

Ms E.M.J. Ploumen
Minister of Foreign Trade and Development Cooperation
P.O. Box 20016
2500 EB The Hague

Ref: ...

Date: 29 January 2014

Dear Ms Ploumen,

In recent years, several Dutch social organizations joined together in the Dutch Coal Coalition with the expectation that this process would contribute to the solution and prevention of abuses in coal mining around the world, in particular in Colombia and South Africa. However, the energy companies failed to respond when it came to making agreements about concrete steps towards redress, and likewise about individual transparency regarding the origin of the coal.

I would like to remind you of the moral appeal made by victims of the violence in the Colombian coal region of Cesar in their letter to you in December 2013. They called on you 'to do all in your power to oblige Dutch energy companies to provide complete transparency about the origin of the coal by individual mine. Without this transparency it is impossible to know whether the coal that is needed for the energy supply in your country was or was not obtained with bloodshed'. They continued '... that you will appeal to the power companies so that they in turn will request the coal mines to take their responsibility towards the victims of the violence in Cesar'.

It would appear from your letter to Parliament of 23 December 2013 that you intend to establish a CSR covenant with the Dutch power companies, and that they will operate on a European level through the industry organization *Bettercoal*. You have a meeting scheduled with the director of *Bettercoal*, Mr Martin Christie, on 4 February 2014. In this connection, we, as social organizations, including members of the Colombia Platform of the Netherlands, would like to take this opportunity to explain why we believe that *Bettercoal* offers no prospect of an effective and credible solution to the problems surrounding the mines in Colombia.

Objective and structure of Bettercoal

- The core of our criticism of *Bettercoal* is that the initiative entirely fails to address the wishes of victims and next of kin.
- *Bettercoal* is an initiative by and for power companies, with no voice for other stakeholders. It is a technocratic solution to a problem that, as experience has shown, can be solved only with the participation of all involved parties. A voice, and a role in the process, must be given in particular to the vulnerable groups who must benefit from the efforts.
- Dutch power companies are outsourcing their individual responsibility to *Bettercoal*. The individual power companies will not be held accountable for their purchasing policy. For this reason, *Bettercoal* clearly offers no prospect of individual transparency and accountability.

Audits

Bettercoal is working towards an audit of mines. However, we have serious doubts about how this instrument is currently being used.

- We conclude on the basis of the assessment protocol that it is extremely improbable that the audit will address the recent violence in the sphere of influence in the mining region. Accordingly, the audit will have no direct favourable effect for the victims in the area.
- Audits have utility only if the findings have serious and predictable consequences. Power companies say they will take the findings into consideration in their purchasing decisions, but at the same time they note that these decisions are always the outcome of a combination of commercial, opportunistic, technical and ethical considerations. *Bettercoal* is unable to make binding statements on the basis of the audit findings. Even in the worst cases, *Bettercoal* cannot and will not urge its members to refrain from buying from certain mines, nor are the members obliged to inform each other whether they are doing so.
- *Bettercoal* is a 'fox guarding the chickens' initiative. The audit findings are secret, and the individual power companies have no accountability. *Bettercoal* also selects and pays the auditors.
- We also have grave doubts about the quality and effectiveness of the audits to be performed. It now appears that, despite its promise to do so, *Bettercoal* will not be incorporating important lessons learned from the Coal Coalition in its Assessment Protocol. For example:
 - the details of the due diligence issue, in particular questions concerning land and human rights violations, are insufficiently embedded in the *Bettercoal* Assessment Protocol;
 - the preparation of , and preliminary investigation in, the local communities, are crucial. Financial reasons mean that this aspect will be handled superficially at best in the *Bettercoal* one-week audits. This preliminary investigation was to have been carried out together with the civil society and local communities, but *Bettercoal* will not now be taking this approach. Neither will it be reporting back to the communities.

Dispute mechanism

The dispute mechanism mentioned in your letter would appear to be unsuitable for providing a solution to the next of kin of the five thousand fatalities, or to the tens of thousands of displaced persons in the Cesar mining region.

After the failure of the Dutch Coal Coalition, which was launched over three years ago with great political urgency, the power companies follow-on process would appear to be becoming bogged down. This process will allow the joint power companies to determine the norm, with no input from other stakeholders.

Any credible initiative that seeks to identify a solution to the current socially irresponsible coal mining in Colombia must meet certain minimum criteria:

- a CSR initiative for coal must be a multistakeholder process;
- the restoration of rights and redress for the victims of the violence must be an important objective of any covenant or audit;
- a CSR covenant with the power companies should follow the example of the 'Accord on fire and building safety in Bangladesh', and be legally binding, not voluntary;

- the assessment protocol for the audit that was set by the Dutch Coal Coalition must be incorporated in full in a covenant (see above);
- each initiative must include a policy of transparency for members and participants about the origin of the coal by individual mine.

In our opinion, there can be no compromise regarding these criteria without undermining the fundamental credibility of an initiative. With the appeal from victims' organizations in mind, we would recommend that you discuss these points with *Bettercoal* as a matter of urgency. As long as these conditions remain unmet, we would urge you not to throw in your lot with *Bettercoal*.

We would at any rate impose upon you to act in line with the adopted member's motion from Marijke Vos, and resort to regulation of the individual transparency of the power companies regarding the origin by mine of their coal. *Bettercoal* offers no prospect of this transparency materializing, and must therefore not be allowed to serve as a pretext for power companies to ignore the appeal of victims and next of kin.

I hope the above clearly conveys our concerns about *Bettercoal*. We look forward to receiving your response.

Yours sincerely,

Jan Gruijters, General Director
IKV Pax Christi

Also on behalf of the following organizations:

ActionAid
Amnesty International Nederland
FNV Mondiaal
ICCO
Somo

c.c.: The Parliamentary Standing Committees on Foreign Affairs, Economic Affairs, and Foreign Trade and Development Cooperation.