This briefing paper gives an overview of the continuing mining controversies in Colombia and their links to European power companies. European power producers’ supply chains and the Italian energy company Enel’s imports from Colombia are in focus.

Building on The Black Box

Recent years have seen coal mining operations in Colombia marred by human rights violations and environmental scandals (see page 2). In 2012, SOMO published the research report *The Black Box* on the origin of the coal used to generate electricity in the Netherlands and the (lack of) transparency in European coal supply chains. The study found that Colombia is the single largest source of coal used in Dutch power plants, while Russia, the US, and South Africa play a smaller role in supplying Europe with coal. The most important exporters of Colombian coal are the mining companies Cerrejón (owned by a consortium of BHP Billiton, Anglo American and GlencoreXstrata), US-based Drummond and Prodeco (owned by Swiss-based GlencoreXstrata). SOMO’s research revealed a chronic and acute lack of transparency in the coal supply chain, effectively shielding coal-importing power companies from association with the adverse social and environmental conditions at the mines supplying them with fuel. *The Black Box* concluded with recommendations to both governments and power companies to significantly improve transparency in the coal supply chain as part of a larger demand for European power companies to act upon their responsibility to improve social and environmental conditions at coal mines.

Since the publication of *The Black Box*, there have been a number of developments on both the political and corporate fronts related to transparency and accountability for conditions in the coal supply chain. This briefing paper takes a closer look at these recent developments – with a specific focus on Colombian coal – and aims to inform current public and political debates on the issue and maintain pressure on European governments and power companies to ensure that social and environmental standards are being upheld throughout the coal supply chain. The case study of Italian utility Enel’s Colombian coal import is discussed because Enel was not featured in *The Black Box* but is a major European importer of Colombian coal and participant in Bettercoal (see page 3).
Controversies continue at Colombian coal mines

Recent mainstream media continue to place Colombia’s second and third-largest coal producing companies – American-based Drummond Ltd and Swiss-owned Prodeco SA – at the centre of significant environmental incidents and human rights abuses in Colombia.

Drummond

In January 2013, local media and the BBC reported that the crew of a barge owned by Drummond dumped approximately 2,000 tonnes of coal into the ocean in an unsuccessful attempt to keep the barge from sinking. Drummond failed to report the incident to Colombian authorities until 17 days after the event took place.2 Drummond claimed that the coal was dumped in order to save lives, but it provided no explanation as to why it took so long to report the event. Drummond was eventually fined US$ 3.5 million by Colombian environmental authorities for failing to report the incident within three days, in breach of Colombian environmental regulations.3 In a separate event, the BBC and Reuters reported in January 2014 that Colombian environmental authorities imposed an export ban on Drummond for failing to comply with environmental regulations for loading coal onto ships at its port in Santa Marta, Colombia.4 The export ban lasted three months and was lifted in April 2014.5

In a separate case, in July 2013, the Colombian Constitutional Court ordered Drummond to take measures to decrease the noise and air pollution at its Pribbenow mine near La Loma. The court decision came after the complaint a neighbouring community member filed for a) ‘unbearable’ noise from the operation of the company’s machinery, b) dust and particulate matter dispersed in air, produced by the extraction works, c) worsening health conditions of the neighbouring residents and d) the contamination of the water sources used for consumption and farming.6 In a statement on the company’s website, Drummond declares that it uses ‘state of the art equipment and technology to control emissions of particulate matter and [has] noise levels well below the limits set by Colombian law’.7

Drummond has also been at the centre of human rights controversies reported by the media in recent years. In 2009, a civil lawsuit was filed against Drummond in a United States court for ordering the torture and murder of several trade union leaders. As reported by Reuters and PR Newswire, a US-based law firm representing Colombian victims alleged that Drummond paid the right-wing paramilitary group United Self Defense Forces of Colombia (AUC) to act as ‘security’ for the company’s mining and railway operations. The complaint outlines allegations of ‘brutality, describing how hundreds of men, women and children were terrorized in their homes, on their way to and from work, and often murdered by AUC paramilitaries acting on behalf of Drummond’.8 In July 2013, a US district court judge dismissed the case against Drummond on jurisdictional grounds. Drummond has denied its involvement with paramilitary groups in Colombia, and insists that there is no evidence that ‘Drummond Ltd made decisions in the United States to conspire with and aid and abet the commission of war crimes in Colombia’.9 The case is now before the appellate court in the US.10

In a separate legal process, in February 2013 a Colombian judge sentenced Jaime Blanco, a former contractor of Drummond, to 38 years in prison for organising the murder of two trade unionists working at the company’s La Loma mine. According to an interview the Associated Press conducted with Blanco, ‘Drummond’s senior management ordered that the two union organizers be killed’.11 Drummond has denied any involvement in the killings.12

Yet another case relates to a March 2001 incident in which the president and vice president of the mineworkers union at the Drummond coal mine in Cesar Province were pulled off the Drummond company bus and executed by the paramilitary group AUC. In October of the same year, the union president’s successor was similarly taken from a public bus and executed by the AUC. In the years since the incidents, two legal proceedings have been initiated against Drummond, alleging that officials of the company had conspired with the AUC to murder the union leaders. In 2002, the widows of the union leaders brought a case that resulted in a ruling for the defence. In 2009, the union leaders’ children, who by then had obtained testimonies of several participants in the execution admitting their own participation in the murders and implicating Drummond officials in a conspiracy, brought a new case. The case has been twice dismissed by lower-level courts and subsequently appealed by the plaintiffs twice and is currently awaiting a decision by the appellate court.13

Prodeco

A 2012 investigation by the BBC reported that in 2002 at least 10 people were murdered by paramilitary forces at El Prado, a piece of land adjacent to Prodeco’s Calenturitas coal mine.14 After the murders and subsequent occupation of the land, the paramilitary forces ceded the land to a Colombian government agency, which planned to sell it to Prodeco for an expansion of its coal mining operations. According to the BBC, the Colombian court handling the case concluded that eventual coal extraction was the motive for the massacre. In a response to a draft of this briefing paper, Prodeco’s parent company GlencoreXstrata claimed that – in February 2007 – the Colombian government ‘ordered’ Prodeco to buy the El Prado territory and
relocate the families living there at the time. Prodeco did so, purchasing lands for the resettlement and (partially) compensating the 46 families living in El Prado at the time for improvements they had made to the territory. According to GlencoreXstrata, the Colombian government also promised additional compensation to the families as part of the relocation deal, but it has not fulfilled its promise. GlencoreXstrata denies it ever had any involvement with paramilitary groups, but does admit that the issue of compensation to the relocated families remains unresolved.

**Political developments in the Netherlands**

The Dutch Coal Dialogue – a multi-stakeholder initiative involving utilities, mining companies, trade unions, NGOs, and Dutch government representatives aimed at improving transparency in the coal supply chain and conditions on the ground at coal mines – broke down in July 2013 after failing to achieve commitment from the power companies to significantly improve transparency. Following the Dutch Coal Dialogue’s failure, Dutch Minister for Foreign Trade and Development Cooperation, Lilianne Ploumen, announced in December 2013 that she would be seeking an agreement with energy companies with coal-fired plants in the Netherlands on improving their commitment to coal supply chain responsibility through increasing transparency on the origin of their coal imports, introducing independent assessments of conditions at coal mines, and establishing a grievance mechanism for victims.

It is hoped that Ploumen will push for a significant increase in supply chain transparency and genuine, binding commitments to improve conditions among suppliers, similar to the multipartite agreement that was recently reached with over 160 garment retailers from around the world to take greater responsibility for conditions in the supply chain in the wake of the Rana Plaza disaster in Bangladesh one year ago.

However, in her December 2013 report to the Dutch Parliament on her initial discussions with the CEOs of major European power companies, Minister Ploumen appears to be open to settling for much less, in the form of an agreement based on the industry-led Bettercoal initiative, which promises neither significant increases in supply chain transparency nor binding commitments to improve conditions. Minister Ploumen has indicated that she hopes to sign the agreement with the power companies by July 2014, but the form and content of the agreement are far from decided and will be the source of significant political and public debate in the months to come.

**Industry-led ‘Bettercoal’ initiative: a step forward or backward for improving conditions at coal mines?**

In June 2011, several European electricity companies – many of which were participating in the multi-stakeholder Dutch Coal Dialogue, which was in progress at the time – announced their intention to establish a separate industry initiative called Bettercoal. Bettercoal has as its stated aim to improve corporate responsibility in the coal supply chain. Bettercoal currently has 11 regular members (coal buyers), all of which are major European utilities: Dong Energy, Drax Power, EDF, Enel, E.ON, Fortum, Gas Natural Fenosa, GDF Suez, RWE and Vattenfall. Bettercoal’s current members represent 56% of the total volume of thermal coal imported into Europe and approximately 40% of the total volume of thermal coal consumption in Europe. The Port of Rotterdam has also joined Bettercoal as an associate member. By ‘elevating’ the activity to a global level rather than working at a national level, Bettercoal hopes to create greater leverage and impact for coal buyers.

Bettercoal has developed a new coal mining “Code”, which all of its members commit to implement in their respective coal supply chain. The Code, which was developed through consultation with stakeholders in Europe and coal-producing countries (Colombia, Indonesia, Russia and South Africa), is applicable to the mining site-level of the coal supply chain and includes requirements on management systems, business ethics, disclosure, human and labour rights and social performance, health and safety measures and environmental performance. Bettercoal also developed an assessment toolkit which includes a self-assessment questionnaire for mines and guidelines for on-the-ground site assessments to be conducted by qualified, independent third-party assessors. Mines will complete the self-assessment questionnaire in the Bettercoal Database and are asked to provide supporting documentation. The self-assessment questionnaires will form part of a risk-screening process to prioritise mines for site-assessment. The site-assessments are intended to result in an agreed continuous improvement plan for the mine, which Bettercoal members – though not the public – will also be able to track and factor into their individual due diligence and purchasing decisions if they chose to do so.

Although it is certainly positive that the issue of improving conditions at coal mines is being discussed among European power companies, a brief analysis of Bettercoal’s statutes and operating procedures reveals a number of shortcomings in terms of governance, transparency and commitment that may limit Bettercoal’s potential to affect improvements in the coal supply chain. These shortcomings are particularly salient when Bettercoal is compared with...
the structure and aims of the Dutch Coal Dialogue (though the latter failed to achieve concrete results), as well as comparable corporate responsibility/accountability initiatives in other industrial supply chains.\textsuperscript{24} To begin with, although Bettercoal does have a multi-stakeholder ‘advisory’ board, it lacks a truly multi-stakeholder governance structure that guarantees independence and equal representation for all stakeholders, including those directly impacted by coal mining in Colombia, Indonesia, Russia and South Africa. Second, the Bettercoal Code does not include a commitment by individual member companies to provide transparency on the mines from which they source their coal nor on their business partners in the supply chain. The aggregated country-level information Bettercoal plans to make public will not provide consumers with the information needed to make a responsible choice nor policymakers or other stakeholders to help address adverse impacts. Nor will transparency be provided on the audits Bettercoal plans to conduct to inspect the conditions at and around coal mines. Though the audit results will be discussed with Bettercoal’s stakeholder advisory board (which is bound by a confidentiality agreement), the specific audit results will not be made public (only on the consolidated performance of all assessed coal mining sites), nor are there any binding commitments on the part of the companies to act upon any issues found during the audits or recommendations made by the auditors.

Though admittedly a young initiative, Bettercoal appears to have structural shortcomings that are likely to limit its ability to affect real improvements at coal mines and which cast doubt on the commitment of its members to genuinely address adverse impacts in the supply chain. Changes to its governance structure and policy on transparency of business relationships and audit results would lend the initiative more credibility among the public, policymakers and a wider group of key stakeholders and likely make it more effective in achieving its aspiration of affecting long-lasting improvements in social and environmental conditions on the ground.

Controversies unresolved, imports continue: A case study of Enel’s Colombian coal procurement

State-owned Italian electricity giant Enel is one of Europe’s largest importers of (Colombian) coal. Because the company does not operate power plants in the Netherlands, it was not concluded in the research and analysis SOMO conducted for The Black Box. Enel is, however, one of the founding members of Bettercoal.

Enel operates eight coal-fired power plants in Italy, of which seven are located at sea ports\textsuperscript{25}:
- Venice: Fusina and Porto Marghera
- Civitavecchia: Torrevaldaliga Nord
- La Spezia: Eugenio Montale
- Genoa: Genova
- Brindisi: Federico II (Brindisi Sud)
- Sardinia: Sulcis

In 2012, the company used 13.6 million tonnes of coal for power generation in Italy.\textsuperscript{26} In addition to its power plants, Enel has two coal trading subsidiaries:
- Pragma Energy SA (Lugano, Switzerland), a 100% daughter of Enel Investment Holding BV\textsuperscript{27}
- Enel Trade S.p.A., a 100% daughter of Enel S.p.A.\textsuperscript{28}

**Colombian coal shipments in Q3 and Q4 2013**

A part of the coal Enel uses in its power plants originates from Colombia. Although Enel does not report on the countries of origin of its coal, some information can be obtained from different shipping and customs databases.

- **Prodeco**: In Q3 and Q4 2013, Enel imported at least 330,000 tonnes of coal from Glencore Xstrata’s Prodeco mine in Colombia, spread out over five shipments between August and December.\textsuperscript{29} It is not known for which ports or coal plants these shipments were destined.
- **Drummond**: Based on ship movements, it is assumed that a portion of the coal used in Enel’s Italian power plants in Q3 and Q4 2013 came from Drummond’s coal mine in Colombia. Between June and December 2013, several vessels sailed from the Colombian port of Santa Marta, Drummond’s exporting harbour, and subsequently called at Italian ports (such as La Spezia, Civitavecchia, and Venice) where Enel operates a coal power plant. Some of these vessels directly sailed for the Italian ports and some passed briefly through Spanish or Slovenian ports on the journey between Colombia and Italy. It is thus assumed that Enel uses coal from Drummond’s mine in Colombia at least in its Torrevaldaliga Nord plant in Civitavecchia and in its Eugenio Montale plant in La Spezia.

Table 1 on the next page shows details on Q3 and Q4 2013 coal shipments from both the Prodeco and the Drummond mine in Colombia for which it is assumed that (at least a portion of) the coal is destined for use in Enel power plants. It should be noted that the list of coal shipments in the table is not exhaustive.
Conclusion

In conclusion, the years since the 2012 publication of SOMO’s *The Black Box* have seen a number of interesting political and corporate-level development with regard to the coal supply chain, though none of them has yet addressed the structural problems at Colombian mines or the chronic lack of transparency in coal supply chains. European power companies like Enel continue to provide little or no information on the origin of the coal they combust in their power plants, and the new industry-led Bettercoal initiative lacks the ambition to significantly improve supply chain transparency. The lack of transparency means that even specialist research organisations such as SOMO with access to information from customs authorities and ship tracking databases have difficulty determining the full extent to which European companies like Enel continue to import coal from controversial sources such as the Drummond and Prodeco coal mines in Colombia. This crucial information is kept concealed from the average consumer interested in making a responsible choice of electricity provider and other stakeholders (including governments) interested in improving conditions in the supply chain.

The implication is that European governments must act to require supply chain transparency and engage European power companies in binding commitments to improve conditions at coal mines in Colombia and around the world. Dutch minister Ploumen should make this a priority as she proceeds in her engagement toward an agreement with the power companies.

Methodology

The research methods employed for this briefing paper consist of desk research and telephone/written interviews with the companies mentioned. Information was obtained from companies’ corporate publications, customs and news databases, and news articles from various media outlets. In addition, Enel, Drummond, Prodeco (Glencore Xstrata) and Bettercoal were provided with an opportunity to review a draft version of the briefing paper. Drummond, Glencore Xstrata and Bettercoal all provided comments, which have been incorporated into the present version of the paper. Enel reviewed the draft but indicated it would be unable to comment within the two-week review period.

### Table 1: Shipments of coal from Colombia for use in Enel power plants in Italy in Q3 and Q4 2013 (not exhaustive)

<table>
<thead>
<tr>
<th>Period</th>
<th>Source</th>
<th>Tonnage</th>
<th>Vessel name</th>
<th>Port in Italy</th>
<th>Passed by port</th>
</tr>
</thead>
<tbody>
<tr>
<td>June 2013</td>
<td>Santa Marta / Drummond</td>
<td>76,463*</td>
<td>Yin Zhu Hai</td>
<td>Civitavecchia &amp; Venice**</td>
<td>n.a.</td>
</tr>
<tr>
<td>July 2013</td>
<td>Santa Marta / Drummond</td>
<td>75,772*</td>
<td>Medi Cagliari</td>
<td>La Spezia</td>
<td>n.a.</td>
</tr>
<tr>
<td>August 2013</td>
<td>Santa Marta / Drummond</td>
<td>83,375*</td>
<td>Key Integrity</td>
<td>Civitavecchia</td>
<td>n.a.</td>
</tr>
<tr>
<td>August 2013</td>
<td>Prodeco</td>
<td>66,102</td>
<td>unknown</td>
<td>unknown</td>
<td>n.a.</td>
</tr>
<tr>
<td>August 2013</td>
<td>Prodeco</td>
<td>66,150</td>
<td>unknown</td>
<td>unknown</td>
<td>n.a.</td>
</tr>
<tr>
<td>September 2013</td>
<td>Prodeco</td>
<td>67,572</td>
<td>unknown</td>
<td>unknown</td>
<td>n.a.</td>
</tr>
<tr>
<td>October 2013</td>
<td>Santa Marta / Drummond</td>
<td>76,801*</td>
<td>Rosco Cypress</td>
<td>Venice</td>
<td>Tarragona (E)</td>
</tr>
<tr>
<td>October 2013</td>
<td>Santa Marta / Drummond</td>
<td>77,430*</td>
<td>Fortune Clover</td>
<td>Venice</td>
<td>Koper (Slo)</td>
</tr>
<tr>
<td>November 2013</td>
<td>Santa Marta / Drummond</td>
<td>76,463*</td>
<td>Yin Zhu Hai</td>
<td>La Spezia</td>
<td>Algeciras (E)</td>
</tr>
<tr>
<td>December 2013</td>
<td>Santa Marta / Drummond</td>
<td>75,772*</td>
<td>Medi Cagliari</td>
<td>Civitavecchia</td>
<td>Tarragona (E)</td>
</tr>
<tr>
<td>December 2013</td>
<td>Prodeco</td>
<td>65,516</td>
<td>unknown</td>
<td>unknown</td>
<td>n.a.</td>
</tr>
</tbody>
</table>

n.a. = not applicable (direct shipment without stops in other ports)
*Tonnage refers to deadweight tonnage of the vessel, the actual coal cargo is likely less*
**The vessel first called at Civitavecchia before calling at Venice*

*Based on: Infodrive, Lloyd’s List Intelligence, Bloomberg*
SOMO Briefing Paper

Colombian Coal in Europe


15 GlencoreXstrata, response to draft of this document, e-mail to K. Racz and J. Wilde-Ramsing, 28-4-2014.


23 The Bettercoal assessment program aims to complete 50 self-assessments and eight site assessments in 2014.


29 Colombian customs data acquired through Infodev India.

30 Colombian customs data acquired through Infodev India; ‘Movements’; Lloyd’s List Intelligence database; ‘Mapping&Spatial’, Bloomberg database.
Colophon

Authors: Joseph Wilde-Ramsing & Kristóf Rácz
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Cover photo: Actual path taken by the cargo ship Yin Zhu Hai between May 2014 and June 2014 on its journey from Drummond’s Santa Marta exporting harbour in Colombia to the Italian ports of Civita-vecchia and Venice where Enel operates coal-fired power plants. Source: Bloomberg
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