

The Dark Side of Coal

Paramilitary Violence in the Mining Region of Cesar, Colombia



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Colophon

Authors: Marianne Moor and Joris van de Sandt

Photography: Ronald de Hommel

Cover photograph: Pedro Vega (58) in Santa Fe (Becerril).

Displaced person who was forced to leave his house, livestock and land behind in 1999 after repeated threats by the paramilitaries. He shows the title deed of the plot he used to live on.

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About PAX (formerly IKV Pax Christi):

PAX means peace. PAX brings together people who have the courage stand for peace. Together with people in conflict areas and concerned citizens worldwide, PAX works to build dignified, democratic, and peaceful societies across the globe. PAX operates independently of political interests and is supported by a wide group of involved citizens, social organizations and churches.

www.paxforpeace.nl

P.O. Box 19318

3501 DH Utrecht

The Netherlands

info@paxforpeace.nl

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"If you shut
up the **truth**,
and bury it
underground,
it **will** but **grow**"

(Emile Zola)

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Introduction

Members of the Dutch peace movement PAX first visited the department of Cesar in 2009. During this trip, the deep scars that the paramilitary violence of the 1996–2006 period had left among the local population soon became clear. Some of the residents of the mining region still had no sense of security. Groups that appeared extremely vulnerable were those who stood up for justice for human rights victims, were active in trade unions, or raised discussion about the negative environmental and social consequences of coalmining. This is despite the disarmament and demobilization of the paramilitary units in 2006, which officially are no longer active in Cesar.

The prosecution and punishment of the paramilitary leaders from Cesar under the *Ley de Justicia y Paz* (Justice and Peace Law 975/2005) was making extremely slow progress. In 2009, the Office of the Attorney General of Colombia (hereafter: Attorney-General's Office) was still busy with criminal investigations, and the trials had yet to lead to convictions. Furthermore, the key leaders had been extradited to the United States to face charges of involvement in drug trafficking.¹ They gave no further testimonies under the Colombian Justice and Peace Law. The victims' family members therefore received hardly any clarification about the circumstances of the murders of their loved ones, or about the possible whereabouts of the disappeared.

In the course of a second visit in spring 2011, it became apparent that the situation of the tens of thousands of victims had not significantly improved in the intervening years. Many of them had still been unable to recover emotionally from their traumatic experiences, which also seriously disrupted their families and the social cohesion in local communities. The *Ley de Víctimas y Restitución de Tierras* (Law on Victims and Land Restitution 1448/2011), which provides for individual and collective reparation, came into force only in June of that year. However, to this day many victims have yet to receive any form of reparation.

Today in Valledupar [the capital of the department of Cesar] **four people were murdered**. It is a lie to say that the paramilitaries here have been demobilized. All kinds of people are being murdered here. **The murderers are paramilitaries**. Pupo [alias Jorge 40] is still the leader of the paramilitaries in Valledupar.

(Álvaro Mercado, Valledupar, 23 May 2011)

Many victims were amazed that no one in Europe seemed to know about their plight, even though this continent is the most important customer for coal from Cesar. They had always been convinced of the relationship between the mining industry and the violence that they had endured. They requested PAX to investigate the paramilitary violence in the context of the mining industry in the region, and to publicize the findings to a broad international audience.

It was 2013 before some of the victims of the violence summoned up the courage to organize themselves to assert their rights, together with fellow victims from other departments. In August 2013, the victims constituted a national movement. PAX has supported the *Movimiento Nacional de Víctimas de Corporaciones Multinacionales y Transnacionales* (National Movement of Victims of Multinational and Transnational Companies) from the outset. Specifically, the support involves the provision of psychosocial and legal assistance to the members in Cesar, as well as generating international political attention to improve their security situation.

Objectives of the Research

PAX started fieldwork in 2011 with a view to analysing the human rights violations committed against the population of the Cesar coalmining region since the mid-1990s. The scope included both past and current infringements. The results of the study were intended to raise international attention for the suffering of the victims and the security situation of vulnerable groups, and to initiate a public debate about measures to relieve their situation. In 2012, PAX gained possession of written and oral statements made under oath by several ex-paramilitary commanders and former mining company contractors. The testimonies alleged that, for years, the mining companies Drummond and Prodeco had provided financial and logistical

support to the *Autodefensas Unidas de Colombia* (AUC: United Self-Defence Forces of Colombia) in the north of Colombia, in particular to the *Juan Andrés Álvarez* (JAA) Front of the Northern Bloc. The shocking and detailed nature of the material prompted PAX to investigate this theme in depth. In 2013, an increasing number of statements from former paramilitary members who had once operated in the region were made publicly available.

The release of this new information led PAX to reformulate the objective underlying this report. PAX wants to publicly report on statements by both perpetrators and victims of gross human rights violations committed by paramilitary groups in the Cesar mining region in the 1996–2006 period so as to describe the alleged role of the mining companies in the paramilitary violence, the effects of which continue to this day. The aim of this report is to contribute to the truth finding process in Cesar and to further the resolution of the consequences of the violence for the victims.

Focus of the Report

As a peace movement, PAX investigates the impact of mining and naturally places an emphasis on its consequences for the security and human rights situation of the civilian population. Of the many human rights violations committed in the Cesar mining region, we concentrated on the categories with the greatest apparent impact: selective killings, massacres, enforced disappearances, and forced displacement.

This means that this report does not take into account some other important aspects of the consequences of coalmining in Cesar. These include issues about which a polemic debate often rages in Colombia, such as: the environmental impact of coalmining, the effects of the mining industry on the health of the population, the issue of involuntary resettlement, the inadequate prior consultation of indigenous and Afro-Colombian peoples, the way royalties and tax income are spent, as well as the social and cultural impacts of 20 years of mining activity in the region.

This report is also limited to the alleged involvement of the mining companies Drummond and Prodeco. The third player in the Cesar coal industry is *Colombian National Resources* (CNR), which has three concessions in the region, but only produces modest quantities of coal. CNR was disregarded in the analysis in view of the minor significance of these mines for coal exports to Europe. Furthermore, a consequence of the focus on the judicial investigations and proceedings in Colombia and in the United States is simply that there are more statements available about Drummond and Prodeco.

Another consequence of the report's research focus is that the alleged involvement and responsibility of state authorities and security forces in the paramilitary violence is addressed only indirectly, despite the frequent references to security forces' involvement made by former paramilitary commanders and mining company employees and contractors in the legal proceedings. PAX restricted reference to state involvement in the report to cases that were specifically mentioned by the sources used, and where this information is important to give the reader a clear understanding of the issue.

State and Corporate Accountability

The aims of this report are consistent with PAX's worldwide endeavour to bring about a mining industry that respects human rights and guarantees the security of local communities. Wherever violence and human rights abuses occur in conjunction with mining, states and business enterprises alike must take their own, different yet complementary, responsibilities. The roles and responsibilities of states and business enterprises in protecting and respecting human rights, and in the effective remedy of breaches, are laid down in the *UN Guiding Principles on Business and Human Rights* (UNGPs), which were adopted unanimously by the UN Human Rights Council in 2011.²

The UNGPs are the first corporate human rights responsibility initiative to be endorsed by the United Nations. At the same time, it is important to emphasize that some of the principles reiterate existing obligations that are embodied in important international human rights treaties such as the Universal Declaration of Human Rights (1948), the ILO Convention concerning Freedom of Association and Protection of the Right to Organize (1948), and the International Covenant on Civil and Political Rights (1966). Colombia is party to these treaties and is therefore obliged to uphold them. The UNGPs also build on earlier guidelines and declarations, such as the OECD Guidelines for Multinational Enterprises (1976, most recently updated in 2011), the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises on Social Policy (1977) and the UN Global Compact (2000).

International law places the primary duty to protect human rights on the state. According to the UNGPs, the Colombian government then has the duty to ensure that no human rights abuses, including those committed by foreign or national mining companies operating in Colombia, occur within its national borders. This duty obliges the government to have effective legislation in place to prevent and address business-related human rights abuses (UNGP 3a/b). In conflict-affected areas, both the host state and the home state bear additional obligations to ensure that mining companies avoid involvement in serious human rights abuses (UNGP 7).

According to the UNGPs (and other business and human rights frameworks, such as the OECD Guidelines and the UN Global Compact), business enterprises bear corporate responsibility to respect human rights. What this means for mining companies in Colombia, for example, is that they must take active steps to avoid causing, or contributing to, adverse human rights impacts through their own extractive operations and seek to prevent or mitigate any potential impact (UNGP 13a). Business enterprises must also keep themselves informed of any actual and potential detrimental impacts and demonstrate their contribution to mitigating any impacts that occur (UNGP 15). In other words, companies must know and show that they respect human rights in all their operations.

Business enterprises are accordingly expected to continuously monitor the human rights risks of their activities in order to meet their responsibility to respect human rights. This monitoring process is called due diligence. Moreover, business enterprises must scrutinize not only their own activities but also those that are linked to them by their business relationships (UNGP 13b/17a). The implication for coalmining in Colombia is that mining companies should assess not only the human rights risks of their own business processes, but also the potential detrimental impact of their contractors' activities. In turn, the energy companies in Europe that buy coal from mining companies in Colombia also share responsibility for the human rights risks and impacts that

ensue from coal extraction. This is because they share responsibility for the actual and potential adverse human rights impacts that are linked to them through their business relationships (UNGP 17a/18).

Finally, the UNGPs stress the fundamental right of access to effective remedy for individuals and communities whose rights have been harmed by the activities of business enterprises.³ When business enterprises are involved in human rights abuses, the state has the duty to take steps to investigate, punish, and redress these abuses, whether by judicial means, such as through national civil and criminal law, or in other legitimate extrajudicial proceedings (UNGP 25). In the context of their own responsibility, business enterprises are expected to establish, or collaborate in, effective grievance mechanisms for all people and communities whose rights have been infringed by their operational activities (UNGP 30).

Victims may differ widely in their need for remedy. These needs depend amongst other things on their wishes regarding truth finding and justice and their socioeconomic position. Remedy may therefore take a variety of forms – all aimed at undoing or rectifying past human rights abuses. Alongside judicial means, there are extrajudicial forms of remedy, such as exposure of the truth, apologies and rehabilitation, financial or non-financial redress, as well as preventive measures, such as guarantees to prevent repetition. These extrajudicial forms of remedy require an acknowledgement of the paramount importance of human dignity that may sometimes be missing from the legal advice that reaches courtrooms and corporate boardrooms.

Who should read this Report?

This report is addressed to all parties who are directly or indirectly involved in coal production in the department of Cesar and is relevant for a variety of groups. Of primary concern is the mining companies themselves, whose alleged involvement in the paramilitary violence is being addressed in this report. In connection with this however, the report also includes the energy companies that buy the coal from them and therefore have a due diligence obligation in the coal supply chain.

Furthermore, state actors are a significant target group, and include public authorities in Colombia, in the European countries that import coal from Cesar, and in the United States and Switzerland, where Drummond's and Prodeco's parent companies are based. We hope that politicians, policymakers, and those who influence public opinion in Colombia and the European Member States alike will use this report to put and keep the public debate about Drummond's and Prodeco's legacy firmly on the political agenda.

Finally, this report also addresses European consumers of the energy generated with coal from Cesar. They are entitled to receive sufficient information from energy companies in order to make an informed choice regarding their energy provider.

Methodology and Sources

This report is based on written sources, interviews, and statements made by witnesses in legal proceedings. The written sources include press publications, reports from social

organizations, information and data from authorities, academic publications, and websites with company information and specialized information about the armed conflict in Colombia. One of our key written sources was the website of the Colombian organization Verdad Abierta, which provided us with extremely detailed information about the paramilitary violence in Colombia in general, and in Cesar in particular. Amongst other things, the site includes information from the testimonies of former paramilitaries who were tried under the Justice and Peace Law.

Other information in this report comes from interviews that PAX held with victims of the violence in Cesar, ex-paramilitary commanders, former mining company contractors, human rights lawyers, and Colombian authorities involved with security and human rights in Cesar.

A substantial part of the report is constructed around court testimonies made under oath by ex-paramilitary leaders who operated in the region. Some of the statements are from the legal proceedings under the Justice and Peace Law of Colombia, which was enacted in order to bring the former AUC commanders to trial after their demobilization. The ex-paramilitaries can qualify for a maximum eight-year sentence if they testify about their crimes as part of the truth-finding process. In addition, use has been made of statements made by contractors of the mining companies in the context of the ordinary Colombian justice system.

A considerable number of testimonies quoted in this report emerged from the lawsuit that 592 next of kin of 131 victims of the violence in the Cesar mining region brought against Drummond before the District Court of Alabama in the United States in May 2009. The case is called *Balcero et al. v. Drummond Company, Inc.* (hereinafter referred to as the US court case).⁴ Drummond has expressed its opposition to the use of sworn statements from the Alabama lawsuit implicating Drummond in human rights violations for the purposes of this report. This is especially so since the Balcero case was dismissed in court following a summary judgement decision in August 2013. Glencore, Prodeco's Swiss parent company, has also expressed concerns. In Chapter 9, we deal extensively with the criticisms of the mining enterprises, as well as the reasons why, after all, we have decided to include parts of these publicly available statements in the report.

Obstacles, Challenges, and Limitations

Work on this report has proceeded, at intervals, for a total of over three years, which is far longer than we originally intended. This was because of the wide variety of challenges and obstacles faced by the PAX research team along the way. We managed to overcome a substantial proportion of these. As for the other cases, the resulting limitations of the report are generally documented in the endnotes. A summary of the main obstacles encountered is given below.

Fear reigns among the victims of the violence and former paramilitary commanders alike. Nonetheless, nearly all the victims whom we approached ultimately told their story. It was possible to conduct the interviews in satisfactory circumstances. The same was not true for the ex-paramilitaries. The former members of the AUC whom we wanted to interview are serving prison sentences, and they are keenly aware of the possible legal implications of public statements, in particular if they refer to new criminal offences. They also fear reprisals from parties with nothing to gain from this openness. In fact, some of the ex-paramilitary leaders have been threatened with, or survived, a murder attempt. Several of them were visited in jail by representatives of

companies and/or former commanders and told explicitly to refrain from testifying about the mining companies.

The absence of statements from some leading Northern Bloc commanders is simply due to the fact that they were never willing to cooperate in either the Justice and Peace process or the US court case. These include the supreme commander of the Northern Bloc, Jorge 40, who has been extradited to the United States to face drug charges. In view of his previous key position, he must possess extremely detailed information about the paramilitary structures, the human rights violations committed, and the sources of funding.

Another important witness, the former commander of the JAA Front, Tolemaida, has revealed little in the Justice and Peace process. The PAX research team has been unable to make contact with him. El Tigre, commander of the JAA Front until 2000, testified both in the Justice and Peace process and the US court case, but was not willing to give interviews for security reasons. There was contact by e-mail with some witnesses. Personal interviews were held with El Canoso, El Samario, and El Yuca. The limitations of the prison regime meant that the circumstances of the interviews with the last two witnesses were not ideal and too short. The interview material is complementary in this report to the testimonies of the former paramilitaries in the court actions.

The Colombian court cases yielded fewer relevant testimonies for this report than the US court case, which specifically focused on Drummond's involvement in the paramilitary violence. On the other hand, the proceedings under the Colombian Justice and Peace process focused on establishing the truth for some of the victims, and exposing the structures and methods of the paramilitary groups. As far as PAX has been able to ascertain, the Attorney-General's Office has started no legal investigation of the alleged involvement of the mining companies in the paramilitary violence in Cesar. However, some convictions through the Colombian judicial system, such as those concerned with the murder of three trade union leaders, did yield brief, yet extremely interesting, statements on the role of the mining company.

Another limiting factor is that more statements are available about Drummond than about Prodeco. As already stated, many statements that we have used for this report were made within the framework of the US court case that the next of kin of victims of the violence brought against Drummond. The exclusive focus of this action on Drummond probably is the reason why there were far fewer statements available about Prodeco. Moreover, some statements made about the latter company tend to be less detailed, mentioning the issue only indirectly. The report reflects this limitation.

Relatively few sources made statements about the alleged involvement of the mining companies in the arrival of the paramilitaries in Cesar in 1996. Many of the commanders of the first group of paramilitaries to operate in the Cesar mining region have been murdered or killed, or have disappeared. These include the commanders Melchor, Baltasar, and Amin. El Canoso made statements about the arrival of the first group of paramilitary forces in Cesar, and Drummond's and Prodeco's alleged involvement. However, Drummond's former food services contractor Blanco Maya and the former paramilitary commander El Tigre made extremely detailed statements about the 1996–1998 period regarding Drummond's alleged financing of these men, and the collaboration between the AUC and the company.



The steep walls of Drummond's open pit coal mine in La Loma in the central region of the department of Cesar.

Finally, it was no simple matter to obtain a complete picture of the human rights violations allegedly committed by the JAA Front. The official police figures on the violence in Cesar have two serious limitations. They shed light only on the infringements that were reported, and the figures are generic for all illegal armed groups in the region. The general figures have been supplemented with data from the Unidad de Atención y de Reparación a Víctimas (Unit for the Attention and Reparation of Victims) and the Attorney-General's Office, based on the statements of victims and perpetrators. Where possible, PAX has identified the individual victims of the JAA Front by name. ♦

Facts & Figures on Coalmining in Cesar

Until roughly 2005, many foreign investors shunned Colombia because of the existence of armed conflict. Mining in the country was limited to small-scale, mainly artisanal, activities. The chief exception to this was the large-scale coalmining operations in the north of Colombia, in particular in the departments of Cesar and Ia Guajira. At the end of the 1980s, foreign companies acquired the licences of national mining companies in Cesar and proceeded to scale up operations.

In 2006, the government of President Álvaro Uribe launched a new mining policy and started issuing numerous mining concessions.⁵ Before long, the industry had succeeded in attracting many foreign investments.⁶ Uribe's successor, President Juan Manuel Santos, even considered the mining sector to be one of the most important drivers of the national economy. This governmental pro-mining strategy and the increased international demand for coal led to further growth of the coalmining industry in northern Colombia.

Today, the following coalmining companies are to be found in the department of Cesar:

- ◆ Drummond Ltd. Colombia; a 100% subsidiary of Drummond Company Inc., an unlisted American family business.
- ◆ Prodeco Group; a 100% subsidiary of the Switzerland-based multinational company Glencore Plc.
- ◆ Colombian Natural Resources S.A.S.; a privately held mining company controlled by the US investment bank Goldman Sachs Group, Inc.

Drummond was incorporated in the state of Alabama in 1935 and focused in the first few decades following incorporation on coalmining in the south of the United States.⁷ The company entered into a coal extraction contract with the Colombian government in 1988 for the **La Loma concession**. The contract is for a 30-year period (until 2019), with an option for an extension. Drummond took the concession over from the state mining company Carbocol.⁸ The area concerned is 57 km² on the border of the municipalities of El Paso, Chiriguana, and La Jagua de Ibérico. The estimated coal reserves amount to 420 million tonnes.⁹

Drummond was quick to garner numerous permits. In 1991–1992, the company received the important environmental permit for the new La Loma mine.¹⁰ The mine was built in just three years, and a million tonnes of coal were extracted in La Loma as early as 1995. Fourteen years later, in 2009, annual production had reached 18.4 million tonnes. The estimated total production in the 1995–2009 period was 203 million tonnes.¹¹

In 1997, the Colombian Ministry of Mining and Drummond entered into an additional 35-year coal extraction contract for the **El Descanso concession**, a vast area of approximately 400 km² in the municipalities of Becerril and Augustín Codazzi. It has estimated coal reserves of 1,550 million tonnes.¹² In 2008, an environmental permit was granted for Drummond to operate the El Descanso mine.¹³ In 2009, the first year of production, 2.2 million tonnes of coal were extracted. Drummond expects this new operation to help raise its total production substantially over the next two decades. In 2009, the joint annual production in the La Loma and El Descanso mines was 20.6 million tonnes; in 2011, this had increased to 23 million tonnes.¹⁴ See Figure 1.

The second major coalmining company in Cesar is **Prodeco Group**. In 1995, the Switzerland-based and London-listed company Glencore acquired the Colombian mining company Prodeco, which had co-owned the **Calenturitas concession** with Carbocol since 1989. The new subsidiary company continued to operate in Colombia under the same name: Prodeco. In 1995, the new Prodeco obtained an operating permit¹⁵ for the Calenturitas concession, an area of 67 km² in the municipalities of Becerril, El Paso, and La Jagua de Ibérico. The parent company, Glencore Plc, has been publicly listed since 2011.¹⁶

Although large-scale extraction and exporting of coal had been taking place at Prodeco's mine and seaport since the mid-1990s,¹⁷ production activities were temporarily discontinued in 1998, mainly due to construction activities for the expansion of the mine's operations. At the time, the company employed between 100 and 150 workers and already had a security department with several staff members. In 2004, the company restarted large-scale production, which then proceeded to grow steadily.

In 2005, Prodeco also acquired the nearby **La Jagua concession** jointly operated by the companies Carbones de la Jagua, Consorcio Minero Unido, and Carbones del Tesoro, all of which were incorporated in the Prodeco Group. In 2009, the government moreover granted permission to expand the activities in Calenturitas.¹⁸ The Prodeco Group envisaged that production would increase rapidly. In 2010, the company achieved a joint annual coal production of 10 million tonnes in Calenturitas and La Jagua; in 2011, this had already increased to 14.6 million tonnes.¹⁹ See Figure 2.

Figure 1.
Historical coal production
Drummond 1995-2013

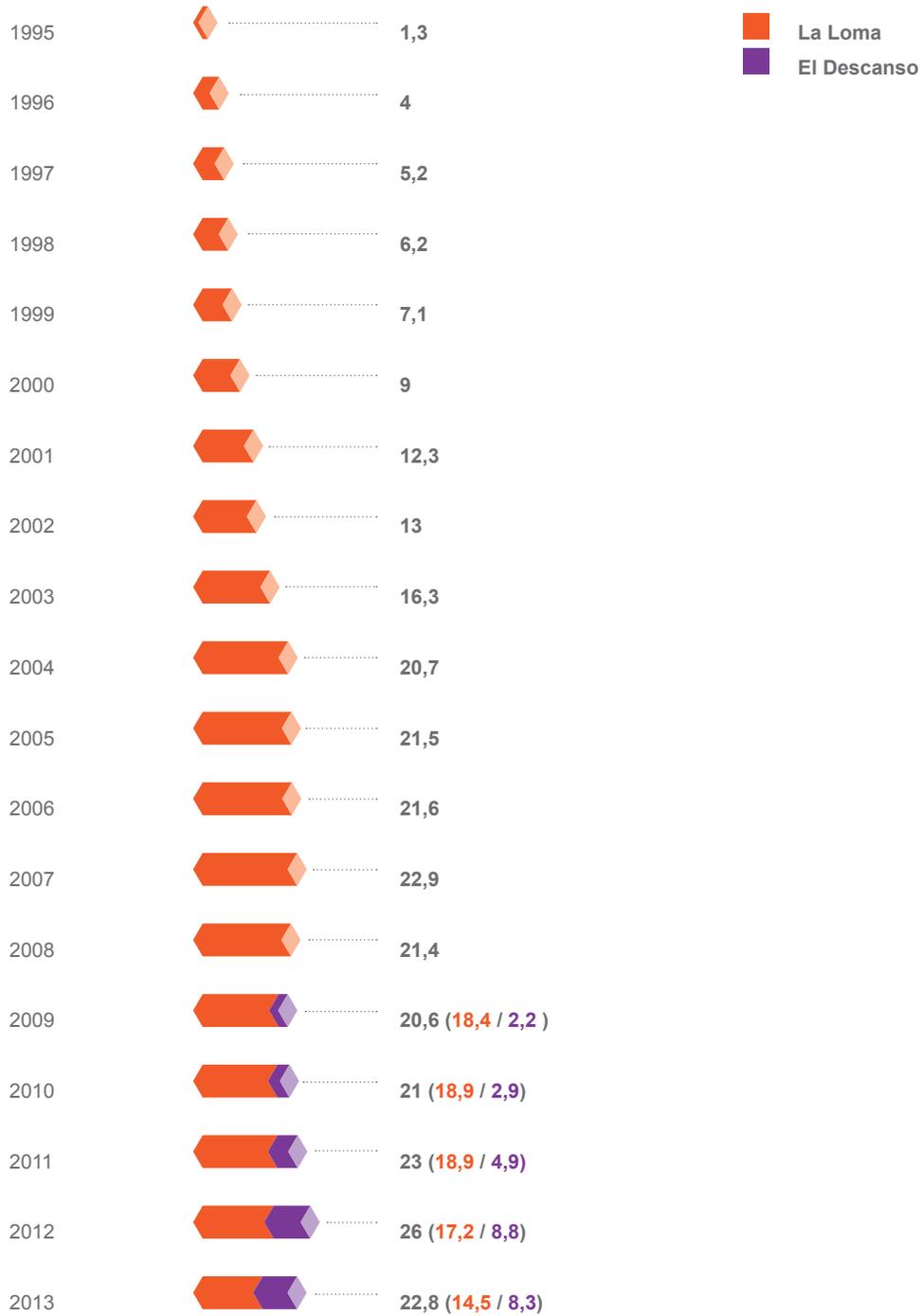


Figure 1. Historical coal production of Drummond 1995-2013 (La Loma & El Descanso concessions, millions of tonnes).
Source: Sistema de Información Minero Colombiano (www.simco.gov.co) & DTL D Sustainability Report 2011.

Figure 2.
Historical coal production
Prodeco 2004-2013

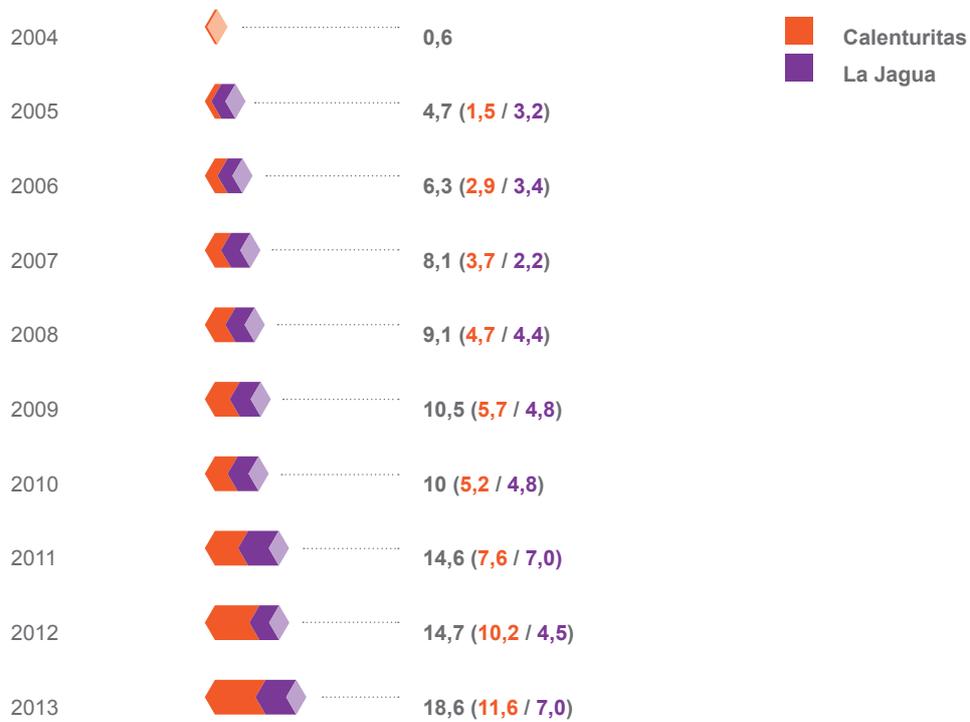


Figure 2: Historical coal production of Prodeco 2004-2013 (Calenturitas & La Jagua concessions, millions of tonnes).

Source: Sistema de Información Minero Colombiano (www.simco.gov.co).

Note: The Simco database includes no company-specific production data prior to 2004; Prodeco does not provide these data.

Coal Transportation

The mining companies require transport to the coast and a transshipment harbour in order to export their coal. Drummond started the construction of a dock in Ciénaga in the district of Santa Marta as early as 1993. The Prodeco acquisition of 1995 included a dock (Puerto Zuñiga), a few kilometres from the Drummond dock. Between them, these docks shipped over 30 million tonnes of coal to various parts of the world in 2010.

Both Drummond and Prodeco are currently in the process of expanding and modernizing their docks. However, the expansion of existing docks will be inadequate for the predicted growth in production, so that both companies are engaged in constructing a new joint dock in nearby Pueblo Nuevo, with an envisaged annual capacity of 60 million tonnes.²⁰

For the transport of the coal to the docks, Drummond obtained the necessary permits in 1993 and 1994 for a connection to the national railway line and the construction of a new rail freight station.²¹ Drummond's coal transports were originally provided by the state rail operator *Ferrocarriles del Norte de Colombia* (FENOCO); Prodeco and other companies transported all their coal by truck.²²

Transport by rail has increased drastically since 2006, when FENOCO was privatized and acquired by Prodeco, Drummond, and three other smaller mining companies in the region. With a view to the expected rise in coal production, track doubling work has been in progress since 2007. The amount of rail traffic is therefore set to increase substantially, and the transport capacity will rise to 80 million tonnes a year.²³ ♦



The railway line transporting coal from the mining concessions in Cesar to the sea ports on the Caribbean Coast.

1. Violence in the Cesar Mining Region

All armed groups present in the department of Cesar over the last few decades have caused violence among the local population. However, the AUC paramilitaries who operated in the Cesar mining region caused disproportionately more deaths and displaced persons in the 1996–2006 period.

On the basis of the calculations and estimates set out below, this report assumes a conservative estimate of 2,600 victims of selective killings, 500 victims of massacres, and 240 victims of enforced disappearances, attributed to the Juan Andrés Álvarez Front (hereafter JAA Front). The term massacre is generally used to refer to the violent killing of a group of three or more people at once.²⁴ The paramilitary violence caused more than 59,000 forced displacements in the Cesar mining region. Of these estimates, we have been able to identify by name and surname 865 victims of selective killings, massacres, and enforced disappearances by the JAA Front.

In 1996, the high command of the *Autodefensas Campesinas de Córdoba y Urabá* (ACCU: Peasants' Self-Defence Forces of Córdoba and Urabá), which later transformed into the national paramilitary umbrella-organization *Autodefensas Unidas de Colombia* (AUC: United Self-Defence Forces of Colombia), sent an initial group of 60 paramilitaries to Cesar to defend the established interests and properties of the local economic elite against guerrilla activities. The following year, the group was expanded substantially by approximately hundred men, according to the testimonies of former paramilitary commanders upon the specific request of Drummond. Their presence brought about a first wave of paramilitary violence.

In 1998, the AUC leaders set about merging their four northern fronts into the Northern Bloc (See Map 1). A young member of the paramilitary from Valledupar, Rodrigo Tovar Pupo, alias

Map 1.
Northern Bloc of the AUC
(1998-2006)



Area of operations of the Northern Bloc of the AUC (1998-2006).

Jorge 40, was appointed commander. He decided in December 1999 to set up the special JAA Front that was to operate in the immediate vicinity of the Drummond and Prodeco mines.²⁵ The JAA Front operated in eight municipalities in the Cesar mining area: Bosconia, El Paso, La Paz, Augustín Codazzi, Becerril, La Jagua de Ibérico, Chiriguaná, and San Diego. Furthermore, this front had an occasional presence in six of the neighbouring municipalities, Valledupar, El Copey, Curumaní, Chimichagua, Puerto Bello, and Astrea (See Map 2).²⁶

Jhon Jairo Esquivel Cuadrado, alias El Tigre, was the first commander of the JAA Front. The JAA Front's mission was to defeat the guerrilla groups present in the area where the coalmines are located, or to drive them into the mountain regions. Civilians were not spared in the process and many ended up being killed, threatened or displaced. In the AUC, there existed the notion that they could defeat the guerrillas by terrorizing the population in areas in which they operated, and sometimes even by depopulating these areas. The underlying idea was that the guerrillas were being supported by sections of the local population.

Following the peace agreement between the Colombian government and the AUC, the government drafted a legislative proposal for the demobilization and trial of the paramilitaries. This *Ley de Justicia y Paz* (Justice and Peace Law 975/2005) was enacted by the Colombian parliament in 2005. In 2006, the paramilitary units in Cesar, including the JAA Front, were disarmed and disbanded. However, soon after the demobilization, it became apparent that the

violence and human rights violations had continued, albeit in a different guise and on another scale. Some ex-paramilitaries reverted to an illegal and armed existence.

In the years following the demobilization, some of the paramilitary commanders in Colombia were brought to trial under the Justice and Peace Law. The Attorney-General handling the JAA Front's case in the Justice and Peace process listened to many hundreds of hours of testimonies from ex-paramilitaries of the JAA Front and their victims, and deduced from them a description of the Front's methods. "The paramilitary squadrons came at night, with lists of the victims, to the rural areas, in large groups, masked and wearing military uniforms, travelling in pick-up trucks with tinted windows. [They were] armed and wrote slogans on the walls in the villages such as 'death to the lowlifes (*rateros*) and guerrillas.' They dragged people from their homes, took them away, and made them 'disappear.' Their bodies were thrown into the rivers, and others were dismembered. They also set up road blocks with as many as 200 men, forced people out of their cars, took them away [...]"²⁷

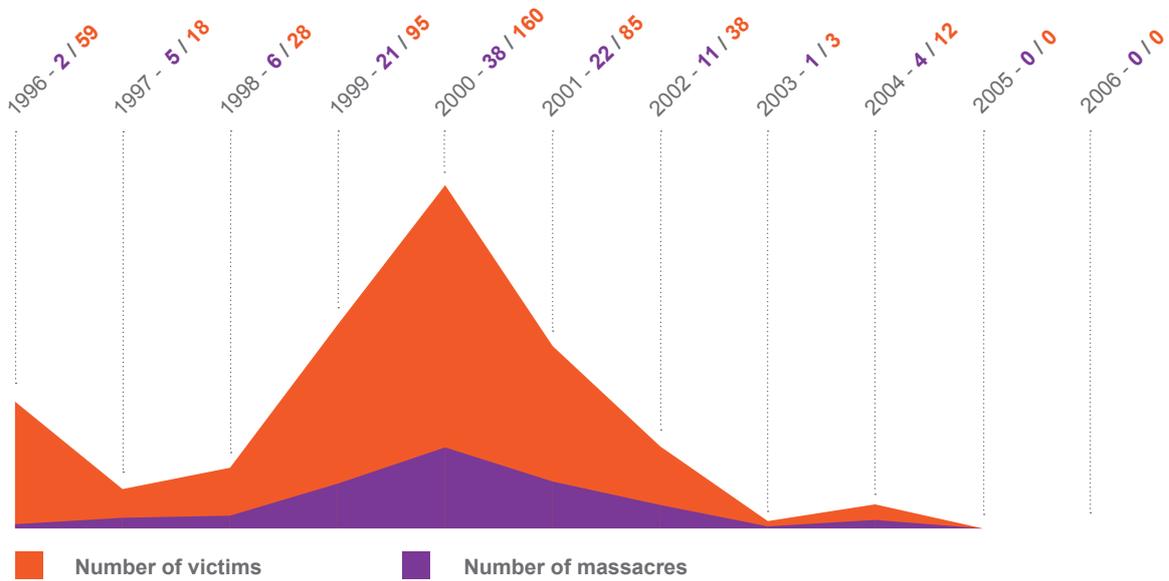
Figures on Violence in the Cesar Mining Region

Unfortunately, there are no conclusive figures available about the abuses committed by the paramilitaries in the Cesar mining region. We have to rely on two sources to quantify the violence there: figures from the Colombian national police and statements made by perpetrators. This information can be supplemented, and contrasted, with the statements made by the victims and their relatives. We restrict our analysis of these sources to the categories of human rights violations routinely committed by the AUC: selective killings, massacres, forced displacement, and enforced disappearances. In view of the lack of reliable sources, we have not included serious sexual offences. We have also limited the assessment of the violence to the human rights violations committed by the JAA Front and its predecessors in the period 1996–1999 and have not included violations by other paramilitary fronts. We decided to do so because the Front operated in the immediate vicinity of the coalmines in Cesar.

Both sources – testimonies in legal proceedings and police figures – have weaknesses. First of all, it is hard to get access to the statements that former paramilitaries made in the Colombian justice system. Furthermore, statements made by ex-paramilitaries within the framework of the various legal proceedings do not provide a complete picture. The witnesses often give only indications of numbers and are unable to recall some of the murders. In addition, some of the former commanders were less willing to make statements on the role of the mining companies in the violence. The methods used by the Colombian Attorney-General's Office also influence the figures, as the primary focus in the Justice and Peace processes is on the massacres committed by the AUC, and to a lesser extent on the selective murders or cases of displacement.

The figures given by the police are most probably on the low side because they include only the reported cases, and therefore exclude victims who did not file a report. On the basis of the interviews with the victims in Cesar and the national figures on crime reported in Colombia, it can be concluded that many victims of the violence between 1996 and 2006 did not file a crime report. Furthermore, the police statistics do not differentiate between the types of perpetrator, making it impossible to identify the cases that involved the AUC as opposed to guerrillas and common criminals.

Figure 3.
Massacres in the Cesar mining region



Recorded massacres in the Cesar mining region committed by the JAA Front and its predecessors (1996-2006).

Source: Attorney General's Office, Justice and Peace unit

However, a plausible case can be made that the AUC, and in particular the JAA Front, was responsible for most of the violence in the Cesar mining region during the period concerned. First of all, many of the NGOs, international institutions, and academics attribute the vast majority of the human rights violations at national level to the AUC.²⁸ These estimates vary between 65 and 88%. Furthermore, from December 1999 onwards, the mining region was strongly dominated by the JAA Front, and the *Fuerzas Armadas Revolucionarias de Colombia* (FARC: Revolutionary Armed Forces of Colombia) was largely driven out to the mountain areas, from where they were able to carry out far fewer actions against the population in the mining region.²⁹

Figures on Massacres

For the massacres category, the perpetrators could be established rather precisely in the cases mentioned in the statistics. Firstly, because the phenomenon of massacres was a characteristic feature of the AUC's methods, almost all registered massacres can be attributed to the paramilitaries. In addition, the data about the massacres for our report came from the Justice and Peace unit of the Attorney-General's Office, and only former members of the AUC are eligible for trial within this legal framework. The regional or national media often also covered the news of the massacres and confessions of the ex-paramilitaries regarding these violations. On the basis of these sources of information, it can be stated that all massacres registered by the Attorney-General's Office in the mining region for the 1996–2006 period can be attributed, with a probability close to certainty, to the AUC.

The question then is whether these paramilitaries were also members of the JAA Front, or of the Mártires del Cesar Front, which is another paramilitary group that had occasional presence in central Cesar. Of the massacres registered by the Attorney-General's Office, we have been able to attribute almost all cases to the JAA Front. Exceptions to this are the massacres in the municipality of Valledupar, where it was not always possible to identify the perpetrators. We have accordingly included only half the registered massacres in Valledupar in our data. See Figure 3.

On the basis of these figures then, we can deduce that in the 1996–2006 period at least 499 civilians in the Cesar mining region were killed in massacres committed by the JAA Front. See Map 2.

Figures on Selective Killings

Some of the former commanders have given very general estimates, within the Colombian legal system or in the US court case, regarding the number of selective killings they committed. Furthermore, they have given some written and oral statements on specific cases of selective killings.

In the US court case, alias El Canoso said about the arrival of the group of AUC paramilitaries in Cesar in 1996: "Most of the homicides that were committed during that time were done at the hand of the paramilitaries who arrived at El Silencio [...]." ³⁰ "With the arrival of this group to the area [...] a crime wave swept the area at night and in the Justice and Peace process it is being confessed that back then the commando ordered the daily murder of 30 to 40 people." ³¹ This observation is consistent with the visible peak in violence in the police statistics.

Alias El Tigre stated under oath in the US court case about his time as commander of the JAA Front: "Up to the year 2009, I had confessed to 720 killings. [...] There have been many more versions where I have accepted responsibility for many more killings, but I can't give you a count right now. But I would venture to say that it's around a thousand to fifteen hundred killings approximately by the JAA Front." ³²

Alias El Samario made a written statement in 2009 within the framework of the US court case in which he admitted involvement in 250 serious violent offences, ranging from murder and disappearances to forced displacement. Included in the list are 118 cases of murder and 19 disappearances. ³³ All the violations took place in the mining region. In the US court case hearings, El Samario reconfirmed that his Front was the perpetrator of the crimes. He commented: "And all of these people have been killed by the AUC." ³⁴ The involvement of El Samario directly implicates the JAA Front.

It is possible to further refine this picture on the basis of the national police figures. These statistics include 4,948 registered murders committed in 14 municipalities in the Cesar mining area. Although the figures are aggregated over all illegal actors, it is possible to base an estimate of the paramilitary share on them. Of the 14 municipalities in the area, the core area where the JAA Front was active includes eight municipalities. We assume in the calculations that, in this core area of eight municipalities, 70% of the murders in the police figures can be attributed to the JAA. For the six neighboring municipalities, where the JAA Front regularly operated but where other fronts were active as well, we attribute a proportion of 35%. These are very conservative estimates. See Figure 4.

Map 2.

Distribution of massacres in the mining region of Cesar

© MAPgrafix



Distribution of massacres committed by the JJA Front in the mining region of Cesar.

On the basis of this calculation, together with the numbers of killings given in statements made under oath by former paramilitaries, it can be plausibly argued that between 1996 and 2006, the JAA Front committed at least 2,600 selective killings in the Cesar mining region.

Figures on Forced Displacement

In the 1996–2006 period, many citizens were driven out of rural Cesar by the paramilitary violence. For forced displacement too, the numbers can only be estimated. The former paramilitary commanders tend to dwell much more in their statements on the selective killings committed than on the cases of displacement they caused. Therefore, there are fewer statements about this subject.

In the US court case, alias El Canoso stated under oath about the people displaced by the first group of paramilitaries: “I remember that near El Silencio a group of farmers had invaded some lots and the paramilitaries displaced them, or cleared them out, of that area. I remember that fear was generalized throughout the area.”³⁵ El Tigre testified in the same court case: “Up to the year 2009 [...] I confessed [within Justice and Peace] [...] to more than 2,000 displacements.”³⁶ Moreover, in a written statement for the US court case, El Samario identified 84 victims of displacement.

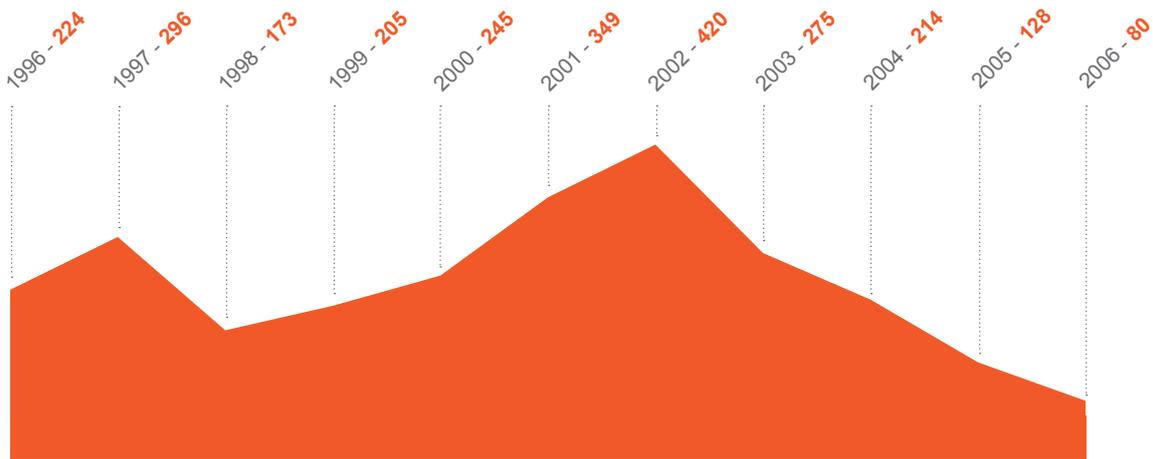
Unfortunately, the official statistics of the Colombian police have information about displaced people in Cesar only from the year 2000, and there are therefore no data for the violent 1996–1999 period. Figure 5 is based on the figures for the period after 2000. There were 105,165 recorded cases of displaced people between 2000 and 2006 within the direct and indirect operating area (14 municipalities) of the JAA Front. Within this period, the highest numbers of cases of displacement were in the years shortly after the foundation of the JAA Front at the end of 1999. The average number of recorded cases in the area in these years was 19,800.³⁷

We estimated the share of the JAA Front from these aggregated national police figures in 14 municipalities in the mining area. For the eight core municipalities where the JAA Front was permanently based and operational, we assume in the calculations that 70% of the forced displacements registered in those municipalities were committed by the JAA. For the six neighbouring municipalities where the JAA Front regularly operated, we assume a proportion of 35%. Given these percentages, the estimated number of people displaced as a result of the violence of the JAA Front in the Cesar mining region is approximately 59,000. As stated above, this estimate does not cover the bloody years of 1996–1999.

Figures on Enforced Disappearances

The phenomenon of enforced disappearances has been a serious problem over the last decades in the mining region of Cesar. The data of the *Unidad para la Atención y Reparación Integral a las Víctimas* (Unit for the Attention and Reparation of Victims, hereafter: Victims' Unit), which collects the data on victims of violence in Colombia, registered 3,089 cases of enforced disappearances during the period 1985–2006 in the mining region of Cesar. Unfortunately, these accumulated figures do not give insight into the number of cases per illegal armed group.

Figure 4.
Selective killings in the
Cesar mining region



Estimates of selective killings in the Cesar mining region committed by the JAA Front and its predecessors (1996-2006).

Source: Colombian National Police (CIC-DIJIN)

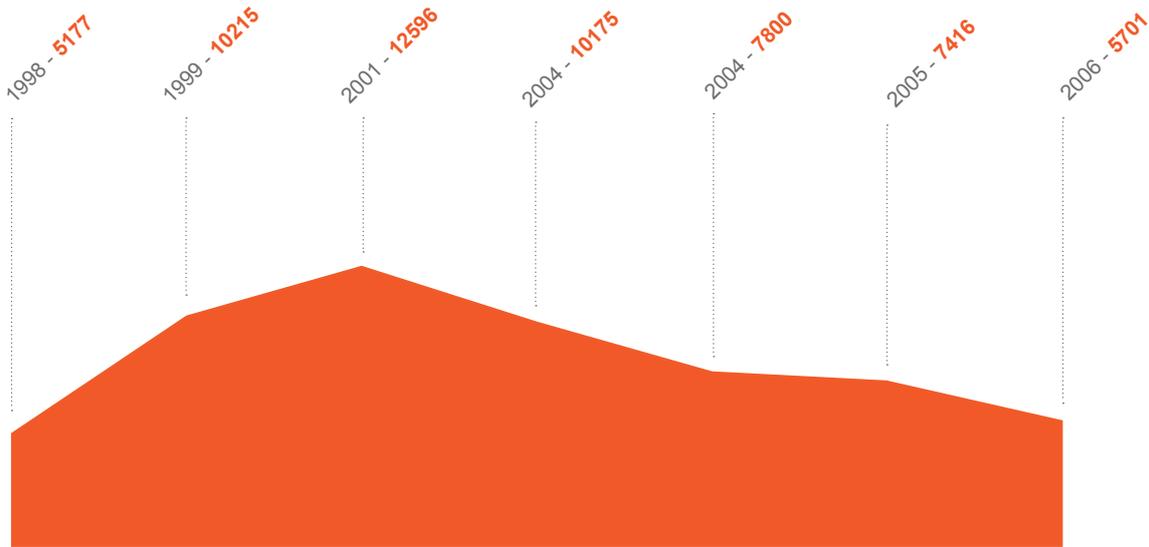
The specific data come from the sworn statements of the ex-paramilitary members Salvatore Mancuso and Alias Tolemaida, respectively a high-ranking commander of the AUC and the ex-commander of the JAA Front. According to Tolemaida's statements, the JAA Front made at least 213 persons disappear under his direct command during the period 2000–2006. In addition, Mancuso has confessed to 29 cases by chain of command that were committed by commanders other than Tolemaida.³⁸ So the minimum number of enforced disappearances that we can attribute to the JAA Front is 242. On the basis of the Victims' Unit's statistics, it is likely that the real number of enforced disappearances by the JAA Front is considerably higher.

Knowledge of the Mining Companies about the Paramilitary Violence

There are three grounds to believe that both Drummond and Prodeco were aware of the violent consequences of the presence of the paramilitary groups in the region.

First of all, the AUC's methods in Colombia were well enough known nationally and internationally. Some of these violations were recorded in publicly available official statistics on a regional and national level. It is unlikely that this was unknown to Drummond and Prodeco. The aim of the AUC leaders was to wrest Colombian territory from the guerrillas. They derived their counterinsurgency strategy from a North American doctrine that held that guerrilla groups are largely dependent for their existence on support from the local population. The idea therefore was to destroy this support by terrorizing communities that were believed to harbour guerrilla supporters or sympathizers. The methods used in Cesar were no different, and they were euphemistically referred to as 'social cleansing.'³⁹

Figure 5.
Forced displacements in
the Cesar mining region



Estimates of forced displacements in the Cesar mining region committed by the JAA Front (2000-2006).

Source: Colombian National Police (CIC-DIJIN); figures prior to 2000 are not available.

Secondly, the major companies in the region at the time reportedly evaluated the local security situation on a regular basis. Manuel Gutiérrez, then head of security at Prodeco, said in an interview with PAX: “Because of the circumstances in Colombia, all security departments had a programme of activities and an intelligence programme. We called the intelligence programme the ‘information chamber’. What did the information chamber do? (...) They reported on a daily basis about the national situation, the situation of the trade unions, and the local and regional security situation. This included any incidents that were registered. Unfortunately [in the late 1990s] there were between 10 and 14 incidents a day in Colombia, and four to five at a local or regional level.”⁴⁰

Finally, it appears from a statement by James Adkins – Drummond’s former head of the security department, a former CIA agent who, at the time, was the subject of criminal proceedings in connection with alleged human rights violations in Nicaragua⁴¹ – that as early as 1995 the possibility of gross human rights violations by paramilitary groups in the region had already been discussed between the local Drummond management and the Drummond headquarters in Alabama. At the time, the Colombian army requested financial support from Drummond to start small paramilitary groups in Cesar. Adkins informed Alabama that it “would bring with it egregious human rights violations.”⁴²

Despite the fact that Drummond and Prodeco must have been aware of the large-scale violence that took place near their mining operations, the information available to us indicates that these companies made no apparent attempt to prevent the gross human rights violations from occurring. ♦

2. Victims' Voices Heard

At first glance, the hot and bustling shopping streets of Valledupar, full of parading couples, children, and street traders, reveal nothing of the past and current violence that has raged in recent years in the Cesar department. All you see in the rural settlements is the usual farming activity. The victims of the violence are scarcely visible, if at all. But they are many. If you ask, you will learn that many street traders are displaced people, and almost every farmer has his own story to tell about paramilitary and guerrilla terror. Their presence has left deep scars on the local population that remain apparent to this day, at least to anyone willing to see.

Until recently, these victims barely had any contact at all with one another. Each of them tried to safeguard their own lives and to find new means of support. A few of them briefly received some humanitarian help, but generally their appeals to official bodies were in vain. Most victims lacked the strength, time, and financial resources to demand justice and to follow the appropriate legal paths. For many, it was also too dangerous to draw attention to their fate. Only in 2013 did the victims of the violence in the Cesar mining region manage to set up a national organization for victims of violence with international support and human rights monitoring. The security situation for the organization's leaders remains precarious.

The first meeting of the National Movement of Victims of Multinational and Transnational Companies was held in Cesar in August 2013. It was a memorable and emotional event. For many victims, it was the first time that they had been able to recount their traumatic memories of the violence and to meet fellow victims and share their stories. They were aware that together they might be able to obtain recognition and compensation for their suffering.

One of the people who have played a major role in setting up the victim movement is Claudia Balceró. Her husband and six other members of the Colombian Attorney-General's Technical Investigation Unit (CTI) were murdered and disappeared by paramilitaries in 2000 while they were on a field visit. Despite the major security problems that her efforts entail, she is determined to continue her work for the victims. It hurts her deeply that most victims have been let down completely. "I feel uncomfortable having to say this, but they [her husband and his colleagues who disappeared] were state officials, and nobody is making any real effort to find them and give them a Christian funeral. If they won't do that for us, what will they do for the farmers from the mountains, of whom no one actually knows what happened to them? What they have been going through may be even worse than what happened to us."⁴³

Hereunder are the stories of three of these victims.

The Disappearance of Seven Members of the Attorney-General's Technical Investigation Unit, Municipality of Agustín Codazzi (2000)

Claudia Balceró, the local leader of the victims' movement mentioned above, and Olga Martínez are the widow and a sister of seven murdered members of the forensics team from the Attorney-General's Office who became victims of the AUC on 9 March 2000. Ironically, at the time that the forensic experts were disappeared, they were exhuming the bodies of earlier AUC victims at the La Holanda ranch in Minguillo (on the border between the municipalities of La Paz and Agustín Codazzi). One of their cars was found later the same month. The second car was found one year later, buried in the ground. El Tigre has claimed responsibility for the murder and disappearance of the seven people.⁴⁴

Claudia and Olga, two strong-willed women, are able to recount everything that happened on the day concerned. "On that day, a woman came to the Attorney-General's Office in Codazzi to report that she had found out where her husband, who had been murdered by El Tigre's men in 1999, was buried." The three forensic experts from Valledupar, including Claudia's husband and Olga's brother, then went to Codazzi to support the local team. Seven of them went into the field for the exhumation. Olga became concerned when her brother failed to return in the evening. "At 10 o'clock, I went to the office of the Attorney-General's Technical Investigation Unit. I was very nervous and I was shocked when they told me there had been no more contact with the group."⁴⁵

The fate of the group remained a mystery for some considerable time. Claudia: "We have suffered terribly because the Attorney-General's Office gave us incomplete or false information. At a certain point, they said that they had been kidnapped, and we should collect some things to be taken to them. At a different time, they said that only my husband and Olga's brother were still alive."⁴⁶ Two months later, Claudia was told that El Tigre's men had murdered and disappeared her husband. The families of the other members of the group held out the hope until 2007 that their loved ones would return. "Until then, the Attorney-General's Office had yet to consider them as officially disappeared," Claudia explained.⁴⁷

The traumatic event changed Claudia and Olga's lives forever. "We don't know the reason for the murders and so far we have been unable to find the bodies – despite El Tigre and



Claudia Balcero (40)
Location: Valledupar

Claudia is the former coordinator of the Victims' Movement in Cesar. Her husband, Israël, worked as a forensic investigator for the Attorney-General's Office. Together with 6 colleagues he was killed by paramilitaries in 2000 while investigation another paramilitary murder case. Their remains were never found. She was present during various excavations, until now without result. ♦

Tolemaida's statement that they were buried on a farm less than 1,000 hectares in size," according to Claudia. The search, the distress, and the uncertainty have taken a heavy toll on their lives. Claudia: "I always had work, but I became alienated, because for the past 13 years my life has revolved only around solving my husband's case."⁴⁸

**The Massacre at the El Diamante Hacienda,
Municipality of San Diego (2000)**

In the year 2000, Gloria, a rancher's wife and mother of seven children, lost six family members at the hands of the JAA Front. Her husband and brother-in-law had run the El Diamante cattle ranch in the municipality of San Diego for 32 years. On weekdays, Gloria stayed with her youngest children in the village centre and usually joined her husband on the ranch

at weekends. According to Gloria, the situation had been quiet for a considerable time. “The guerrillas were reasonably far away, in the mountains. We had yet to see any paramilitaries.” The reports of murders committed by paramilitaries in the nearby settlement of Media Luna reached her in 1999. She said that AUC presence in the area was a *fait accompli* after that. “They were in the village and they murdered people every week.”⁴⁹

At five o'clock in the morning on Friday 8 September 2000, a group from the JAA Front arrived at the ranch. They were led by their new commander, alias Tolemaida. There were eight people on the ranch at the time (three adults and five minors), including Gloria's husband, her two sons, her brother-in-law, and two nephews. “They [the paramilitaries] waited until the milking had finished, and it was already getting late. The paramilitaries said that they [the people on the farm] had better hurry up because they wanted to arrange a meeting with them. They then yelled at them and aimed their rifles at them. They were tied up (...) with their hands behind their backs. My brother-in-law was also there, he was already 70 years old. He said that they should leave the lads alone, because they were children. [The paramilitaries] told him ‘The youth of today won't last as long as this gentleman [the brother-in-law]’. They started to kill them, and told my brother-in-law to sit to one side, and that nothing would happen to him.”⁵⁰ He, and one of his sons, survived the massacre; the other six were shot dead. Gloria's brother-in-law died of sorrow and illness not long afterwards.

Gloria reported the murders and remained with her five youngest children in the village of San Diego. However, the nightmare had not yet ended. In 2001, one year after the murders, she received a telephone threat. “The voice said that they would make my life a misery. They were foul-mouthed. But I said: ‘I don't have to be afraid of anyone I owe nothing to.’ Three days later, my son answered the phone. A voice asked: ‘Is that La Mona's [Gloria's nickname] son? Tell your mother she should make her escape or else we're going to kill her.’⁵¹ He knew me, he knew who I was.” Gloria left without delay for the town of Bucaramanga, where she attempted to make some kind of living by taking in laundry. After five years, she returned to her house in San Diego. She now makes a living by selling lottery tickets on the street, which hardly provides her with enough financial means to subsist. To this day, she has no idea what purpose the murders and the threats might have served.⁵²

Displacement on the Santa Fe Hacienda, Municipality of Becerril (1997)

A striking example of mass displacement during the first wave of violence took place in 1997 on the Santa Fe hacienda in Becerril. This estate was situated near the Carbones del Caribe (nowadays Prodeco's La Jagua mine) coalmine on the western slopes of the Perijá Mountains.⁵³ The 31 poor farming families who lived there at the time had been granted the land in 1989 by the Colombian Institute for Agrarian Reform (INCORA). The landless farmer Sifredy Culma had received plot 27, and he and his family started to grow rice under difficult conditions. Unfortunately, they were unable to enjoy their newly acquired land for long.

According to Sifredy, the paramilitaries started distributing pamphlets in Santa Fe in early 1996, and the first selective killings took place nearby in the same year. The paramilitary violence then quickly proceeded to draw nearer. Sifredy recalled: “On 28 March 1997, the AUC attacked La Victoria-San Isidro [on the other side of the Tucuy river] where they drove the population

List of prominent massacres committed by the JAA Front in the Cesar mining region between 1996 and 2006

Date of massacre	Municipality	Number of victims	Description
15 Sep. 1996	San Diego	31 persons	-
27 Oct. 1996	San Diego	12 persons	A group of paramilitaries led by El Tigre entered the village of Medio Luna, where they killed 7 people and disappeared 5.
24 Nov. 1996	Valledupar	7 persons	Paramilitaries killed 7 farmers in the village of Mariangola.
20 Jun. 1998	Valledupar	7 persons	80 paramilitaries entered the village of Villa Germania and killed 7 people.
16 Nov. 1998	Becerril	11 persons	A group of 20 paramilitaries entered the village of Los Estados Unidos with a list of people who they accused of being members of the guerrilla. They killed 8 persons and disappeared 3.
1 Aug. 1999	Curumaní	11 persons	-
30 Aug. 1999	Curumaní	7 persons	20 armed men entered the village of San Roque and killed 7 persons, accusing them of stealing gasoline.
12 Dec. 1999	Pueblo Bello	9 persons	A group of paramilitaries led by El Tigre set up a roadblock on the road from Valledupar to Pueblo Bello and killed 9 persons who were travelling by car.

Date of massacre	Municipality	Number of victims	Description
18 Jan. 2000	Becerril	7 persons	A group of paramilitaries led by El Tigre entered the village of Los Estados Unidos and killed 7 people on the central square.
28 Jan. 2000	Astrea	12 persons	A group of around 60 paramilitaries led by El Tigre entered the village of Santa Isabel and killed 12 persons.
9 Mar. 2000	Agustín Codazzi	7 persons	A group of 40 paramilitaries led by El Tigre intercepted the vehicle of the CTI investigators, dragged them out of their car and killed them.
19 Aug. 2000	Chiriguana	7 persons	Paramilitaries entered the village of Rincón Hondo and killed 4 persons and disappeared 3.
13 Jan. 2001	Valledupar	10 persons	Paramilitaries killed 10 persons of the Barrio Futuro de los Niños neighbourhood of Valledupar.
20 Jul. 2002	La Jagua de Ibérico	9 persons	A group of around 30 paramilitaries entered La Jagua and assassinated 9 persons, whom they had accused of collaboration with the guerrilla.
4 Dec. 2005	Curumaní	9 persons	Supposedly demobilized paramilitaries entered the villages of Lomas Verdes and Nuevo Horizonte detained, tortured and executed 9 farmers.

together. There were three military trucks full of men. They murdered about five people and plundered two shops. At half past six in the morning, they proceeded through the Santa Fe hacienda, right to plot 27, where my family lived. They shouted: 'We are from the AUC and Carlos Castaño is our commander. We are going to stay here to carry out social cleansing (...).' ⁵⁴ An unsuspecting boy of about 13 years of age who was just running by was shot dead without mercy. We were surrounded by 20 AUC men who had come out ahead of the others. I was overcome with fear; I thought I was going to die that day." Sifredy was guarded by a paramilitary who kept going away and returning again. At some point, he looked behind him and the men had left. ⁵⁵

The paramilitaries had said: "Listen people, leave this place. If we come back, don't say we didn't warn you." ⁵⁶ The people were also alarmed by the fact that the army had set up a military base and a paramilitary training camp less than one kilometre away in the settlement of Los Estados Unidos. The Santa Fe residents fled in large numbers, whereupon the paramilitaries plundered the abandoned houses. Sifredy left for the department of Tolima in the hope of being able to grow rice again there. The Colombian Institute for Agrarian Reform INCORA then soon declared his land 'abandoned' and sold it at auction. Other plots were bought up directly by the Carbones del Caribe mining company. ⁵⁷ This company later sold one part of the hacienda to a palm oil producer and another part to the Carbones de la Jagua mining company, ⁵⁸ which has been part of the Prodeco Group since 2005. Prodeco has therefore benefitted from the displacements and violence that took place on the Santa Fe hacienda. Palms are now grown on part of this land, and another part is covered with a large pile of waste material from the Prodeco Group's Carbones de la Jagua mine. ⁵⁹

The Aftermath of the Violence

As stated, PAX has made a conservative estimate based on official figures that the JAA Front caused at least 2,600 victims of selective killings, almost 500 victims of massacres, and at least 240 victims of enforced disappearance. Of those estimates, we have been able to identify 865 of these victims by name and surname. In addition, the JAA Front caused the displacement of at least 59,000 victims in the Cesar mining region. The majority of the victims of murder and displacement and their relatives consider that justice has not been served in their case. When the proceedings against former paramilitary commanders under the Justice and Peace programme started in 2007, some victims sought the legal assistance of a lawyer to obtain redress or to discover the truth about the violations. However, the victims have often been left disillusioned, on top of their already severe psychosocial and economic problems. Many cases are known of lawyers who abused their clients' suffering by billing wrongful fees. ⁶⁰

Gloria, the widow who was obliged to flee after her family was murdered in 2000, would like to know why the JAA Front killed her husband, two sons, brother-in-law, and nephews. When the demobilized paramilitaries started to deliver their statements, the family members and friends advised her to find a lawyer. "I can't read or write, and I relied on what people told me. Two years ago I engaged a lawyer, but I haven't heard anything from her since. We don't know when the hearings are scheduled (...), and I have no money to go all the way to Barranquilla [to attend the hearings]. I went to the lawyer's office in Valledupar some time ago, and she told me that alias Tolemaida had said something about the murder in one of the hearings (...). I never received a transcript of his statement." ⁶¹



Sifredy Culma (47)
Location: Santa Fe (Beceril)

Sifredy was forced to flee his land after repeated threats. His 35 ha nowadays border the Carbones de la Jagua mine (of the Prodeco Group). His land and the lands of his neighbors have been converted into an oil palm plantation. Prodeco says this serves as a green belt around the mine. For years, he has been fighting to get his land back. He also represents seven of his neighbors who are in the same situation. He frequently receives death threats and often travels with bodyguards. ♦

Sifredy, the displaced farmer from the Santa Fe hacienda, returned to Cesar with his partner and children after the demobilization of the AUC. The family now lives in San Martín (in the south of Cesar) but has no land. Sifredy and other victims formed a foundation in 2010 to expedite the land restitution process, which was set in motion with the adoption of the national Victims' Law.⁶² He knows that he cannot return to Santa Fe because the land has been taken into use by mining and palm oil companies. However, the family has not lost hope of land restitution elsewhere in the region.⁶³

The next of kin of the CTI forensic experts who disappeared in Minguillo also faced new problems, especially since they decided to participate in the lawsuit against Drummond. The mother of Edilberto (one of the forensic experts) told PAX that she was invited to Drummond's Valledupar

office in July 2011 to talk with Alfredo Araújo (Drummond's public relations manager). "He said they knew exactly who was going to make a statement [in the US court case] and what was said in these statements; and that they [the victims] were crazy, and we would be well advised to withdraw the claim [against Drummond]; that they [the victims] would be risking their lives if they continued. (...) They wanted to negotiate so that I would withdraw. They offered me between 40 and 50 million pesos [approximately USD 25,000]." A few days later, she was invited to the mine in La Loma, but she decided against the visit.⁶⁴

For other family members of the disappeared CTI forensic experts too, the case has still not reached a conclusion. Thirteen years after the event, the bodies of their loved ones have yet to be found, they have received no compensation, and they have serious security problems. Claudia was obliged to flee to Bogotá in 2010. She recounted her reason for fleeing: "Early one morning, a white car with two men inside stopped outside my house. They shouted from the car: 'Miss Claudia, the boss wants to speak to you.' But I didn't go to the car. One of them got out and said: 'I am from the organization,' and threw a package of papers on the ground. They were copies of the e-mails with my lawyer, photos of a meal with the lawyer, and photos of my children at school. He said: 'You're still young. Why do you keep working on [solving] your husband's disappearance? This disappearance is just a tiny part of an enormous monster that is behind it. You have to stop your investigation.' Two years later, I went back to my house in Cesar, and since then every day a man walks by to check up on me and the children."⁶⁵

Claudia requested political asylum in the United States in February 2014 because of the persistent threats to herself and her family. ♦



Jerardith Nieto Cuello (39)
Location: Rincón Hondo (Chiriguana)

Jerardith can remember the last time she saw her brother as if it was yesterday. It was on 14 November 2002, at about half past six in the evening, just as it was getting dark. A car came to a halt in front of our house. In the front seat was someone my brother knew, and behind him were two men I couldn't see clearly. 'Come with us!', the driver shouted to Howes, my brother 'There's a car stuck in the mud near Los Chorros!' My brother was a mechanic, so there was nothing strange about them coming to get him. While he was looking for a T-shirt to put on to go with the men, I asked him if he didn't want something to eat first. One of the men in the back of the car called to me that Howes would soon be back. But when ten o'clock came he still wasn't home. We found Howes murdered near the lake he was supposed to go to. He was 25 years old. My father died three years later of grief. Howes was the dearest brother: he always gave me a kiss when I came home, and wouldn't hurt a fly. I have no idea why he was murdered, but it must have something to do with the person he knew in the car who came to pick him up. People called him Santa Facha, and he had links with the paramilitaries. He drove around in a Drummond car. Maybe people thought my brother had links with the guerrillas? That definitely wasn't true. ♦





**Rafael Arturo Mendez Barbosa &
Maira Marleny Mendez Barbosa
(Brother & sister)**

**Location: El Cruce de Chiriguaná
(Chiriguaná)**

At two o'clock in the morning on 19 February 2002, some 30 paramilitaries appeared in our village, according to their mother, Marina Barbosa (56). They stopped at our house and knocked on the door, but I didn't want to let them in. 'Hurry up, or we'll throw a grenade inside!', the men shouted. Then they kicked the door in. 'You support the guerrillas!', they bellowed. They were wearing black masks as a disguise. I said it wasn't true, but they wouldn't listen. We were made to lie on the ground. They searched our house for incriminating papers, and threw all our belongings on the ground. They arrived in a large pick-up truck and an army vehicle. They took everything of value away with them, including our motor bike. They threatened to take us too, but I screamed at them: 'If you want to kill us, just do it here!' When they finished searching the house the paramilitaries accused my husband of being a trade union member. But he wasn't. He did work for Drummond, though: he drove trucks for them. In the end they dragged my husband outside and shot him dead, here, in front of our house, with our children present. He had nine bullets in his body. ♦

3. Mining Industry in Wartime (1996–1998)

When Drummond and Prodeco started their activities in Cesar, in 1991 and 1995 respectively, the region was going through a very turbulent period. Cesar was a war-stricken department characterized by violence and social unrest. Widespread unemployment formed a fertile breeding ground for the rise of social movements and trade unions, which reacted against the prevailing socioeconomic situation⁶⁶ The relationships between the socioeconomic groups became even tenser when leaders of these social groups were targeted by right-wing assassins. In 1987, the social protest was repressed firmly. Many of its leaders were forced to flee, or pay for their activism with their lives.⁶⁷

The guerrilla groups' violent response followed in the 1990s. The 41st Front of the FARC and the *Ejército de Liberación Nacional* (ELN: National Liberation Army) targeted the regional economic elites, who were subjected to extortion, kidnap, and murder. Retaliation was not long in coming. A number of wealthy ranchers formed armed groups with the aim of protecting their own family and possessions.⁶⁸ However, these private, armed bands appeared to be no match for the guerrillas.

The kidnap and murder in 1995 of the sister of the influential rancher Hugues Rodríguez led Cesar's economic elite to seek a different solution. The rise of the paramilitary movement in the nearby departments of Córdoba and Urabá caught their attention. Local self-defence units that had formed in these departments, and called themselves ACCU, had put up a ruthless fight against the guerrillas.⁶⁹ In 1995, members of Cesar's elite, including Hugues Rodríguez and Jorge Gnecco, set out for Córdoba to meet with ACCU's leaders. They offered to pay ACCU to send paramilitaries to Cesar.⁷⁰ The request appeared to be compatible with ACCU's ambition to extend its military and political presence across the northern departments of the country.⁷¹

In the subsequent period, ACCU sent 60 paramilitaries to Cesar.⁷² The ranchers' existing armed bands were soon absorbed into this group of ACCU paramilitaries.⁷³ Rancher Hugues Rodríguez, who by then was known as Commander Barbie, consented to the men being billeted on his ranches.⁷⁴ In 1997, Carlos Castaño, one of ACCU's leaders, united almost 90% of the local paramilitary groups in Colombia under the umbrella paramilitary organization AUC. The AUC also included the paramilitary groups in Cesar (see Map 3a).⁷⁵

The foreign investments in the mining industry soon led to guerrilla actions against the mining companies' personnel and infrastructure. Security was accordingly an important issue for both companies from the outset. The Colombian army was stationed in and around both mining projects. Agreements of this kind between the Ministry of Defence and mining companies were – and still are – commonplace and legally permitted in Colombia.

It was in this period that the two companies set up security departments of their own. This was done in coordination with the local army units. In early 1996, José del Carmen Gelvez Alvarracín was hired by the Intelligence Battalion of the Colombian army in the port of Santa Marta, not far from Cesar. He had no hesitation when shortly afterwards the army and Prodeco offered him a post in Prodeco's security department.⁷⁶ He was stationed as an undercover agent in the mine, and by his own account his task was to “detect guerrillas and subversives in the area and within the [trade] union at the mine.”⁷⁷

Gelvez Alvarracín, alias El Canoso, is currently in a heavily guarded prison in Bogotá, in a building that goes by the name of La Paz (The Peace). Significant powers of persuasion and many hours of waiting were required before we were able to visit the former military officer who became a paramilitary in 2003. This prison wing accommodates the commanders of both the paramilitary AUC and their archenemy FARC. They must disclose the human rights violations that their group committed. The testimonies of El Canoso in the Justice and Peace process have already led to the conviction of a dozen ex-politicians for links with the paramilitary AUC.

El Canoso is one of the paramilitaries who have resorted to disclosure. In the proceedings brought against Drummond by the victims in the US courts, he blew the whistle on a history of which he has unparalleled knowledge: the collaboration between the mining companies, the AUC, and the army in the northern department of Cesar. He told the court that what led him to talk were qualms of conscience and the mining companies' denial of their role in the violence. “The Colombian people really need to know what happened, and who supported the AUC, because, now that we have been demobilized, [we are being portrayed as] the only thugs and criminals. And we need to tell the truth, even if it hurts.”⁷⁸ His openness was reportedly not well received by the former leader of the AUC's Northern Bloc, Rodrigo Tovar Pupo, alias Jorge 40. Attempts have been made to poison him even inside the prison walls, and threats have been made to journalists who have interviewed him.⁷⁹

The wing in which El Canoso is detained is separated by a fence from his fellow prisoners. For security reasons, he does not even take part in the communal exercise period in the courtyard. Sitting on a camping chair in his cell, alongside his family portraits and house altar, he relates the initial period of his work in Prodeco's security department. His manner betrays his background: brief and to-the-point, and with military precision. According to El Canoso, the collaboration between Prodeco and the military intelligence service had been prompted by the precarious security situation in the area. “Drummond and Prodeco soon became the targets of guerrilla

action. They were mainly affected by kidnap and attacks by FARC's 41st Front and the ELN."⁸⁰

The increase in the number of kidnappings in Cesar in 1995 and 1996 was explosive.⁸¹ In 1995, the ELN kidnapped the Austrian engineer of one of Drummond's contractors.⁸² In February 1996, they kidnapped Prodeco's American manager, Mark Bossard, and in July of the same year they kidnapped two engineers and a driver from the same company.⁸³ According to El Canoso, Prodeco decided in 1997 to refrain from inviting international staff to the mine because of the security situation, meeting instead in the city of Santa Marta.⁸⁴ FARC also made its presence felt, and in 2000 they kidnapped three Drummond railway employees.⁸⁵

Furthermore, in September 1997, a guerrilla attack against the railway took place, soon to be followed by attacks in June and November 1998. In October 1999, the FARC blew up the railway in La Loma, only seven kilometres from the Drummond mine.⁸⁶ In 2001, Drummond had to contend with at least four new attacks on the rail line.⁸⁷ The sabotage had caused severe financial losses and put the continuity of supplies to the international market in serious jeopardy.⁸⁸

The Reaction of the Mining Companies

The mining companies' security departments have been searching for strategies to protect their assets and personnel from the start of their activities. The former Drummond security manager, James Adkins, testified that, at a very early stage, the Colombian army was already in contact with Drummond about the possibility of supporting the burgeoning paramilitarism in the district. In September 1995, James Adkins reported to Drummond's CEO, Garry Drummond, that Colombian soldiers had requested money to support 'Plan Convivir,' the military's effort to form and fund paramilitaries.⁸⁹ This Plan Convivir was an official initiative to allow citizens to set up small armed bands for self-defence purposes. Several Convivires were initiated in Cesar, some of which in collaboration with paramilitary leaders.⁹⁰ A year later, these Convivires were legally prohibited and the groups were absorbed into the umbrella paramilitary group AUC. Adkins said that he informed Drummond's CEO that the military plan to set up paramilitary groups would predictably "bring with it egregious human rights violations,"⁹¹ but that Garry Drummond nevertheless consented to a payment of USD 1.1 million to the army.⁹² Adkins was to state later: "when the money went into the military fund, the [...] military could do with it what it wanted."⁹³

According to El Canoso, Prodeco management concluded as early as 1996 that the group of 60 ACCU paramilitaries paid by Cesar's local elite were providing the mining companies with insufficient protection. "The strike power of this small group was inadequate, and their base was too far from the mines and their infrastructure."⁹⁴ El Canoso stated in the US court case that Luis Hernando Ochoa, the manager of Prodeco's security department, asked him: "Why don't we [...] try to talk to one of the AUC commanders in El Cesar?" In response to this request, El Canoso managed "to get commander Lucho to agree to us visiting his base."⁹⁵

El Canoso testified in a written statement that in the second half of 1996 he and his immediate managers at Prodeco, Manuel Gutiérrez and Luis Ochoa, "drove in a pickup truck to a farm named La Ucrania [...]. On entering, we saw approximately 30 people dressed in camouflage who introduced us to the commander who went by the alias Lucho. Manuel Gutiérrez, as head of the security department, spoke on behalf of the company, Prodeco, about providing this group of the AUC with whatever support they might need. It was clear that there was a direct link

between the company and the AUC.”⁹⁶ El Canoso testified in court that in this meeting Gutiérrez made several proposals to Lucho. “That he [Gutiérrez] wanted, if possible, for them to station more people closer to the mining operations so as to expel the guerrillas from the sector. I remember now that Lucho said that he liked the idea of expanding. That he, Lucho, had already sent word several times to Drummond, but that it was difficult to make this contact. To this, Manuel replied not to worry anymore [...]. He would do whatever was necessary.”⁹⁷

The AUC leaders in Córdoba evidently took Prodeco’s request seriously because, according to El Canoso, the helicopter of no less than Vicente Castaño, alias El Profe, commander of the AUC, landed shortly after at the Prodeco mine site. El Canoso was present at the ensuing meeting. “El Profe replied that [...] they had undertaken an assessment, an analysis, of the area and that the goal was to arm, to equip, 200 men to start with. El Profe pulled out a notebook and Manuel [Gutiérrez] wrote down several things; the price of a rifle, the price of a uniform. What was the cost of the harness [bulletproof vest], [...] the belts, and other supplies. El Profe also showed that this initial expense also required a certain logistic or management such as direct monthly costs earmarked for salaries, food, and health services.”⁹⁸ El Canoso has testified in his written statement that Gutiérrez made a cash payment to El Profe as soon as he arrived by helicopter at the mine site.⁹⁹

To inquire whether Drummond would be willing to share in the costs of financing the AUC, according to El Canoso, Prodeco instructed him to seek contact with the company.¹⁰⁰ The contact at Drummond was the head of the security department, James Adkins. According to El Canoso, Drummond expressed willingness to talk with Prodeco, and a meeting was scheduled at Drummond’s La Loma mine. He testified that he attended the meeting, along with many other representatives of Prodeco and Drummond, including Gutiérrez and Adkins.¹⁰¹ About the meeting, El Canoso testified the following in his written statement: “[...] we discussed and we all agreed that we would give the AUC a monthly payment to cover the salaries, food, and costs of the AUC troops. We also agreed to buy the AUC some vehicles and supply them with fuel. There was no objection to any of these agreements from anyone present.”¹⁰²

El Canoso also stated that the arrival and stationing of the new paramilitary force were organized by Prodeco’s and Drummond’s security officials and the military.¹⁰³ The planned growth to 200 was eventually not realized, according to El Canoso. A first group of 80 men did arrive in January 1997 and later that year approximately another 20 men. They decided to station the paramilitaries at the El Silencio estate, near the Prodeco mine, but they were moved after only two months to the Betania farm in El Copey.¹⁰⁴ A second base was to be set up in Cuatro Vientos, near the town of Bosconia and also near the Drummond mine.¹⁰⁵ Monterrubio and La Jagua de Ibérico also got a paramilitary base (see Map 3b).¹⁰⁶

With the arrival of these new paramilitaries in the region, the violence in the municipalities around the mines increased substantially, according to El Canoso.¹⁰⁷ He started to have doubts about his cooperation with Prodeco’s security department: “I find it sad to conclude today [...] that the remedy turned out to be worse than the disease because, after this group arrived in the area, those districts, municipalities, and neighbourhoods were inundated with a wave of crime every night.”¹⁰⁸

A former colleague of El Canoso in Prodeco’s security department confirms the impression provided by El Canoso regarding the collaboration between Drummond, Prodeco, and the

paramilitaries. The former employee observed this fact during the weapon skills training that they received on the job: “All mines had links [with the paramilitaries]. I know this because I went to Drummond to receive training in shooting lying down on the ground with a Galil [rifle]. [...] [But before] I came to the [Prodeco] mine, I first had three months of training in the Cerrejón mine [Prodeco co-owned one of the Cerrejón mines in the La Guajira department], where a foreigner trained me. [...].”¹⁰⁹

The source person also recalls a meeting between Drummond, Prodeco, and the paramilitaries. “[...] One day everybody came to Prodeco in a fast plane. [...] The foreigners stayed in the [mining] project [...]. Luis Ochoa and Manuel Gutiérrez went to Drummond for a meeting. [...]. The one who was organizing this was Jaime Blanco [Drummond's food service contractor] and the other one. It [the meeting] was with the paramilitaries. These kinds of meetings were held in a military training centre near the Drummond mine; there where the soldiers are given their military instruction.”¹¹⁰

El Canoso's former colleague claims to have been very frightened by the security work of the supervisors, Luis Ochoa and Carlos Baena, an army sergeant stationed in Prodeco to work together with Ochoa. “I don't know what went on with this man, he was organizing the killings. [...] A certain Carlos Baena. This man and Luis Ochoa did everything. They had the people, made phone calls, and went to the dumping ground [of the coal mine]. [...] There was a farm in Prodeco with the name El Delirio; it had dumping grounds on both sides. Ochoa and Carlos Baena went there to plan who to have killed. [To plan] what they would do, to give orders to the paramilitary, and so on. [...] Both Drummond and Prodeco were in fact with the paramilitary. That is true. [...] And we, the employees, were living in fear. [...]”¹¹¹

In January 1998, El Canoso severed the knot and left Prodeco:¹¹² “[I did that] out of fear of Manuel [Gutiérrez] and Luis Ochoa. The number of atrocities that the AUC groups committed was very telling. [...] I infiltrated into Prodeco to set up and carry out intelligence activities. But I saw that [...] that information was being used to harm the population of the area.”¹¹³

Several of these statements made by El Canoso were denied by Gutiérrez and Ochoa in an interview with PAX in 2013. A summary of their reaction can be read in Chapter 9 to this report. ♦



Juan Evangelista Guerra (43)
Location: Los Estados Unidos (Becerril)

Juan Evangelista fled Los Estados Unidos in 1996 because of the many massacres. The paramilitaries viewed the village as a guerrilla breeding ground, and butchered a large part of the population. He sold his 18 hectare plot of land under duress at far below the market price, for 17 million pesos. He was one of the first to return in 2006 after the demobilization of the paramilitaries. Only 7 families lived in the village at that time. There are now about 30 again, but the village that was once home to 6,000 is a ghost town, with dozens of ruins. ♦

Map 3a.

Presence of armed groups in Cesar, period 1996-1998

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Mining concessions and presence of armed groups (1996-1998).

Map 3b.

Presence of armed groups in Cesar, period 1999-2006

© MAPgrafix



Mining concessions and presence of armed groups (1999-2006).

4. The Creation & Expansion of the Juan Andrés Álvarez Front (1999–2006)

The AUC was radically restructured in 1998. The paramilitary fronts of the four northern departments were merged into the Northern Bloc. Rodrigo Tovar Pupo, alias Jorge 40, was placed in command. The then still young paramilitary leader wanted to expand this bloc into one of the AUC's most powerful bastions, and he had his eye on the Cesar mining area. The mining companies were still confronted with security issues both around the mines and along the rail line.¹¹⁴

In late 1999, Mr Alfredo Araújo Castro, Drummond's public relations manager, reportedly requested Jorge 40 "to provide security for Drummond and to drive the FARC from the area."¹¹⁵ The AUC selected a group of 40 men from the paramilitaries that were already in the Cesar mining region.¹¹⁶ The new front was to operate in the immediate vicinity of the Drummond and Prodeco mines. The rest of the paramilitaries already present in the region stayed there, but operated less close to the mine. As mentioned in chapter 1, the group was given the name Juan Andrés Álvarez Front (JAA Front), after a paramilitary leader who had recently been killed in the fight against the guerrillas.¹¹⁷ As commander of this new front, Jorge 40's eye fell on a paramilitary member who had been active in Cesar for the past two years: Jhon Jairo Esquivel Cuadrado, alias El Tigre.

El Tigre: The First Commander of the JAA Front

According to his own account, when El Tigre accepted the command of the JAA Front, he discussed with Jorge 40 the following: "[...] Months before, Jorge 40 had told me that finances were kind of low and I had told him that I needed more men, that I need around 200 men to be

able to go up into the Perija mountains. And he told me that the contact person between the AUC and Drummond was Alfredo Araújo.”¹¹⁸

In November 1999, according to El Tigre, Jorge 40 invited his childhood friend Alfredo Araújo Castro of Drummond to a meeting at his farm in La Mesa, not far from Valledupar. El Tigre, one of the attendees, allegedly witnessed an intriguing conversation.¹¹⁹ In his written statement, El Tigre recounted that Araújo told Jorge 40 during that meeting: “In order to comply with the purpose of subduing the guerrillas and providing security to Drummond in its mine and railroad line, my Front needed 200 men that were armed, equipped, and trained. Araújo was in agreement. He said the following words to us: ‘Drummond is willing to provide a sum of money so that your group can strengthen itself with men and arms, as long as you commit to providing security to the railroad line and the coal operations in the mine.’ By ‘security’ I mean that we were told by Araújo that the areas along the Drummond rail line that had a FARC presence had to be attacked and pacified. We all understood this.”¹²⁰

In his account of the conversation, El Tigre says that Araújo’s view was that Drummond management needed an incentive to resort to prompt payment for the extra 200 men. “If the railway were to be blown up again,” Araújo is alleged to have said at the meeting, “then Drummond would finance the AUC in the area of Cesar.”¹²¹ According to El Tigre, the AUC then staged the attack, which was carried out by a guerrilla deserter who was an explosives expert. He also stated that pamphlets were distributed after the attack to make it look like a FARC action.¹²² The attack took place on 1 April 2000. According to El Tigre, the JAA Front even went so far as to kill innocent civilians so as to cover up the fake FARC attack to the railway: “One month later, in May 2000, we assassinated five people [...] near Casacará, Becerril, who we [falsely] identified as being collaborators with the FARC guerrillas who supposedly had been the authors of the attack.”¹²³

According to El Tigre, the funding for the strengthening of the JAA Front materialized shortly afterwards. He has stated under oath that he was present at the money transfer late in April or in May 2000.¹²⁴ “Yes, they [Drummond] made that payment, and I was present in person when they [the AUC] collected that money.”¹²⁵ The details of the funding of the AUC by Drummond and Prodeco, including the testimonies of El Tigre, can be read in chapter 5.

El Tigre was arrested in July 2000, and this ended his career in the JAA Front. After the AUC demobilization in 2006, Jorge 40 visited his former sub-commander El Tigre in prison twice. According to El Tigre, Jorge 40 told him: “So save yourself. Say whatever you need to say, but don’t talk about Drummond.”¹²⁶ But El Tigre ultimately did decide to talk, because, as he said: “everybody is trying to wash their hands through me [to pin the blame on me].”¹²⁷ His openness was not without consequence. A childhood friend, alias Loro Guapo (Handsome Parrot), who was the head of a criminal organization, warned him about his former boss’s plans: “Mr Rodrigo Tovar Pupo [Jorge 40] had given him [Loro Guapo] orders to kill me [...] because I knew too much and he could not allow me to talk about [...] Drummond.”¹²⁸ His friend’s moral dilemma saved his life.

After El Tigre’s arrest, command of the JAA Front passed to Oscar José Ospino Pacheco, alias Tolemaida. To date, this ex-paramilitary has yet to make a statement about the alleged links between the JAA Front and the mining companies. However, Alcides Mattos Tabares, alias El Samario, has, in his capacity as Tolemaida’s bodyguard during the years 2000–2003, disclosed information on the issue. In 2003, El Samario was assigned by Tolemaida to be commanding

officer of the JAA Front's death squads [the so-called grupos urbanos] and direct commander of the death squad operating in the towns of La Jagua de Ibérico and Becerril.¹²⁹

Since his demobilization in 2006, El Samario is being detained in the Valledupar (Cesar) provincial prison under conditions that are more primitive than those of the ex-paramilitary detainees in Bogotá. When we went to visit him, it proved impossible to enter the cell block. A small group of visitors was waiting in the prison courtyard in the scorching sun. Nothing appeared to be happening except the arrival of new detainees while guards loafed around. The visitors perked up on hearing thumping sounds and shouts from inside; the afternoon prisoners' roll-call was in progress.

When the prisoners returned to their cells, a stocky and muscular man suddenly appeared outside. This was El Samario. Sweat poured from his face, and his clothes were sticking to his well-trained body. His gaze was tense and he avoided eye contact. His main fears were the safety of his family and his own legal situation.¹³⁰ It soon became clear that the heat in the courtyard would be a severe constraint on the length of the conversation.

El Samario: Statements re the Growth of the JAA Front

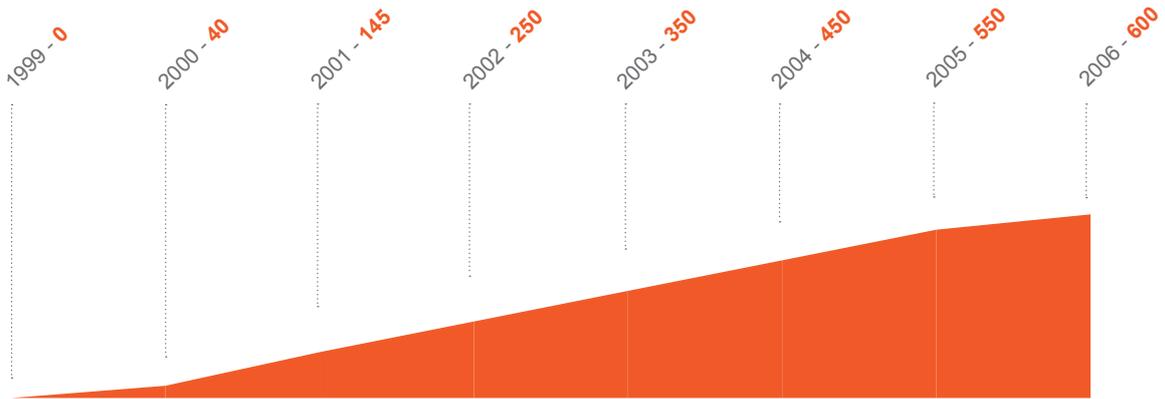
According to El Samario, the transfers from Jorge 40 to the JAA Front were, from the outset, insufficient to satisfy the growth targets. The Front needed to generate additional revenue largely for itself. El Samario explained that this was no simple matter: "The [JAA] Front was not created with funds from drug trafficking. [...] We could not take funds from the businesses in the area because [...] these were poor municipalities [...]. That is why those payments from multinationals and specifically from Drummond to the Front were so important for us."¹³¹ As stated by El Samario however, other mining companies, such as Carbones del Caribe and Prodeco, also paid the commander of the JAA Front.¹³²

According to El Samario, the newly created JAA Front intensified its operations in this period (2000–2003) at Drummond's request.¹³³ He claims that he observed an immediate impact of Drummond's payments on the JAA Front: in the 2001–2002 period, the JAA Front grew explosively to over 250 paramilitary men. The arms also improved considerably: "The cheapest weapons were AK47s, but we also had Fall, Galil, and M16s (...)." ¹³⁴ In his written statement, he stated that: "Upon being released after my first capture, [alias] Tolemaida, with the money that Drummond gave us, gave me 105 more members for the Front. [...] With these new men and arms, we were able to have real success in defeating the FARC in the towns along the Drummond rail route. By the time I was captured on April 9, 2005, we had largely been successful in destroying the FARC in these areas and driving many of the FARC's supporters out of the region."¹³⁵

Some units of the JAA Front grew strongly after 2001. In 2003, El Samario became a commander of a local JAA-Front death squad. He started his group with two men. But: "Drummond's 'special contributions' allowed my grupo urbano to grow to 120 men in one and a half years [between January 2003 and mid 2005]. (...) I received the money from Tolemaida, but I knew that it came from Drummond."¹³⁶

Drummond's reaction to the testimonies on the reported funding of the JAA Front and the subsequent growth can be found in Chapter 9

Figure 6.
Expansion of the JAA Front
(1998-2006)



Expansion of the JAA Front (number of paramilitary forces) in the 1998-2006 period. Based on witness statements and official figures.

Figures on the Expansion of the JAA Front

The JAA Front started in January 2000 with a small group of approximately 40 men. As mentioned above, El Tigre stated that the first payment made directly to the JAA Front was in the year 2000.¹³⁷ According to El Samario, the JAA Front was able to grow to over 250 men because of Drummond's payments in 2001 and 2002.¹³⁸ At the time of the JAA Front's demobilization and its complete disbandment four years later, in 2006, it had 600 men. In other words, the AUC had achieved expansion of the JAA Front of over 500 men in less than six years.¹³⁹ See Figure 6. ♦

5. Testimonies regarding the Funding of the AUC

In the context of legal proceedings in both Colombia and the US, various ex-paramilitary commanders and employees of the mining companies' contractors have made statements under oath in recent years about mining company involvement in the paramilitary violence in the region. An important type of involvement concerns the alleged financial support. The ex-paramilitaries' testimonies suggest that the amounts of money involved were considerable, and that they were important for provisioning and arming the men. Most of the testimonies are about the involvement of Drummond, and to a lesser extent that of Prodeco. This chapter gives more details about this, told through the words of those involved.

Various witnesses testified under oath that Drummond made structural payments to Jorge 40 in the period 1998–2001,¹⁴⁰ some of which would have been used for maintaining the JAA Front. Those statements do not give a complete picture of how the alleged funding was organized. Information about the payment methods is too fragmented to be able to do so. However, the testimonies do, generally speaking, more or less correspond or are complementary.

The statements suggest that the payments ran through various channels and that most of the workers and paramilitaries involved were familiar with only a limited part of the payment system. The testimonies also indicate that the methods of payment changed over the years. Accordingly, the individual commanders and sub-commanders generally knew about one aspect of the financial relationship, and one form of payment, in one specific period. None of the key figures with a more complete picture of the payment system, such as Jorge 40, has yet been willing to testify about the details of the case.

Although no overall view of the payments can be given, the witness statements about the payments do yield some important insights. The following statements regarding the alleged funding are arranged by witness and are more or less in chronological order. A picture emerges from the information obtained of a complex payment system that was originally somewhat makeshift and unstructured, but which, over the years, became increasingly sophisticated and therefore less readily traceable.

El Canoso: Statements re the First Payments by Prodeco and Drummond

As mentioned in chapter 3, El Canoso stated that the manager of Prodeco's security department, Manuel Gutiérrez, made the first cash payment to Vicente Castaño, alias El Profe, when the AUC commander arrived by helicopter at the mine site in 1996.¹⁴¹ According to El Canoso, alias el Profe had Gutiérrez calculate the costs of equipping 200 men, plus one month's wages, at the meeting referred to at the Prodeco mine.¹⁴²

Maintaining the group was no cheap matter. According to El Canoso, the monthly wages alone for a group of 200 men at the time were approximately one hundred million Colombian pesos (USD 100,000). In the US court case, he stated that Drummond and Prodeco had been in contact for years about sharing the costs of maintaining the troops. "The main actors in this consultation were the managers of the two companies' security services, Drummond's James Adkins and ex-General Peña, and Prodeco's Manuel Gutiérrez and Luis Hernando Ochoa. The companies split the costs between them."¹⁴³ In his written statement, El Canoso moreover said that "Prodeco paid the AUC commander approximately forty million Colombian pesos [USD 40,000] monthly to cover the cost of the salaries and expenses for this group of AUC troops."¹⁴⁴

El Canoso also recalled that "agreements were made about smaller contributions." He stated: "I remember that back then there were several fuel supply points at Prodeco as well as at Drummond. And, if I remember well, at least on two occasions I saw the truck of the paramilitaries parking at the Drummond mine."¹⁴⁵ This has been confirmed by the former paramilitary commander, alias Bam Bam, who stated that he regularly saw vehicles being fuelled at the Drummond mine.¹⁴⁶

Blanco Maya's Catering Company (1996–2001)

Various statements suggest that Drummond channelled some of its financial support to the AUC through Mr Jaime Blanco Maya, Drummond's food service contractor.¹⁴⁷ Blanco Maya himself has confirmed this and has testified under oath that these payments ran through his company, *Industrial de Servicios y Alimentos* (ISA).¹⁴⁸ The issue is alleged to have been previously discussed by James Adkins with Drummond's CEO in Alabama.¹⁴⁹

According to Blanco Maya, Drummond had to find a method of payment for the substantial monthly transfers to the AUC that would be hard to trace.¹⁵⁰ In the context of Colombian legal proceedings, Blanco Maya gave a very detailed written statement on the issue. In November 1995, he won a first tender with Drummond to clean accommodation, and for laundry and catering services. In February 1996, he was asked to make a new proposal in which the amounts tendered were substantially higher than in his previous proposal, and a third amended proposal



**Oliva Arias Arias – 'Ia China' – (60)
& her husband Jairo Quiroz
Location: Santa Fe (Becerril)**

She is called Ia China because she originally came from Huila (in the south of the country), and looks a little different. Ia China and her husband had to flee their land in Santa Fe. At the time she had to release all their hundreds of animals, never to see them again. Some years later Ia China went in person to the paramilitary commander Tolemaida to ask if they could return. That was a good move (she is one of the few original owners still with her own land). However, the region is still dangerous. Earlier that day Ia China had been mugged by a couple of masked men with machetes who stole her grocery shopping. At home she keeps an old locally made rifle, which she has no qualms about using when thieves enter her land. ♦

in July 1996, again with higher amounts. In less than seven months, the difference in price between the first and third proposals was 42.9%.¹⁵¹ The IPC Colombian National Consumer Price Index in this period was only 14.2%, so that the real rise in the tender was 28.7%.¹⁵²

Blanco Maya affirmed in his written statement for the Colombian Attorney-General's Office that his contract ended in December 1999, and he was given a three-year contract to the end of 2002. In this contract, annual price rises that were higher than the national cost-of-living adjustment

were also tendered. According to Blanco Maya, he had an agreement with Drummond to include a standard 10% mark-up in his invoices. According to Blanco Maya's written statement for the Colombian legal proceeding, "The multinational set a commission of 10% of the invoice as a contribution to the AUC, to ensure that this group, which operates on the margins of the law, might protect the interests of both the mine and the rail line."¹⁵³

According to Blanco Maya, he originally gave small amounts to Commander Jimmy, but from late 1996 the money was paid monthly to El Tigre.¹⁵⁴ He stated: "I was always in charge of delivering this money to El Tigre directly, or to the person El Tigre designated to receive the funds. I recall that one of these representatives was known by the alias Amin."¹⁵⁵ After El Tigre's arrest in July 2000, he handed the monthly financial support to the AUC's lawyer, José Daza Ortiz. The entire 'operation' was coordinated with Drummond's security manager, James Adkins, claims Blanco Maya in his written statement.¹⁵⁶

According to Blanco Maya, Drummond continued to make structural payments to the AUC through his company until mid-2001. In September 2001, after the attack on the Twin Towers, the AUC was branded a terrorist organization, and James Adkins (Drummond's head of security) allegedly told Blanco Maya that the dealings with the AUC had become risky.¹⁵⁷ For this reason, the planned extension of the contract with Blanco Maya did not go ahead.

In the period from 1997 to mid-2001, he said that he had paid out a total of USD 900,000 to the JAA Front.¹⁵⁸

Early Cash Payments to the AUC

According to Blanco Maya, the mark-up on his catering business's invoices was not the only way that funds were channelled to the AUC. The paramilitaries operating around the coalmines in Cesar were confronted with financial shortfalls from the outset and seem to have asked for cash payments before the set-up of the JAA Front. Blanco Maya testified that El Tigre approached him as early as 1996 to ask whether Drummond could finance the 200 local paramilitaries directly (i.e. not through the commander of the Northern Bloc).¹⁵⁹ However, Blanco Maya believed that relations between Drummond and the paramilitaries should be channelled through Jorge 40 and Araújo Castro (Drummond's public relations manager). He reportedly nonetheless contacted Drummond's James Adkins to discuss the request.¹⁶⁰

Adkins had a personal meeting with CEO Garry Drummond in Alabama every three weeks.¹⁶¹ Blanco Maya stated that Adkins came back with an answer after making two trips. "[Adkins said] that Mr Drummond had liked the idea [of direct funding of local paramilitary forces], but that we had to find a way to channel resources to the AUC, because the law did not allow the making of payments to illegal groups and they had a very strict accounting system that would not allow them to make such payments. At that meeting, the possibility was discussed that on each trip he [James Adkins] would bring cash to Colombia to pay the AUC. On the trip following that conversation, he brought USD 10,000 that I handed over to El Tigre."¹⁶²

According to his own statement, Blanco Maya handed this money to El Tigre in person. He stated further that subsequently Adkins regularly returned from the United States with extra cash to augment the regular payments to the AUC in Cesar. The amounts involved were always

USD 10,000. Blanco Maya exchanged the dollars in Valledupar for Colombian pesos, and used them to buy food and other items for the men.¹⁶³

El Tigre: The Early Funding of the JAA Front

El Tigre has testified under oath that, shortly after his attack on the railway that had to be passed off as a guerrilla act, in April 2000, he witnessed Drummond making a payment to the AUC (see chapter 4). He stated that the transfer took place on the El Avión farm, near Las Palmitas, in the year 2000, and that part of the payment was destined for the JAA Front.¹⁶⁴

“After we had been on the road for approximately 10 minutes, the truck arrived with three gentlemen and he [the paramilitary contact] told them that he was coming in representation of Tovar Pupo, alias Jorge 40, and they gave him three boxes [...]”¹⁶⁵ The paramilitary contact had to tell a friend about the transfer, but, according to El Tigre’s own account, he caught sight of the contents first: “[...] and [alias] Amin opened the boxes right under my nose and there were dollar bills inside [...]. He [alias Amin] took off immediately to meet with Mr Tovar Pupo, alias Jorge 40, who was at the San Angel base.”¹⁶⁶ Three days after this payment, El Tigre was summoned by Jorge 40, according to his own account. His commander told him that some of the Drummond money was destined for buying new weapons, including 10 AK 47s, 556 rifles, and several M60s.¹⁶⁷

El Tigre stated in the US court that, after this payment by Drummond, monthly payments were arranged. In his written statement, he moreover testified: “I do not know the amount of said monthly payments.” However, during the hearings in court, he said that “Mr Jaime Blanco called me and told me that Alfredo Araújo agreed to a monthly payment that would amount to between 25 and 30 million pesos [approximately between USD 12,000 and 15,000¹⁶⁸] per month.”¹⁶⁹

These monthly payments might possibly correspond to the payments Blanco Maya has testified about. Blanco Maya stated that he made these payments personally each month to El Tigre or to one of his delegates such as Alias Amin. El Tigre stated on the issue that “Jorge 40 said that [...] those payments should be made to Amin in order to pay the wages.”¹⁷⁰ According to El Tigre, Blanco Maya handed him the money in person on only one occasion. “I bought 200 berets [...], I also bought some black shirts [...], and I also bought supplies for arms at the La Popa Battalion.”¹⁷¹

Charris Castro: Statements re Payments after 2000

The impression emerges from statements made by various ex-paramilitaries that, after the year 2000, the channelling of the funds became increasingly more sophisticated.

Among others, Jairo de Jesús Charris Castro, who was connected with Drummond through contractors and maintained contact with the paramilitaries, testified about this matter. Charris Castro stated that the private security firm Secolda was used as a front company for payments. According to Charris Castro, Secolda was set up by the commander of the JAA Front, Tolemaida, and the Northern Bloc’s lawyer, José Alfredo Daza Ortíz, with this very aim. Charris Castro stated: “This was the money that was given to him [Daza Ortíz] by [...] Alfredo Araújo Castro [from Drummond] to finance the operations for that front.”¹⁷²

El Samario: Observations from a Bodyguard

El Samario acted as bodyguard of JAA Front commander alias Tolemaida during the period 2000–2003. He recounts that a number of meetings that he attended as Tolemaida's bodyguard from late 2000 were convened to discuss Drummond's funding of the JAA Front.

El Samario specifically recalls one high level meeting that took place in Bosconia in May 2001 that coincides with the testimony of Charris Castro. Among the attendees were Jorge 40, Tolemaida, Araújo, Blanco Maya, and "an American citizen" to discuss Drummond's continued payments to the JAA Front.¹⁷³ In his written statement, El Samario recalls: "As we returned to the car we were using, [alias] Tolemaida told me that a very good agreement had been reached, that the Front would be receiving a lot of money to grow in terms of men and arms. When I asked him about how it was going to grow, he told me that Drummond was going to give a large payment of USD 1.5 million to the Northern Bloc, and later would make monthly payments of approximately USD 100,000 to the Juan Andrés Álvarez Front."¹⁷⁴

According to El Samario, Tolemaida said that these payments would be made to José Daza Ortíz (the Northern Bloc's lawyer).¹⁷⁵ The same witness stated that later the payments were made to the middle man Javier López.¹⁷⁶ The names of the two intermediaries, Daza and López, have been confirmed by the paramilitary commanders, alias El Mecánico and El Peinado.¹⁷⁷

El Mecánico: Statements re Payments after 2000

Regarding Drummond's and Prodeco's alleged funding of the AUC in the 2002–2006 period, the written statement of El Mecánico (Javier Ernesto Ochoa Quiñonez) is very relevant. El Mecánico joined the AUC in 2001, and soon after his arrival he became the driver of the JAA Front commander (Tolemaida). He was appointed second commander (under Samario) of the grupo urbano of La Jagua de Ibérico and Becerril in 2003 and later became first commander.

According to El Mecánico, the mining companies in central Cesar – not only Drummond and Prodeco but also other coalmining companies – paid amounts to the AUC in the 2002–2006 period ranging from 500 to 800 Colombian pesos per tonne of coal produced. He moreover attested that the contributions from Drummond and Prodeco were collected in Santa Marta and the contributions from Carbones del Caribe in Barranquilla.¹⁷⁸

El Peinado: Statements re Payments after 2000

El Peinado had worked for Jaime Blanco Maya's company since 1999. He worked there with Charris Castro. Their job was to serve as informants for the JAA Front of the Northern Bloc of the AUC. After Drummond terminated the contract with Blanco Maya in 2001, El Peinado became a full-time member of the JAA Front, under the command of Tolemaida.¹⁷⁹

He has testified about the alleged funding by Drummond from mid-2001 onwards and also makes reference in this context to a financial middleman named Javier López, alias Canoso (this person is not to be confused with the previously mentioned intelligence officer at Prodeco with the same alias). El Peinado stated: "With Jaime Blanco no longer available to facilitate payment of funds

from Drummond to the AUC, Tolemaida began using Javier López, alias Canoso, as his financial person. Canoso continued then to collect funds from Drummond and other companies in the area [...]. I heard from Tolemaida that Jorge 40 received directly from Drummond a much larger amount than the regular operating funds provided to the Juan Andrés Alvarez Front through Canoso.”¹⁸⁰

The reaction of Drummond and Prodeco to these testimonies can be found in Chapter 9. ♦



Diana Garina Huerte (36) with her children
◆ (from left to right) Umberto, Saira & Natalia
Location: San Diego

The father of my children was murdered in a field near here in 2003 while he was playing football with some local children. He had just scored a goal when a green pick-up truck pulled up. Three men got out and asked him if he liked football. One of the children answered for him that he loved it. One of the men then said that was a shame, because it would be his last game. And shot him dead. The men then calmly strolled around the field for a while before finally getting back into the truck and vanishing. It was years later when we found out from their confessions that El Tigre and Jorge 40 were behind it. But there was no specific reason for the murder. ◆

6. Testimonies regarding the Exchange of Information & Coordination

Various ex-paramilitary commanders and employees of the mining companies' contractors have made sworn statements indicating that the support of Drummond and Prodeco consisted not only in the reported provision of the funding for the AUC, but also in the exchange of information and coordination. This could be both direct and indirect. For the reaction of Drummond and Prodeco to the issues raised in this chapter, see Chapter 9.

The picture that emerges from these sworn statements and the interviews is that the coordination took place sometimes through a triangular collaboration between the AUC, the army, and the mining companies, and sometimes at bilateral level between Drummond and the AUC. This collaboration took shape in varying combinations. The common interest underlying the close relations was the desire of the three parties to free the mining region of guerrilla groups. Or, as El Tigre put it: "We were colleagues to fight against the guerrillas."¹⁸¹

Testimonies on the Triangular Exchange of Information

As he himself stated, El Canoso, the military intelligence man at Prodeco, had an initial meeting with Drummond in 1996, at which Drummond was represented by Drummond's head of Special Services, Rafael Peña. At this meeting, El Canoso was encouraged by his manager Manuel Gutiérrez to explain to Drummond who he was and what he did: "I told them that we were from an army intelligence group [...] and that we had succeeded in infiltrating active personnel in all of Prodeco's units, that our job was undercover, and that we had remained undiscovered to date."¹⁸²

According to El Canoso, the presentation went down very well with Peña and resulted in the setting up of an army intelligence office where information collected by Prodeco and Drummond was combined. “This office was run by a sergeant from Barranquilla who had been awarded the Medal of Public Order. The sergeant gave me a list of what he needed and Manuel Gutiérrez [Prodeco’s security chief] supplied him with computers, desks, a motorcycle, and all of the other office supplies that he would need. Drummond and Prodeco both paid a monthly fee to cover the operating costs of the office.”¹⁸³

El Canoso recalls that this intelligence office played a crucial role in the exchange of information between the army, the mining companies, and the AUC. His written statement reads: “My role was to turn over to this intelligence office run by the Colombian military any intelligence information on subversives and union activity that had been collected by both Drummond and Prodeco’s security teams.”¹⁸⁴ In the US court hearings he moreover said: “The information collected [...] would be merged on a weekly basis and sent directly to a military intelligence office in the municipality of Chiriguaná.¹⁸⁵ Carlos Baena, an army commander in the Rime 1 Battalion of Army Intelligence, passed to the AUC all of the intelligence information that I turned into the intelligence office, so that the AUC could eliminate any subversives found in the region of La Loma and around the mines.”¹⁸⁶

This information was partly confirmed by an ex-colleague of El Canoso in Prodeco’s security department. The source stated that intelligence was being collected under the supervision of Ochoa: “In the mine, we had a scanner [for tapping phone calls]. It was our job to [...] detect and listen to telephone conversations. [...] We handed over the reports to Luis Ochoa.”¹⁸⁷

The former employee recalled some of the overheard conversations. “And one heard it when they [the rich land owners] called the paramilitary commanders, and it gave me the shivers to hear them giving orders who they were going to kill in the villages. And the mayor of Codazzi they killed was called Gilberto Gómez [...]. He was a friend of mine and he was not a guerrilla fighter. And they killed him in an awful way, and I couldn’t warn him. And I was left with this frustration for the rest of my life.” We deduce from this testimony that Prodeco had detailed information on human rights violations taking place in the area but did not act to prevent these violations from occurring.¹⁸⁸

Like El Canoso, this ex-employee of Prodeco recalled that the intelligence work of the security department focused amongst other things on the activities of the trade union members. “Luis Ochoa, for example, scanned all the [mobile]phones of the trade union. [...] Baena was the human resource person of the mine [and an army commander stationed at Prodeco]. He reviewed the CV’s of the trade union activists and followed their steps. [...] Baena had a small tape recorder in his pocket [...] to tape everything. That is how he found out how they were organizing everything necessary in order to set up a trade union at the Chamber of Commerce, in order to make it [the new trade union] legal. And they didn’t let them [the labour union activists].”¹⁸⁹

Testimonies on the Triangular Coordination

According to El Canoso, the mining companies and the paramilitaries had an interest in closer links with the army. “One strategy was to set up a [military] base at a hill opposite our offices [of Prodeco] to give the army a clear view and control over the mine. But at the same time

it would be a strategic point so as to prevent people from outside from entering the area where we were thinking of setting up a base for the paramilitaries.”¹⁹⁰ In 1996, a military base was built within the Prodeco concession and a battalion installed. El Canoso recalls Prodeco’s support to these soldiers: “In the training for these military personnel, we gave them [...] radios so that the sergeant could communicate directly with us.”¹⁹¹ In the same year, a Colombian army military base was also set up at the Drummond mine.¹⁹² This was the base at which El Canoso was later to see the paramilitaries’ vehicles entering to refuel, without the soldiers intervening.¹⁹³

It seems clear from various statements that there were contact persons in the companies to coordinate and maintain communication between the AUC, the mining companies, and the Colombian army. El Canoso reported that the army intelligence service appointed Carlos Baena as “the only person allowed to make contact with the AUC commander. I remember that Carlos Baena had a radio [...] so that they could set up meetings.”¹⁹⁴

El Tigre gave another example of triangular coordination in one of his statements. “There has always been an army base in the Drummond facilities [...]. Once, I planned to do a raid on a village called San Roque, and in order to get to San Roque you have to pass through Drummond, and I told Captain Posada [of the police] that I needed to go through the facilities and that I needed to coordinate as well [...]. Mr Posada, alias Tomás, called a contact of his in Drummond and [said] that he needed to speak to the army major who was in Drummond. He [the army major] invited me and I personally went in with the captain. We coordinated the crossing towards San Roque. [...] So that when I passed through Drummond’s territory, the army would not attack me.” The raid on San Roque effectively took place three days later.¹⁹⁵

Testimonies on the Coordination between the AUC and the Army

The JAA Front coordinated directly also with the local army units. The statements made by former paramilitary commanders in the Justice and Peace process suggest that the support given by the Colombian army to the AUC was a widespread phenomenon in the department of Cesar.¹⁹⁶ The collaboration was made easier by the affinity of the majority of the paramilitaries with the army. This is exemplified by El Tigre’s early career in the army at a young age: “The majority of my men were ex-military,” he attested.¹⁹⁷

According to El Samario, ex-commander of a JAA-Front death squad (see chapter 4), the Front operated as “the left arm of the State.”¹⁹⁸ “The army,” he said in an interview, “was bound by international legislation and treaties and therefore did not have the same scope as the AUC.”¹⁹⁹ He testified: “Personally in my area I coordinated a lot with the army. [...] If I didn’t have enough staff or men or not enough weapons were available, I could use the arms of the public forces.”²⁰⁰

According to El Samario, the coordination between the AUC and the army was also done “in order not to have any type of clashes between the AUC and the military forces.”²⁰¹ He stated furthermore that the army supplied two local guides to identify and localize the (suspected) guerrilla supporters. “These guides were ex-guerrilla fighters. I was also given two guides by the mayor of Becerril. In the end, these guides worked for me for the entire period,” said El Samario.²⁰² El Samario left no room for doubt about the consequences of the collaboration between the AUC and the army when he said: “They [the military] would lend us the arms with which we would kill people.”²⁰³

Bilateral Coordination between Drummond and the AUC

According to the statements made by various ex-paramilitary commanders, the coordination also took place at a bilateral level between Drummond and the AUC. First of all, the AUC's operating strategy was discussed with Drummond on several occasions. The first commander of the paramilitary JAA Front, alias El Tigre, testified under oath that the military duties of the men of the JAA Front were discussed with Drummond in November 1999 at a meeting attended by Jorge 40, Drummond manager Araújo Castro, and himself.²⁰⁴ "We needed to clean up all the area that surrounded Drummond of guerrillas, [...] then Drummond would cooperate with the finances that they were going provide to the AUC. [...] A clean up means, yes, it means killing all of the guerrillas or guerrilla men that are armed in the area and civilians as well."²⁰⁵

The ex-paramilitary commander, El Samario, also made statements about the strategic coordination with Drummond. "It was like a sort of commitment, [...] an agreement that there was between the AUC and Drummond for – so that the guerrillas would not make any attempts against their facilities. [...] Our understanding was that any subversives or [...] any such people that were operating near the Drummond facilities, we were to kill them. [...] We could not leave small pockets of them here and there. And so we used lethal force. [...] We would just kill anyone who was said to be a guerrilla around those parts."²⁰⁶

Another ex-paramilitary of the JAA Front, José Aristides Peinado Martínez, alias El Peinado, recalled a meeting in 2000 between representatives of Drummond, of a Drummond contractor, and of the JAA Front and stated that they "discussed the progress of the AUC's cleansing operations in the area."²⁰⁷ According to El Peinado, the Drummond representative (Lineros) said that there were still reports of guerrilla presence in areas along the Drummond mine and rail line and that "the AUC needed to focus our operations in these areas." El Peinado recounted that "after the meeting [...], I personally participated in cleansing operations with the AUC in the areas where Lineros had said the AUC should focus its activities [...]. These initial missions were during the year 2000, and hundreds of civilians were killed by us near Drummond's mine and railroad line."²⁰⁸

Other testimonies regarding the coordination between Drummond and the AUC were given by Libardo Duarte, alias Bam Bam. He says he was transferred to Cesar by the national commanders of the AUC in late 1998 or early 1999, to work there with Drummond. His immediate AUC supervisor was alias Omega, who coordinated the patrol and security work with Drummond. Bam Bam recalls that his commander Omega's primary contact at Drummond was Mike Tracy, Drummond's president in Colombia at that time. "Tracy was responsible for making all the deals and payments that Drummond arranged with the Northern Bloc of the AUC. [...] I also witnessed on several occasions meetings between Omega and Mike Tracy where they talked about their arrangements."²⁰⁹

According to Bam Bam's statements, various AUC commanders, in consultation with Drummond, protected the company's facilities. Bam Bam articulated the situation as follows: "The AUC in Drummond's area worked for Drummond. Although we were all part of the AUC force that drove the FARC out of Drummond's area, and pacified the local population, we also carried out specific jobs for Drummond."²¹⁰ Bam Bam was given a specific task. "My main job was to patrol the roads of the area to make sure that the trucks carrying Drummond's coal to [the dock of] Prodeco, where it was loaded onto ships, was safe. I was tasked with making sure that there

were no FARC attacks, and I also became a manager of sorts to ensure that [...] no one robbed Drummond's coal on the way to Prodeco.”²¹¹

According to Bam Bam, alias Jhon was “the main person in charge of driving people off the land that Drummond wanted for its rail line or other operations. This included killing and displacing people who refused to leave or sell their land. I recall one situation in which a family owned land along the rail line that also included a creek that ran out of a canyon, near the town of El Copey. The family refused to leave their land. Jhon killed the son of the family first, and then when they did not leave immediately, he also killed the father. Drummond owns this land today.”²¹²

Charris Castro worked until 1999 as a coordinator at the security firm Viginorte, which looked after Drummond's installations, personnel, and railway. It is evident from his statements that the contractors' staff played a role in the coordination between the paramilitaries and Drummond.²¹³ According to him, Drummond's security man James Adkins, instructed Viginorte to make sure that, when the US employees visited Cesar, “they would not have any problems during their trip and that the army would know about the visit and that it would coordinate with the AUC.” Charris Castro: “I coordinated with the AUC, and specifically with one of their commanders called El Tigre.”²¹⁴

Charris Castro left the security firm in 1999 and was appointed head of security at Jaime Blanco Maya's catering company, contracted by Drummond, as already mentioned. As Blanco Maya's security coordinator, Charris Castro was required “to monitor the presence of paramilitary forces in the area as well as the state security forces.”²¹⁵ Among other things, this involved maintaining contact with the JAA Front. El Peinado, Charris Castro's colleague and a paramilitary informer, recalls regarding the 1999–2000 period: “Most of the Drummond messages originated from [...] a high level security officer at Drummond. If he wanted to send a message to El Tigre, he would tell Blanco and then Charris Castro or I would deliver it.”²¹⁶

Charris Castro's statement is confirmed by Oscar David Pérez Bertel, alias El Yuca. He joined the AUC in 1996 and went to Cesar at Commander El Tigre's request. “I accompanied El Tigre on many operations and patrols in the area around Drummond's rail line. He told us that Drummond's private security firm, Secolda, had checkpoints along the rail line, but that their function was solely to observe. [...] If anyone of Drummond's security personnel saw a suspicious or unauthorized person in the area, they would call the AUC. If the suspicious person could not explain why they were in the area of Drummond's railroad line, we killed them.”²¹⁷

The practice of coordination between Drummond and/or Drummond's contractors and the AUC appears to have continued after El Tigre was arrested in 2000. In that year, El Yuca joined one of the JAA-Front death squads operating from the nearby towns. He stated: “Drummond's security personnel had [alias] Cebolla's [commander of the group] mobile phone number, and they called Cebolla directly whenever they saw someone suspicious in the area around the railroad line.”²¹⁸ El Samario also stated that his group resorted to murder on the basis of telephone contact with Cebolla.²¹⁹

The Murder of Three Trade Union Leaders (2001)

A known example of alleged direct collaboration between the AUC and Drummond that apparently culminated in violence is the murder of three trade union leaders in 2001. The trade

unions and Drummond were in conflict at the time about working hours, the quality of the food, and the presence of the AUC in the company canteen.²²⁰ Charris Castro, head of security at Jaime Blanco Maya's company, claims that he was instructed to "survey the activities of union members and leaders inside ISA and then report periodically to Jim Adkins."²²¹ His colleague and paramilitary informer El Peinado helped him.

In January 2001, Charris Castro, El Peinado, and Blanco Maya allegedly attended a meeting with Drummond staff. According to El Peinado, Alfredo Araújo said at this meeting "that the 'gringos' wanted the trade union leaders killed. [...] Araújo told us that the union leaders were paralysing production [...], and that Drummond's American executives were fed up with the union."²²² According to Charris Castro, James Adkins organized a meeting at the Drummond mine on 6 March 2001 with people from the security department, Blanco Maya, and Charris Castro himself, allegedly at the explicit request of Drummond's CEO. According to him, it was said at the meeting that the trade union leaders were to be killed on 12 March.²²³ Charris Castro received a list of names of these trade union leaders from Adkins at this meeting. "The list was for me to give to Commander Tolemaida [...]. The first one to be killed was the president and vice-president [of the union]."²²⁴ Alongside the names of President Valmore Locarno Rodríguez and Vice-President Victor Hugo Orcasita Maya, there were at least five other names on the list.²²⁵

Charris Castro and Blanco Maya maintain that they wanted Adkins to tell them who within Drummond knew about the operation and whether they had agreed to it. According to Charris Castro, they wanted to know because they were already aware that "all of the management had to know about the plan to kill the union leaders because it was a time bomb that could have national repercussions."²²⁶ James Adkins reportedly then gave them the names of eight Drummond employees who knew about the plan, including high-ranking executives.²²⁷ El Peinado said that Adkins gave Charris Castro an electronic personal planner three days before the murder: "a gift that he was very happy with. Adkins allegedly told him it was in appreciation for his collaboration in the killing of the unionists."²²⁸

El Peinado also stated that he and his superiors, Charris Castro and Blanco Maya, went to Tolemaida, the then commander of the JAA Front. "Blanco explained to Tolemaida that the Americans had approved the killing of the Drummond union leaders and that Drummond wanted us [the AUC] to do it. Tolemaida gave the order to kill them [the trade union leaders], and he put Charris Castro and me in charge of coordinating the operation."²²⁹

According to Charris Castro's statements, Tolemaida ordered a commander called alias Adinael to carry out the murder. Charris Castro stated that on 12 March 2001 Adinael was phoned by a manager of Drummond's security department (Colonel Luis Carlos Rodríguez) telling him that the two trade union leaders had finished their shift and identified the bus on which they were leaving the mine. As agreed with Adkins, Charris Castro then made one more call to Adinael for confirmation that he had received the telephone call.²³⁰

On the day concerned, members of the JAA Front forced the two trade union leaders to leave the bus and later killed them. According to El Peinado, the action was rewarded by Drummond. "Shortly after the murders, we received one million Colombian pesos in cash from Jaime Blanco's company [...] that he confirmed had come from Drummond. Tolemaida received the money from Blanco, and he gave a cash sum to all of us who had taken part in the operation."²³¹

El Peinado also stated that Tolemaida had given instructions for Adinael to be killed, “to make sure there would be no leaks.”²³²

Later the same year, on 6 October 2001, the new chairman of the largest trade union in Drummond, Gustavo Soler Mora, was also taken out of a bus by paramilitaries. They took him away, and his body was discovered at the side of the road in Chiriguaná.²³³ Four people on Adkins’ list were still left. One of them, Victor Guerra, was warned that they also wanted him dead. Alarmed by this news, the trade union leaders temporarily took flight.²³⁴ Victor Guerra was later dismissed by Drummond. One of the other four trade union leaders on the list, Raul Sosa Avellaneda, who continued to have serious security problems over the years,²³⁵ was run over by a truck together with his bodyguard in June 2012. They both died.²³⁶

Tolemaida, Charris Castro, and Blanco Maya were convicted for their part in the murder of the abovementioned trade union leaders, Orcasita Maya and Locarno Rodríguez. Charris Castro was sentenced to 30 years. Blanco Maya was sentenced to 38 years in February 2013. The judge who convicted Charris Castro took Blanco Maya’s incriminating statements regarding the involvement of Drummond employees in the murder into account and urged the Colombian Attorney-General’s Office to start an investigation into Drummond.²³⁷ Apparently, this was not pursued because, three and a half years later, the judge convicting Blanco Maya repeated this exact same request.²³⁸

In 2002, the families of the three murdered Colombian labour leaders and the union to which they belonged, Sintramienergética, brought a case under the Alien Tort Claims Act (ATCA) against Drummond (*Baloco et al. v. Drummond Company, Inc.*). In 2007, the jury of the federal court ruled that the company was not liable for the death of these union leaders. At this time, however, the former paramilitaries could not be compelled to testify in court as the AUC was still in process of demobilization. In March 2009, eight children of the three murdered union leaders filed a new case against Drummond for its role in the murders of their fathers. In this case, the testimonies of the by then demobilized ex-paramilitaries of the JAA Front were taken under consideration by the court (the case is currently pending before the Court of Appeals; see Chapter 9).²³⁹ ♦

**Guillermo Almanza Cañante (78)
& Nilsa Muñoz Almanza (83)
Location: Bosconia**

We and all our friends had to flee our land in 2002. We had 25 hectares. One night armed men came and threatened us. Several people were murdered. We fled to Bosconia and have never dared return. Look, here is a copy of the title deed. The original is still at Incoder (the Institute for Rural Development). One of our two sons has since died of heart disease, and I don’t know if we will live to see payment for the land. ♦



7. Benefiting from Forced Displacement?

One pervasive effect of the paramilitary violence in the mining region of Cesar is the displacement of thousands of peasant families from their homes. This chapter clarifies the circumstances and aftermath of two emblematic cases of mass forced displacement for which the JAA Front –which allegedly received financial support from Drummond and Prodeco – is responsible and from which both mining companies have ultimately benefited.

These concern the cases of displacement of members of the rural communities of Mechoacán and El Prado in the municipality of La Jagua de Ibérico. In the ensuing years, the paramilitaries' influence, which extended to local politicians and other public officials, cleared the path for the fraudulent purchase of the victims' lands by intermediaries and their subsequent sale to Drummond and Prodeco.

Displacement in Mechoacán (La Jagua de Ibérico, 1999–2004)

The rural hamlet of Mechoacán was still a large hacienda in 1990. It was adjacent to Drummond's La Loma mining concession. In 1990, the partly undeveloped hacienda was occupied by a group of landless farmers. In August 1994, after years of occupation and negotiation, INCORA acquired the 4,700-hectare hacienda from the original owner and distributed it among 133 families.²⁴⁰ INCORA issued their ownership papers some time later.

In January 1999, eye witnesses saw the first paramilitaries in Mechoacán. According to residents in the area at the time, the JAA Front was also frequently present there the following year. The

heavily armed men sowed panic and fear among the local population. One of them, Aquiles de Jesús, recalled: “They came masked and armed and made sure that the entire community was agitated about who they were going to murder or kidnap.”²⁴¹ The paramilitaries appeared to be well informed and set to work purposefully. Pompilio, a member of a displaced family, reported that his family’s farm had been visited by paramilitaries while he was away in Bogotá. “‘If your husband had been walking around here, we would definitely have killed him,’ El Tigre told my wife. On that day, there were farm labourers at our house, there were many people, and they were all pressed down on the ground while they searched the house.” Pompilio’s family fled their land on 23 January 1999 and temporarily sought refuge in Valledupar.²⁴²

In his statement to the Registry of Displaced Persons (where victims denounce their displacement), Aquiles de Jesús gave an account of the extortion carried out by the JAA Front,²⁴³ leading to them being driven from their land in 2000. “Together with my neighbour I had 20 cows, and the paramilitaries said I had to give them a couple. I said that the cows weren’t all mine, and that I couldn’t just give them away. My son told the paramilitaries that we didn’t have to give them any cows because we had worked hard for them. They then said that we would have to find some other way to pay them. I didn’t know what to do, so I sold my share of the cows to my neighbour to pay the paramilitaries. They came back to our house late at night and told us we had to leave the hamlet, but my son protested, saying: ‘We don’t have to do anything for anyone!’ At that point, the paramilitaries pushed my son’s face into the ground and interrogated him, and they said that they were going to kill him if they saw him again. My wife and I begged the paramilitaries to let our son go. In the end they did, but the paramilitaries gave us 12 hours to leave our land.”²⁴⁴

For many families, the threats involved were enough to persuade them to flee. Of the 133 families who had been granted a plot in Mechoacán in the second half of the 1990s, 11 were already registered as displaced before 2003 (it is possible that other families had fled without having officially registered).²⁴⁵ A next group of families fled when the chairman of the Mechoacán neighbourhood committee was killed by paramilitaries on 2 August 2004.²⁴⁶ In total, in the 1999–2004 period, at least 33 families from Mechoacán were displaced as a consequence of threats, violence, and murder. Seventeen of these families registered themselves as displaced, but others did so only later, if at all.²⁴⁷

Most of the displaced families sold the rights to their land to third parties before fleeing. They wanted to use the proceeds to build new lives for themselves elsewhere. The sales were private, which is to say without INCORA’s knowledge.²⁴⁸ Because the transactions were made in haste, there was never an official deed of sale or other documentation. For a plot of approximately 35 hectares,²⁴⁹ the owner in many cases would receive only a fraction of the original price paid by INCORA.²⁵⁰

After the threat, Pompilio’s family sought help from the then mayor of the municipality of La Jagua, Ana Alicia Quiroz Martínez, who advised them to give up the land and flee. According to Pompilio, she said that otherwise they would be certain to be murdered.²⁵¹ The mayor then offered to buy their land. The plots of other threatened families in Mechoacán were also bought up by members of the local elite, in particular by municipal administrators and local businesspeople.²⁵² A number of those who bought up displaced families’ land reportedly worked for Drummond. Legally speaking, these persons should not have been able to buy this earmarked land, because they could not be classified as poor, generated no income from agriculture, and accordingly did not qualify for participation in INCORA’s agrarian reform programme.²⁵³ In total, in Mechoacán,

at least 12 plots of displaced families were transferred to members of the local elite.²⁵⁴ The other plots were taken into possession by other families in the region. In some cases, the plots remained abandoned for some considerable time.

Drummond first showed interest in the land in Mechoacán in 2007. Before it could buy anything however, and before any land transfer could occur, the title deeds to the land had to be 'legalized.' Corrupt officials of the Colombian Institute for Rural Development (INCODER, formerly INCORA) with ties to the paramilitary,²⁵⁵ in collaboration with a local land notary, applied various administrative tricks to achieve this aim, which frequently involved forgery of documents.²⁵⁶ The Attorney-General's CTI unit in Valledupar discovered at least 32 cases in Mechoacán of sales contracts with forged signatures, in three cases even of people who were already dead.²⁵⁷ In this way, the original, displaced landowning families were now also legally removed from the Land Registry.²⁵⁸

Drummond ultimately entered into a joint sale contract for all plots with all of the 131 (we cannot account for two of the original 133) Mechoacán landowners in November 2008, amongst which several families that were not among the original inhabitants.²⁵⁹ In early 2010, when the Attorney-General's Office found irregularities in the title deeds, 48 suspect plots were placed under the protection of the institution.²⁶⁰ Of these 48 plots, 33 had belonged to displaced families. The protective measures came rather too late: Drummond's preparations for mining operations in the area started as early as 2009. So, even though the land rights of these families were later re-affirmed by the Attorney-General's Office, the land was no longer suitable for agriculture.

Displacement in El Prado (La Jagua de Ibérico, 2002)

The hacienda and hamlet of El Prado is directly adjacent to Prodeco's Calenturitas concession. INCORA acquired this land, which covers 1,300 hectares, and allocated it to 51 families in 1997.²⁶¹ In 1999, INCORA issued them with a document giving usufruct rights and promised that the official land titles would follow later. However, the beneficiaries were never to receive these title deeds.

As in Mechoacán, the JAA Front's threats and acts of violence started in El Prado in 1999. On 19 May 2002, the paramilitaries murdered five people.²⁶² This massacre was carried out by a JAA-Front death squad led by El Samario, with the express purpose of driving the families out. Seven years later, El Samario testified in a Colombian court (Justice and Peace process): "We met with Tolemaida and the lawyer José Daza Ortiz. Tolemaida interrogated them, and I murdered one of them. He [Tolemaida] murdered two people, and José Daza another two. They then threw them into a tractor and left with a bulldozer. They made them disappear: I don't know where they are buried."²⁶³ The lawyer acting for these victims announced in 2012 that forensic experts had found the five bodies in a mass grave.²⁶⁴

Paramilitaries killed another seven landowners in El Prado in the months following the massacre.²⁶⁵ These shocking events prompted 48 of the original 51 families to flee. All of them officially registered their family members as displaced persons. According to the victims, the paramilitaries burned their papers (certificate of usufruct). Front men appointed by the paramilitaries then occupied the abandoned plots.²⁶⁶ All this happened with the knowledge of corrupt INCODER officials, who, as later in Mechoacán, declared the displaced persons' land 'abandoned' and provided the new, mala fide landowners with false papers.²⁶⁷ Unlike Mechoacán however, there

was no need to draw up false sales contracts in El Prado, because the land was still formally owned by the state institution INCODER.

In January 2009, INCODER signed a land swap agreement with Prodeco for the land in El Prado.²⁶⁸ The mining company gained ownership of the land in exchange for the obligation to pay for replacement land elsewhere, which INCODER was to find for these occupant families (but not original owners). Prodeco was also obliged to compensate the families for the loss of private goods (houses and so forth). The original, displaced landowners were not recognized in this deal in any form whatsoever – either as entitled parties with respect to the land, or as victims of forced displacement.²⁶⁹ Shortly after Prodeco had made payment,²⁷⁰ INCODER vacated the plots in El Prado and transferred them to the mining company. Sometime in 2010, operational activities started on three of the plots that Prodeco had acquired previously. The other plots were later to be the subject of a legal dispute between Prodeco and INCODER.

The Role of Drummond and Prodeco

In Mechoacán and El Prado between 1999 and 2004, the JAA Front threatened, extorted, and committed at least 15 murders (three in Mechoacán and 12 in El Prado).²⁷¹ The terror in this period resulted in at least 81 families being driven from their land (33 in Mechoacán and 48 in El Prado).²⁷²

The ex-paramilitaries involved in the case claim that they always had the interests of the mining companies in mind in their actions. El Samario made the following statement about El Prado: “All this is done because of the coal-rich land: it brings in a lot of money, and that explains this [forced] displacement. A plot of land that is under dispute is worth nothing. Where there has been murder and people have been displaced, you can buy a hectare of land for 150,000 COP (USD 75).”²⁷³ This confession by El Samario was corroborated by El Mecánico’s witness statement: “We were ordered to be present there to put as many people as possible under pressure to sell their land. [...] It was a place where they knew there was much coal in the ground, and where in future Drummond or some other company, such as Prodeco, would buy these plots of land.”²⁷⁴

The forced displacements in Mechoacán and El Prado cleared the way for the fraudulent purchase, or, in the case of El Prado, the actual occupation of land by intermediaries. Subsequently, the two mining companies bought the land for the expansion of their mining projects, in the full knowledge that it encompassed the lands of forcibly displaced families, the sale of which, according to Colombian law, is considered an illegal act.²⁷⁵ However, neither Drummond nor INCODER made an effort to conceal these criminal offences. At a 2009 meeting with the families inhabiting Mechoacán, Drummond’s community relations manager, Araújo, said that he was aware of the displacement of some of the original owners.²⁷⁶ Nonetheless, this formed no obstacle to the company’s acquisition of the land. According to an investigator from the Attorney-General’s Office, there was even a clear statement in a schedule attached to a title deed that the land was subject to special protection because of displacement.²⁷⁷

The displaced families learned of the sale of their land to the mining companies Drummond and Prodeco in the course of 2007. Out of indignation and a sense of injustice,²⁷⁸ they organized themselves to lobby for recognition of their displaced person status and the return of their land.²⁷⁹

Mechoacán: An Arduous Struggle for Justice

The Mechoacán victims have made little progress in their search for justice. One of the few successes is that the former regional director of INCODER has been found guilty of forging documents regarding the ownership status of the land, as well as of lack of attention to forcibly displaced persons.²⁸⁰ In late 2010, the Attorney-General's Office decided to freeze the sale to Drummond of 48 of the total of 131 plots²⁸¹ and started a criminal investigation to establish whether the displaced families had fled for economic reasons, or in fact because of the violence. By law, to qualify for land restitution, a displaced person must have left and sold or surrendered the land because of the armed conflict and not for economic reasons.

Drummond in turn filed a complaint against the Attorney-General for 'obstructing the course of justice' and 'abuse of power.'²⁸² This legal action did not have the intended effect. At the end of the criminal investigation, the Attorney-General's Office finally declared invalid the land transactions with Drummond for 21 plots in early 2012, also granting the legitimate owners the right to obtain restitution.²⁸³ Drummond then brought a civil action to contest the lawfulness of the families' ownership claim.²⁸⁴ Lawyer Ludys Pedraza has called Drummond's action shameful in light of the cases of forgery of documents discovered earlier and has accused Drummond of distorting the facts.²⁸⁵ Aside from the legal merits of the case, the company's continuing aggressive stance discourages displaced families from seeking justice and compensation.

El Prado: Frustrated Attempts to obtain Restitution

With respect to El Prado, the victims ran into obstruction from the outset from INCODER, which attempted to remove the names of the original families from the Registry of Displaced Persons, contrary to all procedures.²⁸⁶ The land transactions were the subject of a judicial inquiry by the Attorney-General's Office.²⁸⁷ On 9 November 2011, the court found the state institute guilty of selling protected land and ordered INCODER to return the land to the 48 victims or pay compensation in line with market prices.²⁸⁸ To the great frustration of the victims, INCODER appealed the judgement,²⁸⁹ but on 19 July 2012 the Constitutional Court dismissed this appeal as unfounded.²⁹⁰ INCODER has yet to execute the restitution order.

Prodeco denies all forms of involvement in the displacement of the El Prado families. The company claims to have had no interest in the land either in 2002 or at any later time, as no commercially viable coal would be present there. The former Director of Prodeco, Gary Nagle, told PAX in an interview that, in 2013, President Uribe had personally instructed them for political reasons to buy the land in El Prado and resettle the occupant families. Nagle also claimed that INCODER, and not Prodeco, was the owner of the land in El Prado, because to date INCODER had failed to meet its obligation under the land swap agreement to acquire replacement land, therefore rendering the agreement null and void.²⁹¹

The lawyer representing the displaced El Prado families, Ludys Pedraza, human rights lawyer Francisco Ramírez, and an investigator from the Attorney-General's Office have questioned Prodeco's claims. In their opinion, the company really is the owner of the land in El Prado by virtue of the contract relating to the land swap agreement. Regarding the company's alleged lack of interest in the land, they find it suspicious that no transparent and open bidding procedure was observed in the transfer. If this had happened, other interested companies could also have

bid for the land. They deduce from this that Prodeco entered into a private agreement with INCODER and therefore did have an interest in gaining possession of the land in El Prado.²⁹²

Lawyer Ludys Pedraza finds it surprising that the mining companies were not involved in the various criminal investigations, particularly in relation to their alleged involvement in the fraudulent land transactions. When interviewed, she observed that “the legal system has not helped the victims’ circumstances to take a turn for the better: INCODER is ignoring the court restitution order regarding El Prado, and the national government is doing nothing to change the situation.”²⁹³

In the meantime, many people with a prominent role in legal proceedings or land restitution procedures are facing major security issues. Some of the El Prado victims have received repeated threats since the court judgement.²⁹⁴ Ludys Pedraza, their lawyer, has also been the target of threats and, like her clients, she is covered by a special government protection programme.²⁹⁵ On February 21, 2014, an unidentified armed man opened fire on Ludys Pedraza’s house, where a meeting with the leaders of the land restitution movement was being held.

Although the threats are anonymous, the Human Rights Ombudsman attributes them to a new illegal armed group in the region, which is said to be supported by major landowners and local politicians.²⁹⁶ Many other threats to community and land restitution leaders were made in pamphlets signed by illegal armed groups such as Los Rastrojos and Los Urabeños.²⁹⁷ In several written threats, the perpetrators state that they are defending the interests of the mining companies. ♦

8. Europe & Colombian Coal

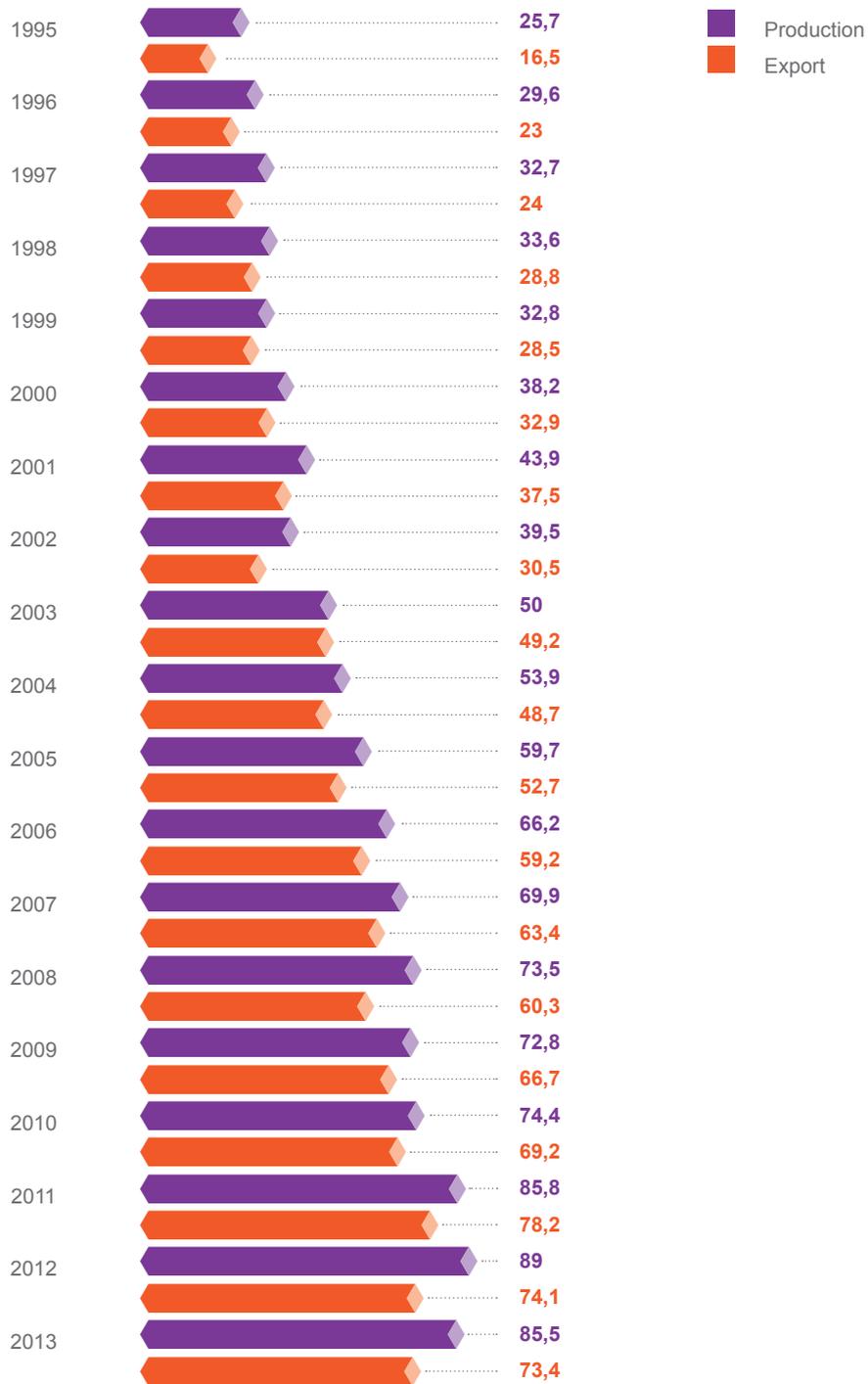
Despite falling coal prices on the world market, Colombian coal production is growing and has risen by over 30% in the past five years, almost all of which for export. See Figure 7. In 2011, Colombia was the fourth largest (thermal) coal exporter in the world after Australia, Indonesia, and Russia.²⁹⁸

The Colombian government institute Simco, which is part of the Ministry of Mining and Energy, maintains a wide range of quantitative data about Colombian coal production and coal exports. According to Simco's export data, most Colombian coal is destined for the European market as its low ash and sulphur content makes it particularly suitable as a fuel for European coal-fired power plants.

In 2013, 39% of Colombian coal went directly to Europe, 7% to the United States, 12% to the Falkland Islands, and 18% to other Latin American countries.²⁹⁹ The end destination of the exports to the Falklands is most probably the UK, so the actual percentage of Colombian coal to Europe is somewhat higher than 50%. The volume going to Asian markets is growing but accounts as yet for only a relatively smaller proportion (18% in 2013). See Figure 8.

Simco's information also reveals that, since 2009, the Netherlands has been Colombia's most important coal export destination.³⁰⁰ This conclusion is confirmed by the 2013 export figures. The Netherlands heads the list of Colombian coal-importing countries, with over 15.6 million tonnes of coal, which is more or less the same as in the previous year.³⁰¹ Second on the list are the Falklands (UK) with 9.1 million tonnes of coal, followed by Portugal with 3.7 million tonnes and Spain with 3.4 million tonnes. See Figure 9.

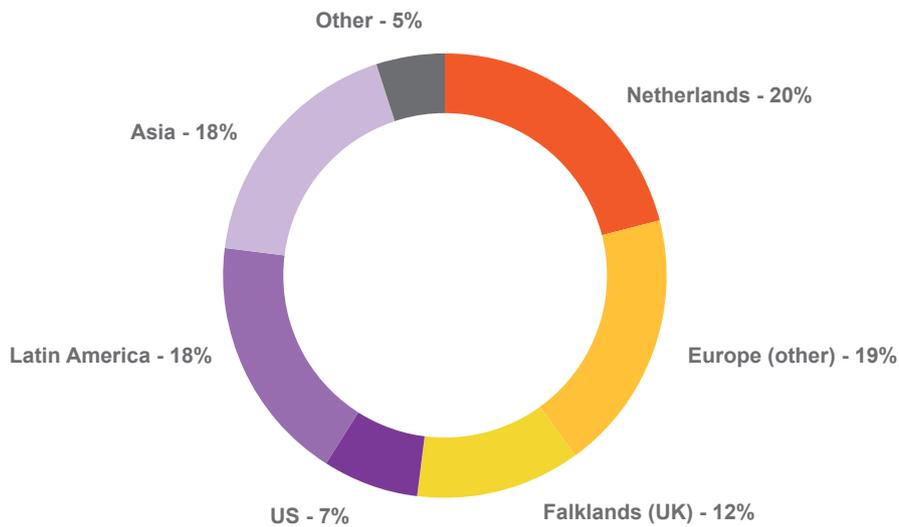
Figure 7.
Production and export of
Colombian coal (1995-2013)



Production and export of Colombian coal 1995–2013 (in millions of tonnes)

Source: Sistema de Información Minero Colombiano (www.simco.gov.co)

Figure 8.
Colombian coal export by destination in 2013



Colombian coal export by destination in 2013 (%). Source: Sistema de Información Minero Colombiano (www.simco.gov.co)

It is unclear whether the Colombian government has also analysed the final destination of Colombian coal traded on the spot market (or screentrade: a public financial market in which commodities are traded and immediately delivered) and whether these quantities are included in the statistics. If not, the export figures would be even higher.

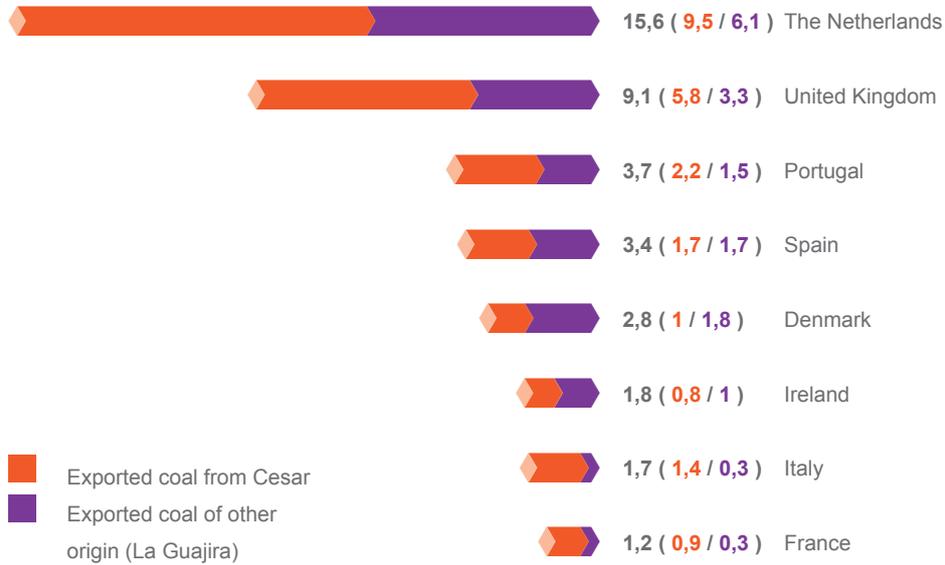
Colombian Coal to the Netherlands

The export volume of Colombian coal to the Netherlands – 19.1 million tonnes in 2011 and roughly 15.4 million tonnes in 2012 and 2013 – broadly corresponds with the combined import volume at Dutch ports – principally Rotterdam and Amsterdam and, to a lesser extent, Vlissingen (Flushing) and Eemshaven.³⁰² However, only some of the Colombian coal imported into the Netherlands is used for the Dutch market. A large part of it is traded and transported to other European countries.³⁰³ According to Energie-Nederland, 8.6 million tonnes of coal was used for generating electricity in the Netherlands in 2012, of which 4.0 million tonnes (47%) came from Colombia.³⁰⁴ We conclude on the basis of the available data that approximately 74% of total Colombian coal imports into the Netherlands in 2012 were forwarded to other European countries.

Colombian Coal to Germany, the UK, and France

Relatively little Colombian coal is shipped directly to German ports; according to Simco, the

Figure 9.
Colombian coal export to major EU destinations in 2013



Colombian coal export to major EU destinations in 2013

Sources: Sistema de Información Minero Colombiano (www.simco.gov.co) & Dirección de Impuestos y Aduanas Nacionales de Colombia (DIAN)

volume in 2013 was only 0.5 million tonnes. This is because most of the Colombian coal used in German generating plants comes through Dutch ports. For instance, according to German sources, no less than 10.6 million tonnes of Colombian coal were imported in 2011, and most of the coal was transited through the Netherlands.³⁰⁵

The UK seems to be an important client of Drummond. The company reported in its 2012 sustainability report an export figure of 11% of its total coal production to the UK.³⁰⁶ We have not found similar figures for Prodeco. According UK government figures, the UK in 2013 imported 11.5 million tonnes of coal from Colombia.³⁰⁷ Simco registered no direct exports to the UK in 2013, but recorded the export of 9.1 million tonnes of coal to the Falkland Islands. It is not very likely that the Falklands were the final destination of these shipments. According to the Colombian Tax and Customs Authority, DIAN, 8.9 million tonnes of coal were exported to the UK in that year, which almost entirely coincides with the export to the Falklands. It is therefore very likely that the import of Colombian coal to the UK is only being registered in the Falkland Islands for fiscal reasons.

It is probable that some of the Colombian coal used in French power plants is imported through third countries. In 2012, for example, the Colombian government registered 1 million tonnes of coal exports to France, whereas the Commissariat Général au Développement Durable reported for the same year that 3.2 million tonnes of the coal used in France for power generation came from Colombia (18.8% of total French coal imports).³⁰⁸

Coal Exports from Cesar to Europe

A question that arises concerns the proportion of Colombian coal exports to Europe that comes from the Drummond and Prodeco coalmines. The statistical data from the Colombian government shed little light on this question. However, there are statistical data available on the exports of coal from the department of Cesar.

It must be borne in mind that not only Drummond and Prodeco have active mines in Cesar; the mining company Colombian Natural Resources (CNR) has three small coal concessions in the region.³⁰⁹ In 2011, the joint production of these three concessions was only 6 million tonnes. It is unknown whether CNR exports modest quantities of coal to Europe. However, the CNR mines' low production justifies the statement that most of the export figures for Cesar relate to the Prodeco and Drummond mines. See Figure 9 for a further breakdown.

Also, the production figures for Drummond and Prodeco shed an interesting light on the importance of the European market for both companies. Over the last three years, an average of 70% of their combined coal production was sold to European energy utilities. In other words, the European energy market is of a major commercial importance to Drummond and Prodeco

Controversial Importation of Colombian Coal

The importation of Colombian coal into Europe is controversial in various European countries. Social organizations point to the negative environmental and social impact of coal production, among other things. A few years ago, the human rights violations in the Cesar mining region and the possible involvement of Drummond and Prodeco also attracted attention. The convictions in Colombia of the director and an employee of one of Drummond's contractors for their part in the murder of the trade union leaders (see chapter 6) played an important role in creating this awareness,³¹⁰ alongside the legal action brought against Drummond in the United States by victims of the violence.

A social debate has been ongoing in Germany for several years about the importation of Colombian coal. The German NGOs, FIAN and Urgewald, issued a report in April 2013 with the title: *Bitter Coal: Ein Dossier über Deutschlands Steinkohleimporte*.³¹¹ In this report, they allege Drummond's involvement in the murder of the trade union leaders and refer to the accusations of Drummond's alleged financing of the paramilitaries. The report also refers to the environmental damage caused by the Drummond mine.³¹² Furthermore, in November 2013, the German television programme ZDFzoom broadcast the documentary *Böse Mine – Gutes Geld*, in which a former Drummond contractor made a statement about Drummond's financing of the paramilitaries and the murder of the trade union leaders.³¹³

The European Facing Finance Campaign issued a report in 2012 entitled *Dirty Profits: report on companies and financial institutions benefitting from violations of human rights*. The report seeks to address "proven and postulated violations of human and environmental rights by multinational corporations and discloses the financial institutions which benefit from these activities." Drummond is one of the cases in the report – as well as Prodeco. The report also alleges Drummond's involvement in the murder of trade union leaders, the acquisition of illegally purchased land, and benefitting from forced displacement.³¹⁴

In Denmark, the polemics on the importation of Colombian coal was not without consequences. The energy company DONG decided in 2006 to curtail direct commercial relations with the Colombian coal supplier Drummond because this company: “was accused of the murder of trade union members. Drummond has since been acquitted by a US court, but an appeal has been lodged and it may take years for the case to reach its conclusion.”³¹⁵

Dutch Coal Dialogue

In 2010, the Dutch television programme *Netwerk* reported on abuses committed by Colombian and South African mining companies,³¹⁶ commenting that the Dutch energy companies that were importing controversial coal from South Africa and Colombia were complicit in murder. With regard to the responsibilities of energy companies, the Dutch Professor of International Law Willem van Genugten stated the following: “Under international law, if you know the facts, but are willing to make economic gains from the situation anyway, you are complicit in continuing human rights violations.”³¹⁷ Media coverage of the issue stirred up public and political debate about the mines’ adverse impact on human rights, the environment, and community life near the mines.

In response, Energie-Nederland, the Dutch trade association for energy suppliers, and its Dutch members Essent, E.ON, Nuon/Vattenfall, GDF Suez, and EPZ, started the so-called Dutch Coal Dialogue. This multi-stakeholder initiative opened a dialogue with mining companies, NGOs, and trade unions in September 2010 to promote sustainability throughout the coal supply chain.³¹⁸

It soon transpired that the participants had widely differing levels of ambition. The principal objective of the NGOs and the trade unions was to stop abuses and negative impacts in the mines and the surrounding communities, whereas the energy companies were far less ambitious and lacked the political will to take this step. A consensus formed about an assessment protocol for mining companies’ compliance with international standards. When the mechanism had been defined, it became clear that only one mining company was willing to cooperate in the review on the condition that a second mine would be assessed as well.³¹⁹ Eventually, the Dutch Coal Dialogue did not assess one single mine. Throughout the Dutch Coal Dialogue’s three-year life, the local conditions in the Colombian coal regions remained a constant cause for concern. On 23 July 2013, the PAX press release that accompanied the publication of the final report commented: “The Dutch Coal Dialogue has failed.”³²⁰

Non-Transparent Chain

The UNGPs and other business and human rights frameworks refer to the responsibility of businesses to provide transparency and accountability in their supply chain, as part of their due diligence responsibility. The UNGPs state that “business enterprises whose operations or operating contexts pose risks of severe human rights impacts should report formally on how they address them.”³²¹ This requires, amongst other things, that companies provide “a measure of transparency and accountability to individuals or groups who may be impacted and to other relevant stakeholders, including investors” (UNGP 21).³²² To this day however, the coal supply chain lacks this required transparency.

One of the objectives of the Dutch Coal Dialogue was to improve the transparency of the coal supply chain. The Dutch NGOs and trade unions wanted to achieve public disclosure of the exact origin of the coal imported by each individual energy company.³²³ However, this was a step that the energy companies were unwilling to take, and, in the end, the members Essent, E.ON, GDF Suez, and EPZ only jointly released aggregated figures about their coal purchases in 2010 and 2011.³²⁴ However, these figures shed no light on the origin of the coal for the individual energy companies.

The figures that were provided show that at least 50% of the coal used for electricity generation in the Netherlands in 2011 originated from the Cerrejón mine, Drummond's La Loma mine, and Prodeco's Calenturitas mine. The heading 'other' (43%) presumably comprised mines that supplied relatively smaller quantities. These may have included coal from Drummond's El Descanso and Prodeco's La Jagua operations. It may also have included Colombian coal procured through screen trade on the spot market. The energy companies have not revealed this information however.

The energy company Nuon/Vattenfall presented its own document mentioning only the most important coal exporting countries that supply the Dutch market. The document also lists the most important export mines. Nothing was revealed about the Colombian share in the total quantity of coal used by Nuon/Vattenfall.³²⁵

In summary, the information released by the energy companies does not lead to transparency in the supply chain: it is impossible to find how a supply source (the mine) relates to a specific energy company. Dutch consumers have accordingly been deprived of the right to precise information and therefore of the opportunity to choose an energy provider that imports no coal from certain controversial mines.

What arguments did the energy companies put forward to justify the lack of transparency? German energy companies have put forward the arguments of the 'complexity of the coal trade' and 'competition law grounds.' The reasons given were neither elaborated nor substantiated.³²⁶ The arguments are largely consistent with the reasons given by the Dutch energy companies. The energy companies state in the final report of the Dutch Coal Dialogue: "[...] they consider this information commercially sensitive. Moreover, the coal bought through screentrade cannot always be traced back to the mining operation or mining company of origin as this is not known at the time of the purchase."³²⁷

To date, PAX has been unable to find any plausible arguments for the alleged competitive disadvantages. Indeed, the utility companies are not required to disclose purchase prices, or information from which price information might be derived. In order to clarify the origin of the coal, consumers would only need to know who the 10 key suppliers (coalmines) of each energy company are. The statistics for neighbouring coalmines of the same mining company can be aggregated as one source; in other words, the export figures for Drummond's La Loma and Descanso mines can be added together, as also the figures for Prodeco's La Jagua and Calenturitas mines. It would not be necessary for the energy companies to disclose the relative purchase quantities, as they can list the names of the mines that supply coal alphabetically. Finally, this information could be released after a considerable delay, whereby the information would have lost most of its commercial relevance. In our opinion, this means that the competitive position of a specific energy company would not at all be jeopardized.

Bettercoal

In February 2012, a number of leading European energy utilities, Dong Energy, EDF, Enel, E.ON, GDF Suez, RWE, and Vattenfall, launched their European business-led initiative, called Bettercoal. The companies Fortum and GasNatural Fenosa joined Bettercoal later. The initiative encompasses a considerable part of the European energy market. Its mission is to “advance the continuous improvement of the ethical, social and environmental performance of coalmines,” and it aims “to generate improvements at the mine level.”³²⁸ The initiative developed an assessment protocol for auditing mines that supply coal to Europe.

However, PAX is of the opinion that Bettercoal offers no prospect for effective solutions to the problems surrounding the mines in Colombia. The reasons for this are:

- ◆ Bettercoal is an initiative by and for energy companies and is not multi-stakeholder. It is a technocratic solution to a problem that, as experience has shown, can only be solved with the participation of all stakeholders, especially the groups whose rights are at risk or have been violated.
- ◆ Bettercoal does not guarantee individual energy companies' accountability because it will not report, internally or externally, on the purchasing decisions of its members.
- ◆ Bettercoal does not provide transparency in the coal supply chain. The information released by Bettercoal makes it impossible to determine from which mines each energy company is sourcing its coal. Consumers are therefore deprived of the information needed on which to base a responsible choice.
- ◆ Bettercoal takes a forward-looking approach to social responsibility, sidestepping the responsibility of mining companies to remediate victims of past human rights violations.
- ◆ Bettercoal is working towards an assessment of the mines, but it is a ‘fox guarding the chickens’ initiative. Bettercoal members, all of whom have commercial interests in maintaining good relations with individual mines, select and instruct the auditors and determine the timeframe. It is unclear to what extent the affected groups will be involved in the assessment, and moreover the assessment findings are not public.
- ◆ The outcomes of the assessments are not binding, and it is up to the individual energy companies as to whether the audit results will have consequences.

EU Initiatives regarding Conflict Minerals

The EU Trade Commissioner, Karel de Gucht, presented a proposal to the European Commission in March 2014 that is often referred to as the ‘conflict mineral scheme.’ The proposal aims at “stemming the import of minerals from conflict zones and preventing their use to finance war and strife.”³²⁹

However, the law proposed by the European Commission on responsible sourcing of minerals is not strong enough to prevent European companies’ mineral purchases from financing conflict or human rights abuses, and it falls far short of expectations. Instead of putting forward robust legislation that would require a wide range of EU-based companies to do checks on their supply chains – known as due diligence – the Commission has now announced voluntary measures that will only apply to companies importing processed and unprocessed minerals into the European market. It can be considered a self-regulative initiative for a limited number of companies.

The proposal only covers companies involved in the tin, tantalum, tungsten, and gold sectors, and not coal. In part, this might be due to the undefined position of coal in the policies and strategies of the EU, whereby coal is seldom included in policies concerned with (conflict) minerals, or in policies regarding energy, which focus mainly on oil and gas. ♦



**Aracely Garcia Agudelo
& Moises Giraldo Garcia (50) (mother and son)
Location: Bosconia**

No, not DID have: I DO have an 18 hectare plot of land right in the middle of the Drummond concession where most of the coal is. But they haven't yet started to mine that plot. The only thing is I have no access to it. In 2002 they razed my house there to the ground and threatened the father of my sons, so we had to flee. We went to Bosconia, where I sold coffee and snacks on the market, which I still do, together with my 3 sons, but without their father, who left us. No one can live on my land now. All I want is for Drummond to pay a fair price for my land. ♦



Mara Nieto (37)

Location: Valledupar

My brother disappeared in 2003. He sold coffee at the bus station and wouldn't hurt a soul. No one knew what happened to him. It was five years before his body was found in the Meta department, more than one thousand kilometres from here. To this day it is a mystery what happened to him. The only theory I have is that he was a 'false positive'. My other brother then fled to avoid the violence. He went to work for the church in another part of Colombia. He phoned me at five o'clock one morning. He said he was allowed to make one final call, and he called me. He was given five minutes and then he was murdered, because he worked for the church. I know no more than that. ♦



9. Responses from Drummond & Glencore

A substantial part of this report is constructed around court testimonies made under oath by ex-paramilitary leaders from the region and by ex-contractors of Drummond. Some of the sworn statements were made in the context of the legal proceedings under the Justice and Peace Law; others were made in legal proceedings under the ordinary Colombian legal system. As stated in the introduction, a substantial proportion of the testimonies quoted in this report came from the legal action that 592 next of kin of 131 victims of the violence in the Cesar mining region brought against Drummond before the District Court of Alabama in the United States in May 2009 (the US court case).

Apart from the statements made by former paramilitaries and ex-contractors of Drummond, very few statements are available from Drummond's current and former employees. Only the ex-manager of Drummond's security department, Mr James Adkins, made a statement in the US court case. Messrs Jimenez and Araújo, Drummond Ltd. Colombia's president and manager of community relations in the years concerned, were subpoenaed by the US District Court for the Northern District of Alabama, but failed to appear.

To our knowledge, no legal proceedings have been lodged against Prodeco or its parent company Glencore regarding alleged involvement in human rights violations. For this reason, it was not possible to include in the report testimonies made under oath by Glencore employees and contractors.

Hearing both Sides

PAX values the principle of hearing both sides before publishing a report and will, if possible, maintain a dialogue with all parties referred to in a report. This is even more important in the case of Drummond and Prodeco in view of the lack of statements made by representatives or employees of these companies. PAX attempted through the Colombian authorities to engage in talks with Drummond at an early stage in the investigation. Drummond did not respond. Drummond was then sent a draft version of the report on 11 March 2014, requesting a response and dialogue. A summary of Drummond's responses is given below.

Glencore has been more open to dialogue from the outset. In 2013, we had some communication with Glencore with a view to discussing some preliminary findings. The CEO of Glencore, Mr Glasenberg, received the PAX team at Glencore's head office in Baar (Switzerland) on April 3, where we had a discussion with the CEO and several managers. At PAX's request, the company also arranged a meeting in Bogotá with former employees from Prodeco's security department. This meeting took place in May 2013. A summary of their response is included in this chapter. Prior to publication, Glencore was also sent the final draft version of the text. A summary of their written response is also discussed in this chapter.

Drummond's General Response

In response to negative publicity in the international media, Drummond usually responds by referring to a letter from their lawyer, Mr William H. Jeffress, posted on their website. This letter says: "There has been much publicity in the Colombian news media of lawsuits against Drummond Ltd.; claiming that the company collaborated with paramilitaries in the department of Cesar during the period 1997–2006. Drummond has strongly denied those allegations and courts have repeatedly rejected them in a series of decisions over the years."³³⁰

Drummond's legal representative also states in this document that the lawsuit at the US District Court has been dismissed. He refers to the ruling of the US District Court Judge of Alabama in the US court case on 25 July 2013 and says that: "The court in this case [...] concluded there is no basis for the claims against the company or its officials."

However, the reason behind the dismissal of the US court case was a very specific one that had to do with a change in case law rather than the quality of the testimonies. The judge declared the action inadmissible pursuant to a judgement of the US Supreme Court that held a stricter interpretation of the Alien Tort Claims Act.³³¹ Plaintiffs in such an action must henceforth prove a strong connection between a company in the United States and involvement in human rights violations abroad. Proving that the local subsidiary's (i.e. Drummond in Colombia) management was involved in human rights violations is in itself not sufficient anymore to have a case decided in the US.

In his July 2013 opinion, the judge found insufficient evidence for the direct involvement of Drummond's American parent company in the human rights abuses. On this specific point, the judge had the following to say about the statements: "when the statements are brought into the sunshine, they cannot withstand scrutiny."³³² However, he refrained from commenting on the large volume of statements about the alleged involvement of Drummond management in Colombia in

view of its irrelevance to the admissibility of the court action. Almost all of the statements we use in this report are concerned with the alleged involvement of executives of Drummond Ltd. Colombia.

Moreover, Drummond's general letter states that the court judgement was critical of some testimonies. Drummond has since widely quoted these criticisms in order to emphasize the alleged unreliability of the testimonies. We do not share Drummond's interpretation of the judge's comments. In our view, Drummond's legal representative has quoted phrases without giving the context in which the judge placed them.

A second issue mentioned by Drummond in its general letter is that the judge in the US court case did not take into account the testimony of key witness, Blanco Maya, on the issue for purposes of the motion for summary judgement. This court decision was based on Blanco Maya's refusal to answer important follow-up questions on cross examination, stating instead: "What I said was already made clear in my statement. What I don't – see, what I said is already there. It's clear it was made in that statement and if I already made it in that statement I don't see it needs to be repeated." However, the judge expressed no opinion about the content of Blanco Maya's testimonies.

This witness for the plaintiffs in the US court case has since made various supplementary statements as part of various judicial investigations in Colombia, in which he describes the events in great detail. The Colombian court accepted these statements. His testimonies in Colombia are also consistent with those of other witnesses, such as Mr Charris Castro. In Colombia, both Charris Castro and Blanco Maya have been convicted of complicity in the murder of the three trade union leaders, and the court in both instances found that his testimonies provided sufficient grounds for the subsequent criminal investigation of senior managers of Drummond (Garry Drummond of Drummond Company Inc. and Augusto Jiménez of Drummond Ltd. Colombia) for their alleged involvement in these murders (see chapter 6).

The judge's criticism in the action in Alabama is furthermore concerned with a specific testimony of alias El Canoso, which the judge describes as hearsay evidence.³³³ The judge's comment relates to only one relatively small component of El Canoso's entire testimony, in which he recounts a conversation with a Prodeco security manager (Gutiérrez). According to PAX, the preceding and subsequent parts of El Canoso's testimony are certainly based on events that he personally witnessed, such as the meetings between Drummond and Prodeco managers and their meetings with the paramilitary commanders.

The judge also found that part of the evidence was based on statements made outside the court, including the written statements of alias El Peinado and alias El Yuca. Again, this procedural argument in no way detracts from the value of the testimonies for the purpose of this report. The written statements reinforce and complement the testimonies made in court by other ex-paramilitaries.

PAX is of the opinion that criticism of the kind made by the judge in Alabama does not detract from the relevance of the substance of the testimonies for this report. The court did not reject the evidence given in the action on substantive grounds. The US court also said nothing about the likelihood of the involvement of Drummond's Colombian employees in human rights violations. The Alabama judge's decision in the Balcero case was appealed on 14 March 2014 and is awaiting a decision by US Court of Appeals for the Eleventh Circuit.³³⁴

Finally, it is also important in this context to mention that another US court case is still pending: *Baloco et al. v. Drummond Company, Inc.*, in which the children of the three murdered union leaders have brought claims for extrajudicial killing against Drummond for their alleged participation with paramilitary forces in the murders. The case was dismissed and appealed twice and is still pending before the Court of Appeals as per 30 May 2014.

Drummond's Specific Response to PAX

PAX sent Drummond a draft version of relevant parts of the report. On 20 March 2014, PAX received an undated letter in response from the legal representative of Drummond Ltd. Colombia, Mr Bruce C. Webster (see Annex A).³³⁵ The legal representative summarized Drummond Ltd.'s re-sponse in the first paragraph, which says: "[...] Drummond disputes the 'facts' of your report and hereby puts you on notice that the publication of this report will result in Drummond seeking any and all legal action available to it." (On 2 April, Drummond's attorney, Mr H. Thomas Wells, wrote a follow-up letter to PAX that essentially had the same content with respect to PAX's report.³³⁶)

In Mr Webster's letter, Drummond then provides a broad denial of it ever having supported illegal armed groups in Colombia. Drummond also notes – as it had done publicly on other occasions – that all cases against the company have been dismissed by the District Court of Alabama (Mr Webster does not mention that both the Baloco and the Balcero cases are currently pending before the Court of Appeals). The main argument that Drummond's legal representative presents in this letter is that: "Most of the witnesses you cite in this report [...] have provided conflicting testimony." Furthermore, he states that: "[...] Mr Collingsworth [...] and associated lawyers made payments and provided support to many of the witnesses or their families in your report [...]."

The letter from Drummond's legal representative ends with the words: "This information casts such doubt on the overall validity of your report that the report should not be published. If the report is published, Drummond will pursue any and all legal remedies available to it as the statements in the report are false and defamatory." In summary, Drummond questions the credibility of the sworn statements made by ex-paramilitary commanders in the US lawsuit.

The letter from Drummond's legal representative, Mr Webster, raises three issues regarding the witness statements. First, it says the witnesses in the report provided conflicting testimonies. Furthermore, it states that the witnesses have only testified to Drummond's involvement in paramilitary activity in Colombia after first having denied such involvement. And finally, it states that some of the paramilitary witnesses or their families received payments.

Most of the witnesses quoted in this report did not give much away about Drummond's alleged involvement in the paramilitary violence during the first few years after their demobilization or, in the case of Drummond's former contractors, during the period after their arrest. Each of them had his own reasons for not doing so. Some of them later stated that they were told by their former chief commander, Jorge 40, not to disclose information about the involvement of mining companies. One of the ex-paramilitaries stated in an interview with PAX that he had first been too afraid to testify. And indeed, many of the ex-paramilitaries, and their family members, have had serious security problems over the past nine years following demobilization.

Furthermore, it is important to state that the main focus of the Colombian Attorney-General's Office in Justice and Peace proceedings is on attributing crimes to the paramilitary leaders on trial, and not on investigating the economic and political powers and structures behind the paramilitary groups. Therefore it is not surprising that the companies mentioned in this report did not come up in the statements in the Justice and Peace proceedings. Most of the paramilitary commanders have indeed pleaded guilty to a considerable number of massacres and, to a lesser extent, to selective killings.

Most of the witnesses also seem to have waited to see how the Justice and Peace process would develop and how the security issue would evolve for them and their families. During the first years of the implementation of the Justice and Peace Law, for many of them it was not clear whether they would be accepted into this legal Justice and Peace structure or whether they would be passed on to the ordinary legal system in Colombia. The latter is, of course, an enormous disadvantage because the Justice and Peace benefits would not apply. This made them cautious. Their legal uncertainty also increased because of the fact that they could be extradited to the US. Most of them opted to keep silent on the delicate political issues and on the involvement of third parties in their organization.

Nevertheless, despite their silence on the very delicate issues, the security problems of the former paramilitaries in custody increased. The ex-paramilitaries of the Cesar area also became aware of the fact that the legal system did not, or only to a lesser extent, prosecute the other parties that had been involved in the violence, for example the military and the companies that had supported them. They got the feeling that they were being made the only scapegoats of the paramilitary violence in Colombia, while the other parties got away with it. Various ex-paramilitaries have stated in interviews with PAX that the same legal structures were unable to protect them and their families. Resentment has been an important motive for many of them to start making declarations about the involvement of third parties in the AUC.

PAX has not been involved in the lawsuit of the victims of violence against Drummond in the US federal court and has no intimate knowledge of the administrative and/or financial details of the process. Even if it should transpire that witnesses were paid by Mr Collingsworth, there is no reason for the witness statements not to be taken into account for the purpose of this report. As mentioned before, it is our aim to have the statements of perpetrators and victims of gross human rights violations made publicly known and to initiate public debate about measures to relieve the victims' situation. That the witnesses were allegedly paid, whether or not to protect them and their families, does not, of course, mean that their testimonies are false.

Any assessment of these statements should also take into consideration that these testimonies in the US court case do not lead to a reduced sentence in Colombia or to other benefits. On the contrary, they have run high security risks as a result of their testimonies. Various ex-paramilitaries who operated in Cesar have stated that their former commander, alias Jorge 40, has ordered them not to testify, conveying the message that if they do so they will be endangering themselves and their families. It is a fact that several of these key figures have survived murder attempts and are still receiving threats.

In Colombia too, paramilitary witnesses sentenced within the Justice and Peace framework have very little, if anything at all, to gain from making statements about the alleged role of the mining companies in Cesar. The former paramilitaries' statements quoted in this report have



Justa Correa (70)
Location: Valledupar

Justa lost her son to the paramilitary violence. He was a member of the Attorney-General's forensic investigation team, who was killed in Agustín Codazzi on March 9, 2000. The last time Justa saw her son was the day before, when he was having a beer with his friends. Today I live here all by myself and I'm even afraid to go to the corner shop in my street, she tells. There is a lot of crime around here, and I sleep with a machete under my bed. Once I almost cut off the hand of a thief that put his hand through the window to open the door of my house. ♦

had no influence on sentencing, and the eight-year prison terms of most of the ex-paramilitary commanders quoted in this report will end later this year (2014).

It is also important to make clear that the statements made in the framework of the US lawsuit are certainly not the only source used in this report. The report also includes ex-paramilitaries' statements made in Colombian legal proceedings. These statements on the involvement of Drummond and Prodeco usually correspond in great detail with the statements made in the US lawsuit. In other cases, the statements made in the Colombian justice system and in interviews complement the statements in the US case and, as in the case of Blanco Maya, add many new details to the previous more general statements. Furthermore, PAX has held several interviews with the former paramilitaries in which they elaborated further on their previous statements under oath.

This means that, with the information available to us to date, and regarding the purpose of this report, there are reasonable grounds to believe that the essence of the information contained in the witness statements deserves to be published to achieve broader public attention.

Dialogue with Glencore

The contact and dialogue with Glencore has been more fluid from the start of the investigation. PAX was received on 3 April 2013 by Glencore CEO Ivan Glasenberg and several staff at the head office in Baar to discuss the salient conclusions of this report with the company. Glasenberg declared shortly after the start of the meeting: "I will bet all my shares in this company that no one of our staff ever financed a paramilitary organization. [...] If you can show me a transfer from Glencore, or Glencore operations, to a paramilitary, then you've got me. But I know that you will never get that. Impossible."³³⁷

In the course of the meeting, PAX informed Glasenberg of the statements from former paramilitaries referring to payments in cash. Glasenberg immediately picked up the phone to call Peter Coates, who had been Prodeco's director in Colombia as of 1995. He asked Coates whether he knew on what the allegation of Glencore's support to the paramilitaries might be based. Coates replied: "That's just absolute rubbish. At that time, there were rumours that Drummond was supporting the paramilitary [...]. Because you know, I had to hold the accounts so it just didn't happen – it just didn't happen."³³⁸

At the request of the PAX investigation team, and with Glencore's mediation, a meeting took place on 28 May 2013 in Bogotá with the former managers of Prodeco's security department, Manuel Gutiérrez and Luis Hernando Ochoa. Gutiérrez – who referred to himself in the third person – said he made no payments to the paramilitaries: "I don't know how Manuel could have done that in person, because I have no money, and not in the name of the company either [...]. I don't know how, by what magic, a contribution of this magnitude could be created. And then, after an initial amount, how did they keep paying the remainder?"³³⁹

In the conversation, the former Prodeco and Glencore employees also suggested that the company hardly produced any coal at all in Cesar until 2004. About Prodeco's first years in Cesar, Gutiérrez stated: "The focus was on building the offices, the runway, the workshops, and the explosives store. These [construction activities] ended in late 1997. [...] There were between

100 and 150 workers involved.”³⁴⁰ A member of staff in Baar said: “We did own the Calenturitas concession but it was a field.” And Glasenberg added: “A field! That’s right, no mining. [...] So why would we support a paramilitary?”³⁴¹ This statement is at odds with the export figures of coal from Cesar in the years before and after the takeover of Prodeco by Glencore, which indicate that large-scale coal extraction and export from Prodeco’s sea port was already taking place and continued until at least 1998.³⁴² In that sense, the company at that time clearly had more to defend than only a few barracks and installations.

Even if it were true, however, that large-scale extraction by Prodeco only (re)commenced in 2004, this does not mean that there was no security operation in the late 1990s. Certain security experts consider that during the preparatory and construction phase of a mining operation there is an increased risk of human rights violations and the possible involvement of companies in illegal armed groups.³⁴³ According to these experts, security is one of the mayor issues for a company that starts activities in a conflict area and most security problems occur at this stage. Prodeco set up a security department at a very early stage and had a security arrangement with the military even when there were only construction activities taking place. According to El Canoso, it was vital for Prodeco to get the security situation under control before actual production started.³⁴⁴

Gutiérrez and Ochoa also stated that there was no contact between Prodeco and the AUC in the 1998–2006 period. Gutiérrez: “These days I know that many managers of the security departments of many companies took these companies down that path and activities of this kind [collaboration with the AUC]. But the companies Prodeco and Cerrejón Zona Centro never had contacts of that sort.” When asked whether he had ever attended a meeting with Vicente Castaño, he replied: “With Vicente Castaño: never.”³⁴⁵

However, it transpired later in the meeting that there was some direct contact with the paramilitaries. Gutiérrez: “We had good relations with Jorge 40, who was then still known as El Papa. [...] We came across each other at military ceremonies, which they always invited us to.” He also recalled: “We did have a meeting with Mancuso, and another paramilitary whose name I forgot, and with the man from the Control Risk kidnap response team [firm]. That was to discuss [the kidnapping of] Mark Bossard. [...] The paramilitaries had offered to mediate in Mark Bossard’s release.”³⁴⁶

Gutiérrez explained in the meeting how the paramilitaries generally came into contact with the companies, and how this came about in Prodeco’s case: “Every day, there were some 10 to 14 security and other incidents in Colombia, and four or five locally or regionally. [...] This was the pretext that the paramilitaries used for making contact with the companies. Who did they speak to in these companies? To the security department. [...] This is how the approach [from the AUC] started with us, the security department. [...] That man [Jorge 40] always made use of someone who worked for us: Mario Rodríguez. [...] Mario Rodríguez was a former army captain. [...] Mario Rodríguez’ former position meant he had many contacts with the authorities and with groups that were set up at the time: these were the paramilitary groups.”³⁴⁷

However, he denied that these contacts led to lasting ties with the AUC and stated that Prodeco sought its own solution for the ongoing security problems. Gutiérrez: “Instead of maintaining so many contacts [with the paramilitaries], [we wondered] why not set up our own security service, within our own security department [...] We buy weapons from the Ministry of Defence [...]”

Our armed security service would guard our personnel, investigate and check everything, and patrol at night, but was not allowed to maintain external contacts bypassing Manuel Gutiérrez and Luis Ochoa [...].”³⁴⁸

The (former) Glencore and Prodeco employees to whom the investigation team spoke have confirmed some contact with paramilitaries, but deny that Prodeco or Glencore ever paid the AUC, or that the contacts were structural in nature.

Glencore's Written Response to PAX

PAX sent Glencore the relevant parts of the final draft version of the report on 11 March 2014.³⁴⁹ The written response from Glencore is dated 24 March 2014 (see Annex B). The letter is best summarized by the following quote: “We consider many of the serious allegations contained in your report with regard to Prodeco/Glencore to be untrue and unsubstantiated.”

A paragraph in bold in the letter says, amongst other things: “We specifically request that you remove all references to there having been collaboration on the part of Prodeco/Glencore with AUC or any other paramilitary groups, or to payments having been made by Prodeco/Glencore in support of paramilitary activities. [...] We also strongly refute any connection to or responsibility for the role that paramilitaries may have played with regard to the displacement of peoples in El Prado or elsewhere and request that you remove any such references, allegations or suggestions from your report [...].”

In this same letter, Glencore also gives a detailed reaction to a number of El Canoso's sworn statements. Some of the arguments had already been mentioned by Glencore in the meetings with the CEO and staff members of the company. Glencore, for example, repeats the argument that they had no coal production in the mid-1990s (see above); and Glencore again denies the alleged collaboration with paramilitaries and the alleged payments to the AUC in its letter. Be that as it may, PAX nevertheless decided that it was important to include the statements on Prodeco's alleged involvement because of the degree of detail in the statements and the consistency between the statements from the various sources.

In summary, the rest of the arguments in Glencore's reaction come down to the following:

Glencore is of the opinion that PAX should not rely on El Canoso's statements, amongst other things because he is a convicted criminal. In this case however, as in many other cases, the former AUC commanders are of course key witnesses; and (almost) all of them have been convicted or were extradited to the United States. Their testimonies are crucial in the process of truth finding and are being used in the Colombian legal system. El Canoso's testimonies in the Justice and Peace process have already led to the conviction of several politicians for links with the AUC. Other parties involved in the political and economic support of the AUC are seldom willing to testify or participate in truth finding because of the possible legal implications.

Glencore also suggests that El Canoso's motivation to testify was a possible reduction of his penalty. This seems to be a misunderstanding. El Canoso's testimonies in the federal court of Alabama have no influence on the sentences in the Colombian legal system. And within the Colombian Justice and Peace system, ex-paramilitaries get a maximum sentence of eight

years, with exceptions for certain crimes. El Canoso has probably almost served this sentence. Glencore does not seem to take into account that the witnesses in the report often may have their own personal and moral reasons for testifying.

Glencore emphasizes also that El Canoso worked for only one year with Prodeco and that he worked as a driver and bodyguard. However, the company does not elaborate on the fact that El Canoso at the time was a military officer, specialized in intelligence, and was assigned to the job in Prodeco, according to himself with the specific task of gathering information. The period that El Canoso describes in his statements is crucial in the sense that this was the time when the paramilitary troops were first being stationed in the mining area. ♦

Gloria Navarro Amaya (53) **Location: San Diego**

My husband managed the El Diamante hacienda in Los Brasiles. We lived there with the entire family (6 children), my husband's brother and several of his sons. At half past four in the morning of 8 September 2000 a group of armed men arrived at the hacienda. The men were already at work, and busy with the milking and so on. I was in town taking the youngest children to school. The men were driven together and murdered. One nephew was left alive. On that day I lost my husband and two sons. My brother-in-law and three of his sons were also killed. I never went back to the finca after we collected the bodies for burial. I went with the remaining children to live in San Diego, but after a year we were threatened there. My seven-year-old son came home crying: they are going to murder us. The next day we fled to Bucaramanga, where I stayed for five years. I got by with housework, and a woman friend was an incredible help with the children, and made sure they got through school. In 2007 I decided to return here. I still worry sometimes, but this is my home. ♦



Executive Summary

This report is a study into the wave of paramilitary violence that swept the mining region of the northern Colombian Cesar department between 1996 and 2006, the effects of which reverberate throughout the region to this day. The report deals with the alleged role of the US-based coal mining company Drummond in this violence, and to a lesser extent that of Prodeco, a subsidiary of Switzerland-based Glencore. Both coalmining companies are selling a major portion of their production (roughly 70% in 2013) to European energy utilities such as E.ON, GDF Suez, EDF, Enel, RWE, Iberdrola, and Vattenfall.

The study was conducted at the explicit request of the victims of the violence and their family members; and with the report we hope to contribute to their endeavours to uncover the truth behind the violence and achieve effective remedy for the harm they have suffered.

Over the past three years, PAX has carried out numerous interviews with victims of human rights violations, former paramilitary commanders from the region, former employees of the mining companies and their contractors, human rights lawyers, and the Colombian authorities. A considerable part of the report, however, is constructed around court testimonies and depositions. We have used the testimonies of seven ex-paramilitary commanders, three of Drummond's former employees and contractors, and one Prodeco ex-employee. They made their statements under oath within the context of the Colombian Justice and Peace process, the ordinary Colombian justice system, and in the course of a recent US court case against the company under the Alien Tort Claims Act. Multiple sources allege that particularly Drummond, but also Prodeco, have been involved, in various ways, in human rights abuses during this period.

When Drummond and Prodeco started their coalmining activities in Colombia in the mid-nineteen nineties, Cesar was already a conflict-ridden region. The presence of the FARC and ELN guerrilla forces was affecting their operations. In 1996, a first group of paramilitary combatants of the AUC arrived in the region. In December 1999, a new AUC front – the Juan Andrés Álvarez Front – was created specifically with the aim of operating in the vicinity of the mining concessions and along the railway line. In the ensuing years, the Front grew to 600 members who spread fear and terror among the local population. On the basis of national police figures, we conservatively estimate that between 1996 and 2006 the Front and its predecessors in the region committed at least 2,600 selective killings, murdered an estimated 500 people in massacres, and made more than 240 people disappear. These figures also indicate that the paramilitary violence caused more than 59,000 forced displacements in the Cesar mining region.

In the early years of their operations, Drummond and Prodeco were well aware of the brutal methods used by the AUC to fight against the guerrillas and suspected guerrilla sympathizers. The government registered human rights violations occurring in the region and, as was confirmed by former mining security officials, the security departments of the mining companies actively collected data on security incidents and the activities of illegal armed groups. Local army units moreover exchanged intelligence information with the companies on an on-going basis. We did not find any indication that the mining companies at the time urged the Colombian government to take steps to prevent the gross human rights violations in the region.

On the contrary, according to a former Prodeco military intelligence officer, the security departments of both companies played a crucial role in establishing the first contact between AUC paramilitary forces and company executives at an early stage in 1996. This contact allegedly led to the arrival of a first group of one hundred combatants to operate in the mining region. This was confirmed by an ex-paramilitary commander in the region who has claimed that the Juan Andrés Álvarez Front was created in 1999 upon the request of Drummond, specifically to defend the company's mine and railway operations.

The report quotes nine sources alleging that between 1996 and 2006 Drummond provided substantial financial support to the AUC, in particular to the Juan Andrés Álvarez Front. According to their testimonies, the methods of payment changed over the years, ranging from direct cash payments in the beginning, the channelling of funds through contractors, to the transfer of a fixed percentage of the mining companies' revenue in later years. A former food services contractor for Drummond has testified under oath in different court proceedings that, at the request of Drummond, he channelled a total amount of USD 900,000 to the Juan Andrés Álvarez Front in monthly payments during the period late 1997–mid 2001. The payments were covered by a mark-up in his company's invoices. Three ex-paramilitaries have testified that Prodeco also provided funding to the AUC in the region.

From the statements by former paramilitaries, a picture also emerges of frequent collaboration between the mining companies, the AUC, and elements of the army. Multiple sources have testified that Drummond and Prodeco passed on intelligence to local army units and the AUC. According to four ex-paramilitaries, Drummond officials on several occasions discussed the general paramilitary strategy in the mining region with AUC commanders, for example to prioritize operations to focus on particular localities along the railway line. Three sources have testified that the private security company used by Drummond contacted the AUC directly if they saw a suspicious person and that the AUC organized killings on the basis of this telephone contact.

Three former paramilitary members and contractors have stated that in some instances the company directed the actions of the Juan Andrés Álvarez Front. They mention the case of the assassination of three Drummond trade union leaders in 2001 as a clear result of this coordination.

Several testimonies, by victims as well as by perpetrators, indicate that the mining companies have, in various ways, benefited from the human rights abuses committed by the AUC, and that they continue to do so to this day. Firstly, at least three cases of mass displacement took place on lands that nowadays are situated in or near the Drummond and Prodeco concessions. Secondly, the assassination of mining trade union leaders and the continuous threats against their lives severely weakened the unions in the region and permitted the companies to refrain from improving the safety and working conditions of company employees. Lastly, the violence has silenced the critical voices of local communities and civil society organizations in matters of human rights and the social and environmental impacts of coalmining.

Both Drummond and Glencore firmly denied the sworn statements of the ex-paramilitaries, ex-employees, and former contractors regarding their companies' alleged support of the paramilitary AUC in the region. An extensive summary of the reaction of Drummond and Glencore to the testimonies can be found in Chapter 9.

The cycle of violence in the Cesar mining region has not yet ended. Today, the territory is plagued by criminal bands composed in large part of former members of paramilitary groups. Apart from their criminal activities, these illegal armed groups intimidate all those among the civilian population who demand truth, justice, reparation, and land restitution for victims of the paramilitary violence. In several of their written threats and public communications, these groups have declared that they are acting as the protectors of the interests of the mining companies in Cesar. However, as in the recent past, the companies keep silent about these disturbing developments and have failed to publicly distance themselves from the aforesaid statements.

PAX endorses the belief of the Cesar victims' movement that the prevention of future human rights abuses in the Cesar mining region can only be achieved when the legacy of past injustices is satisfactorily resolved. It is time for Drummond and Prodeco to provide for, or cooperate in, legitimate processes to remediate the alleged human rights impacts of their mining operations. This requires them, by themselves or in cooperation with other actors, to actively engage with the victims of the paramilitary violence in the mining region in an effort to remediate their scars from the past. Such engagement could contribute to uncovering the truth about an important episode of the Colombian conflict, and it may set an example for mining projects in other parts of the country. ♦



Josefina Silgado
Location: Bosconia.

Josefina, a victim of displacement by the paramilitaries, says she lost her land in Mechoacán to Drummond. There were 133 plots originally. Of these, 80% were bought up [by Drummond], mostly way below the market price. For 33 of the plots, usually those with most coal beneath the surface, no payment was ever made. These unpaid plots are dotted between plots for which payment was made. Drummond has now occupied all the land. We started negotiations a couple of months ago about fair payment and payment for the remaining plots. The strike at the mine also brought the negotiations to a standstill. ♦

Recommendations

Mining Companies

- ◆ Take an active, cooperative role in ensuring access to effective remedy for the victims of gross human rights violations committed by the paramilitaries in Cesar between 1996 and 2006.
- ◆ Contribute to the discovery of the full truth by cooperating fully in any judicial investigation or study into the events described in this report.
- ◆ Refrain from frustrating legitimate attempts by victims of human rights violations to realize their right to effective remedy.
- ◆ Take adequate measures for the prevention of human rights violations against employees, members of communities, and other vulnerable stakeholders in the Cesar mining region. These violations include in particular recent threats against trade union leaders, members of the victims' movement, human rights lawyers, and participants in the land restitution movement.
- ◆ Do not profit, or seem to be profiting, from human rights violations by others. This relates particularly, but not exclusively, to the acquisition or use of lands that have been illegally or forcibly taken from the original owners (or holders).
- ◆ Promptly and without reservation comply with the spirit and letter of all court orders and decisions of legal authorities (Attorney-General's Office) relating to the subject of this report, including land restitution orders.

Energy Utilities

- ◆ Refrain from sourcing coal from Drummond and Prodeco until both companies actually contribute to processes to effectively remediate human rights abuses suffered by the victims of the paramilitary violence between 1996 and 2006.
- ◆ Publicly disclose the exact origin of the coal – differentiated by country and by mine – that the utility imports.
- ◆ Comply with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.
- ◆ Ensure that the right to effective remedy is included in commercial agreements, agreements with governments, and covenants to which the utility is subject.
- ◆ Comply with minimal requirements for a meaningful Corporate Social Responsibility (CSR) assessment of coalmines, whether carried out on the utility's own behalf or through Bettercoal. These requirements should guarantee: transparency, participation of all relevant stakeholders, access to information, the independence of the assessors, and a proper preparation of the assessment team.

Minimum CSR assessment criteria of coalmines

We suggest that, at a minimum, these requirements should be:

- 1) The assessment is carried out by independent assessors, operating independently from the mining company, and a report is drafted without the interference of interested parties;
- 2) The assessment focuses on vulnerable groups whose rights are at risk, especially those living in the communities in the sphere of influence of the mining project;
- 3) The preparatory phase of the assessment involves, consecutively: a preliminary visit to identify key areas, key actors, and resource persons of concern; the collection of relevant documentation from both governmental and non-governmental sources; the disclosure of information to, and thorough preparation of, vulnerable groups and other stakeholders by an independent party on the objectives and procedure of the assessment;
- 4) The assessors report back their findings to members of communities and other vulnerable stakeholders; they also inform the resource persons on the follow-up of the assessment;
- 5) The conclusions and recommendations resulting from the assessment are made public;
- 6) Non-compliance by the mining company with the key recommendations is sanctioned by the imposition of a commercial ban on the sale of the company's coal.

Colombian Authorities

- ◆ In line with Colombia's obligations under international law, embark together with Drummond and Prodeco on a process to achieve acknowledgment of, and effective remedy for, human rights violations suffered by the victims.
- ◆ Follow up on the Colombian court's official request included in the judgements against Drummond's former contractors and carry out an investigation into the role of Drummond executives in the murder of the three trade union leaders.
- ◆ Prioritize the execution of court restitution orders in relation to the violence committed by the JAA Front, including the cases of forced displacement of members of the communities of El Prado, Mechoacán, and Santa Fe.
- ◆ Expand the focus of the Justice and Peace process in Cesar to include the political and economic structures behind paramilitary violence.

EU Member States

- ◆ Urge energy utilities to refrain from buying coal from Drummond and Prodeco until effective remedy has been provided for the victims of gross human rights violations committed by the paramilitaries in Cesar between 1996 and 2006.
- ◆ Urge the Colombian government to put in place procedures and mechanisms for the provision of prompt and effective remedy to the victims of the human rights violations.
- ◆ Urge the Colombian government to improve the security and human rights situation around the mines by strengthening the legal system and making it accessible to all, and by investing in the physical protection of vulnerable groups.

EU

- ◆ Adopt legislation about responsible sourcing of coal that obliges European companies to take responsibility for due diligence in the supply chain.
- ◆ Oblige companies to be transparent about the origin of their sourcing.

United States and Switzerland

- ◆ Investigate the alleged violations of international law norms by the management of Drummond and Prodeco/Glencore in relation to the paramilitary violence in the Cesar mining region.
- ◆ Urge Drummond and Prodeco/Glencore to become actively involved in the prevention of current intimidations and human rights violations against people in the Cesar mining region. ◆



Achiles Alfaro Castillo
Location: Bosconia

I had 25 hectares in Mechoacán. We took occupation in 1990 and started to build a house and farm the land. It was 1996 before all the ownership papers were complete. The threats from the paramilitaries started soon afterwards. They always came at night to tell us we had to leave because Drummond wanted to buy the land. My son protested and was threatened. I drove him to Rjohacha (in the north) where he would be safe. On a later visit they offered us 10 million pesos. We would have to get out within 12 hours. That's what we did. We fled to Rjohacha. My son was murdered there later, after which we went to Bosconia. We are now suing for the return of our land. We want a fair price. Two months ago Oswaldo Vega, the man who bought our land for so little money and who still works for Drummond, came to threaten me. He said that we should stop the case or they would come and murder me. I have nothing left. I live in a hut and sell coffee on the market. ♦





Ester Ruiz Tarras (53)
Location: San Diego

My son Jorge Luis Rangel Ruiz was murdered on 31 June 2003. He left behind a son who now lives here with me (he can be seen sitting on her lap). He was in the army, and disappeared while he was in town paying the utility bills. He was found later. No one knows what happened. The Attorney's Office wouldn't investigate thoroughly, because we weren't important enough, and I never heard anything from the army, either. ♦

Who is Who?

- Members of the paramilitary forces (AUC/jAA Front)
- Members of state security forces (Colombian army)
- Company executives and contractors



Castaño Gil, Carlos

◆ Founder and commander of the ACCU, which transformed in 1997 into the umbrella paramilitary organization AUC.



Alias: El Profe

Castaño Gil, José Vicente

◆ High commander of the AUC and the brother of Carlos Castaño.

◆ Demobilized in 2006 and subsequently went missing, although his death has not yet been confirmed.



**Alias: Jorge 40
Tovar Pupo, Rodrigo**

- ◆ 1996: entered the AUC.
- ◆ 1997–2006: high commander of the Northern Block (AUC).
- ◆ Extradited to the States in 2008 on drug-trafficking charges.
- ◆ Sentenced to 26 years in November 2011 in Colombia on the accusation of murder.



Mancuso, Salvatore

- ◆ 1995: joined the ACCU.
- ◆ 2004–2006: head commander of AUC.
- ◆ 2006: demobilized and surrendered to the Colombian authorities.
- ◆ 2008: extradited to the USA for drug trafficking.



**Alias: Comandante Barbie
Rodríguez Fuentes, Hugues Manuel**

- ◆ Influential cattle owner from Cesar. One of the initiators of the arrival of the AUC in Cesar.
- ◆ Convicted in 2010 in Colombia of supporting paramilitaries; Currently a fugitive and living in the US.



**Alias: Tolemaida
Ospino Pacheco, Oscar José**

- ◆ 2000–2006: commander of the JAA Front.
- ◆ Convicted of various murders in the ordinary Colombian justice system.
- ◆ Beneficiary of the Justice and Peace process.



**Alias: El Tigre
Esquivel Cuadrado, Jhon Jairo**

- ◆ Army officer before entering the paramilitary forces.
- ◆ 1996–1999: member of the paramilitary in the mining region in Cesar.
- ◆ December 1999–July 2000: highest commander of the JAA Front.
- ◆ July 2000: arrested.
- ◆ Beneficiary of the Justice and Peace process.



**Alias: El Samario
Mattos Tabares, Alcides Manuel**

- ◆ 2000–2002: chief of security for commander of the JAA Front (alias Tolemaida).
- ◆ 2003–2005: commanding officer of the grupos urbanos (death squads) of the JAA Front and direct commander of the death squad for La Jagua de Ibérico and Becerril.
- ◆ Convicted of murder of two Drummond trade unionists.
- ◆ Beneficiary of the Justice and Peace process.



Alias: Bam Bam Duarte, Ijbarido

- ◆ Trustee of Carlos Castaño (founder of the AUC) who carried out tasks for the high commando of the AUC in several regions of the country.
- ◆ 1997–2000: responsible, amongst other things, for security along the Drummond railroad line.
- ◆ Entered the Justice and Peace process in 2007.



Alias: El Mecánico Ochoa Quiñones, Javier Ernesto

- ◆ Joined AUC in 2001 as driver of the commander of the JAA Front (alias Tolemaida).
- ◆ 2003–2006: second commander (under El Samario) of the JAA Front's death squad in La Jagua de Ibírico and Becerril. He later became the first commander of this death squad.



Alias: El Yuca Pérez Bertel, Oscar David

- ◆ 1996–2000: member of the AUC in Córdoba.
- ◆ 2000–2006: member of the JAA Front.
- ◆ Convicted of murder of Drummond trade unionist and sentenced to seven years and four months.
- ◆ Beneficiary of the Justice and Peace process.



Alias: Omega Martínez López, Jeferson Enrique

- ◆ Member of the Frente Resistencia Tayrona of the AUC
- ◆ Said to have been coordinator of the AUC for Drummond's patrol and security work.
- ◆ Assassinated in Antioquia in November 2006.



Alias: Peinado Peinado, José Aristides

- ◆ 1999–2006: member of the JAA Front.
- ◆ Said to have been delegated by the JAA Front to work at ISA, a Drummond contractor, so as to provide the JAA Front with information.
- ◆ Convicted of murder of two Drummond trade unionists.
- ◆ Beneficiary of the Justice and Peace process.



Alias: Adinael

- ◆ Urban commander of the JAA Front in 2001.
- ◆ Participated in the murder of three trade union leaders in 2001.
- ◆ Adinael was assassinated that same year, allegedly upon orders from Tolemaida.



Adkins, James

- ◆ 1986–1987: CIA agent based in Honduras. Subject of criminal proceedings in connection with alleged human rights violations.
- ◆ 1997–2001: Head of Security Services of Drummond, Ltd. Colombia.
- ◆ 2002 – : employee of the US embassy in Bogotá.



Baena, Carlos

- ◆ Former corporal of army intelligence.
- ◆ Delegated by the army to Prodeco, where he worked under Luis Ochoa as human resource person.



**Alias: Tomás
Posada, Wilson**

- ◆ Police captain, based in Valledupar.



**Alias: El Canoso
Gélvez Alvarracín, José del Carmen**

- ◆ 1996–1998: undercover army intelligence sergeant stationed at Prodeco's security department.
- ◆ 2003–2006: political commander of the Tayrona Resistance Block.
- ◆ Beneficiary of the Justice and Peace process.



Drummond, Garry

◆ 1973–present: Chairman and CEO of Drummond Company, Inc.



Glasenberg, Ivan

◆ 1984: started working at Glencore.
◆ 2002–present: CEO of Glencore.



Coates, Peter

◆ 1995–2007: President and Managing Director at Prodeco.
◆ June 2013: appointed Executive Director of Glencore.



Jiménez, Augusto

◆ 1990–2012: President of Drummond Ltd. Colombia.
◆ 2013–present: Drummond consultant and member to the board of directors.



Araújo Castro, Alfredo

◆ 1989–present: Manager of Community Relations at Drummond Ltd. Colombia.



Tracey, Mike

◆ 1977–2007: held various positions in Drummond Inc. and Drummond Ltd. Amongst other things, he was the former president of Drummond, Ltd., where he was responsible for the La Loma project from inception to production.
◆ 2010–present: President of Mining, Drummond Company, Inc.



Gutiérrez, Manuel

- ◆ 1995–1999: Head of Prodeco Industrial Protection Department. Based in Santa Marta.
- ◆ Superior of Luis Hernando Ochoa



Bossard, Mark

- ◆ Prodeco's America manager.
- ◆ Kidnapped in 1996 by the ELN guerrilla and ransomed.



Ochoa, Luis Hernando

- ◆ 1995–2000: Security Supervisor Manager at Prodeco's Calenturitas mine.
- ◆ Worked under command of Miguel Gutierrez.
- ◆ Worked closely together with Carlos Baena.



Rodríguez, Luis Carlos

- ◆ Former manager of Drummond's security department and retired army colonel.



Blanco Maya, Jaime

- ◆ Owner and manager of ISA (Empresa Industrial de Servicios y Alimenticios), a Drummond contractor.
- ◆ Convicted of murder of two Drummond trade unionists.



Charris Castro, Jairo de Jesús

- ◆ 1998–1999: security coordinator of Viginorte, a security company hired by Drummond.
- ◆ 1999–2001: head of security at ISA, a Drummond subcontractor.
- ◆ Said to have been an intermediary between the paramilitary and the JAA Front.
- ◆ Captured in 2003 and convicted of the murder of two Drummond trade unionists under the ordinary Colombian justice system.

Annex A

I am writing on behalf of Drummond Ltd. in regard to your report titled, "Facts and Figures on Coal Mining in Cesar." As detailed more fully below, Drummond disputes the "facts" of your report and hereby puts you on notice that the publication of this report will result in Drummond seeking any and all legal action available to it.

Drummond Ltd., beginning with the grant of the La Loma coal concession in 1989 undertook construction of a world class mine, railway and port. This was during a period of great turmoil in Colombia. From inception to the present Drummond refuses to become part of any conflict and has never supported illegal groups.

Drummond has been successfully defending allegations of the nature cited in your report for over ten years. In 2007 a jury determined that Drummond was not responsible for the deaths of the three union leaders who were killed in 2001. More recently a district court in Alabama dismissed two more cases based on allegations of Drummond providing support to paramilitaries. Drummond has prevailed in every case that has been decided by a judge or jury.

Each of the cases against Drummond was brought by attorney Terry Collingsworth. United States law prevents Drummond from suing Mr. Collingsworth for allegations he may make in court proceedings, but in 2011 Mr. Collingsworth wrote letters to a business partner of Drummond and the government of the Netherlands falsely accusing Drummond of murder and human rights violations. Drummond then sued Mr. Collingsworth and his law firm for defamation in a court in Alabama. Through discovery in the lawsuit against Mr. Collingsworth, Drummond has learned that he has met with and provided information to your organization. We believe based on this evidence that Mr. Collingsworth and those working with him are primary sources, if not authors, of your report, yet nowhere in the report is Mr. Collingsworth mentioned.

Most of the witnesses you cite in the report, including Samario, El Tigre, Blanco, Duarte and Gelvez, have provided conflicting testimony. The witnesses have on the one hand indicated to Colombian prosecutors that Drummond had no involvement with paramilitaries, but have provided different testimony to Mr. Collingsworth. Additionally, recent evidence gathered in the defamation case against Mr. Collingsworth shows that he and associated lawyers made payments and provided support to many of the witnesses or their families cited in your report, and that such payments and support were provided very close in time to when the witness gave testimony against Drummond. A detailed discussion of the witness payments and support and the conflicts in testimony can be made available.

Keep in mind that the information regarding witness payments and support reflects only the information Drummond has learned to date. Drummond is awaiting the receipt of additional documents from multiple sources that will likely provide more information



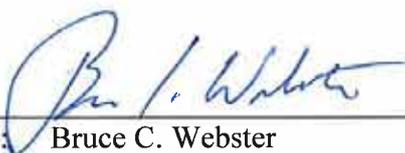
in this regard. Furthermore, Drummond has not yet had the opportunity to obtain any testimony from witnesses in the defamation case.

You should also be aware that Mr. Collingsworth represents Llanos Oil, a Dutch entity that once held an oil and gas concession in Colombia which is now held by Drummond. Llanos sued Drummond in 2005 claiming that Drummond improperly obtained the concession from the Colombian government. In the lawsuit filed against Mr. Collingsworth, Drummond alleged that Mr. Collingsworth's defamatory statements are part of a campaign in conjunction with Llanos to damage Drummond. Documents obtained in the defamation case are proving this allegation. One email between Mr. Collingsworth and Albert Van Bilderbeek, one of the principals in Llanos, states that Mr. Collingsworth and Llanos are working together to "shut Drummond down." Llanos is also believed to be either providing or arranging the financing of litigation against Drummond.

While Mr. Collingsworth holds himself out as a human rights lawyer, his personal and financial interest in the cases against Drummond should not be overlooked. Mr. Collingsworth has been unsuccessfully litigating against Drummond now for more than ten years at a likely cost of millions of dollars. Additionally, Mr. Collingsworth is likely to believe that if he won a case against Drummond it would possibly be worth substantial sums of money. As evidenced by Mr. Collingsworth's defamatory letters to the government of the Netherlands and Drummond's business partner, part of Mr. Collingsworth's strategy against Drummond is to harm Drummond's business reputation. We believe Mr. Collingsworth has involved your organization in furthering his efforts.

The information concerning witness payments and support was very difficult to obtain, with Mr. Collingsworth and his legal team vigorously opposing Drummond's efforts to uncover it. This information casts such doubt on the overall validity of your report that the report should not be published. If the report is published, Drummond will pursue any and all legal remedies available to it as the statements contained in the report are false and defamatory.

Drummond Ltd.


By: Bruce C. Webster
Its: Legal Representative

Annex B

RESPONSE TO PAX

Baar, 24 March 2014

We refer to your report on paramilitary violence in the mining region of Cesar, Colombia. You have sent us an extract from this report under cover of your email dated 11th March 2014 which sets out the chapters which you believe are of interest to Prodeco/Glencore.

Evidence on which Report is based

The key allegations made against Prodeco/Glencore contained in the extract provided appear to be substantially based on the testimony of Jose del Carmen Gelvez Albarracin (referred to as “El Canoso” in your report and hereafter referred to as “Mr. Gelvez”) who occupied a position as a security technician within Prodeco’s security department at the instigation of the Colombian Army during the period August 1st, 1996 to August 11th, 1997. Mr. Gelvez is currently serving a 40 year prison sentence in Colombia having been convicted of aggravated homicide and forced disappearance, and is also currently indicted in the US (awaiting extradition) on charges of providing support to terrorists, importing and distributing cocaine, and possession and utilisation of fire arms and explosive devices for criminal purposes, the maximum penalty for which in the U.S. would be life imprisonment.

Statements by two other individuals are also referenced in your report (namely those persons known as ‘El Mecanico’ (former AUC driver) and ‘El Samario’ (former AUC bodyguard)) each of whom appear to have claimed in general terms that the major mining companies (including Prodeco) were involved in making monetary contributions to AUC. As we have made clear to you in the past, we strongly deny that any such payments were made at any time by Prodeco to AUC.

Summary of Allegations

The allegations made by, or based on the testimony of, Mr. Gelvez are more numerous and detailed in nature, however, and we would summarise these as follows:

1. Mr. Gelvez was stationed as an undercover agent (for the Army) tasked with detecting guerrillas and subversives in the area.
2. There was significant collaboration between the Army, AUC and the mining companies (including Prodeco) in the department of Cesar, in which Prodeco operates its Calenturitas mining operations.
3. Prodeco management concluded that the AUC paramilitaries paid by the local elite in Cesar were providing the mining companies with insufficient protection and proposed that the AUC expand its activities/personnel accordingly, the cost of which would be paid by Prodeco/Drummond. And that the Colombian Army collaborated with Prodeco/Drummond/AUC in implementing the relevant arrangements.
4. Prodeco had direct links and communications with Vicente Castaño (ex-commander of AUC) and that Castaño held meetings with Manuel Gutierrez at the Prodeco mine. Furthermore, Gutierrez made a cash payment directly to Castaño whilst at the Prodeco mine site.

5. Prodeco and Drummond agreed during a meeting with AUC to make monthly payments (of USD100,000) to cover salaries, food, equipment and other costs for AUC personnel. Prodeco itself also paid USD[40,000] to Castaño in respect of salaries and expenses of AUC troops.
6. Drummond is accused of sanctioning, if not ordering, the killings of various people and Prodeco's collaboration with Drummond suggests it is guilty by association of the same crimes.
7. Paramilitary groups are responsible for the forced and violent displacement of local people for the ultimate benefit of the mining companies. Specific reference is made to the displacement of families from El Prado adjacent to Prodeco's Calenturitas concession.

Character/reliability of Mr. Gelvez

Before responding in turn to each of the above allegations, we feel we should express the view that it is irresponsible of Pax Christi to implicitly accept the testimony of Mr. Gelvez and transmit such testimony and allegations against Prodeco/Glencore by means of its report. Mr. Gelvez is a man convicted and serving a 40 year custodial sentence in Colombia for aggravated murder, aggravated forced and violent disappearance of local people, and is further accused of serious and violent criminal activity (including drug trafficking, possession and use of weapons and explosives) for which he is subject to extradition proceedings to the U.S. His own written deposition includes an express confession to participation in murder.

The evidence of Mr. Gelvez set out in your report has been largely extracted from the testimony of Mr. Gelvez heard in the proceedings of Claudia Balceró Giraldo et al. vs. Drummond Company Inc., et al on 16 March 2012, as well as from a deposition dated 21 November 2011 (made from his prison in Bogota). Since neither Glencore nor Prodeco were party to those proceedings, we were not provided with an opportunity to question, refute or undermine any allegations made against us. Moreover, we would point out that no similar or equivalent proceedings have ever been issued against Prodeco or Glencore either in Colombia or any other jurisdiction, which strongly suggests a distinct lack of evidence to support any such proceedings. Nonetheless, it is pertinent to point out that during the aforesaid proceedings against Drummond, not only was the testimony of Mr. Gelvez subjected to considerable doubt and exposed to weakness during cross-examination (including an acknowledgement that the deposition had been written for him by Plaintiffs' counsel and signed following only a cursory review, and a specific denial of the allegation that monies were paid directly to Vicente Castaño), but that the U.S. Court concerned also chose to disregard the testimony in full before reaching its conclusion that there was insufficient evidence for the case to proceed any further.

Mr. Gelvez has further testified on multiple occasions under the Justice and Peace law that benefits/benefitted those who confessed their paramilitary activities. Whilst your report deliberately stresses that his testimony has exposed him to considerable risks, Mr. Gelvez's testimony against others is very likely to be motivated by the possibility of receiving a much commuted sentence under the Justice and Peace law under which there is potential for his 40 years sentence to be reduced to 8 years or less.

To our knowledge, no testimony on the part of Mr. Gelvez has yet resulted in the successful conviction of any person or entity. Moreover, the Supreme Court of Justice has specifically warned about irregularities in Gelvez's testimonies and has asked the Office of the Prosecutor General in Colombia to open an investigation into establishing whether Gelvez gave false testimony during

proceedings against Fuad Rapag (ex-Congressman) and should thereby be detached from the Justice and Peace Process.

Prodeco/Glencore Response to Allegations

1. Mr. Gelvez was employed by Prodeco as a security technician within Prodeco's security department during the period August 1st 1996 to August 11th 1997. His duties mainly comprised being a driver and bodyguard. He resigned voluntarily and we have no reports of disciplinary faults or misconduct while he was working for us.
2. You report claims that collaboration between the Colombian army and the AUC has been extensively documented. We do not deny that there was collaboration between Prodeco's security department and the army (which was both common practice within the mining sector and entirely legitimate) and we further acknowledge that Prodeco's security department were approached by the members of paramilitary forces with offers of support and collaboration. However, no such offers were ever accepted. All interaction with AUC obviously needed to be handled very delicately, since it was imperative not to antagonise such people, and the meetings between Manuel Gutierrez and "El Lucho", mentioned in the report, were held to maintain this delicate balance. We strongly deny that any agreements, either of occasional or structural nature, were reached during any such meeting or otherwise. Our firm policy was not to have any relations with AUC and we never responded to nor accepted any of their offers.
3. There is no truth in this allegation whatsoever.
4. There is no truth in this allegation whatsoever. At no point did Prodeco make any payment to AUC. We note that allegations of such payments in your report are mostly general in nature and that the allegation by Mr. Gelvez in his deposition that USD100,000 was paid by Manuel Gutierrez to Vicente Castaño upon landing his helicopter came unstuck upon cross-examination in the Giraldo vs. Drummond proceedings. All payments by Prodeco of any significant sum at the relevant time would have been made in Colombian pesos and in the form of a cheque (in accordance with our policy and with Colombian foreign currency restrictions). All such payments would also have been overseen by Peter Coates, Tomas Lopez and others, all of whom deny that any payments (or payments in kind) were ever made to AUC or otherwise in support of paramilitary activities.
5. There is no truth in this allegation whatsoever. See further response 4 above. We have publicly denied making any payments to AUC or any other paramilitaries on numerous occasions.
6. In the case of Claudia Balcero Giraldo et al. vs. Drummond Company Inc., et al, the Court dismissed the proceedings on the basis that there was insufficient evidence against Drummond. At no point, to our knowledge, has Drummond been convicted of any such activities, hence it is entirely inappropriate for your report to insinuate any association on the part of Prodeco in any such activities. We submit, however, that a casual reader of your report is likely to reach precisely such incorrect conclusion. We repeat that no similar or equivalent proceedings have ever been issued against Prodeco or Glencore either in Colombia or any other jurisdiction, which strongly suggests that local persons or communities do not hold Prodeco/Glencore responsible for paramilitary activities and/or that there is a distinct lack of evidence to support any such proceedings.

7. We can accept no responsibility whatsoever for any role played by paramilitary groups, or others, in connection with the displacement of local people from El Prado or elsewhere. El Prado land does not form any part of land relevant to Prodeco's mining concession and Prodeco has no right to exploit such land, hence it had little or no incentive to displace any local people. As part of a Government mandated relocation programme, Prodeco was ordered in February 2007 to acquire land at El Prado, to relocate families living there at the time and to make certain compensation payments which were duly paid in full. We duly negotiated with INCODER (as current owner) and agreed a land swap with which INCODER has still failed to comply. INCODER has been ordered by the Colombian Court to comply with its obligations and we have actively tried to promote resolution of this issue. Notwithstanding this process, which has no connection with families claiming forced displacement by paramilitaries from El Prado in 2002, and the absence of any responsibility for resettlement or compensation on the part of Prodeco, our intention is to ensure that all affected persons are equitably treated and we have been engaging with the Government, and with local interest groups with a view to seeking satisfactory resolution.

Conclusions

We consider many of the serious allegations contained in your report with regard to Prodeco/Glencore to be untrue and unsubstantiated. It also appears that parts of the report have already been leaked to the media and material which has been extracted from your report appears to have been included in an article published by de Volksrant (volksrant.nl) on 4th March 2014.

We believe that we have cooperated openly and constructively with your leading inquiries and investigations for the report. This included arranging for meetings for Pax Christi with Ivan Glasenberg and other members of senior management on 3 April 2013 in Baar, Switzerland, as well as with Manuel Gutierrez and Luis Ochoa in Bogota in May 2013, at which all accusations made by Gelvez were strongly denied. We are therefore very disappointed that the report seeks to severely taint the image of Prodeco/Glencore despite all attempts to refute the various allegations.

We specifically request that you remove all references to there having been collaboration on the part of Prodeco/Glencore with AUC or any other paramilitary groups, or to payments having been made by Prodeco/Glencore in support of paramilitary activities. We also require all references to alleged collaboration among Drummond and Prodeco to be removed since we firstly dispute that any collaboration for the purposes indicated in your report occurred. Secondly, even though the legal proceedings against Drummond were dismissed, we believe and strongly resent that readers are currently encouraged by your report to associate Prodeco with many of the alleged wrongdoings of Drummond, despite there being a distinct lack of evidence and that no similar actions or proceedings have ever been directed at Prodeco/Glencore.

We also strongly refute any connection to or responsibility for the role that paramilitaries may have played with regard to the displacement of peoples in El Prado or elsewhere and request that you remove any such references, allegations or suggestions from your report.

You are aware that your report is issued in the midst of our application of becoming a plenary member of the Voluntary Principles on Security and Human Rights. In the course of this process we re-assessed at various operations around the world our current practise on security management with a special focus on Human Rights. This assessment caused us also to revisit the situation around the El Prado land and we did not identify any indication of misconduct on the part of Prodeco.

We are concerned that all local peoples who have been displaced from their land at El Prado, receive appropriate redress and we are engaged in ongoing efforts (including discussions with the Colombian government) to see that due compensation is paid. We believe that such a process must also be in the interest of PaxChristi. In the meantime, we have fully complied with all our legal obligations.

We are committed to participating in appropriate efforts and initiatives to provide victims of forced displacement and violence with remedy. In this, we expect to partner with organisations such as yourselves to ensure an equitable and just outcome for those concerned. However, such a partnership must be predicated on good faith and commitment to dialogue, and our current and future relations would be negatively impacted by publication of your report its current form.

We therefore look forward to receiving a revised version of this report for approval or else further comment prior to publication.

Endnotes

- 1 VerdadAbierta.com (2014). ¿Por qué 'Jorge 40' no habla en Justicia y Paz? www.verdadabierta.com/justicia-y-paz/extraditados/5155-por-que-jorge-40-no-habla-en-justicia-y-paz (accessed 31 January 2014).
- 2 UN General Assembly (2011). Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie. Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework (21 March 2011; A/HRC/17/31). www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.31_en.pdf
- 3 See also: UN General Assembly (2006). Basic principles and guidelines on the right to remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law (21 March 2006; A/RES/60/147). www.refworld.org/docid/4721cb942.html.
- 4 Balcerio et al. v. Drummond Company, Inc. (United States District Court, N.D. Alabama, Southern Division, Case 2:09-CV-1041-RDP). In May 2009, 592 plaintiffs brought suit in US federal court in Birmingham, Alabama, under the Alien Tort Statute (ATS) and Torture Victim Protection Act (TVPA) for war crimes and extrajudicial killings, stemming from the murders of their 131 family members. See more on: www.iradvocates.org/case/latin-america-colombia/balcerio-et-al-v-drummond-company-inc#sthash.VICa9eDX.dpuf.
- 5 At the end of 2010, the government had granted a total of 9,011 mining concessions, an increase of 304% relative to 2002 when there were 2,965 registered concessions; UPME (2006). Colombia país minero: Plan Nacional para el Desarrollo Minero. Visión al año 2019. Bogotá, Unidad de Planeación Minero Energética (UPME). In early 2011, almost 16,000 applications for mining concessions were being processed by the National Institute for Geology and Mining; MME (2011). Memorias al Congreso de la República 2010–2011. Bogotá, Ministerio de Minas y Energía (MME); SGC (Ingeominas) (2011). Audiencia Pública de Rendición de Cuentas. Sector Minero Energético 2010–2011. Bogotá, Servicio Geológico Colombiano (SGC).
- 6 Between 2002 and 2010, the volume of direct foreign investment in the mining industry rose by 441% from USD 466 million to USD 2,055 million; MME (2011). Memorias al Congreso de la República 2010–2011. Bogotá, Ministerio de Minas y Energía (MME).
- 7 In 2011, the Japanese general trading company, Itochu Corp., took a 20% stake in Drummond Ltd. Colombia; Drummond Company Inc. History. www.drummondco.com/about/history (accessed January 2013).
- 8 Carbocol (Carbones de Colombia) had operated in the area since 1985. In that year, it acquired the first concession from the government of President Belisario Betancur. Previously, there had been artisanal coalmining in La Jagua on the slopes of the Serranía de Perijá; [n.a.] (2011). Monografía de contexto sobre minería y conflicto violento en el municipio de La Jagua de Ibérico, Cesar 1991–2011. [n.p.], Corporación Nuevo Arco Iris (CNAI).
- 9 Drummond Ltd. Colombia (2010). [No title, PowerPoint presentation] Segunda Convención Nacional Minera (2–3 February 2010, Bogotá). www.fenalcarbon.com.

org.co/fenalcarbon_2012/memorias/drummond2.pdf; see also: Indepaz and International Alert (2012). Proyectos mineros, ferrocarriles y puertos en los departamentos de Cesar, Magdalena y La Guajira. www.indepaz.org.co/wp-content/uploads/2012/10/PERFILES-PROYECTOS-SNSM-NOVIEMBRE-DE-2012.pdf (accessed January 2013).

10 Ministry of Mining and Energy (MME). Resolution 60458 of 11 December 1991; Ministry of Mining and Energy (MME). Resolution 60139 of 6 April 1992. – Until 1994, environmental permits were issued by the Ministry of Mining (then called the Declaratoria de Efecto Ambiental or Licencia de Viabilidad Ambiental) and later by the Ministry of the Environment. The Ministry of the Environment did not issue an Environmental Management Plan for the La Loma concession until 2007. – Ministry of Environment, Housing and Territorial Development (MAVDT). Resolution 17 of 5 January 2007.

11 Drummond Ltd. Colombia (2010). [No title, PowerPoint presentation] Segunda Convención Nacional Minera (2–3 February 2010, Bogotá). www.fenalcarbon.org.co/fenalcarbon_2012/memorias/drummond2.pdf.

12 Indepaz and International Alert (2012). Proyectos mineros, ferrocarriles y puertos en los departamentos de Cesar, Magdalena y La Guajira. www.indepaz.org.co/wp-content/uploads/2012/10/PERFILES-PROYECTOS-SNSM-NOVIEMBRE-DE-2012.pdf (accessed January 2013).

13 Ministry of Environment, Housing and Territorial Development (MAVDT) Resolution 414 of 11 March 2008.

14 Drummond Ltd. Colombia (2011). Our people build our history. Sustainability Report 2011. Bogotá, Drummond Ltd. Colombia: 20–21; see also: Drummond Ltd. Colombia (2010). Dreams born of the earth. Sustainability Report 2010. Bogotá, Drummond Ltd. Colombia: 52, 55.

15 Corpocesar, Resolution 425 of 14 November 1995 [Plan de Manejo Ambiental].

16 Glencore Plc merged in May 2012 with the Anglo-Swiss mining company Xstrata Plc to form Glencore Xstrata Plc. The merged company is one of the largest coal suppliers to generating plants and for the production of copper. In May 2014, the company changed its name to Glencore Plc. Glencore Plc remains headquartered in Baar, Switzerland; <http://investing.businessweek.com/research/stocks/snapshot/snapshot.asp?ticker=GLEN:LN> (accessed May 2014).

17 ElTiempo.com (1990). Carbón de Cesar será explotado por Prodeco. www.eltiempo.com/archivo/documento/MAM-38726 (17 December 1990); ElTiempo.com (1995). Cerrejón Central en la mira de MinAmbiente. www.eltiempo.com/archivo/documento/MAM-293479 (23 January 1995); Viloria de la Hoz, J. (1998). La economía del carbón en el Caribe colombiano. Cartagena, Banco de la República.

18 Prodeco Nuestra historia. www.prodeco.com.co/index.php/en/company/our-history (accessed April 2013).

19 Prodeco (2011). Our Sustainability Report 2011. Barranquilla, Prodeco: 13; see also: Prodeco (2010). Sustainability Report (2010). Barranquilla, Prodeco: 14–15.

20 Defensoría del Pueblo (2010). Informe defensorial (N° 158) de seguimiento a la Resolución Defensorial N° 54 (23 July 2010). Bogotá, Defensoría del Pueblo: 11.

21 Ministry of Mining and Energy (MME) Resolution 60462 of 18 September 1993; Ministry of Environment, Housing and Territorial Development (MAVDT) Resolution 225 of 3 August 1994.

22 Defensor del Pueblo (Volmar Pérez Ortíz) (2008). Resolución defensorial N° 54. Explotación, transporte y embarque de carbón en los departamentos de Cesar y Magdalena (25 July 2008). Bogotá, Defensoría del Pueblo.

23 Drummond Ltd. Colombia (2009). [No title, PowerPoint presentation] Primera Convención Nacional Minera (3–4 February 2009, Bogotá). www.fenalcarbon.org.co/fenalcarbon_2012/memorias/drummond.pdf. – According to El Espectador the line had almost been completed in August 2012, but 45 kms were missing between the sectors Bosconia, Aracataca, Loma Colorada, Fundación, and Río Frío. The doubling of the line involved an investment of USD 180 million; ElEspectador.com (2012). Vía libre a la operación de los trenes carboneros. www.elespectador.com/impreso/negocios/articulo-368113-via-libre-operacion-de-los-trenes-carboneros (accessed 16 August 2012).

24 There is no clear-cut definition for when killings are referred to as massacres, or the minimum number of people killed. The Colombian Attorney-General's Office registers a killing as a massacre when three people or more are murdered in the same incident/at the same time.

25 Interview with Canoso, May 9, 2012.

26 Balcerio; Samario, Dec. 4, 2009, written statement.

27 Description given by the 58th public prosecutor of the Justice and Peace Unit of the Attorney-General's Office; VerdadAbierta.com (2013). La historia del 'Juan Andrés Álvarez'. www.verdadabierta.com/component/content/article/35-bloques/4803--la-historia-del-juan-andres-alvarez (accessed 22 August 2013).

28 OHCHR (2002). Report of the United Nations High Commissioner for Human Rights on the human rights situation in Colombia (E/CN.4/2002/17; 28 February 2002). http://ap.ohchr.org/documents/alldocs.aspx?doc_id=2780; United States Department of State, Colombia – 2001 Country Reports on Human Rights Practices. www.state.gov/g/drl/rls/hrrpt/2001/wha/8326.htm (accessed February 2014); Center for Justice and Accountability, Background on Colombia: longest-running civil war in the Americas. www.cja.org/article.php?list=type&type=400 (accessed February 2014); Brittan, J. J. (2006). Human rights and the Colombian government: an analysis of state-based atrocities toward non-combatants. *New Politics* 10(4): www.newpol.org; Human Rights Watch, World Report 1999: Colombia. www.hrw.org/legacy/worldreport99/americas/colombia.html (accessed February 2014); Human Rights Watch, World Report 2001: Colombia. www.hrw.org/legacy/wr2k1/americas/colombia.html (accessed February 2014); Vieira, C. (2008). International Criminal Court scrutinises paramilitary crimes. www.ipsnews.net/2008/08/colombia-international-criminal-court-scrutinises-paramilitary-crimes (27 August 2008); Murillo, M.A. (2004). Colombia and the United States: war, unrest and destabilization. New York, Seven Stories Press; CCJ (2001). Panorama de derechos humanos y derecho humanitario en Colombia (informe

- de avance: abril a septiembre del 2000). Bogotá, Comisión Colombiana de Juristas (CCJ); Tate, W. (2001). Paramilitaries in Colombia. *Brown Journal of World Affairs* 8(1): 163–175; Human Rights Watch (2003). Colombia's checkbook impunity (briefing paper; 23 September 2003). www.hrw.org/legacy/background/americas/checkbook-impunity.pdf.
- 29 Arias, A. (2010). Análisis del conflicto en Cesar. Monografía político electoral: departamento de Cesar 1997 a 2007. C. López Hernández. Bogotá, Observatorio de Democracia, Misión de Observación Electoral: 2–32; see also: Echandia, C. (2000). El conflicto armado colombiano en los años noventa: cambios en las estrategias y efectos económicos. *Revista Colombiana Internacional* 49(50): 117–134.
- 30 Balcerio; Canoso, Mar. 16, 2012, Letters Rogatory, p. 70.
- 31 Balcerio; Canoso, Mar. 16, 2012, Letters Rogatory, pp. 71–72. For the sake of readability, some grammatical alterations were made in the official English translation of the Spanish testimonies made in court.
- 32 Balcerio; Tigre, Mar. 22, 2012, Letters Rogatory, p. 53. Some grammatical alterations were made.
- 33 Balcerio; Samario, Dec. 4, 2009, written statement. Some of the people included in this list as victims of homicide (6) were actually killed in a massacre.
- 34 Balcerio; Samario, Mar. 12, 2012, Letters Rogatory, p. 121.
- 35 Balcerio; Canoso, Mar. 16, 2012, Letters Rogatory, pp. 69–70.
- 36 Balcerio; Tigre, Mar. 22, 2012, Letters Rogatory, p. 53. El Tigre was probably referring to numbers of families, but we do not know that for certain.
- 37 VerdadAbierta.com, Las verdades del conflicto en Magdalena y Cesar. http://monitorias.com/gran_especial/cesar_magdalena/home.html (accessed October 2012).
- 38 Mancuso confessed to 79 cases of enforced disappearances under his command. Mancuso accepted his responsibility by chain of command, but most of the disappearances (50) were committed by Tolemaida and his men. At least 29 cases of disappearances in these testimonies can be attributed to commanders other than Tolemaida.
- 39 VerdadAbierta.com (2012). Los generales en justicia y paz. www.verdadabierta.com/component/content/article/75-das-gate/4080-los-generales-en-justicia-y-paz (25 June 2012).
- 40 Interview with Manuel Gutiérrez and Luis Hernando Ochoa, Bogotá, May 28, 2013.
- 41 ElTiempo.com (2009). James Adkins, un ex agente de la CIA, el nuevo blanco en muerte de sindicalistas de Drummond. www.eltiempo.com/archivo/documento/CMS-6435607 (24 October 2009).
- 42 Balcerio; Adkins, Aug. 2, 2012, Letters Rogatory, pp. 179–180.
- 43 Interview with Claudia Balcerio Giraldo and Olga Cecilia Martínez, Valledupar, May 29, 2013.
- 44 ElTiempo.com (2007). 'El Tigre' relata cómo mataron a investigadores del CTI en el Cesar. www.eltiempo.com/archivo/documento/CMS-3854951 (11 December 2007).
- 45 Interview with Claudia Balcerio Giraldo and Olga Cecilia Martínez, Valledupar, May 29, 2013.
- 46 Id.
- 47 Id.
- 48 Id.
- 49 Interview with Gloria Navarro Amaya, Valledupar, May 30, 2013.
- 50 Id.
- 51 Id.
- 52 Id.
- 53 According to documents from the Ministry of the Environment, the government officially granted the concession for this mine – referred to as Flanco Occidental del Sinclinal Carbonífero de La Jagua de Ibérico – in 1998 to the company Carbones del Caribe; Ministry of Environment, Housing and Territorial Development (MAVDT) Resolution 1248 of 24 December 1998. Some years later the concession transferred to the company Carbones de La Jagua, which came into the possession of the Prodeco Group (Glencore) in 2005. See also: Indepaz and International Alert (2012). *Proyectos mineros, ferrocarriles y puertos en los departamentos de Cesar, Magdalena y La Guajira*. www.indepaz.org.co/wp-content/uploads/2012/10/PERFILES-PROYECTOS-SNSM-NOVIEMBRE-DE-2012.pdf; and: Prodeco, La Jagua mine. www.prodeco.com.co/index.php/en/company/our-business/la-jagua-mine (accessed January 2013).
- 54 Interview with Sifredy Culma Vargas, Valledupar, May 29, 2013.
- 55 Sifredy was unable to identify the paramilitary commander who led the operation. Aliases JJ and El Tigre operated in the region at that time, but Tolemaida – the later commander of the JAA Front – had responsibility for approving the displacement of people in Santa Fe.
- 56 Interview with Sifredy Culma Vargas, Valledupar, May 29, 2013.
- 57 A statement taken by the regional office of the Human Rights Ombudsman (Defensoría del Pueblo) refers to a man called Edgardo (Percy) Díaz-Granados who represented the mining company.
- 58 The name of the owner of the oil palm plantation that bought the land from Carbones del Caribe was Jaime Olivella.

- 59 Interview with Sifredy Culma Vargas, Valledupar, May 29, 2013.
- 60 Interview with Gloria Navarro Amaya and Claudia Balceró Giraldo, Valledupar, May 30, 2013.
- 61 Interview with Gloria Navarro Amaya, Valledupar, May 30, 2013.
- 62 The foundation is called Fundación Integral de Víctimas del Sur del Cesar – FUNDIVINSUR. Interview with Sifredy Culma Vargas, Valledupar, May 29, 2013. The Law on Victims and Land Restitution (Victims Law) of 2011 concerns the integral reparation of the victims of the conflict through economic compensation and the restitution of the land they lost as a result of their forced displacement.
- 63 Interview with Sifredy Culma Vargas, Valledupar, May 29, 2013.
- 64 Interview with Claudia Balceró Giraldo and Olga Cecilia Martínez, Valledupar, May 29, 2013.
- 65 Id.
- 66 VerdadAbierta.com (2010). ¿De dónde salieron los 'paras' en Cesar? www.verdadabierta.com/parapolitica/2801-de-donde-salieron-los-paras-en-cesar (26 October 2010); Rosado Duque, J. B. (2005). El sindicalismo colombiano: actor social en medio de la guerra y el temor a la libertad. *Sindicatos y nuevos movimientos sociales en América Latina*. E. De la Garza Toledo. Buenos Aires, CLACSO: 96–120.
- 67 It is said that the perpetrators came from regional economic elites and the army; VerdadAbierta.com (2010). ¿De dónde salieron los 'paras' en Cesar? www.verdadabierta.com/parapolitica/2801-de-donde-salieron-los-paras-en-cesar (26 October 2010).
- 68 The driving force behind the establishment of these armed units was the Prada family. They had formed their own armed group as early as the late 1980s, called the Autodefensas del Sur de Cesar; VerdadAbierta.com (2010). Paras contaron cómo se crearon las Autodefensas del Sur del Cesar. www.verdadabierta.com/justicia-y-paz/versiones/2893-paras-contaron-como-se-crearon-las-autodefensas-del-sur-del-cesar (6 December 2010).
- 69 The ACCU was led by the brothers Fidel, Carlos, and Vicente Castaño.
- 70 VerdadAbierta.com (2010). Cuando Mancuso y sus 'paras' eran pobres. www.verdadabierta.com/nunca-mas/177-entrevista/2817-cuando-mancuso-y-sus-paras-eran-pobres (1 November 2010).
- 71 On behalf of the ACCU, Carlos Castaño sent Salvatore Mancuso and Rodrigo Tovar Pupo (alias Jorge 40, the later paramilitary leader of the Northern Bloc) to Valledupar for a meeting at the home of Jorge Gnecco about the arrival of the AUC in the region; VerdadAbierta.com (2010). Las verdades y mentiras del libro de Jorge 40. www.verdadabierta.com/component/content/article/36-jefes/2334-las-verdades-y-mentiras-del-libro-de-jorge-40 (5 May 2010); see also: Tovar Pupo, R. (2008). Mi vida como autodefensa y mi participación como miembro del BN y del BNA. VerdadAbierta.com. <http://memoriaydignidad.org/memoriaydignidad/images/extradicionysussecuelas/Dossiers/Jorge-40/5-mi-vida-como-autodefensa-jorge-40.pdf> (accessed 15 June 2014).
- 72 The ACCU sent an initial group of 25 paramilitaries, who were supplemented a few months later by 60 men. Statement of alias El Pájaro in VerdadAbierta.com (2010). Cuando Mancuso y sus 'paras' eran pobres. www.verdadabierta.com/nunca-mas/177-entrevista/2817-cuando-mancuso-y-sus-paras-eran-pobres (1 November 2010).
- 73 In its consolidation in Cesar, the ACCU took advantage of the legal opportunity created in 1994 to form private armed groups, known as Convivir (Cooperativas de Seguridad Rural), for the defence of property in areas with little state presence. Transforming the existing local armed bands into Convivir gave their operations legal status and gave them access to weapons. The families of Jorge Gnecco and Hugues Rodríguez jointly set up a Convivir with the paramilitary leader Salvatore Mancuso. When the Convivir were prohibited in 1997, the local organizations had already been absorbed into the ACCU/AUC; VerdadAbierta.com (2010). ¿De dónde salieron los 'paras' en Cesar? www.verdadabierta.com/parapolitica/2801-de-donde-salieron-los-paras-en-cesar (26 October 2010); see also: Zuñiga, P. (2007). Ilegalidad, control local y paramilitares en el Magdalena. *Parapolítica: la ruta de la expansión paramilitar y los acuerdos políticos*. M. Romero. Bogotá, Corporación Nuevo Arco Iris: 285–321.
- 74 For example, the El Carmen farm (finca), one of Hugues Rodríguez' properties in La Jagua de Ibérico, was used in 2002 as the base for a paramilitary operation that targeted the neighbouring El Prado estate. VerdadAbierta.com (2010). Carbón y sangre en las tierras de 'Jorge 40'. www.verdadabierta.com/justicia-y-paz/versiones/2816-carbon-y-sangre-en-las-tierras-de-jorge-40 (26 October 2010).
- 75 The name AUC is used in the remainder of this report for the sake of brevity, also when referring to 1995 and 1996, when strictly speaking the AUC did not yet exist.
- 76 Balceró; Canoso, Mar. 16, 2012, Letters Rogatory, pp. 22–24. The corresponding request is said to have come from Colonel Lino Sanchez, the head of the intelligence service in Santa Marta.
- 77 Balceró; Canoso, Nov. 21, 2011, written statement.
- 78 Balceró; Canoso, Mar. 16, 2012, Letters Rogatory, p. 103. Some grammatical alterations were made.
- 79 ElEspectador.com (2012). Amenazan a diez periodistas por una entrevista a alias 'El Canoso'. www.elespectador.com/noticias/judicial/articulo-375049-amenazan-diez-periodistas-una-entrevista-alias-el-canoso (12 September 2012).
- 80 Interview with Canoso, Bogotá, Apr. 4, 2013. The attacks were mainly committed by the Front José Manuel Martínez Quiroz; Arias, A. (2010). Análisis del conflicto en Cesar. *Monografía político electoral: departamento de Cesar 1997 a 2007*. C. López Hernández. Bogotá, Observatorio de Democracia, Misión de Observación Electoral: 2–32.

- 81 In 1996, the number of kidnappings stood at 69. The number continued to grow in succeeding years, with 101 in 1997 and 274 in 1998. The absolute low point was in 2001, when 316 kidnappings were registered; VerdadAbierta.com, Las verdades del conflicto en Magdalena y Cesar. http://monitorias.com/gran_especial/cesar_magdalena/home.html (accessed October 2012).
- 82 The ELN kidnapped the Austrian engineer Leo Ruthing in Cesar on 13 February 1995. He worked for Tracy, one of Drummond's contractors; ElTiempo.com (1995). Sin aclarar secuestro de ocho extranjeros. www.eltiempo.com/archivo/documento/MAM-327015 (15 May 1995).
- 83 The American manager of the Prodeco mine, Mark Bossard, was kidnapped in February 1996 by the Luciano Ariza Front of the ELN; ElTiempo.com (1996). Secuestrado Estadounidense. www.eltiempo.com/archivo/documento/MAM-357551 (18 February 1996). In La Jagua de Ibírico, the José Manuel Martínez Quiroz Front of the ELN kidnapped the Prodeco engineers Oscar Barros Corrales and Corelca Alejandro Durán and the driver Leovigildo Oyaga in July 1996; ElTiempo.com (1996). Secuestrado. www.eltiempo.com/archivo/documento/MAM-439268 (6 July 1996).
- 84 Interview with Canoso, Bogotá, Apr. 4, 2013.
- 85 In September 2000, two drivers (Rafael Tapias and Luis Castro) and an employee of a Drummond security firm were kidnapped in an attack on the Drummond rail line; ElTiempo.com (2000). FARC secuestraron a tres operarios de Drummond. www.eltiempo.com/archivo/documento/MAM-1247307 (13 September 2000).
- 86 ElTiempo.com (1997). FARC dinamitó línea Ferrea. www.eltiempo.com/archivo/documento/MAM-616334 (21 September 1997); ElTiempo.com (1999). Suspendido transporte del carbón de la Loma. www.eltiempo.com/archivo/documento/MAM-888818 (1 November 1999).
- 87 ElTiempo.com (2001). Atentado a tren carbonero. www.eltiempo.com/archivo/documento/MAM-607776 (2 February 2001); ElTiempo.com (2001). Atentado contra la Drummond. <http://www.eltiempo.com/archivo/documento/MAM-556576>; ElTiempo.com (2001). Nuevo atentado a tren de Drummond. www.eltiempo.com/archivo/documento/MAM-504412 (26 May 2001). ElTiempo.com (2001). Negro balance para Drummond. <http://www.eltiempo.com/archivo/documento/MAM-486092>.
- 88 Balcerio; Blanco, Apr. 19, 2012, Letters Rogatory, p. 106.
- 89 Balcerio; Adkins, Aug. 2, 2012, Letters Rogatory, pp. 179–180.
- 90 Zuñiga, P. (2007). Ilegalidad, control local y paramilitares en el Magdalena. Parapolítica: la ruta de la expansión paramilitar y los acuerdos políticos. M. Romero. Bogotá, Corporación Nuevo Arco Iris: 285–321.
- 91 Balcerio; Adkins, Aug. 2, 2012, Letters Rogatory, pp. 179–180.
- 92 Balcerio; Zervos, Jun. 20, 2012, Letters Rogatory, pp. 200–201.
- 93 Balcerio; Adkins, Aug. 2, 2012, Letters Rogatory, p. 212.
- 94 Interview with Canoso, Bogotá, Apr. 4, 2013. The paramilitary base was on the finca Ucrania in Pailitas in the central area of Cesar. Balcerio; Canoso, Mar. 16, 2012, Letters Rogatory, p.31.
- 95 Balcerio; Canoso, Mar. 16, 2012, Letters Rogatory, pp. 29–30. Some grammatical alterations were made. The meeting took place in the second half of 2006. The attendees included El Canoso, Manuel Gutiérrez, Luis Hernando Ochoa (Prodeco), the paramilitary commander Lucho, and 30 AUC fighters. Interview with Canoso, Bogotá, May 9, 2012.
- 96 Balcerio; Canoso, Nov. 21, 2011, written statement, p. 3. The date of the event (second half of 1996) was mentioned by El Canoso to Pax in an interview with him on May 9, 2012.
- 97 Balcerio; Canoso, Mar. 16, 2012, Letters Rogatory, pp. 33–34.
- 98 Balcerio; Canoso, Mar. 16, 2012, Letters Rogatory, pp. 39–40.
- 99 Balcerio; Canoso, Nov. 21, 2011, written statement, p. 3.
- 100 Balcerio; Canoso, Mar. 16, 2012, Letters Rogatory, pp. 46–49. Some grammatical alterations were made.
- 101 Balcerio; Canoso, Nov. 21, 2011, written statement, p. 4. Regarding the participants, he stated the following: "From Drummond's security team the following people attended: Rafael Peña Ríos, a retired general; Luis Carlos Rodríguez, a retired colonel; some retired officials named Carlos Sastre, Mario Otero, Cesar Agudelo, Néstor Rodríguez, Wilmer Aguerre, and Orlando Ramirez. There was also an American present who was part of Drummond's security team, Jim Adkins. From Prodeco's security team the following people attended: Manuel Gutiérrez; Luis Hernando Ochoa; Javier Recaman, a retired military official who currently works in the Calenturitas mine as Security Chief; and myself."
- 102 Balcerio; Canoso, Nov. 21, 2011, written statement, p. 4.
- 103 Interview with Canoso, Bogotá, May 14, 2014. This is partly consistent with the numbers of paramilitaries that El Canoso mentioned in his written statement produced in the framework of the US court case. In this declaration, he states that, in the end, 80 men arrived instead of the 200 as previously discussed; Balcerio; Canoso, Nov. 21, 2011, written statement. During the Letters Rogatory process, El Canoso testified in a general way that (gradually) about 800 men arrived and dispersed through the various municipalities of the coalmining region, although in his answer he may not have referred to a specific period; Balcerio; Canoso, Mar. 16, 2012, Letters Rogatory, p. 64.
- 104 Balcerio; Canoso, Mar. 16, 2012, Letters Rogatory, p. 73.
- 105 This paramilitary unit was led by Commander alias Jhon. Balcerio; Bam Bam, April 16, 2012, Letters Rogatory, p. 46.

106 The most important commanders in 1996 were alias Melchor and alias Baltasar from Córdoba and Urabá, and alias Lucho from South-Cesar (who was later to be executed by the AUC, allegedly for theft). Balcerio; Canoso, Mar. 16, 2012, Letters Rogatory, pp. 80–81. pp. 80-81; interview with Canoso, Bogotá, Sep. 5, 2012.

107 Balcerio; Canoso, Mar. 16, 2012, Letters Rogatory, p. 71. See chapter 1 for statistics on violence in the region based on information from Colombian authorities.

108 Balcerio; Canoso, Mar. 16, 2012, Letters Rogatory, p. 71. Some grammatical alterations were made.

109 Interview with former employee of Prodeco's Security Department, May 15, 2014.

110 Id.

111 Id.

112 El Canoso rejoined the AUC in 2003. However, he has said that the AUC then no longer resembled the former organization. They entered into dialogue with the government, and El Canoso started work as an adviser in the demobilization process. In 2009, he was arrested for four crimes, including membership of the AUC and conflict of interest. Interviews with Canoso, Apr. 24, 2012; May 9, 2013.

113 Balcerio; Canoso, Mar. 16, 2012, Letters Rogatory, p. 111.

114 In September 2000, for example, the FARC attacked the rail line twice in one week. In one case, 22 wagons carrying a total of 2,000 tonnes of coal were derailed; ElTiempo.com (2000). FARC secuestraron a tres operarios de Drummond. www.eltiempo.com/archivo/documento/MAM-1247307 (13 September 2000).

115 Balcerio; Tigre, Dec. 3, 2009, written statement, p. 3.

116 Balcerio; Tigre, Dec. 3, 2009, written statement, p. 4. El Tigre has stated in his written statement that he had only 40 men under his command when the JAA Front was started.

117 Balcerio; Tigre, Mar. 22, 2012, Letters Rogatory, p. 23. Juan Andrés Álvarez, alias Daniel, was killed on 13 December 1998; see also: ElPilon.com (2013). Declaran los primeros paramilitares que llegaron al Cesar. www.elpilon.com.co/inicio/los-primeros-paramilitares-que-llegaron-al-cesar (19 February 2013).

118 Balcerio; Tigre, Mar. 22, 2012, Letters Rogatory, p. 32.

119 Id., p. 29.

120 Balcerio; Tigre, Dec. 3, 2009, written statement, p. 4.

121 Balcerio; Tigre, Mar. 22, 2012, Letters Rogatory, p. 33.

122 Id., p. 139. The attack was carried out by the paramilitaries alias Amin and alias Pirulo; the latter was previously a member of the ELN.

123 Balcerio; Tigre, Dec. 3, 2009, written statement, p. 5.

124 Balcerio; Tigre, Mar. 22, 2012, Letters Rogatory, pp. 35–36.

125 Id., p. 34.

126 Id., p. 62. Jorge 40 issued this last warning shortly before being extradited to the USA in May 2008 to face charges of drug trafficking.

127 Id., p. 63.

128 Id., p. 65.

129 Balcerio; Samario, Mar. 12, 2012, Letters Rogatory, p. 13.

130 In November 2010, El Samario broke off a Justice and Peace hearing, because he felt that his family had received insufficient safety guarantees; VerdadAbierta.com (Monitorias.com) (2011). Llamam a juicio a excontratista de Drummond por asesinato de sindicalistas. <http://monitorias.com/component/content/article/54-generales/3208-llaman-a-juicio-a-excontratista-de-drummond-por-asesinato-de-sindicalistas> (26 April 2011).

131 Balcerio; Samario, Mar. 12, 2012, Letters Rogatory, pp. 62–63.

132 Interview with Samario, Jun. 23, 2012.

133 Id.

134 Id.

135 Balcerio; Samario, Dec. 4, 2009, written statement, p. 6.

136 Interview with Samario, Jun. 23, 2012.

137 Balcerio; Tigre, Mar. 22, 2012, Letters Rogatory, p. 146.

138 Interview with Samario, Jun. 23, 2012.

139 Balcerio; Samario, Mar. 12, 2012, Letters Rogatory, p. 63; see also: VerdadAbierta.com (2013). La historia del 'Juan Andrés Álvarez.' www.verdadabierta.com/component/content/article/35-bloques/4803-la-historia-del-juan-andres-alvarez (22 August 2013).

140 Balcerio; Charris, May 16, 2012, Letters Rogatory; Samario, Mar. 12, 2012, Letters Rogatory; Blanco, Apr. 19, 2012, Letters Rogatory; Tigre, Mar. 22, 2012, Letters Rogatory.

141 Balcerio; Canoso, Nov. 21, 2011, written statement, p. 3.

142 Interview with Canoso, May 9, 2012.

- 143 Interview with Canoso, May 9, 2012, and Apr. 24, 2013.
- 144 Balcerio; Canoso, Nov. 21, 2011, written statement, p. 3.
- 145 Balcerio; Canoso, Mar. 16, 2012, Letters Rogatory, p. 65. Some grammatical alterations were made.
- 146 Balcerio; Bam Bam, Apr. 16, 2012, Letters Rogatory, p. 60.
- 147 Balcerio; Charris, May 17, 2012, Letters Rogatory, vol. 2, p. 30; Blanco, Apr. 19, 2012, Letters Rogatory, pp. 75–77.
- 148 Balcerio; Blanco, Apr. 19, 2012, Letters Rogatory, pp. 75–77.
- 149 *Id.*, p. 71.
- 150 *Id.*, pp. 74–75.
- 151 Fiscalía General de la Nación (María Astrid Guevara Eslava) (2013). Diligencia de declaración que rinde Blanco identificado con la C.C. No. 12.719.347 de Valledupar-Cesar, para tramites de beneficios por colaboración eficaz (15 October 2013).
- 152 *Id.*, p. 3 (IPC stands for: Índice de precios al consumidor. Changes in the consumer price index are calculated annually by the national government institute DANE.)
- 153 *Id.*, p. 4.
- 154 Fiscalía General de la Nación (María Astrid Guevara Eslava) (2013). Diligencia de declaración que rinde Blanco identificado con la C.C. No. 12.719.347 de Valledupar-Cesar, para tramites de beneficios por colaboración eficaz (15 October 2013). Bogotá, Fiscalía General de la Nación, Unidad Nacional Derechos Humanos y Derecho Internacional Humanitario: 5–6. Balcerio; Blanco, Oct. 22, 2011, written statement, p. 6. According to Blanco Maya, the financial support was intended for the JAA Front: “In this way, it was established that 5 million Colombian pesos would be paid monthly to El Tigre’s Front of the AUC.”
- 155 Balcerio; Blanco, Oct. 22, 2011, written statement, p. 6.
- 156 *Id.*, p.6.
- 157 Balcerio; Blanco, Apr. 19, 2012, Letters Rogatory, p. 112.
- 158 Fiscalía General de la Nación (María Astrid Guevara Eslava) (2013). Diligencia de declaración que rinde Blanco identificado con la C.C. No. 12.719.347 de Valledupar-Cesar, para tramites de beneficios por colaboración eficaz (15 October 2013). Bogotá, Fiscalía General de la Nación, Unidad Nacional Derechos Humanos y Derecho Internacional Humanitario: 5–6.
- 159 *Id.*, pp. 65–67; Blanco, May 25, 2012, Letters Rogatory, p. 209. El Tigre was still a scout at the AUC’s El Silencio base at the time.
- 160 Balcerio; Blanco, Apr. 19, 2012, Letters Rogatory, pp. 68–70.
- 161 Balcerio; Blanco Apr. 19, 2012, Letters Rogatory, p. 71.
- 162 *Id.*, pp. 72–73.
- 163 *Id.*, pp. 73–75.
- 164 Balcerio; Tigre, Mar. 22, 2012, Letters Rogatory, p. 146.
- 165 *Id.*, 35–36. Some grammatical alterations were made.
- 166 *Id.*, 36–37. Some grammatical alterations were made.
- 167 VerdadAbierta.com, Los hitos del conflicto. http://monitorias.com/gran_especial/cesar_magdalena/home.html (accessed October 2012).
- 168 For historical exchange rates, see: www.banrep.gov.co/en/node/29467. In July 2000, the exchange rate for the US Dollar was 2.021 Colombian Pesos.
- 169 Balcerio; Tigre, Mar. 22, 2012, Letters Rogatory, p. 43.
- 170 *Id.*, pp. 45–46. Some grammatical alterations were made.
- 171 *Id.*, pp. 47, 171.
- 172 Balcerio; Charris, May 16, 2012, Letters Rogatory (vol. 2), pp. 31–32.
- 173 *Id.*, pp. 53–54.
- 174 Balcerio; Samario, Dec. 4, 2009, written statement, p. 5.
- 175 Balcerio; Samario, Mar. 12, 2012, Letters Rogatory, p. 145.
- 176 *Id.*, p. 145.
- 177 Balcerio; Mecánico, Feb. 28, 2012, written statement, pp. 9–11; Peinado, Mar. 1, 2012, written statement, p. 5.
- 178 Balcerio; Mecánico, Feb. 28, 2012, written statement, p. 10.
- 179 Balcerio; Peinado, Mar. 1, 2012, written statement.
- 180 *Id.*, p. 5.
- 181 Balcerio; Tigre, Mar. 22, 2012, Letters Rogatory, p. 56.
- 182 Balcerio; Canoso, Mar. 16, 2012, Letters Rogatory, pp. 51–52. Some grammatical alterations were made.
- 183 Balcerio; Canoso, Nov. 21, 2011, written statement, p. 2.
- 184 *Id.*

- 185 Balcerero; Canoso, Mar. 16, 2012, Letters Rogatory, p. 25. Some grammatical alterations were made.
- 186 Balcerero; Canoso, Nov. 21, 2011, written statement, p. 2.
- 187 Interview with former employee of Prodeco's Security Department, May 15, 2014.
- 188 Id.
- 189 Id.
- 190 Balcerero; Canoso, Mar. 16, 2012, Letters Rogatory, p. 55. Some grammatical alterations were made.
- 191 Balcerero; Canoso, Mar. 16, 2012, Letters Rogatory, p. 62.
- 192 Id., pp. 61–63. According to El Canoso, the military base near the Drummond mine was alongside the aircraft runway. In this period, Major Mauricio Llorente led these military personnel in the mines.
- 193 Id., p. 65.
- 194 Balcerero; Canoso, Mar. 16, 2012, Letters Rogatory, p. 69.
- 195 Balcerero; Tigre, Mar. 22, 2012, Letters Rogatory, p. 54–55. Some grammatical alterations were made. El Tigre is referring to the San Roque massacre (Curumani) of August 18, 1999, in which 20 armed men under the command of El Tigre killed six people suspected of stealing gasoline; see: ElTiempo.com (1999) Masacres en Cesar y Bolívar. www.eltiempo.com/archivo/documento/MAM-939638 (19 August 1999); VanguardiaValledupar.com (2009). Por masacre, nueva condena para 'El Tigre.' www.vanguardiavalledupar.com/2009/10/16/jud3.htm (16 October 2009).
- 196 Zuñiga, P. (2007). Ilegalidad, control local y paramilitares en el Magdalena. Parapolítica: la ruta de la expansión paramilitar y los acuerdos políticos. M. Romero. Bogotá, Corporación Nuevo Arco Iris: 285–321; VerdadAbierta.com, Los hitos del conflicto. http://monitorias.com/gran_especial/cesar_magdalena/home.html (accessed October 2012); Observatorio del Programa Presidencial de DH y DIH ([n.d.]). Diagnóstico Departamental – Cesar. www.derechoshumanos.gov.co/Observatorio/DiagnosticoEstadisticoDepto/dd/2003-2008/cesar.pdf.
- 197 Balcerero; Tigre, Mar. 22, 2012, Letters Rogatory, p. 25.
- 198 Balcerero; Samario, Mar. 12, 2012, Letters Rogatory, p. 67.
- 199 Interview with Samario, Jun. 23, 2012.
- 200 Balcerero; Samario, Mar. 12, 2012, Letters Rogatory, pp. 65–66. Some grammatical alterations were made.
- 201 Id., p. 67.
- 202 Interview with Samario, Jun. 23, 2012.
- 203 Balcerero; Samario, Mar. 12, 2012, Letters Rogatory, p. 19.
- 204 Balcerero; Tigre, Mar. 22, 2012, Letters Rogatory, pp. 124–126.
- 205 Id., pp. 33–34. Some grammatical alterations were made.
- 206 Balcerero; Samario, Mar. 12, 2012, Letters Rogatory, pp. 60–61. Some grammatical alterations were made.
- 207 Balcerero; Peinado, Mar. 1, 2012, written statement, p. 3. The meeting is said to have taken place in the year 2000 in La Loma, with Colonel Lineros (manager of Drummond's security department), Charris Castro (employee of a Drummond contractor), and El Tigre of the JAA Front.
- 208 Id. Colonel Lineros referred to the area of Bosconia, El Paso (La Loma), La Jagua de Ibérico, Agustín Codazzi, Becerril, and the Trocha de Verdecia (La Paz municipality).
- 209 Balcerero; Bam Bam, Feb. 27, 2011, written statement, p. 3.
- 210 Id., p. 5.
- 211 Id., p. 2.
- 212 Id., p. 5.
- 213 Balcerero; Charris, May 16, 2012, Letters Rogatory (vol. 1.), pp. 14–15.
- 214 Id., pp. 18–20.
- 215 Id., p. 49.
- 216 Balcerero; Peinado, Mar. 1, 2012, written statement, p. 2.
- 217 Balcerero; Yuca, Jun. 27, 2012, written statement, p. 1.
- 218 Id., p. 2.
- 219 Balcerero; Samario, Mar. 12, 2012, Letters Rogatory, p. 71.
- 220 Balcerero; Charris, May 16, 2012, Letters Rogatory (vol. 1), pp. 50–52.
- 221 Id., p. 50.
- 222 Balcerero; Peinado, Mar. 1, 2012, written statement, p. 3.
- 223 Balcerero; Charris, May 16, 2012, Letters Rogatory (vol. 1), p. 55.

- 224 *Id.*, pp. 56–57.
- 225 *Id.*, pp. 57–58. The other five names on the list were: Raul Sosa, Yuri Pareja Rodríguez, Gustavo Soler Mora, Victor Guerra Uztariz, and Alejandro Vergara.
- 226 *Id.*, pp. 95–96.
- 227 *Id.*, pp. 93–94. Charris said in his testimony that James Adkins supplied the following names: Augusto Jimenez, Alfredo Araújo Castro, General Rafael Peña Rios, Colonel Luis Carlos Rodríguez, Colonel Jorge Garzon, Mike Tracey, Pedro Maya, and Ricardo Urbina. This was corroborated by Peinado, Mar. 1, 2012, written statement, p. 3.
- 228 *Id.*, p. 4.
- 229 *Id.*, p. 3.
- 230 Balceró; Charris, May 16, 2012, Letters Rogatory (vol. 1), pp. 62–63.
- 231 Balceró; Peinado, Mar. 1, 2012, written statement, p. 4.
- 232 *Id.*
- 233 Juzgado Once Penal de Circuito Especializado OIT de Bogotá, “Sentencia condenatoria contra Wilson Poveda Carreño” (Case file 110013107010-2013-00020; 22 Mar. 2013). www.fiscalia.gov.co/colombia/wp-content/uploads/110013107010-2013-00020-Wilson-Poveda-Carre%C3%B1o.pdf.
- 234 Interview with Francisco Ramírez Cuellar, Bogotá, Sep. 2013.
- 235 See court ruling of the Colombian Constitutional Court, ruling T-1254/08, <http://www.corteconstitucional.gov.co/relatoria/2008/T-1254-08.htm> (accessed 27 April 2014).
- 236 Sintrainal.org (2014). Sintrainal lamenta la muerte de Raúl Esteban Sosa Avellaneda, <http://www.sintrainal.org/index.php/noticias/nacionales/2512-sintrainal-lamenta-la-muerte-de-raul-esteban-sosa-avellaneda> (27 April 2014).
- 237 Judge Teresa Robles Munar stated in her court ruling: “Since the criminal activity of Blanco was repeatedly mentioned throughout the proceedings, it is officially requested that the Prosecutor’s Office investigate the relevant acts, if at this moment the corresponding investigations are not under investigation. Furthermore, the possible criminal participation of Colonel Luís Carlos Rodríguez and Drummond officials Jean Jakim [sic], Garry Drummond, Augusto [sic] Jimenez and Alfredo Araújo, specifically mentioned in the testimony by Mr Jairo de Jesús Charris”; Juzgado Once Penal de Circuito Especializado OIT de Bogotá “Sentencia Condenatoria contra Jairo de Jesús Charris Castro” (Case file 1100131070011-2009-00029; 4 Aug. 2009).
- 238 Like Judge Teresa Robles Munar before, Judge William Andrés Castiblanco requested the Attorney-General’s Office to investigate the possible involvement in the assassination of the trade union leaders of Garry Drummond, James Adkins, Luis Carlos Rodríguez, and Augusto Jiménez; Juzgado Once Penal de Circuito Especializado OIT de Bogotá, “Sentencia Condenatoria contra Jaime Blanco Maya” (Case file 110013107011-2011-00026-00; 25 Jan. 2013). www.fiscalia.gov.co/colombia/wp-content/uploads/110013107011-2011-0026-Jaime-Blanco-Maya.pdf; see also: ElTiempo.com (2013). Ejemplar condena por crimen de dos sindicalistas del Cesar. www.eltiempo.com/justicia/ARTICULO-WEB-NEW_NOTA_INTERIOR-12580363.html (5 February 2013).
- 239 See the website of International Rights Advocates, www.iradvocates.org/case/latin-america-colombia/baloco-et-al-v-drummond-company-inc#sthash.2IMfYsqQ.dpuf.
- 240 INCORA acquired the land from the original owner on August 3, 1994, for COP 716 million (USD 785,000); VerdadAbierta.com (2010). Carbón y sangre en las tierras de ‘Jorge 40.’ www.verdadabierta.com/justicia-y-paz/versiones/2816-carbon-y-sangre-en-las-tierras-de-jorge-40 (26 October 2010).
- 241 Registro Único de Población Desplazada (RUPD) (2009). Declaración de desplazamiento del señor Aquiles de Jesús Alfaro Castillo (10 March 2009). Bosconia, Acción Social, Subdirección de Atención a la Población Desplazada por la Violencia, in: Ramakers, R.A. (2012). Justice or dignity? Research into the transitional justice process of the forcibly displaced people of Mechoacán (unpublished M.A. thesis in Conflict Studies & Human Rights). Utrecht, Utrecht University.
- 242 Interview with Pompilio Hernán Rodríguez Bolaños, Valledupar, Sep. 10, 2012.
- 243 Cattle rustling is a familiar tactic to bring about displacement. How this happened (in El Prado) was explained by alias El Mecánico in his free version (Justice and Peace). Free version of hearing of El Mecánico before the Justice and Peace Unit of the Attorney-General’s Office, Feb. 6, 2013 (on file with PAX).
- 244 Registro Único de Población Desplazada (RUPD) (2009). Declaración de desplazamiento del señor Aquiles de Jesús Alfaro Castillo (10 March 2009). Bosconia, Acción Social, Subdirección de Atención a la Población Desplazada por la Violencia, in: Ramakers, R.A. (2012). Justice or dignity? Research into the transitional justice process of the forcibly displaced people of Mechoacán (unpublished M.A. thesis in Conflict Studies & Human Rights). Utrecht, Utrecht University.
- 245 Registration took place in the Registro Único de Población Desplazada (RUPD) of Acción Social, which was established pursuant to Law 387 of 1997 (and Decree 2569 of 2000); VerdadAbierta.com (2010). Carbón y sangre en las tierras de ‘Jorge 40.’ www.verdadabierta.com/justicia-y-paz/versiones/2816-carbon-y-sangre-en-las-tierras-de-jorge-40 (26 October 2010).
- 246 *Id.* The name of the victim was Luis Trespalcio Herrera. The following paramilitaries were said to have been present at the murder: alias Peluca, alias 120, and alias 80. According to Tolemaida (free version), alias James was the commander of the paramilitaries in La Jagua around this time, but he was not present at the murder. Free version hearing of Oscar José Ospino Pacheco (alias Tolemaida) before the Justice and Peace Unit of the Attorney-General’s Office, Feb. 5–6, 2013 (on file with PAX).

- 247 Ramakers, R.A. (2012). Versiones y consideraciones sobre Mechoacán (unpublished work). Utrecht, Utrecht University; Ramakers, R.A. (2012). Justice or dignity? Research into the transitional justice process of the forcibly displaced people of Mechoacán (unpublished M.A. thesis in Conflict Studies & Human Rights). Utrecht, Utrecht University.
- 248 In accordance with the agrarian reform programme, land that had been issued under the programme could not be sold in the first 12 years after issue (Law 160 of 1994, Article 25). The land in Mechoacán was accordingly eligible for sale in August 2006 at the earliest.
- 249 This was the average size of a plot received by a land reform beneficiary from INCORA.
- 250 The displaced families who sold their land between 1999 and 2004 each received between COP 3 and 12 million (USD 1,350–5,400) for their on average 35-ha plot; Ramakers, R. A. (2012). Versiones y consideraciones sobre Mechoacán (unpublished work). Utrecht, Utrecht University. In 1994, INCORA paid an average of COP 5.4 million for a plot, but the market prices for land had risen substantially in the intervening five to nine years.
- 251 Interview with Pompilio Hernán Rodríguez Bolaños, Valledupar, Sep. 10, 2012.
- 252 One of these officials was Laureano Enrique Rincón Ortiz, who became mayor of La Jagua de Ibérico in the 2006–2007 period. One of the businesspeople who bought land was Jorge Alberto López Jiménez, a rancher and store owner from the region; VerdadAbierta.com (2010). Carbón y sangre en las tierras de 'Jorge 40.' www.verdadabierta.com/justicia-y-paz/versiones/2816-carbon-y-sangre-en-las-tierras-de-jorge-40 (26 October 2010).
- 253 See Law 160 of 1994, Article 24. Two of these former mayors would later be convicted of large-scale corruption with public funds; VerdadAbierta.com (2010). Carbón y sangre en las tierras de 'Jorge 40.' www.verdadabierta.com/justicia-y-paz/versiones/2816-carbon-y-sangre-en-las-tierras-de-jorge-40 (26 October 2010).
- 254 Ramakers, R.A. (2012). Versiones y consideraciones sobre Mechoacán (unpublished work). Utrecht, Utrecht University; Ramakers, R.A. (2012). Justice or dignity? Research into the transitional justice process of the forcibly displaced people of Mechoacán (unpublished M.A. thesis in Conflict Studies & Human Rights). Utrecht, Utrecht University.
- 255 INCORA was disbanded in 2004 and replaced by the Institute for Rural Development (Instituto Colombiano de Desarrollo Rural, INCODER), which took over many of the duties (and archives) of the agrarian reform institute.
- 256 There were two different procedures. The land of some displaced persons, sometimes also of those officially registered as such, was declared 'abandoned' by the institute. The land was then formally granted to the new landowners. Land sales by other displaced families, who had sold their plots privately under duress, were legalized retroactively using false papers; Fiscalía 24 Seccional de Chiriguáná (Sarely Morales Caceres) (2012). 'Restablecimiento y protección de los derechos de las víctimas' [Manuel Armenta Nieto, Josefina Silgado Budiño, Rafael Ortega Romero y otros] (27 January 2012). Chiriguáná, Fiscalía 24 Seccional de Chiriguáná.
- 257 Fiscalía Quinta Especializada (Rafael Eduardo Martínez Mendoza) (2011). 'La situación jurídica de los sindicatos Emil Huertas Cabezas, Tiberio Antonio Royero y Oscar José Ospino Pacheco [...] consideraciones jurídicas, fácticas y probatorias' (File No. 195472; 29 September 2011). Valledupar, Fiscalía Quinta Especializada, Dirección Seccional de Fiscalías de Valledupar.
- 258 These actions go directly against the mandate of the Institute for Rural Development, which should have offered special protection to persons and families officially registered as forcibly displaced.
- 259 The previously mentioned Jorge López took the initiative on behalf of the Mechoacán landowners in the negotiations with the mining company and succeeded in gaining the support of the other Mechoacán landowners; Drummond Ltd. (Aura María Mesa Ojeda) (2009). Carta con Acta de Negociación, dirigida a la Dirección Seccional del Cuerpo Técnico de Investigación de Valledupar (15 January 2009). Valledupar, Drummond Ltd.
- 260 Garcés Mosquera, S. (2011). Resumen ejecutivo predio 'Mechoacán' del Departamento del Cesar (24 March 2011). Bogotá, INCODER (Control Interno Disciplinario): 16.
- 261 These were small coffee growers who were housed there and came from the border area with Venezuela. INCORA bought the land for COP 910 million (USD 635,000); VerdadAbierta.com (2010). Carbón y sangre en las tierras de 'Jorge 40.' www.verdadabierta.com/justicia-y-paz/versiones/2816-carbon-y-sangre-en-las-tierras-de-jorge-40 (26 October 2010).
- 262 The victims were Jorge Eliécer Flórez and his three sons, Bladimir, Gustavo, and Elyesil (the youngest was only 16), and a family friend, Edilberto Góngora.
- 263 VerdadAbierta.com (2010). Carbón y sangre en las tierras de 'Jorge 40.' www.verdadabierta.com/justicia-y-paz/versiones/2816-carbon-y-sangre-en-las-tierras-de-jorge-40 (26 October 2010).
- 264 Interview with Smith Ludys Pedraza Amizzar, Valledupar, Sep. 11, 2012.
- 265 The victims were Orlando Arias, Edward Bernal, José Sarabia, Crisanto Quintero, Santiago Francisco Lindarte, Huber Meza, and a man called Jimmy. There were therefore 12 murders in total in El Prado; VerdadAbierta.com (2010). Carbón y sangre en las tierras de 'Jorge 40.' www.verdadabierta.com/justicia-y-paz/versiones/2816-carbon-y-sangre-en-las-tierras-de-jorge-40 (26 October 2010).
- 266 The El Prado land came into the hands of family members of various paramilitary commanders; see also: Fiscalía Segunda Especializada ([n.d.]). La lista de Tolemaida. Caso contrareforma agraria 'El Prado' (File No. 196457; PowerPoint presentation; no date). Valledupar, Cuerpo Técnico de Investigación.
- 267 Juez Único Penal del Circuito Especializado de Valledupar (Nestor Segundo Primera Ramírez) (2011). "Se dicta sentencia en el proceso adelantado

contra Luis Fernando Andrade Ospina alias El Llanero en calidad de coautor de los delitos de Concierto para Delinquir Agravado, Desaparición Forzada y Desplazamiento Forzado; y Wilber Sierra Ospina alias Wicho como cómplice de los dos primeros delitos señalados" (File No. 00082-2010; 9 November 2011). Valledupar, Juzgado Único Penal del Circuito Especializado de Valledupar.

268 INCODER (Rodolfo Campo Soto) and C.I. Prodeco S.A. (Tomás Antonio López Vera) (2009). Contrato de promesa de permuta celebrado entre el Instituto Colombiano de Desarrollo Rural – INCODER – y la Sociedad C.I. Prodeco S.A. (27 January 2009), www.contratos.gov.co/archivospuc1/2009/C/117001001/09-12-226158/C_PROCESO_09-12-226158_117001001_1197186.pdf.

269 Juez Único Penal del Circuito Especializado de Valledupar (Nestor Segundo Primera Ramírez) (2011). "Se dicta sentencia en el proceso adelantado contra Luis Fernando Andrade Ospina alias El Llanero en calidad de coautor de los delitos de Concierto para Delinquir Agravado, Desaparición Forzada y Desplazamiento Forzado; y Wilber Sierra Ospina alias Wicho como cómplice de los dos primeros delitos señalados" (File No. 00082-2010; 9 November 2011). Valledupar, Juzgado Único Penal del Circuito Especializado de Valledupar.

270 This involved USD 1.74 million (COP 4.35 billion); ElTiempo.com (2010). Zarpazo del Incoder a lote de desplazados lleno de carbón. www.eltiempo.com/archivo/documento/CMS-7799406 (10 July 2010).

271 Some publications refer to a total of 18 murders. VerdadAbierta.com (2010). Carbón y sangre en las tierras de 'Jorge 40.' www.verdadabierta.com/justicia-y-paz/versiones/2816-carbon-y-sangre-en-las-tierras-de-jorge-40 (26 October 2010).

272 Ex-paramilitaries from the JAA Front, in particular Tolemaida, El Samario, and El Mecánico, deny that people in Mechoacán were displaced, because they received no explicit orders to this effect. Free version hearing of El Mecánico before the Justice and Peace Unit of the Attorney-General's Office, Feb. 6, 2013 (on file with PAX).

273 El Samario in VerdadAbierta.com (2010). Carbón y sangre en las tierras de 'Jorge 40.' www.verdadabierta.com/justicia-y-paz/versiones/2816-carbon-y-sangre-en-las-tierras-de-jorge-40 (26 October 2010).

274 El Mecánico before the Justice and Peace Unit of the Attorney-General's Office, Dec. 11, 2009 (video on file with PAX).

275 Pursuant to Law 387 of 1997 (Art. 19), INCODER is obliged to put measures in place to prevent the sale of the lands of displaced families against their will.

276 Drummond Ltd. (Aura María Mesa Ojeda) (2009). Carta con Acta de Negociación, dirigida a la Dirección Seccional del Cuerpo Técnico de Investigación de Valledupar (15 January 2009). Valledupar, Drummond Ltd.

277 Interview with Rafael Noriega of the Technical Investigation Unit of the Attorney-General's Office, Valledupar, May 2, 2012.

278 In the case of Mechoacán, the displaced families' indignation was in large part due to the fact that the price Drummond paid for the land to the 'intermediary owners' (COP 365 million) was between 40 and 100 times higher than the amount they received when they sold their land under paramilitary threat to these very same families several years earlier; Garcés Mosquera, S. (2011). Resumen ejecutivo predio 'Mechoacán' del Departamento del Cesar (24 March 2011). Bogotá, INCODER (Control Interno Disciplinario): 16.

279 The 48 El Prado families jointly engaged a lawyer in October 2008. The displaced people of Mechoacán had more trouble in joining forces: of the 33 families, 22 families were represented by four different lawyers, and a group of 11 families in Bosconia represented themselves.

280 This person was convicted by the Valledupar High Court on 22 June 2011 for collaborating with the paramilitaries, extortion, and involvement in forced displacement; Tribunal Superior de Valledupar, "Sentencia condenatoria contra Carlos Eduardo Reyes Jiménez" [concierto para delinquir y otros] (Case file 2008-006178; 22 Jun. 2011). Although Jorge Alberto López was also arrested in December 2010 on suspicion of involvement in driving out the Mechoacán families, this case was dropped in March 2012; ElPilon.com (2010). Por el caso de Mechoacán, CTI capturó a tres personas. www.elpilon.com.co/inicio/por-el-caso-de-mechoacan-cti-capturo-a-tres-personas (30 December 2010); Fiscalía Primero Tribunal Superior (Carlos Eduardo Cuenca Portela) (2012). "La defensa técnica de los tres acusados, a través del recurso de apelación, subsidiario del de reposición" [Jorge Alberto López y otros] "y en su lugar se profiera preclusión de la investigación" (21 March 2012). Fiscalía Primera Delegada ante el Tribunal Superior de Valledupar.

281 Fiscalía 24 Seccional de Chiriguáná (Juan Carlos Daza Guerra) (2011). Constancia secretarial Unidad de Fiscalía 24 delegada ante el Juzgado Penal del Circuito de Chiriguáná, Cesar; dirigida a Nancy López Vergara, actuando por poder conferido por Drummond Ltd. (File No. 168484; 6 January 2011). Chiriguáná, Fiscalía 24 Seccional de Chiriguáná; see also: Garcés Mosquera, S. (2011). Resumen ejecutivo predio 'Mechoacán' del Departamento del Cesar (24 March 2011). Bogotá, INCODER (Control Interno Disciplinario).

282 Fiscalía 24 Seccional de Chiriguáná (Juan Carlos Daza Guerra) (2011). Constancia secretarial Unidad de Fiscalía 24 delegada ante el Juzgado Penal del Circuito de Chiriguáná, Cesar; dirigida a Nancy López Vergara, actuando por poder conferido por Drummond Ltd. (File No. 168484; 6 January 2011). Chiriguáná, Fiscalía 24 Seccional de Chiriguáná.

283 Fiscalía 24 Seccional de Chiriguáná (Sarely Morales Caceres) (2012). "Restablecimiento y protección de los derechos de las víctimas" [Manuel Armenta Nieto, Josefina Silgado Budiño, Rafael Ortega Romero y otros] (27 January 2012). Chiriguáná, Fiscalía 24 Seccional de Chiriguáná.

284 Drummond started civil proceedings against some of the displaced families pursuant to 'acquisitive prescription' (usucapio); the families were said to have sold their rights over the disputed land to the company 15 years previously. In this, the company is openly defying the decision of the Attorney-General's Office.

- 285 Pedraza Amizzar, S. L., Farid Acuña, H., et al. (2012). Carta dirigida a la Fiscalía 24 Seccional de Chiriguáná, "Re: [...] una demanda presentada por la Multinacional Drummond Ltd. donde reclama los derechos de propiedad sobre la parcelación Mechoacán, por prescripción adquisitiva del derecho de dominio" (File No. 167393; 21 August 2012). Valledupar.
- 286 ElTiempo.com (2010). Zarpazo del Incoder a lote de desplazados lleno de carbón. www.eltiempo.com/archivo/documento/CMS-7799406 (10 July 2010); Pedraza Amizzar, S. L. (2012). Carta dirigida al Magistrado del Tribunal Superior de Distrito Judicial del Cesar, Sala Penal (Franklin Martínez Solano) "Ref.: Acción de tutela [...] contra el Juzgado Penal del Circuito Especializado de Valledupar – Cesar" (8 March 2012). Valledupar.
- 287 This happened after El Samario testified under oath in the Justice and Peace programme in November 2009 that he had been involved in the forced displacement of the original owners of the land. VerdadAbierta.com (2010). Carbón y sangre en las tierras de 'Jorge 40.' www.verdadabierta.com/justicia-y-paz/versiones/2816-carbon-y-sangre-en-las-tierras-de-jorge-40 (26 October 2010).
- 288 With the restitution, pursuant to the court judgement, INCODER was also to grant the displaced El Prado families ownership of the land; see: Juez Único Penal del Circuito Especializado de Valledupar (Nestor Segundo Primera Ramírez) (2011). "Se dicta sentencia en el proceso adelantado contra Luís Fernando Andrade Ospina alias El Lanero en calidad de coautor de los delitos de Concierto para Delinquir Agravado, Desaparición Forzada y Desplazamiento Forzado; y Wilber Sierra Ospina alias Wicho como cómplice de los dos primeros delitos señalados" (File No. 00082-2010; 9 November 2011). Valledupar, Juzgado Único Penal del Circuito Especializado de Valledupar.
- 289 ElPilon.com (2011). Fallo ordenó al Incoder restituir tierras a parceleros de El Prado. www.elpilon.com.co/inicio/fallo-ordeno-al-incoder-restituir-tierras-a-parceleros-de-el-prado (22 December 2011). According to its own account, INCODER was given no opportunity to put up a defence. The institute disputes the value of the restitution amount for the displaced families, because the victims formally never had property rights to the land. INCODER (Juan Manuel Ospina Restrepo) (2012). "Acción de tutela del Instituto Colombiano de Desarrollo Rural, INCODER, contra el Juzgado Penal del Circuito Especializado de Valledupar" (28 February 2012). Bogotá, INCODER.
- 290 Corte Suprema de Justicia (Magistrado Ponente: José Luis Barceló Camacho) (2012). "Se pronuncia la Sala sobre la impugnación formulada por el Gerente General del Instituto Colombiano de Desarrollo Rural – INCODER – contra la decisión proferida el 28 de mayo de 2012, por la Sala Penal del Tribunal Superior de Valledupar" (File No. T-59924; 19 July 2012). Bogotá, Corte Suprema de Justicia, Sala de Casación Penal, Sala de Decisión de Tutelas No. 1.
- 291 Exposition by Gary Nagle during interview with Ivan Glasenberg of Glencore and team, Baar, Apr. 3, 2013; see also: BBC.co.uk (2012). Glencore response to BBC Panorama broadcast. www.bbc.co.uk/news/17702487 (16 April 2012). INCODER has recently been ordered by the court (Juzgado Primero Administrativo de Descongestión) to pay a fine to the families who are to be rehoused; ElHeraldo.com (2013). Millonaria condena a Incoder en Cesar. www.elheraldo.co/region/cesar/millonaria-condena-a-incoder-en-cesar-105235 (31 March 2013).
- 292 Interview with Smith Ludys Pedraza Amizzar and Rafael Noriega, Valledupar, May 31, 2013; Interview with Francisco Ramírez Cuellar, Valledupar, May 31, 2013.
- 293 ElPilon.com (2012). Líderes de restitución de tierras en el Cesar siguen denunciando amenazas. www.elpilon.com.co/inicio/lideres-de-restitucion-de-tierras-en-el-cesar-siguen-denunciando-amenazas (2 May 2012); ElPilon.com (2012). Once líderes de restitución de tierras en Cesar están amenazados. www.elpilon.com.co/inicio/once-lideres-de-restitucion-de-tierras-en-cesar-estan-amenazados (9 July 2012); Interview with Smith Ludys Pedraza Amizzar, Valledupar, Sep. 11, 2012.
- 294 ElPilon.com (2012). Once líderes de restitución de tierras en Cesar están amenazados. www.elpilon.com.co/inicio/once-lideres-de-restitucion-de-tierras-en-cesar-estan-amenazados (9 July 2012); ElPilon.com (2012). Líderes de restitución de tierras en el Cesar siguen denunciando amenazas. www.elpilon.com.co/inicio/lideres-de-restitucion-de-tierras-en-el-cesar-siguen-denunciando-amenazas (2 May 2012).
- 295 Los Urabeños [pamphlet], "para este par de ifueputas los cuales son lideres reclamantes de tierras de La Jagua y Becerril Ludis Esmith Pedraza y Fredy Culma [...] que se quieren robar las tierras de personas honorables y honradas que la poseen en estos momentos" (15 February 2013). For reasons that remain unclear, the Government Protection Unit reduced Pedraza's protection programme in October 2013, despite continued threats against her; ElEspectador.com (2013). Santiago Villa: Suspendo esta columna. www.elespectador.com/opinion/suspendo-esta-columna-columna-452308 (14 October 2013).
- 296 The activities of this new clandestine armed group are severely hampering implementation of the Law on Victims and Land Restitution (Victims Law) in Cesar. Interviews with Juan Carlos Gamboa Martínez, Valledupar, May 3, 2012, and Sep. 28, 2013.
- 297 In 2013, at least three pamphlets were widely distributed by these illegal armed groups, in which they identify social organizations and other supporters of land restitution, including the lawyers of displaced families, as 'military targets'; Los Rastrojos [pamphlet], "declaramos enemigos permanentes y objetivo militar permanente a lideres sindicuerrilleros" [Edgar Muñoz Araújo, Juan Aguas Romero, Cesar Florez Rodriguez y otros] (Public Communiqué No. 14; 4 August 2013); Los Rastrojos [pamphlet], "declarar objetivo militar permanente y enemigos a organizaciones" [Mesa Departamental de Población Desplazada, Hernan, Alberto, Nicolas y otros] (Public Communiqué No. 2; 3 April 2013); Los Urabeños [pamphlet], "para este par de ifueputas los cuales son lideres reclamantes de tierras de La Jagua y Becerril Ludis Esmith Pedraza y Fredy Culma [...] que se quieren robar las tierras de personas honorables y honradas que la poseen en estos momentos" (15 February 2013). In May 2013, a group of journalists who had reported on the land restitution process in Cesar were threatened in a similar pamphlet; Grupo Anti-Restitución [pamphlet], "los siguientes periodistas (sapos), son declarados objetivos militar y tienen 24 horas para salir de la ciudad" (5 May 2013).
- 298 World Coal Association, Coal statistics. www.worldcoal.org/resources/coal-statistics (accessed August 2013).

- 299 Sistema de Información Minero Colombiano, www.simco.gov.co (information on 2011).
- 300 Before 2009, the United States was the most important destination for Colombian coal; Energy Information Administration (2009). *International Energy Outlook* (DOE/EIA-0484). Washington, U.S. Department of Energy.
- 301 Sistema de Información Minero Colombiano, www.simco.gov.co (information on 2013).
- 302 Simco recorded an export volume of 19.1 million tonnes of Colombian coal to the Netherlands in 2011, an all-time high, which broadly corresponded with the combined import volume at Dutch ports in that year. The total recorded imports in Rotterdam and Amsterdam, where most coal enters the country, were 40.4 million tonnes in that year, of which 17 million tonnes (42%) came from Colombia. More coal arrived in the sea ports of Vlissingen (Flushing) and Eemshaven, which may partly account for the difference between the Colombian export and the Dutch import figures; Wilde-Ramsing, J., Steinweg, T., et al. (2013). *The Black Box: obscurity and transparency in the Dutch coal supply chain*. Amsterdam, Stichting Onderzoek Multinationale Ondernemingen (SOMO).
- 303 Id. In 2011, for example, of the total coal imported through Rotterdam and Amsterdam, some 28 million tonnes (69%) continued on to Germany (by waterway and rail); According to Energie Nederland, in 2010, a total of 50 million tonnes of coal entered the country through Dutch sea ports. No known data are available for that year about the proportion of coal imports in Flushing and Eemshaven that originated in Colombia.
- 304 Dutch Coal Dialogue (2013). *Final Report* (July 2013). www.paxvoorvrede.nl/media/files/dutch-coal-dialogue-final-rapport-2013.pdf; 4; see also: www.statline.cbs.nl/StatWeb (Steenkoolbalans; aanbod en verbruik).
- 305 In total, 33.65 million tonnes of imported coal were used for electricity generation in Germany in 2011; Ganswindt, K., Rötters, S., et al. (2013). *Bitter Coal: ein Dossier über Deutschlands Steinkohleimporte*. Sassenberg, Urgewald/FIAN Deutschland: 5.
- 306 Drummond Ltd. Colombia (2011). *Our people build our history*. Sustainability Report 2011. Bogotá, Drummond Ltd. Colombia: 20–21.
- 307 DECC (2014). *Coal statistics. Energy trends section 2: Solid fuels and derived gases*. Department of Energy & Climate Change, www.gov.uk/government/publications/solid-fuels-and-derived-gases-section-2-energy-trends (29 May 2014).
- 308 The volume of French Colombian coal imports was approximately 3.2 million tonnes; Commissariat Général au Développement Durable (2013). *Références – Bilan énergétique de la France pour 2012* (July 2013). www.statistiques.developpement-durable.gouv.fr/fileadmin/documents/Produits_editoriaux/Publications/References/2013/ref-bilan-energetique-de-la-france2012-ed2013v3.pdf.
- 309 CNR is owned by the American investment group Goldman Sachs. The names of the concessions involved are La Francia, El Hatillo, and Cerro Largo.
- 310 The first to be convicted, in 2011, was an ISA employee, Jairo de Jesús Charris Castro, and the second, in February 2013, was the director of ISA, Blanco Maya.
- 311 Ganswindt, K., Rötters, S., et al. (2013). *Bitter Coal: ein Dossier über Deutschlands Steinkohleimporte* Sassenberg, Urgewald/FIAN Deutschland.
- 312 Id.
- 313 ZDFzoom (2013). *Böse Mine - gutes Geld*. <http://zdf.de/ZDFmediathek/beitrag/video/2029788/ZDFzoom-Boese-Mine---gutes-Geld> (20 November 2013).
- 314 Küchenmeister, T. and L. Schmücker (2012). *Dirty Profits: report on companies and financial institutions benefiting from violations of human rights* (November 2012). Berlin, Facing Finance.
- 315 DONGenergy.com. *This is what business ethics means to us*. www.dongenergy.com/EN/responsibilityreport/2007/Pages/index4085.html?area=26 (accessed February 2014).
- 316 Netwerk (2010). *Energiebedrijven medeplichtig aan moord*. <http://tvblik.nl/netwerk/29-juni-2010> (29 June 2010); Netwerk (2010). *Energiebedrijven medeplichtig aan moord* (2). <http://tvblik.nl/netwerk/1-juli-2010> (1 July 2010).
- 317 Energieraad (2010). *Netwerk: Energiebedrijven medeplichtig aan moord*. www.energieraad.nl/newsitem.asp?pageid=23723 (29 June 2010).
- 318 The Dutch Coal Coalition (or Dutch Coal Dialogue) participants were: Energie-Nederland, E.ON, EPZ, Essent, GDF Suez, Nuon, the mining companies BHP Billiton, Anglo American, Xstrata Coal, the NGOs Cordaid, PAX, Action Aid, Both Ends (phase 1), Fauna & Flora International (phase 2) and the Dutch trade unions FNV and CNV. The Ministry of Economic Affairs took part as an observer.
- 319 For instance, a mine that had initially committed itself later gave preference to a review by Bettercoal, which was established by the European energy companies. Trade unions and NGOs have no influence in Bettercoal. The mining company, Cerrejon, was willing to accept an audit based on the Dutch Coal Coalition audit protocol, but not if it was the only mine. No second mine was found willing within the set period, and accordingly the audit did not go ahead.
- 320 PAX (2013). *IKV Pax Christi: Steenkooldialoog is mislukt*. www.paxvoorvrede.nl/actueel/nieuwsberichten/ikv-pax-christi--steenkooldialoog-is-mislukt (23 July 2013).
- 321 OHCHR (2011). *Guiding principles on business and human rights: implementing the United Nations 'Protect, Respect and Remedy' Framework*. New York and Geneva, Office of the United Nations High Commissioner for Human Rights (OHCHR): 20.
- 322 Id.
- 323 Dutch Coal Dialogue (2013). *Final Report* (July 2013). www.paxvoorvrede.nl/media/files/dutch-coal-dialogue-final-rapport-2013.pdf.
- 324 DNV KEMA Energy & Sustainability (2012). *Herkomst kolen Nederlandse elektriciteitscentrales*. www.essent.nl/content/Images/99430_12-7436%20Notitie%20Herkomst%20Kolen%20Nederlandse%20Elektriciteitscentrales.pdf.

- 325 NUON (2013). Improving transparency in the coal supply chain (4 November 2013). www.nuon.com/Global/Nederlands/Corporate_governance/transparency%20_document_nuon_2013.pdf.
- 326 The report refers to 'Wettbewerbsrechtliche Gründe'. Ganswindt, K., Rötters, S., et al. (2013). Bitter Coal: ein Dossier über Deutschlands Steinkohleimporte Sassenberg, Urgewald/FIAN Deutschland.
- 327 Dutch Coal Dialogue (2013). Final Report (July 2013). www.paxvoorvrede.nl/media/files/dutch-coal-dialogue-final-rapport-2013.pdf: 8–9.
- 328 Bettercoal has recently expanded with two new members, Fortum and Gas Natural Fenosa, and one associated member, Port of Rotterdam <http://bettercoal.org/about-us.aspx>.
- 329 EurActiv.com (2014). EU readies voluntary conflict minerals scheme. www.euractiv.com/development-policy/eu-readies-voluntary-conflict-mi-news-533314 (6 February 2014).
- 330 Baker Botts, L.L.P. (William H. Jeffress Jr.) (2014) Letter to the President of Drummond (José Miguel Linares Martínez) "Re: Status of legal proceedings" (6 August 2013). www.drummondco.com/status-of-legal-proceedings.
- 331 Following the *Kiobel v. Royal Dutch Petroleum Co.* decision by the US Supreme Court, on 17 April, 2013, in which the court found that the Alien Tort Claims Act presumptively does not apply extraterritorially
- 332 Balcerio; Summary Judgment, Jul. 25, 2013, p. 11.
- 333 *Id.*, p. 14.
- 334 See the website of International Rights Advocates, www.iradvocates.org/case/latin-america-colombia/baloco-et-al-v-drummond-company-inc#sthash.99NAPWvS.dpuf <http://cja.live2.radicaldesigns.org/downloads/Drummond%20Appellant%20Opening%20Brief%20as%20filed.pdf>.
- 335 Drummond Ltd. (Bruce C. Webster) (2014) "In regard to your report" (undated letter to PAX).
- 336 Starnes Davies Florie, L.L.P. (H. Thomas Wells, III) (2014) Letter to PAX, "Re: Report regarding coal mining in Cesar" (2 April 2014).
- 337 Interview with CEO Ivan Glasenberg of Glencore and team, Baar, 3 Apr., 2013.
- 338 Telephone conversation with Peter Coates during interview with CEO Ivan Glasenberg of Glencore and team, Baar, 3 Apr., 2013.
- 339 Interview with Manuel Gutiérrez and Luis Hernando Ochoa, Bogotá, 28 May, 2013.
- 340 *Id.*
- 341 Interview with CEO Ivan Glasenberg of Glencore and team, Baar, 3 Apr., 2013.
- 342 In 1994, from Puerto Zufiga port Prodeco exported 1.8 million tonnes of coal, in 1995 it exported 1.4 million tonnes, and in 1996 2.7 million tonnes. Drummond started coal extraction in La Loma only in 1995, when its own sea port (American Port Co.) was not yet operational. It is likely that the company's first production was shipped from Prodeco's port; Viloría de la Hoz, J. (1998). *La Economía del Carbón en el Caribe Colombiano*. Cartagena, Banco de la República: 10, 28.
- 343 See, for example, also: [n.a.] (2013). Safeguards and security for program and project management (DOE G 413.3-3A, Approved: 08-15-2013). Washington, DC, U.S. Department of Energy; Barrick Gold Corporation (2012). Security Management System. Toronto, Barrick Gold Corporation; www.templartitan.com/services/extractive-industry.html.
- 344 Interview with Canoso, Apr. 24, 2013.
- 345 Interview with Manuel Gutiérrez and Luis Hernando Ochoa, Bogotá, May 28, 2013.
- 346 Gutiérrez continued: "In the end it was Control Risk that handled the case and negotiated an agreement with the ELN about the release of Mark Bossard. That was a financial agreement." Interview with Manuel Gutiérrez and Luis Hernando Ochoa, Bogotá, May 28, 2013.
- 347 *Id.*
- 348 *Id.*
- 349 Glencore Xstrata (2014). Glencore Xstrata response to draft PAX report (24 March 2014). Baar; Glencore Xstrata (2014). PAX Report Rebuttal (undated letter to PAX).



Godebaldkwartier 74
3511 DZ Utrecht
The Netherlands

www.paxforpeace.nl
info@paxforpeace.nl
+31 (0)30 233 33 46

P.O. Box 19318
3501 DH Utrecht
The Netherlands

