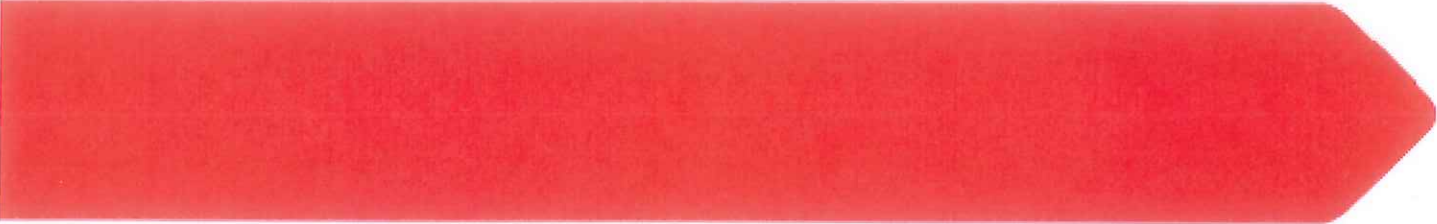
Mr. Gruiters,

We have seen a copy of a letter you circulated earlier this year to several energy companies in Europe, urging them to disengage their business with Drummond. Once again you are making false allegations regarding supposed human rights violations, and asking that we provide remediation to the victims of the violent conflict that has been ongoing in Colombia for more than 50 years.

Going to the issues that you raise, as we have stated publicly, at Drummond we share with the vast majority of Colombians and the international community the pain for all the victims of violence in Colombia. The suffering to which all these victims have been subjected is unacceptable, regardless of who the perpetrators have been. We celebrate the efforts that the Colombian Government has made to put together a peace process with the FARC and the ELN, and we wholeheartedly hope that the process is successful, strengthening democracy and contributing to a more sustainable future for Colombia.

It is the Government's responsibility to establish the ground rules for remediation and ensure the availability of resources so that this can happen. As a corporate citizen, and as most of our in-country staff are Colombian citizens, we too have been victims of this conflict through attacks, kidnappings and extortion attempts. At all times we have worked with the governmental institutions and Armed Forces to make sure investigations are carried out and the responsible parties are brought to justice.

You mention your document "The Dark Side of Coal" to the addressees, yet you fail to mention that when the field work was being done, we informed you that you were using false witnesses as sources of information. You unfortunately ignored this warning



sign that hindered the independence and objectivity of your investigation, which is why said report is full of false claims and imprecisions. This can be corroborated with the multiple legal decisions in favor of the company, both in Colombia and in the United States. We would like to call out for the respect of the judicial branches of two sovereign countries.

Furthermore, despite the fact that in a meeting in The Hague in November 2013 and later in Bogotá at a conference organized by the Friedrich Ebert Stiftung Foundation in Colombia (FESCOL) in September 2014, Marianne Moore claimed that her sole contact with Terrence Collingsworth had been a 30-minute conversation, there is clear evidence of collaboration between PAX and the legal team that has spearheaded the groundless attacks against Drummond Ltd. and its executives, led by this attorney. During the discovery process in the lawsuit filed by the Company against Collingsworth, emails dated March 2013 came to light that prove that PAX's report on Colombian coal is based on the false testimonies given by bribed paramilitaries, and other witnesses.


Here are excerpts of those emails between Marjolein Jegerings (PAX) and Lorraine Leete (International Rights Advocates, an NGO/Lobbying firm of which Collingsworth is the Executive Director) that speak for themselves:

"Dear Lorraine -- My colleague Marianne Moor {IKV Pax Christi the Netherlands} requested me to write you an email on the following subject matter. In the plea bargain for the Drummond lawsuit that Terry sent us, we found a lot of useful information. In our- soon to be finished - report we are referring to several witnesses and quotes mentioned in this text. In order to make our report more solid, we would prefer to refer to the declarations directly, instead of referring to the plea bargain. Likewise we also can put the information in a better context. Therefore I was wondering if it would be possible to send the following declarations to me: !fs'Ex K, Adkins Dep; !fs'Ex. a\_Zervos Dep."

"Dear Lorraine -- I'm sorry to bother you again. I have another request and I hope that you are willing to help us out. In the Drummond report, we also would like to include the stories of the victims, to prevent that only the paramilitaries are being cited. Marianne told me that you also have transcripts of declarations/interviews with victims of paramilitary/Drummond in Cesar. Could you please tell me what declarations of victims you have, and if possible, send us a few transcripts? That would be wonderful..."



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“Hi Marjolein, I've attached the deposition testimony of four of our clients, in addition to the Samario, El Tigre, and Adkins testimony so that you can cite directly to the testimony rather than our briefing. The Adkins testimony is marked confidential, but has since been unsealed. The testimony cited from El Tigre is indeed the March 22, 2012 testimony. Let me know if you need anything else.”

In addition, in a recent decision, after Drummond filed a defamation lawsuit in October 2011 against Terrence Collingsworth and his law firm, Conrad & Scherer, the U.S. Court for the Northern District of Alabama declared: “The court has no hesitation in finding that there is (at least) probable cause to believe that [the attorney Terrence] Collingsworth, while prosecuting lawsuits on behalf of his firm, engaged in witness bribery and suborning perjury.” The Court also held that there was probable cause to believe that Collingsworth had committed fraud on the Court by hiding payments to witnesses against Drummond: “It is hard to imagine a set of facts that could more clearly establish the first prong of the *prima facie* case for piercing the privilege. Collingsworth repeatedly made knowingly false representations in pleadings, affidavits, correspondence, and open court” **(See a summary of said Opinion in the attachment)**.


The most recent judicial decision took place a few weeks ago, when the United States **Supreme Court** ruled in favor of Drummond Company and declined the request by the plaintiffs of Balcerio v. Drummond to review the case, re-affirming the ruling by the Eleventh Circuit Court of Appeals, affirming the district court’s dismissal of the case on July 25, 2013, on the basis that the plaintiffs relied on inadmissible hearsay to support their claims, and that the claims are not viable. Balcerio was first filed in May 2009, and was based on allegations that Drummond Ltd. and two of its executives had been allegedly involved in human rights violations in Colombia. The Court’s original ruling stated that the evidentiary record “demonstrated an absence of evidence in support of Plaintiffs’ case.”

Drummond welcomes the Supreme Court’s decision, as it is a re-affirmation that we conduct business following the law at all times. At no time have we ever been involved in illegal activities or in relationships with illegal groups.

In your letter you are misquoting UNGP number 19, for it states that, “In order to prevent and mitigate adverse human rights impacts, business enterprises should integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action.” It also says that “Effective integration requires that responsibility for addressing such impacts is assigned to the appropriate




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level and function within the business enterprise and internal decision-making, budget allocations and oversight processes enable effective responses to such impacts.” The UNGP also says: “Appropriate action will vary according to whether the business enterprise causes or contributes to an adverse impact, or whether it is involved solely because the impact is directly linked to its operations, products or services by a business relationship, and the extent of its leverage in addressing the adverse impact.”

Our compliance with Principle 19 is evident in a publication on March 15, 2016, by the Bettercoal organization. It said: “Drummond Ltd. is the first company to have completed the full cycle of the Bettercoal Assessment Program – which includes completing a Self-Assessment Questionnaire, and conducting an independent site and re-assessment by Bettercoal approved assessors. ERM-CVS was appointed by Bettercoal to conduct both the site-assessment and re-assessment at Drummond Ltd. The Bettercoal approach is one of engagement and continuous improvement, examining a company’s management systems, behaviors, sustainability performance and impacts against the Provisions of the Bettercoal Code, and work with the company to improve their practices over time.” See the full article at <http://bettercoal.org/news/colombian-coal-a-bettercoal-view>.

A society in which human rights are respected also depends on its level of sustainable development. In this regard, our contribution to peace and progress in Colombia has been taking place for many years. Let us state that our “Good Neighbor” policy has been effective in improving the quality of life of the communities in our area of influence. We have a policy of favoring the local and regional population in the generation of employment opportunities, as well as in the purchase of goods and services from providers in the area of influence. Also, we have helped in extending and improving the infrastructure in schools, hospitals and clinics, and roads, and we’ve also worked hand in hand with local officials to train and help them formulate development plans that benefit, when possible, all the inhabitants in the region. On the other hand, with our Environmental Management Plans (EMP) and Environmental Compensation Program, we have resources and tools that have helped in the recovery of ecosystems in the operational areas, as well as in projects we have led in the Serrania del Perija, working with local farmers who have returned to the zone after having been displaced by violence, so that they can develop reforestation programs and the recovery of ecosystem corridors. They have also been able to develop productive (agricultural) projects whose production is being marketed with contractors in the mining operations. This program has been carried out with the design and support of the Pro Sierra Nevada de Santa Marta Foundation.



In addition, we have been participating in the impact study of Colombia's mining sector, led by the reputable Responsible Enterprises and Entrepreneurship Regional Center, a representative in Colombia of the Institute for Human Rights and Business. Moreover, said study is being sponsored by the embassies of The Netherlands, Norway, and the United Kingdom in Colombia, as well as by the Mining and Energy Planning Unit of the Colombian Government.

We have always worked with anyone who wishes to work constructively, shoulder to shoulder, so that both the company and our neighboring communities can prosper and live in peace. Finally, we ask that you communicate with the companies, organizations and people to whom you sent the March 1 letter, rectifying and withdrawing the false accusations that have been proven time and time again to be groundless in both the Colombian and US judicial systems.

Regards



Jose Miguel Linares  
President  
Drummond Ltd.



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